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S.258

Introduced by Senators Bray, Hardy, McCormack and White

Referred to Committee on Natural Resources and Energy

Date: January 12, 2024

Subject: Fish and wildlife; Fish and Wildlife Board; hunting coyote;
governance

Statement of purpose of bill as introduced: This bill proposes to transfer the authority to adopt rules for the taking of fish, wildlife, and fur-bearing animals from the Fish and Wildlife Board to the Department of Fish and Wildlife. The bill would also amend the authority of the Fish and Wildlife Board so that it serves in an advisory capacity to the Department of Fish and Wildlife. In addition, the bill would prohibit the hunting of coyote with dogs.

An act relating to the management of fish and wildlife

It is hereby enacted by the General Assembly of the State of Vermont:

~~*** Fish and Wildlife Board; Governance ***~~

Sec. 1. 10 V.S.A. §§ 4041 and 4042 are amended to read:

§ 4041. DEPARTMENT OF FISH AND WILDLIFE, FISH AND WILDLIFE
BOARD, MEMBERS, TERM, CHAIR

1 ~~(a) There is hereby established a Department of Fish and Wildlife that shall~~
2 ~~be administered by the Commissioner. The Department shall be under the~~
3 ~~direction and supervision of a Commissioner appointed by the Secretary as~~
4 ~~provided in 3 V.S.A. § 2851. In addition to the duties and powers provided~~
5 ~~under this chapter, the Commissioner shall have the powers and duties~~
6 ~~specified in 3 V.S.A. § 2852 and such additional duties as may be assigned to~~
7 ~~the Commissioner by the Secretary under 3 V.S.A. § 2853. The Commissioner~~
8 ~~shall implement the policy and purposes specified in section 4081 of this title~~
9 ~~where appropriate and to the extent that resources of the Department permit.~~

10 (b)(1) There is hereby established a Fish and Wildlife Board. The purpose
11 of the Board shall be to serve in an advisory capacity to the Department of
12 Fish and Wildlife in the establishment of Department policy and rules.

13 (2) The Board shall consist of 14 12 members, ~~one from each county,~~
14 ~~appointed by the Governor with the advice and consent of the Senate. Four~~
15 ~~members of the Board shall be appointed by the Commissioner, four members~~
16 ~~of the Board shall be appointed by the Speaker of the House, and four~~
17 ~~members of the Board shall be appointed by the Committee on Committees.~~
18 The members of the Board shall be appointed for a term of six years, or the
19 unexpired portion thereof, ~~and during their terms shall reside in the county~~
20 ~~from which they are appointed. In the event a member no longer resides in the~~
21 ~~county from which he or she was appointed, the Governor shall appoint a~~

1 ~~member from that county for the unexpired portion of the term. Appointments~~
2 shall be made in ~~such~~ a manner that either two or three terms shall expire each
3 year. A member serving a full six-year term shall not be eligible for
4 reappointment. The ~~Governor~~ Commissioner shall biennially designate a
5 chair.

6 (3) In order to be appointed to the Board, a person shall apply in writing
7 to the appointing authority. The appointing authority shall acknowledge, in
8 writing, the receipt of each application.

9 (4) In considering applicants to the Board, the appointing authority shall
10 give due consideration to:

11 (A) the need for geographic diversity on the part of the Board's
12 membership;

13 (B) the need for the Board members to have a history of involvement
14 with and dedication to fish and wildlife, including a knowledge of fish and
15 wildlife biology, ecology, and the ethics of fish and wildlife management;

16 (C) the need for the Board to include members of the public
17 representing both consumptive uses and nonconsumptive uses of wildlife; and

18 (D) coordinating their appointments to ensure the appropriate
19 composition of the board as defined by subdivisions (A)–(C) of this

20 subdivision (4).

1 ~~(5) As used in this subsection, “nonconsumptive use of wildlife” means~~
2 watching, photographing, listening to wildlife, and similar other activities
3 without engaging in hunting, fishing, trapping, or any other form of extraction.

4 (c) Upon appointment, each Board member shall receive training from the
5 Department on wildlife biology, coexistence with wildlife, ethics, the reduction
6 of conflict between humans and wildlife, and the impacts of climate change on
7 fish and wildlife.

8 (d) Upon the filing of a proposed rule with the Secretary of State pursuant
9 to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board
10 for its review. After a public hearing and an opportunity for the public to
11 submit written comments, the Board shall consider whether a proposed rule is
12 designed to maintain the best health, population, viewing opportunities, and
13 utilization levels of the regulated species and of other necessary or desirable
14 species that are ecologically related to the regulated species and whether the
15 rules are adequately supported by investigation and research conducted by the
16 Department. If the Board, by majority vote, determines that a proposed rule
17 should be revised, it shall submit a written report to the Department setting
18 forth its recommended revisions, and the reasons therefore, within 60 days
19 following its receipt of a proposed rule. The Board shall include with its
20 report the public comments it received. The Department shall consider fully
21 any recommendations by the Board and shall issue a written explanation of

1 ~~why it overruled the Board's arguments and considerations for revising the~~
2 rule. The Board's written report and the Department's response thereto shall
3 be included with the materials submitted to the Legislative Committee on
4 Administrative Rules under 3 V.S.A. § 841.

5 § 4042. COMMISSIONER; APPOINTMENT

6 The Commissioner shall be appointed pursuant to the provisions of 3 V.S.A.

7 ~~§ 2851. The Commissioner shall also be Executive Secretary of the Board.~~

8 [Repealed.]

9 Sec. 2. 10 V.S.A. § 4081 is amended to read:

10 § 4081. POLICY

11 (a)(1) As provided by Chapter II, § 67 of the Constitution of the State of
12 Vermont, the fish and wildlife of Vermont are held in trust by the State for the
13 benefit of the citizens of Vermont and shall not be reduced to private
14 ownership. The State of Vermont, in its sovereign capacity as a trustee for the
15 citizens of the State, shall have ownership, jurisdiction, and control of all of
16 the fish and wildlife of Vermont.

17 (2) The Commissioner of Fish and Wildlife shall manage and regulate
18 the fish and wildlife of Vermont in accordance with the requirements of this
19 part and the rules of the Fish and Wildlife Board, including the Department of
20 Fish and Wildlife rules on Non-game Management as set forth in Code of
21 Vermont Rules 12-010-028. The protection, propagation control, management,

1 ~~and conservation of fish, wildlife, and fur-bearing animals in this State are in~~
2 ~~the interest of the public welfare. It is in the public welfare to protect,~~
3 ~~manage, and conserve the fish and wildlife of the State and the habitats in~~
4 ~~which they reside. The State, through the Commissioner of Fish and Wildlife,~~
5 ~~shall safeguard the fish, and wildlife, and fur-bearing animals of the State for~~
6 ~~the people of the State, and the State shall fulfill this duty with a constant and~~
7 ~~continual vigilance.~~

8 ~~(3) The Commissioner shall commence rulemaking to develop the~~
9 ~~nongame wildlife plan required by subsection 4048(d) of this title not later~~
10 ~~than July 1, 2024 and shall complete rulemaking not later than September 1,~~
11 ~~2025. In so doing, the Commissioner shall work to harmonize provisions of~~
12 ~~all Fish and Wildlife rules to realize the public interest in the sound~~
13 ~~management of game and nongame species according to ecological principles~~
14 ~~supported by the best science available through Department and peer reviewed~~
15 ~~research.~~

16 ~~(b) Notwithstanding the provisions of 3 V.S.A. § 2803, the Fish and~~
17 ~~Wildlife Board shall be the State agency charged with carrying out the~~
18 ~~purposes of this subchapter.~~

19 ~~(e) An abundant, A healthy deer herd is a primary goal one of the most~~
20 ~~important goals of fish and wildlife management. The use of a limited unit~~
21 ~~open season on antlerless deer shall be implemented only after a scientific~~

1 ~~game management study by the Department of Fish and Wildlife supports such~~
2 a season.

3 ~~(d)(c)~~ Annually, the Department shall update a scientific management
4 study of the State deer herd. The study shall consider data provided by
5 Department biologists and citizen testimony taken under subsection ~~(f)(e)~~ of
6 this section.

7 ~~(e)(d)~~ Based on the results of the updated management study and citizen
8 testimony, the Board shall decide whether an antlerless deer hunting season is
9 necessary and, if so, how many permits are to be issued. If the Board
10 determines that an antlerless season is necessary, it shall adopt a rule creating
11 one and the Department shall then administer an antlerless program.

12 ~~(f)(e)~~ Annually, the Department shall hold regional public hearings to
13 receive testimony and data from concerned citizens about their knowledge and
14 concerns about the deer herd. The ~~Board~~ Department shall identify the regions
15 by rule.

16 ~~(g)(f)~~ If the ~~Board~~ Department finds that an antlerless season is necessary
17 to maintain the health and size of the herd, the Department shall administer an
18 antlerless deer program. Annually, the ~~Board~~ Department shall determine how
19 many antlerless permits to issue in each wildlife management unit. For a
20 nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents, a
21 ~~person may apply for a permit. Each person may submit only one application~~

1 for a permit. The Department shall allocate the permits in the following
2 manner:

3 (1) A Vermont landowner, as defined in section 4253 of this title, who
4 owns 25 or more contiguous acres and who applies shall receive a permit for
5 antlerless hunting in the management unit on which the land is located before
6 any are given to people eligible under subdivision (2) of this subsection. If the
7 land is owned by more than one individual, corporation, or other entity, only
8 one permit shall be issued. Landowners applying for antlerless permits under
9 this subdivision shall not, at the time of application or thereafter during the
10 regular hunting season, post their lands except under the provisions of section
11 4710 of this title. As used in this section, "post" means any signage that would
12 lead a reasonable person to believe that hunting is restricted on the land. If the
13 number of landowners who apply exceeds the number of permits for that
14 district, the Department shall award all permits in that district to landowners
15 by lottery.

16 (2) Permits remaining after allocation pursuant to subdivision (1) of this
17 subsection shall be issued by lottery.

18 (3) Any permits remaining after permits have been allocated pursuant to
19 subdivisions (1) and (2) of this subsection shall be issued by the Department
20 for a \$10.00 fee for residents. Ten percent of the remaining permits may be
21 issued to nonresident applicants for a \$25.00 fee.

1 ~~Sec. 3. 10 V.S.A. § 4082 is amended to read:~~

2 § 4082. VERMONT FISH AND WILDLIFE REGULATIONS

3 (a) ~~The Board~~ Department may adopt rules, under 3 V.S.A. chapter 25, to
4 be known as the “Vermont Fish and Wildlife Regulations” for the regulation of
5 fish and wild game and the taking thereof except as otherwise specifically
6 provided by law. The rules shall be designed to maintain the best health,
7 population, and utilization levels of the regulated species and of other
8 necessary or desirable species that are ecologically related to the regulated
9 species. The rules shall be supported by ~~investigation and research conducted~~
10 ~~by the Department on behalf of the Board~~ the best science available through
11 Department and peer reviewed research.

12 (b)(1) Except as provided for under subdivision (2) of this subsection, the
13 ~~Board~~ Department annually may adopt rules relating to the management of
14 migratory game birds, and shall follow the procedures for rulemaking
15 contained in 3 V.S.A. chapter 25. For each such rule, ~~the Board~~ Department
16 shall conduct a hearing but, when necessary, may schedule the hearing for a
17 day before the terms of the rule are expected to be determined.

18 (2) Beginning with the 2015 hunting season, ~~the Board~~ Department may
19 set by procedure the daily bag and possession limits of migratory game birds
20 that may be harvested in each Waterfowl Hunting Zone annually without
21 ~~following the procedures for rulemaking contained in 3 V.S.A. chapter 25.~~

1 ~~The annual daily bag and possession limits of migratory game birds shall be~~
2 consistent with federal requirements. Prior to setting the migratory game bird
3 daily bag and possession limits, the ~~Board~~ Department shall provide a period
4 of not less than 30 days of public notice and shall conduct at least two public
5 informational hearings. The final migratory game bird daily bag and
6 possession limits shall be enforceable by the Department under its enforcement
7 authority in part 4 of this title.

8 (c) The ~~Board~~ Department may set by procedure the annual number of
9 antlerless deer that can be harvested in each Wildlife Management Unit and the
10 annual number of moose that can be harvested in each Wildlife Management
11 Unit without following the procedures for rulemaking contained in 3 V.S.A.
12 chapter 25. The annual numbers of antlerless deer and moose that can be
13 harvested shall be supported by investigation and research conducted by the
14 Department ~~on behalf of the Board~~. Prior to setting the antlerless deer and
15 moose permit numbers, the ~~Board~~ Department shall provide a period of not
16 less than 30 days of public notice and shall conduct at least three public
17 informational hearings. The public informational hearings may be conducted
18 simultaneously with the regional antlerless deer meetings required by
19 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest
20 permit numbers shall be enforceable by the Department under its enforcement
21 authority in part 4 of this title. The final annual antlerless deer and moose

1 harvest permit numbers shall be reported to the House Committee on
2 Environment and Energy as part of the annual deer report required under
3 section 4084 of this title. The provisions of 2 V.S.A. § 20(d) (expiration of
4 required reports) shall not apply to the report to be made under this subsection.

5 Sec. 4. 10 V.S.A. § 4601 is amended to read:

6 § 4601. TAKING FISH; POSSESSION

7 A person shall not take fish, except in accordance with this part and
8 regulations of the ~~Board~~ Department, or possess a fish taken in violation of
9 this part or regulations of the ~~Board~~ Department.

10 Sec. 5. 3 V.S.A. § 2803 is amended to read:

11 § 2803. ADVISORY CAPACITY

12 (a) All boards, committees, councils, activities, and departments ~~which that~~
13 under this chapter are a part of the Agency shall be advisory only, except as
14 hereinafter provided, and the powers and duties of such boards, committees,
15 councils, activities, and departments, including administrative, policy making,
16 rulemaking, and regulatory functions, shall vest in and be exercised by the
17 Secretary of the Agency.

18 (b) Notwithstanding subsection (a) of this section or any other provision of
19 this chapter, ~~the Fish and Wildlife Board and the Natural Resources Board~~
20 shall retain and exercise all powers and functions given to ~~them~~ it by law

21 ~~which that~~ are of regulatory or quasi-judicial nature, including the power to

1 ~~adopt, amend, and repeal rules and regulations; to conduct hearings; to~~
2 ~~adjudicate controversies; and to issue and enforce orders, in the manner and to~~
3 ~~the extent to which those powers are given to those respective boards the~~
4 ~~Board by law.~~

5 Sec. 6. CONFORMING REVISIONS

6 When preparing the Vermont Statutes Annotated for publication, the Office
7 of Legislative Counsel shall make the following revisions throughout the
8 statutes as needed for consistency with Secs. 1–5 of this act, provided the
9 revisions have no other effect on the meaning of the affected statutes:

10 (1) replace “Board” with “Department” in 10 V.S.A. §§ 4605, 4701,
11 4702, 4742a, 4828, 4830, 4861, 4902, and 5001; and

12 (2) revisions that are substantially similar to those described in
13 subdivision (1) of this section.

14 Sec. 7. TRANSITION

15 (a) The Vermont Fish and Wildlife regulations promulgated by the Fish and
16 Wildlife Board and in effect as of the effective date of this act shall remain in
17 effect and have the full force and effect of law until such time as they are
18 repealed or amended by the Department of Fish and Wildlife pursuant to

19 5 V.S.A. Chapter 25.

1 ~~(b) The terms of the members of the Fish and Wildlife Board as of the~~
2 ~~effective date of this act shall terminate 90 days after the effective date of this~~
3 ~~act.~~

4 * * * Hunting Coyote * * *

5 Sec. 8. 10 V.S.A. § 5008 is added to read:

6 § 5008. HUNTING COYOTE; USE OF BAIT

7 (a) No person shall pursue coyote with the aid of dogs, either for the
8 purposes of training a dog or taking a coyote.

9 (b) A person shall not take coyote by using bait. As used in this
10 subsection, "bait" means any animal, vegetable, fruit, or mineral matter placed
11 with the intention of attracting wildlife.

12 Sec. 9. REPEALS

13 (a) 2021 Acts and Resolves No. 165, Sec. 1 (hunting coyote with aid of
14 dogs) is repealed.

15 (b) 2021 Acts and Resolves No. 165, Sec. 2 (moratorium on hunting of
16 coyote with dogs) is repealed.

17 (c) 2021 Acts and Resolves No. 165, Sec. 3 (Fish and Wildlife Board rules;
18 hunting coyote with dogs) is repealed.

19 * * * Effective Date * * *

20 Sec. 10. EFFECTIVE DATE

21 ~~This act shall take effect on passage.~~

** * * Fish and Wildlife Board; Governance * * **

Sec. 1. 10 V.S.A. § 4041 and 4042 are amended to read:

~~4041. DEPARTMENT OF FISH AND WILDLIFE, FISH AND WILDLIFE BOARD; MEMBERS, TERM, CHAIR~~

~~(a) There is hereby established a Department of Fish and Wildlife that shall be administered by the Commissioner. The Department shall be under the direction and supervision of a Commissioner appointed by the Secretary as provided in 3 V.S.A. § 2851. In addition to the duties and powers provided under this chapter, the Commissioner shall have the powers and duties specified in 3 V.S.A. § 2852 and such additional duties as may be assigned to the Commissioner by the Secretary under 3 V.S.A. § 2853. The Commissioner shall implement the policy and purposes specified in section 4081 of this title where appropriate and to the extent that resources of the Department permit.~~

~~(b)(1) There is hereby established a Fish and Wildlife Board. The purpose of the Board shall be to serve in an advisory capacity to the Department of Fish and Wildlife in the establishment of Department rules and any policies therein regarding the management and conservation of wildlife in the State, except for establishment of rules and policies related to wildlife regulated under chapter 123 of this title.~~

~~(2) The Board shall consist of 14 15 members, one from each county, appointed by the Governor with the advice and consent of the Senate and one at large member. Five members of the Board shall be appointed by the Commissioner, five members of the Board shall be appointed by the Speaker of the House, and five members of the Board shall be appointed by the Committee on Committees. The members of the Board shall be appointed for a term of six years, or the unexpired portion thereof, and during their terms the 14 members appointed by county shall reside in the county from which they are appointed. In the event a member resigns or no longer resides in the county from which he or she the member was appointed, the Governor authority that appointed the member shall appoint a new member from that county for the unexpired portion of the term. Appointments shall be made in such a manner that either two or three terms shall expire each year. A member serving a full six-year term shall not be eligible for reappointment shall be eligible to serve a maximum of two full six-year terms. The Governor Commissioner shall biennially designate a chair.~~

~~(3) In order to be appointed to the Board, a person shall apply in writing to the appointing authority. The appointing authority shall acknowledge, in writing, the receipt of each application.~~

~~(4) In considering applicants to the Board, the appointing authority~~

~~shall give due consideration to:~~

~~(A) the need for the Board members to have a history of involvement with and dedication to fish and wildlife, including a knowledge of fish and wildlife biology, ecology, and the ethics of fish and wildlife management;~~

~~(B) the need for the Board to have a balanced representation and include members of the public representing an approximately equal number of licensed users and nonlicensed users of wildlife; and~~

~~(C) coordinating their appointments to ensure the appropriate composition of the board as required by this subsection (b).~~

~~(5) As used in this subsection:~~

~~(A) "licensed user of wildlife" means a person who has held a Vermont hunting, fishing, or trapping license in each of the previous five years prior to appointment; and~~

~~(B) "nonlicensed user of wildlife" means a person who has not held a Vermont hunting, fishing, or trapping license in any of the previous five years prior to appointment.~~

~~(c) Upon appointment, each Board member shall receive training from the Department on wildlife management and hunting ethics, such as the North American Model of Wildlife Conservation; wildlife biology; coexistence with wildlife; the reduction of conflict between humans and wildlife; and the impacts of climate change on fish and wildlife.~~

~~(d) Upon the filing of a proposed rule with the Secretary of State pursuant to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board for its review. After a public hearing and an opportunity for the public to submit written comments, the Board shall consider whether a proposed rule is designed to maintain the best health, population, viewing opportunities, and utilization levels of the regulated species and of other necessary or desirable species that are ecologically related to the regulated species and whether the rules are adequately supported by investigation and research conducted by the Department. If the Board, by majority vote, determines that a proposed rule should be revised, it shall submit a written report to the Department setting forth its recommended revisions, and the reasons therefore, within 60 days following its receipt of a proposed rule. The Board shall include with its report the public comments it received. The Department shall consider fully any recommendations by the Board. If the Board's recommendations are not included in the rule, the Department shall issue a written explanation of why it did not include the Board's recommendations in the rule. The Board's written report and the Department's response thereto shall be included with the materials submitted to the Legislative Committee on Administrative Rules~~

~~and 3 V.S.A. § 841.~~

~~§ 4042. COMMISSIONER; APPOINTMENT~~

~~The Commissioner shall be appointed pursuant to the provisions of 3 V.S.A. § 2851. The Commissioner shall also be Executive Secretary of the Board. [Repealed.]~~

~~§ 4041. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE BOARD; MEMBERS, TERM, CHAIR~~

~~(a) There is hereby established a Department of Fish and Wildlife that shall be administered by the Commissioner.~~

~~(b)(1) There is hereby established a Fish and Wildlife Board. The purpose of the Board shall be to serve in an advisory capacity to the Department of Fish and Wildlife in the establishment of Department rules and any policies therein regarding the regulation and conservation of fish and wild game and the taking thereof, except as otherwise specifically provided by law.~~

~~(2) The Board shall consist of 14 ~~16~~ members, one from each ~~county~~ of the 14 counties in the State, appointed by the Governor with the advice and consent of the Senate and two at large members, one appointed by the Speaker of the House, and one appointed by the Committee on Committees. The members of the Board shall be appointed for a term of six years, or the unexpired portion thereof, and during their terms the 14 members appointed by the Governor by county shall reside in the county from which they are appointed. In the event a member resigns or no longer resides in the county from which ~~he or she~~ the member was appointed, the ~~Governor~~ authority that appointed the member shall appoint a new member ~~from that county~~ for the unexpired portion of the term. Appointments shall be made in ~~such a~~ such a manner that either two or three terms shall expire each year. A member serving a full six-year term shall not be eligible for reappointment shall be eligible to serve a maximum of two full six-year terms. The ~~Governor~~ Board shall biennially ~~designate~~ elect a chair.~~

~~(3) In order to be appointed to the Board, a person shall apply in writing to the appointing authority.~~

~~(4) The appointing authority shall give due consideration to appointing persons who:~~

~~(A) have a history of involvement with and dedication to fish and wildlife, including a knowledge of fish and wildlife biology, ecology, and the ethics of fish and wildlife management;~~

~~(B) provide balanced viewpoints; and~~

(C) recognize the challenges to wildlife and habitat caused by climate change, including an unprecedented loss of biodiversity, and prioritize the value of science in the work to conserve, protect, and restore natural ecosystems.

(c) Upon appointment, each Board member shall receive training from the Department on wildlife management and hunting ethics, such as the North American Model of Wildlife Conservation; wildlife biology; coexistence with wildlife; the reduction of conflict between humans and wildlife; and the impacts of climate change on fish and wildlife.

(d) Upon the filing of a proposed rule regarding the regulation and conservation of fish and wild game and the taking thereof with the Secretary of State pursuant to 3 V.S.A. § 838, the Department shall submit the proposed rule to the Board for its review. After a public hearing and an opportunity for the public to submit written comments, the Board shall consider whether a proposed rule is designed to maintain the best health, population, viewing opportunities, and utilization levels of the regulated species and of other necessary or desirable species that are ecologically related to the regulated species and whether the rules are adequately supported by investigation and research conducted by the Department. If the Board, by majority vote, determines that a proposed rule should be revised, it shall submit a written report to the Department setting forth its recommended revisions, and the reasons therefore, within 60 days following its receipt of a proposed rule. The Board shall include with its report the public comments it received. The Department shall consider fully any recommendations by the Board. If the Board's recommendations are not included in the rule, the Department shall issue a written explanation of why it did not include the Board's recommendations in the rule. The Board's written report and the Department's response thereto shall be included with the materials submitted to the Legislative Committee on Administrative Rules under 3 V.S.A. § 841.

Sec. 2. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY

(a)(1) As provided by Chapter II, § 67 of the Constitution of the State of Vermont, the fish and wildlife of Vermont are held in trust by the State for the benefit of the citizens of Vermont and shall not be reduced to private ownership. The State of Vermont, in its sovereign capacity as a trustee for the citizens of the State, shall have ownership, jurisdiction, and control of all of the fish and wildlife of Vermont.

(2) The Commissioner of Fish and Wildlife shall manage and regulate the fish and wildlife of Vermont in accordance with the requirements of this

~~part and the rules of the Fish and Wildlife Board, including the Department of Fish and Wildlife rules on Non-game Management as set forth in Code of Vermont Rules 12-010-028. The protection, propagation control, management, and conservation of fish, wildlife, and fur-bearing animals in this State are in the interest of the public welfare. It is in the public welfare to protect, manage, and conserve the fish and wildlife of the State and the habitats in which they reside. The State, through the Commissioner of Fish and Wildlife, shall safeguard the fish, and wildlife, and fur-bearing animals of the State for the people of the State, and the State shall fulfill this duty with a constant and continual vigilance.~~

~~(b) Notwithstanding the provisions of 3 V.S.A. § 2803, the Fish and Wildlife Board shall be the State agency charged with carrying out the purposes of this subchapter.~~

~~(e) An abundant, A healthy deer herd is a primary goal one of the most important goals of fish and wildlife management. The use of a limited unit open season on antlerless deer shall be implemented only after a scientific game management study by the Department of Fish and Wildlife supports such a season.~~

~~(d)(c) Annually, the Department shall update a scientific management study of the State deer herd. The study shall consider data provided by Department biologists and citizen testimony taken under subsection ~~(f)~~(e) of this section.~~

~~(e)(d) Based on the results of the updated management study and citizen testimony, the ~~Board~~ Department shall decide whether an antlerless deer hunting season is necessary and, if so, how many permits are to be issued. If the ~~Board~~ Department determines that an antlerless season is necessary, it shall adopt a rule creating one and the Department shall then administer an antlerless program.~~

~~(f)(e) Annually, the Department shall hold regional public hearings to receive testimony and data from concerned citizens about their knowledge and concerns about the deer herd. The ~~Board~~ Department shall identify the regions by rule.~~

~~(g)(f) If the ~~Board~~ Department finds that an antlerless season is necessary to maintain the health and size of the herd, the Department shall administer an antlerless deer program. Annually, the ~~Board~~ Department shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of \$10.00 for residents and \$25.00 for nonresidents, a person may apply for a permit. Each person may submit only one application for a permit. The Department shall allocate the permits in the following~~

manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation, or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is restricted on the land. If the number of landowners who apply exceeds the number of permits for that district, the Department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the Department for a \$10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a \$25.00 fee.

Sec. 3. 10 V.S.A. § 4082 is amended to read:

§ 4082. VERMONT FISH AND WILDLIFE REGULATIONS

~~*(c) The Board Department may adopt rules, under 3 V.S.A. chapter 25, to be known as the "Vermont Fish and Wildlife Regulations" for the management of all wildlife and the regulation of fish and wild game and the taking thereof except as otherwise specifically provided by law. The rules shall be designed to maintain the best health, population, and utilization levels of the regulated species and of other necessary or desirable species that are ecologically related to the regulated species all wildlife. The rules shall be supported by investigation and research conducted by the Department on behalf of the Board the best science available through Department and peer reviewed research.*~~

(a) The ~~Board~~ Department may adopt rules, under 3 V.S.A. chapter 25, to be known as the "Vermont Fish and Wildlife Regulations" for the regulation of fish and wild game and the taking thereof except as otherwise specifically provided by law. The rules shall be designed to maintain the best health, population, and utilization levels of the regulated species and of other necessary or desirable species that are ecologically related to the regulated species. The rules shall be supported by ~~investigation and research conducted~~

by the Department on behalf of the Board the best science available through Department and peer reviewed research.

(b)(1) Except as provided for under subdivision (2) of this subsection, the ~~Board~~ Department annually may adopt rules relating to the management of migratory game birds; and shall follow the procedures for rulemaking contained in 3 V.S.A. chapter 25. For each ~~such~~ rule, the ~~Board~~ Department shall conduct a hearing but, when necessary, may schedule the hearing for a day before the terms of the rule are expected to be determined.

(2) Beginning with the 2015 hunting season, the ~~Board~~ Department may set by procedure the daily bag and possession limits of migratory game birds that may be harvested in each Waterfowl Hunting Zone annually without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual daily bag and possession limits of migratory game birds shall be consistent with federal requirements. Prior to setting the migratory game bird daily bag and possession limits, the ~~Board~~ Department shall provide a period of not less than 30 days of public notice and shall conduct at least two public informational hearings. The final migratory game bird daily bag and possession limits shall be enforceable by the Department under its enforcement authority in part 4 of this title.

(c) The ~~Board~~ Department may set by procedure the annual number of antlerless deer that can be harvested in each Wildlife Management Unit and the annual number of moose that can be harvested in each Wildlife Management Unit without following the procedures for rulemaking contained in 3 V.S.A. chapter 25. The annual numbers of antlerless deer and moose that can be harvested shall be supported by investigation and research conducted by the Department ~~on behalf of the Board~~. Prior to setting the antlerless deer and moose permit numbers, the ~~Board~~ Department shall provide a period of not less than 30 days of public notice and shall conduct at least three public informational hearings. The public informational hearings may be conducted simultaneously with the regional antlerless deer meetings required by 10 V.S.A. App. § 2b. The final annual antlerless deer and moose harvest permit numbers shall be enforceable by the Department under its enforcement authority in part 4 of this title. The final annual antlerless deer and moose harvest permit numbers shall be reported to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy as part of the annual deer report required under section 4084 of this title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 4. 10 V.S.A. § 4048(d) is amended to read:

~~(d) The Commissioner of Fish and Wildlife, according to the provisions of~~

~~3 V.S.A. Chapter 25 and after consultation with the Fish and Wildlife Board and the Endangered Species Committee, shall adopt a rule establishing a plan for nongame wildlife.~~ *The Commissioner of Fish and Wildlife, according to the provisions of 3 V.S.A. chapter 25 and after consultation with the Endangered Species Committee, shall adopt a rule establishing a plan for nongame wildlife. The rule may be amended from time to time, and shall be reviewed, after public hearings, at least every five years. The plan shall contain:*

- (1) strategies to manage, inventory, preserve, protect, perpetuate, and enhance all nongame wildlife in the State, including identification of wildlife species in need of protection and information on their population distributions, habitat requirements, limiting factors, and other pertinent biological and ecological data on nongame wildlife species in need of protection;*
- (2) estimates of resources available for these strategies; and*
- (3) plans for research and education in nongame wildlife.*

Sec. 5. 10 V.S.A. § 4601 is amended to read:

§ 4601. TAKING FISH; POSSESSION

A person shall not take fish, except in accordance with this part and regulations of the ~~Board~~ Department, or possess a fish taken in violation of this part or regulations of the ~~Board~~ Department.

Sec. 6. 3 V.S.A. § 2803 is amended to read:

§ 2803. ADVISORY CAPACITY

(a) All boards, committees, councils, activities, and departments ~~which that~~ under this chapter are a part of the Agency shall be advisory only, except as hereinafter provided, and the powers and duties of such boards, committees, councils, activities, and departments, including administrative, policy making, rulemaking, and regulatory functions, shall vest in and be exercised by the Secretary of the Agency.

(b) Notwithstanding subsection (a) of this section or any other provision of this chapter, ~~the Fish and Wildlife Board and the Natural Resources Board~~ shall retain and exercise all powers and functions given to ~~them~~ it by law ~~which that~~ are of regulatory or quasi-judicial nature, including the power to adopt, amend, and repeal rules and regulations; ~~to~~ conduct hearings; ~~to~~ adjudicate controversies; ~~and to~~ issue and enforce orders, in the manner and to the extent to which those powers are given to ~~those respective boards~~ the Board by law.

Sec. 7. CONFORMING REVISIONS

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall make the following revisions throughout the statutes as needed for consistency with Secs. 1–6 of this act, provided the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Board” with “Department” in 10 V.S.A. §§ 4605, 4701, 4702, 4742a, 4828, 4830, 4861, 4902, and 5001; and

(2) revisions that are substantially similar to those described in subdivision (1) of this section.

Sec. 8. TRANSITION

(a) The Vermont Fish and Wildlife regulations adopted by the Fish and Wildlife Board and in effect as of the effective date of this act shall remain in effect and have the full force and effect of law until such time as they are repealed or amended by the General Assembly by legislative act or by the Department of Fish and Wildlife pursuant to 3 V.S.A. chapter 25.

(b) The members of the Fish and Wildlife Board as of the effective date of this act shall continue to serve as members of the Board until all new members of the Board are appointed under 10 V.S.A. § 4041(b) or 90 days after the effective date of this act, whichever occurs first.

(c) The Commissioner of Fish and Wildlife shall commence rulemaking to develop the nongame wildlife plan required by 10 V.S.A. § 4048(d) not later than July 1, 2024 and shall complete rulemaking not later than September 1, 2025. In so doing, the Commissioner shall work to harmonize provisions of all Fish and Wildlife rules to realize the public interest in the sound management of game and nongame species according to ecological principles supported by the best science available through Department and peer-reviewed research.

Sec. 9. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

* * *

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic fowl, or domestic pets.

* * *

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying, worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in a lawful manner.

* * *

(42) “Trapping” means to take or attempt to take fur-bearing animals with traps including the dispatching of lawfully trapped fur-bearing animals.

Sec. 10. 10 V.S.A. § 4866 is added to read:

§ 4866. SETBACKS; TRAPPING

(a) As used in this section:

(1) “Public highway,” means any highway, as that term is defined in 24 V.S.A. § 4, including Class 4 roads, shown on the highway maps of the respective towns made by the Agency of Transportation, but shall not include trails.

(2) “Trail” means a path or corridor open to the public, including all areas used for nonmotorized recreational purposes such as hiking, walking, bicycling, cross-country skiing, horseback riding, and other similar activities.

(b) No foothold trap or body-gripping trap shall be set:

(1) on or within 50 feet of a trail or a public highway, including when the trap is set in water or under the ice.

(2) on or within 100 feet of a building, parking lot, visitor center, park, playground, picnic area, shelter, pavilion, school, camp or campground, recreational facility, or any other area where persons may reasonably be expected to recreate, including when the trap is set in water or under the ice.

(c) The requirements of subsection (b) of this section shall not apply to a resident or nonresident owner of land, the owner’s spouse, and the owner’s minor children when trapping on the owner’s land, regardless of whether the land is posted under section 4710 of this title.

Sec. 11. REPEAL; FISH AND WILDLIFE REGULATIONS; TRAPPING

The following subsections of 10 V.S.A. App. § 44 (furbearing species) are repealed.

- ~~(1) subsection 3.20 (definition of trapping);~~
~~(2) subsection 3.11 (definition of legal trail);~~
~~(3) subsection 3.14 (definition of public trail), and~~
~~(4) subsection 4.15 (trapping setbacks).~~

** * * Hunting Coyote * * **

Sec. ~~12~~9. 10 V.S.A. § 5008 is amended to read:

~~§ 5008. HUNTING COYOTE WITH AID OF DOGS; PERMIT; USE OF
BAIT~~

~~(a) No person shall pursue coyote with the aid of dogs, either for training or taking purposes, without a permit issued by the Commissioner.~~

~~(1) The Commissioner may deny any permit at the Commissioner's discretion. The Commissioner shall not issue more than 100 permits annually.~~

~~(2) The number of permits that the Commissioner issues to nonresidents in any given year shall not exceed 10 percent of the number of permits issued to residents in the preceding year. The Commissioner shall establish a process and standards for determining which nonresidents are to receive a permit, including who will receive a permit if there are more nonresident applicants than nonresident permits.~~

~~(3) A nonresident may train dogs to pursue coyote only while the training season is in effect in the nonresident's home state and subject to the requirements of this part and rules adopted under this part.~~

~~(b)(1) The Commissioner shall issue permits under this section to a resident for a fee of \$50.00.~~

~~(2) The application fee for a nonresident permit issued under this section shall be \$10.00, and the fee for a nonresident permit issued under this section shall be \$200.00 for a successful applicant. No person shall pursue coyote with the aid of dogs, either for the purposes of training a dog or taking a coyote.~~

~~(b) A person shall not take coyote by using bait, except as authorized pursuant to a trapping license issued under this part. As used in this subsection, "bait" means any animal, vegetable, fruit, or mineral matter placed with the intention of attracting wildlife.~~

Sec. ~~13~~10. REPEAL; HUNTING COYOTE WITH AID OF DOGS;
ISSUANCE OF PERMITS

~~(a) 10 V.S.A § 5009, as enacted under 2021 Acts and Resolves No. 165, Sec. 1 (hunting coyote with aid of dogs), is repealed.~~

(b) The following subsections of 10 V.S.A. App. § 44 (furbearing species) are repealed:

(1) 3.1 (definition of accompany for purpose of pursuing coyote);

(2) 3.6 (definition of control of dogs; taking of coyote);

(3) 3.7 (definition of coyote dog permit);

(4) 3.9 (definition of Department registered dog);

(5) 3.12 (definition of pack of dogs);

(6) 3.15 (definition of relaying packs and dogs);

(7) 3.16 (definition of subpermittee);

(8) 3.17 (definition of taking coyote with the aid of dogs);

(9) 3.19 (definition of training/control collar);

(10) 3.22 (definition of unregistered dog); and

(11) 4.20 (taking coyote with the aid of dogs).

(c) The Commissioner of Fish and Wildlife shall not issue a permit to hunt or take coyote with the aid of dogs after the effective date of this act. If a person submitted an application to hunt or take coyote with the aid of dogs as of the effective date of this act but has not been awarded a permit, the Commissioner of Fish and Wildlife shall not issue a permit and shall refund to the permit applicant any fees submitted as part of the application.

** * * Effective Date * * **

Sec. ~~17~~.11. EFFECTIVE DATE

This act shall take effect on passage.