

Senate Calendar

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ACTION CALENDAR

UNFINISHED BUSINESS OF FRIDAY, APRIL 21, 2023

Second Reading

Favorable with Proposal of Amendment

H. 227.

An act relating to the Vermont Uniform Power of Attorney Act.

Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.

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

Sec. 1. 14 V.S.A. chapter 127 is added to read:

CHAPTER 127. VERMONT UNIFORM POWER OF ATTORNEY ACT

Subchapter 1. General Provisions

§ 4001. SHORT TITLE

This chapter may be cited as the Vermont Uniform Power of Attorney Act.

§ 4002. DEFINITIONS

As used in this chapter:

(1) “Agent” means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent’s authority is delegated.

(2) “Durable,” with respect to a power of attorney, means not terminated by the principal’s incapacity or unavailability.

(3) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) “General power of attorney” means a power of attorney that is not limited by its terms to a specified transaction or series of transactions, to a

specific purpose, or to a specific asset or set of assets, or a power of attorney that grants an agent the authority to do any one or more of the acts described in subsection 4031(e) of this title.

(6) “Good faith” means honesty in fact.

(7)(A) “Incapacity” means the inability of an individual to manage property or business affairs because the individual has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance.

(B) “Unavailability” means the inability of an individual to manage property or business affairs because the individual is:

(i) missing;

(ii) detained, including incarcerated in a penal system; or

(iii) outside the United States and unable to return.

(8) “Person” means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; public corporation; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(9) “Power of attorney” means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

(10) “Presently exercisable general power of appointment,” with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal’s estate, the principal’s creditors, or the creditors of the principal’s estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(11) “Principal” means an individual who grants authority to an agent in a power of attorney.

(12) “Property” means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(13) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in

perceivable form.

(14) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic sound, symbol, or process.

(15) “State” means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) “Stocks and bonds” means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

§ 4003. APPLICABILITY

This chapter applies to all powers of attorney except:

(1) a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) a power to make health-care decisions;

(3) a proxy or other delegation to exercise voting rights or management rights with respect to an entity;

(4) a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose; and

(5) a power of reciprocal insurers under 8 V.S.A. § 4838.

§ 4004. POWER OF ATTORNEY IS DURABLE

A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity or unavailability of the principal.

§ 4005. EXECUTION OF POWER OF ATTORNEY

A power of attorney shall be signed by the principal or in the principal’s conscious presence by another individual directed by the principal to sign the principal’s name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

§ 4006. VALIDITY OF POWER OF ATTORNEY

(a) A power of attorney executed in this State on or after July 1, 2023 is valid if its execution complies with section 4005 of this title.

(b) A power of attorney executed in this State before July 1, 2023 is valid if its execution complied with the law of this State as it existed at the time of execution.

(c) A power of attorney executed other than in this State is valid in this State if, when the power of attorney was executed, the execution complied with:

(1) the law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 4007 of this title; or

(2) the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as amended.

(d) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

(e) Except as otherwise provided by statute other than this chapter, a power of attorney that complies with this chapter is valid.

§ 4007. MEANING AND EFFECT OF POWER OF ATTORNEY

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

§ 4008. NOMINATION OF GUARDIAN; RELATION OF AGENT TO COURT-APPOINTED FIDUCIARY

(a) In a power of attorney, a principal may nominate a guardian of the principal's estate or a guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(b) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated, and the agent's authority continues unless limited, suspended, or

terminated by the court.

§ 4009. WHEN POWER OF ATTORNEY EFFECTIVE

(a) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(b) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(c) If a power of attorney becomes effective upon the principal's incapacity or unavailability and the principal has not authorized a person to determine whether the principal is incapacitated or unavailable, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(1) a licensed health care professional working within the professional's scope of practice, including a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 and a psychologist licensed pursuant to 26 V.S.A. chapter 55, that the principal is incapacitated within the meaning of subdivision 4002(7)(A) of this chapter; or

(2) an attorney at law, a judge, or an appropriate governmental official that the principal is unavailable within the meaning of 4002(7)(B) of this chapter.

(d) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated or unavailable may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act; Sections 1171 through 1179 of the Social Security Act; 42 U.S.C. § 1320d, as amended; and applicable regulations to obtain access to the principal's health-care information and communicate with the principal's health-care provider.

§ 4010. TERMINATION OF POWER OF ATTORNEY OR AGENT'S AUTHORITY

(a) A power of attorney terminates when:

(1) the principal dies;

(2) the principal becomes incapacitated or unavailable, if the power of attorney is not durable;

(3) the principal revokes the power of attorney;

(4) the power of attorney provides that it terminates;

(5) the purpose of the power of attorney is accomplished; or

(6) the principal revokes the agent's authority or the agent dies, becomes incapacitated or unavailable, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(b) An agent's authority terminates when:

(1) the principal revokes the authority;

(2) the agent dies, becomes incapacitated or unavailable, or resigns;

(3) a petition for divorce, annulment, separation, or a decree of nullity is filed with respect to the agent's marriage to the principal, unless the power of attorney otherwise provides; or

(4) the power of attorney terminates.

(c) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (b) of this section, notwithstanding a lapse of time since the execution of the power of attorney.

(d) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(e) Incapacity or unavailability of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity or unavailability, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(f) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

(g) The principal of a power of attorney may not revoke the power of attorney if the principal has been determined to be incapacitated.

§ 4011. CO-AGENTS AND SUCCESSOR AGENTS

(a) A principal may designate two or more persons to act as co-agents. Unless the power of attorney otherwise provides, each co-agent may exercise

its authority independently.

(b) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated or unavailable, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

(1) has the same authority as that granted to the original agent; and

(2) may not act until all predecessor agents have resigned, died, become incapacitated or unavailable, are no longer qualified to serve, or have declined to serve.

(c) Except as otherwise provided in the power of attorney and subsection (d) of this section, an agent who does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(d) An agent who has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated or unavailable, take any action reasonably appropriate in the circumstances to safeguard the principal's best interests. An agent who fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

§ 4012. REIMBURSEMENT AND COMPENSATION OF AGENT

Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

§ 4013. AGENT'S ACCEPTANCE

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

§ 4014. AGENT'S DUTIES

(a) Notwithstanding provisions in the power of attorney, an agent who has accepted appointment shall:

(1) act in accordance with the principal's reasonable expectations to the extent actually known by the agent and otherwise in the principal's best

interests;

(2) act in good faith; and

(3) act only within the scope of authority granted in the power of attorney.

(b) Except as otherwise provided in the power of attorney or other provision of this chapter, an agent that has accepted appointment shall have no further obligation to act under the power of attorney. However, with respect to any action taken by the agent under the power of attorney, the agent shall:

(1) act loyally for the principal's benefit;

(2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interests;

(3) act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with a person who has authority to make health-care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and otherwise act in the principal's best interests; and

(6) attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interests based on all relevant factors, including:

(A) the value and nature of the principal's property;

(B) the principal's foreseeable obligations and need for maintenance;

(C) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

(D) eligibility for a benefit, a program, or assistance under a statute or regulation.

(c) An agent who acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(d) An agent who acts with care, competence, and diligence for the best interests of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(e) If an agent is selected by the principal because of special skills or

expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(f) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(g) An agent who exercises authority to delegate to another person the authority granted by the principal or who engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(h) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

§ 4015. EXONERATION OF AGENT

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) relieves the agent of liability for breach of duty committed:

(A) dishonestly;

(B) in bad faith;

(C) with reckless indifference to the purposes of the power of attorney;

(D) through willful misconduct;

(E) through gross negligence; or

(F) with actual fraud; or

(2) was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

§ 4016. JUDICIAL RELIEF

(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

- (1) the principal or the agent;
- (2) a guardian or other fiduciary acting for the principal, including an executor or administrator of the estate of a deceased principal;
- (3) a person authorized to make health-care decisions for the principal;
- (4) the principal's spouse, parent, or descendant;
- (5) an individual who would qualify as an heir of the principal under the laws of intestacy;
- (6) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal who has a financial interest in the principal's estate;
- (7) a governmental agency having regulatory authority to protect the welfare of the principal;
- (8) the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare; and
- (9) a person asked to accept the power of attorney.

(b) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

§ 4017. AGENT'S LIABILITY

An agent who violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

- (1) restore the value of the principal's property to what it would have been had the violation not occurred;
- (2) reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf;
- (3) reimburse the reasonable attorney's fees and costs incurred by the principal or the principal's successor in interest in pursuing rectification of the violation by the agent; and
- (4) pay such other amounts, damages, costs, or expenses that the court may award.

§ 4018. AGENT’S RESIGNATION; NOTICE

Unless the power of attorney provides a different method for an agent’s resignation, an agent may resign by giving written notice to the principal and, if the principal is incapacitated or unavailable:

(1) to the guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(2) if there is no person described in subdivision (1) of this section, to:

(A) the principal’s caregiver;

(B) another person reasonably believed by the agent to have sufficient interest in the principal’s welfare; or

(C) a governmental agency having authority to protect the welfare of the principal.

§ 4019. ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED POWER OF ATTORNEY

(a) As used in this section and section 4020 of this title, “acknowledged” means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(b) A person who in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 4005 of this title that the signature is genuine.

(c) A person who effects a transaction in reliance upon an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated; that the purported agent’s authority is void, invalid, or terminated; or that the agent is exceeding or improperly exercising the agent’s authority may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect; the agent’s authority were genuine, valid, and still in effect; and the agent had not exceeded and has properly exercised the authority.

(d) A person who is asked to accept an acknowledged power of attorney may request and rely upon, without further investigation:

(1) an agent’s certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney; or

(2) an English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(3) an opinion of counsel as to any matter of law concerning the power

of attorney if the person making the request provides in a writing or other record the reason for the request.

(e) A certification presented pursuant to subsection (d) of this section shall state that:

(1) the person presenting themselves as the agent and signing the affidavit or declaration is the person so named in the power of attorney;

(2) if the agent is named in the power of attorney as a successor agent, the circumstances or conditions stated in the power of attorney that would cause that person to become the acting agent have occurred;

(3) to the best of the agent's knowledge, the principal is still alive;

(4) to the best of the agent's knowledge, at the time the power of attorney was signed, the principal was competent to execute the document and was not under undue influence to sign the document;

(5) all events necessary to making the power of attorney effective have occurred;

(6) the agent does not have actual knowledge of the revocation, termination, limitation, or modification of the power of attorney or of the agent's authority;

(7) if the agent was married to or in a state-registered domestic partnership with the principal at the time of execution of the power of attorney, then at the time of signing the affidavit or declaration, the marriage or state-registered domestic partnership of the principal and the agent has not been dissolved or declared invalid, and no action is pending for the dissolution of the marriage or domestic partnership for legal separation; and

(8) the agent is acting in good faith pursuant to the authority given under the power of attorney.

(f) An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

(g) For purposes of this section and section 4020 of this title, a person who conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

§ 4020. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED
STATUTORY FORM POWER OF ATTORNEY

(a) As used in this section, “statutory form power of attorney” means a power of attorney substantially in the form provided in section 4051 or 4052 of this title or that meets the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as amended.

(b) Except as otherwise provided in subsection (c) of this section:

(1) a person shall either accept an acknowledged statutory form power of attorney or request a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title not later than seven business days after presentation of the power of attorney for acceptance;

(2) if a person requests a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title, the person shall accept the statutory form power of attorney not later than five business days after receipt of the certification, translation, or opinion of counsel; and

(3) a person may not require an additional or different form of power of attorney for authority granted in the statutory form power of attorney presented.

(c) A person is not required to accept an acknowledged statutory form power of attorney if:

(1) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(2) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal or state law;

(3) the person has actual knowledge of the termination of the agent’s authority or of the power of attorney before exercise of the power;

(4) a request for a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title is refused;

(5) the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title has been requested or provided; or

(6) the person makes, or has actual knowledge that another person has made, a report to the Adult Protective Services program or other appropriate entity within the Department of Disabilities, Aging, and Independent Living or to a law enforcement agency stating a good faith belief that the principal may

be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(d) A person who refuses in violation of this section to accept an acknowledged statutory form power of attorney is subject to:

(1) a court order mandating acceptance of the power of attorney; and

(2) liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

§ 4021. PRINCIPLES OF LAW AND EQUITY

Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

§ 4022. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

§ 4023. REMEDIES UNDER OTHER LAW

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this State other than this chapter.

Subchapter 2. Authority

§ 4031. AUTHORITY THAT REQUIRES SPECIFIC GRANT; GRANT OF GENERAL AUTHORITY

(a) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

(1) create, amend, revoke, or terminate an inter vivos trust;

(2) make a gift;

(3) create or change rights of survivorship;

(4) create or change a beneficiary designation;

(5) delegate authority granted under the power of attorney;

(6) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;

(7) authorize another person to exercise the authority granted under the power of attorney;

(8) exercise authority over the content of an electronic communication of the principal in accordance with chapter 125 of this title (Vermont Revised Uniform Fiduciary Access to Digital Assets Act);

(9) disclaim property, including a power of appointment;

(10) exercise a written waiver of spousal rights under section 323 of this title;

(11) exercise authority with respect to intellectual property, including copyrights, contracts for payment of royalties, and trademarks; or

(12) convey, or revoke or revise a grantee designation, by enhanced life estate deed pursuant to chapter 6 of Title 27 or under common law.

(b) Notwithstanding a grant of authority to do an act described in subsection (a) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

(c) Subject to subsections (a), (b), (d), and (e) of this section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 4034–4046 of this title.

(d) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 4047 of this title.

(e) Subject to subsections (a), (b), and (d) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

(f) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether or not the authority is exercised or the power of attorney is executed in this State.

(g) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

§ 4032. INCORPORATION OF AUTHORITY

(a) An agent has authority described in this chapter if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 4034–4047 of this title or cites the section in which the authority is described.

(b) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 4034–4047 of this title or a citation to a section of sections 4034–4047 of this title incorporates the entire section as if it were set out in full in the power of attorney.

(c) A principal may modify authority or a writing or other record incorporated by reference.

§ 4033. CONSTRUCTION OF AUTHORITY GENERALLY

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 4034–4047 of this title or that grants to an agent authority to do all acts that a principal could do pursuant to subsection 4031(c) of this title, a principal authorizes the agent, with respect to that subject, to:

(1) demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality on behalf of the principal;

(9) access communications intended for and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) do any lawful act with respect to the subject and all property related to the subject.

§ 4034. REAL PROPERTY

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) sell; exchange; convey, with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;

(5) manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or

assessments or applying for and receiving refunds in connection with them; and

(D) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(A) selling or otherwise disposing of them;

(B) exercising or selling an option, right of conversion, or similar right with respect to them; and

(C) exercising any voting rights in person or by proxy;

(8) change the form of title of an interest in or right incident to real property;

(9) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest; and

(10) relinquish any and all of the principal's rights of homestead under 27 V.S.A. § 105 and elective share under section 323 of this title.

§ 4035. TANGIBLE PERSONAL PROPERTY

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) sell, exchange, or convey, with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or

extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a security interest, lien, or other claim on behalf of the principal with respect to tangible personal property or an interest in tangible personal property;

(5) manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(D) moving the property from place to place;

(E) storing the property for hire or on a gratuitous bailment; and

(F) using and making repairs, alterations, or improvements to the property; and

(6) change the form of title of an interest in tangible personal property.

§ 4036. STOCKS AND BONDS

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(1) buy, sell, and exchange stocks and bonds;

(2) establish, continue, modify, or terminate an account with respect to stocks and bonds;

(3) pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) receive certificates and other evidences of ownership with respect to stocks and bonds; and

(5) exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

§ 4037. COMMODITIES AND OPTIONS

Unless the power of attorney otherwise provides, language in a power of

attorney granting general authority with respect to commodities and options authorizes the agent to:

(1) buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(2) establish, continue, modify, and terminate option accounts.

§ 4038. BANKS AND OTHER FINANCIAL INSTITUTIONS

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(4) withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) enter a safe deposit box or vault and withdraw or add to the contents;

(7) borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(8) make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper of the principal or payable to the principal or the principal's order; transfer money; receive the cash or other proceeds of those transactions; and accept a draft drawn by a person upon the principal and pay it when due;

(9) receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

§ 4039. OPERATION OF ENTITY OR BUSINESS

Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(2) perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(3) enforce the terms of an ownership agreement;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(5) exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;

(6) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(7) with respect to an entity or business owned solely by the principal:

(A) continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(B) determine:

(i) the location of its operation;

(ii) the nature and extent of its business;

(iii) the methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(iv) the amount and types of insurance carried; and

(v) the mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(C) change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(D) demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) put additional capital into an entity or business in which the principal has an interest;

(9) join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) sell or liquidate all or part of an entity or business;

(11) establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

§ 4040. INSURANCE AND ANNUITIES

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents and select the amount, type of insurance or annuity, and mode of payment;

(3) pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) apply for and receive a loan secured by a contract of insurance or annuity;

(5) surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) exercise an election;

(7) exercise investment powers available under a contract of insurance or annuity;

(8) change the manner of paying premiums on a contract of insurance or annuity;

(9) change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

§ 4041. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

(a) As used in this section, “estate, trust, or other beneficial interest” means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship or a fund from which the principal is, may become, or claims to be entitled to a share or payment.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:

(1) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;

(2) demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;

(3) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(6) conserve, invest, disburse, or use anything received for an authorized purpose; and

(7) transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor.

§ 4042. CLAIMS AND LITIGATION

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

(1) assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) make or accept a tender, offer of judgment, or admission of facts; submit a controversy on an agreed statement of facts; consent to examination; and bind the principal in litigation;

(5) submit to alternative dispute resolution, settle, and propose or accept

a compromise;

(6) waive the issuance and service of process upon the principal; accept service of process; appear for the principal; designate persons upon which process directed to the principal may be served; execute and file or deliver stipulations on the principal's behalf; verify pleadings; seek appellate review; procure and give surety and indemnity bonds; contract and pay for the preparation and printing of records and briefs; and receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

(8) pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and

(9) receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

§ 4043. PERSONAL AND FAMILY MAINTENANCE

(a) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(1) perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(A) other individuals legally entitled to be supported by the principal;
and

(B) the individuals whom the principal has customarily supported or indicated the intent to support;

(2) make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) provide living quarters for the individuals described in subdivision (1) of this subsection by:

(A) purchase, lease, or other contract; or

(B) paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(4) provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in subdivision (1) of this subsection;

(5) pay expenses for necessary health care and custodial care on behalf of the individuals described in subdivision (1) of this subsection;

(6) act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act; Sections 1171–1179 of the Social Security Act; 42 U.S.C. § 1320d, as amended; and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;

(7) continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in subdivision (1) of this subsection;

(8) maintain credit and debit accounts for the convenience of the individuals described in subdivision (1) of this subsection and open new accounts; and

(9) continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(b) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

§ 4044. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR MILITARY SERVICE

(a) As used in this section, “benefits from governmental programs or civil or military service” means any benefit, program, or assistance provided under a statute or regulation, including Social Security, Medicare, Medicaid, and the Department of Veterans Affairs.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from

governmental programs or civil or military service authorizes the agent to:

(1) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in subdivision 4043(a)(1) of this title and for shipment of their household effects;

(2) take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(3) enroll in, apply for, select, reject, change, amend, or discontinue, on the principal's behalf, a benefit or program;

(4) prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(6) receive the financial proceeds of a claim described in subdivision (4) of this subsection and conserve, invest, disburse, or use for a lawful purpose anything so received.

§ 4045. RETIREMENT PLANS

(a) As used in this section, "retirement plan" means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) an individual retirement account under Internal Revenue Code § 408, 26 U.S.C. § 408, as amended;

(2) a Roth individual retirement account under Internal Revenue Code § 408A, 26 U.S.C. § 408A, as amended;

(3) a deemed individual retirement account under Internal Revenue Code § 408(q), 26 U.S.C. § 408(q), as amended;

(4) an annuity or mutual fund custodial account under Internal Revenue

Code § 403(b), 26 U.S.C. § 403(b), as amended;

(5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code § 401(a), 26 U.S.C. § 401(a), as amended;

(6) a plan under Internal Revenue Code § 457(b), 26 U.S.C. § 457(b), as amended; and

(7) a nonqualified deferred compensation plan under Internal Revenue Code § 409A, 26 U.S.C. § 409A, as amended.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(1) select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(3) establish a retirement plan in the principal's name;

(4) make contributions to a retirement plan;

(5) exercise investment powers available under a retirement plan; and

(6) borrow from, sell assets to, or purchase assets from a retirement plan.

§ 4046. TAXES

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns; claims for refunds; requests for extension of time; petitions regarding tax matters; and any other tax-related documents, including receipts; offers; waivers; consents, including consents and agreements under Internal Revenue Code § 2032A, 26 U.S.C. § 2032A, as amended; closing agreements; and any power of attorney required by the Internal Revenue Service or other taxing authority, including an internal revenue service form 2848 in favor of any third party with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

(2) pay taxes due, collect refunds, post bonds, receive confidential

information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

(3) exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

§ 4047. GIFTS

(a) For purposes of this section, “gift” includes a gift for the benefit of a person, including a gift to a trust, an account under chapter 115 of this title (Vermont Uniform Transfers to Minors Act), and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code § 529, 26 U.S.C. § 529, as amended.

(b) An agent may make a gift of the principal’s property only as the agent determines is consistent with the principal’s objectives if actually known by the agent or, if unknown, as the agent determines is consistent with the principal’s best interests based on all relevant factors, including:

(1) evidence of the principal’s intent;

(2) the principal’s personal history of making or joining in the making of lifetime gifts;

(3) the principal’s estate plan;

(4) the principal’s foreseeable obligations and maintenance needs and the impact of the proposed gift on the principal’s housing options, access to care and services, and general welfare;

(5) the income, gift, estate, or inheritance tax consequences of the transaction; and

(6) whether the proposed gift creates a foreseeable risk that the principal will be deprived of sufficient assets to cover the principal’s needs during any period of Medicaid ineligibility that would result from the proposed gift.

(c) An agent may make a gift of the principal’s property only as the agent determines is consistent with the principal’s objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal’s best interests based on all relevant factors, including:

(1) the value and nature of the principal’s property;

(2) the principal’s foreseeable obligations and need for maintenance;

(3) minimization of taxes, including income, estate, inheritance,

generation-skipping transfer, and gift taxes;

(4) eligibility for a benefit, a program, or assistance under a statute or regulation; and

(5) the principal's personal history of making or joining in making gifts.

Subchapter 3. Statutory Forms

§ 4051. STATUTORY FORM POWER OF ATTORNEY

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter.

VERMONT STATUTORY FORM POWER OF ATTORNEY IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form does not revoke powers of attorney previously executed by you unless you initial the introductory paragraph under DESIGNATION OF AGENT that all previous powers of attorney are revoked.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state

otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (Name of Principal) () revoke all previous powers of attorney and name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects, you may initial "All Preceding Subjects" instead of initialing each subject.)

() Real Property

() Tangible Personal Property

() Stocks and Bonds

() Commodities and Options

() Banks and Other Financial Institutions

- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

An agent who is not an ancestor, spouse, or descendant may exercise authority under this power of attorney to create in the agent or in an individual to whom the agent owes a legal obligation of support an interest in my property whether by gift, rights of survivorship, beneficiary designation, disclaimer, or otherwise

Create, amend, revoke, or terminate an inter vivos, family, living, irrevocable, or revocable trust

Consent to the modification or termination of a noncharitable irrevocable trust under 14A V.S.A. § 411

Make a gift, subject to the limitations of 14 V.S.A. § 4047 (gifts) and any special instructions in this power of attorney

Create, amend, or change rights of survivorship

Create, amend, or change a beneficiary designation

Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan

Exercise fiduciary powers that the principal has authority to delegate

() Authorize another person to exercise the authority granted under this power of attorney

() Disclaim or refuse an interest in property, including a power of appointment

() Exercise authority with respect to elective share under 14 V.S.A. § 319

() Exercise waiver rights under 14 V.S.A. § 323

() Exercise authority over the content and catalogue of electronic communications and digital assets under 14 V.S.A. chapter 125 (Vermont Revised Uniform Fiduciary Access to Digital Assets Act)

() Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks

() Convey, or revoke or revise a grantee designation, by enhanced life estate deed pursuant to chapter 6 of Title 27 or under common law.

LIMITATION ON AGENT'S AUTHORITY

An agent who is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

WHEN POWER OF ATTORNEY EFFECTIVE

This power of attorney becomes effective when executed unless the principal has initialed one of the following:

() This power of attorney is effective only upon my later incapacity.

OR

() This power of attorney is effective only upon my later incapacity or unavailability.

OR

() I direct that this power of attorney shall become effective when one or more of the following occurs:

SPECIAL INSTRUCTIONS (OPTIONAL)

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or a guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate:

Nominee's Address:

Nominee's Telephone Number:

Name of Nominee for guardian of my person:

Nominee's Address:

Nominee's Telephone Number:

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated or unavailable.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed

Your Address

Your Telephone Number

State of _____

County of _____

This document was acknowledged before me on _____ (Date)

by _____.

(Name of Principal)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interests;

(2) act in good faith;

(3) do nothing beyond the authority granted in this power of attorney;
and

(4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: (Principal's Name) by (Your Signature) as Agent.

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) act loyally for the principal's benefit;

(2) avoid conflicts that would impair your ability to act in the

principal's best interest;

(3) act with care, competence, and diligence;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interests; and

(6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interests.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) death of the principal;

(2) the principal's revocation of the power of attorney or your authority;

(3) the occurrence of a termination event stated in the power of attorney;

(4) the purpose of the power of attorney is fully accomplished; or

(5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127. If you violate the Vermont Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation. In addition to civil liability, failure to comply with your duties and authority granted under this document could subject you to criminal prosecution.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

§ 4052. STATUTORY SHORT FORM POWER OF ATTORNEY FOR
REAL ESTATE TRANSACTIONS

(a) A document substantially in the following form may be used to create a statutory form power of attorney for a real estate transaction that has the meaning and effect prescribed by this chapter.

VERMONT SHORT FORM POWER OF ATTORNEY FOR REAL ESTATE
TRANSACTIONS

This power of attorney authorizes another person (your agent) to take actions for you (the principal) in connection with a real estate transaction (sale, purchase, mortgage, or gift). Your agent will be able to make decisions and act with respect to a specific parcel of land whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

DESIGNATION OF AGENT

I/we _____ and _____
(Name(s) of Principal) appoint the following person as my (our) agent:

Name of Agent: _____

Name of Alternate Agent: _____

Address of Property that is the subject of this power of attorney

(Street): _____, _____ (Municipality)
_____, Vermont.

Transaction for which the power of attorney is given:

Sale

Purchase or Acquisition

Mortgage

Finance and/or Mortgage

Gift

GRANT OF AUTHORITY

I/we grant my (our) agent and any alternate agent authority named in this power of attorney to act for me/us with respect to a real estate transaction involving the property with the address stated above, including, but not limited to, the powers described in 14 V.S.A. § 4034(2), (3), and (4) as provided in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

POWER TO DELEGATE

[] If this box is checked, each agent appointed in this power of attorney may delegate the authority to act to another person. Any delegation shall be in writing and executed in the same manner as this power of attorney.

TERM

This power of attorney commences when fully executed and continues until the real estate transaction for which it was given is complete.

SELF DEALING

[] If this box is checked, the agent named in this power of attorney may convey the subject real estate with or without consideration to the agent, individually, in trust, or to one or more persons with the agent.

CHOICE OF LAW

This power of attorney and the effect hereof shall be determined by the application of Vermont law and the Vermont Uniform Power of Attorney Act.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed

Your Address

Your Telephone Number

State of

County of

This document was acknowledged before me on _____ (Date)

by _____.

(Name of Principal)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

(b) A power of attorney in the form above confers on the agent the powers provided in subdivisions 4034 (2), (3) and (4) of this chapter.

§ 4053. AGENT’S CERTIFICATION

The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT’S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT’S AUTHORITY

State of _____

[County] of _____]

I, _____ (Name of Agent), certify under penalty of perjury that _____ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify that to my knowledge:

(1) the Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;

(2) if the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) if I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) _____ (Insert other relevant statements below)

SIGNATURE AND ACKNOWLEDGMENT

Agent’s Name Printed

Agent's Address

Agent's Telephone Number

This document was acknowledged before me on _____,

____ (Date)

by _____

(Name of Agent)

(Seal, if any)

Signature of Notary

My commission expires: _____

Subchapter 4. Miscellaneous Provisions

§ 4061. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

§ 4062. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede subsection 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in subsection 103(b) of that act, 15 U.S.C. § 7003(b).

§ 4063. EFFECT ON EXISTING POWERS OF ATTORNEY

Except as otherwise provided in this chapter, on July 1, 2023:

(1) this chapter applies to a power of attorney created before, on, or after July 1, 2023;

(2) this chapter applies to a judicial proceeding concerning a power of attorney commenced on or after July 1, 2023;

(3) this chapter applies to a judicial proceeding concerning a power of attorney commenced before July 1, 2023 unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

(4) an act done before July 1, 2023 is not affected by this chapter.

Sec. 2. REPEAL

14 V.S.A. chapter 123 (powers of attorney) is repealed.

Sec. 3. 14A V.S.A. § 401 is amended to read:

§ 401. METHODS OF CREATING TRUST

A trust may be created:

(1) by transfer of property to another person as trustee or to the trust in the trust's name during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;

(2) by declaration by the owner of property that the owner holds identifiable property as trustee;

(3) by exercise of a power of appointment in favor of a trustee;

(4) pursuant to a statute or judgment or decree that requires property to be administered in the manner of an express trust; or

~~(5)(A) by an agent or attorney-in-fact under a power of attorney that expressly grants authority to create the trust; or~~

~~(B) by an agent or attorney-in-fact under a power of attorney that grants the agent or attorney-in-fact the authority to act in the management and disposition of the principal's property that is as broad or comprehensive as the principal could exercise for himself or herself and that does not expressly exclude the authority to create a trust, provided that any trust so created does not include any authority or powers that are otherwise prohibited by 14 V.S.A. § 3504. An agent or attorney-in-fact may petition the Probate Division of the Superior Court to determine whether a power of attorney described in this subdivision grants the agent or attorney-in-fact authority that is as broad or comprehensive as that which the principal could exercise for himself or herself.~~

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 1, 2023, page 377 and March 3, 2023, page 401.)

UNFINISHED BUSINESS OF FRIDAY, APRIL 28, 2023

House Proposal of Amendment

S. 48.

An act relating to regulating the sale of catalytic converters

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

Sec. 1. 9 V.S.A. chapter 82 is amended to read:

CHAPTER 82. SCRAP METAL PROCESSORS

* * *

**§ 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES,
PROPRIETARY ARTICLES, AND RAILROAD SCRAP**

(a) Catalytic converters.

(1) A scrap metal processor shall not purchase more than one used and detached catalytic converter per day from any person, other than a motor vehicle recycler or motor vehicle repair shop.

(2) A person, other than a motor vehicle recycler or motor vehicle repair shop, shall not transport simultaneously two or more used and detached catalytic converters unless:

(A) each catalytic converter is engraved or otherwise permanently marked with the vehicle identification number of the vehicle from which it was removed; and

(B) the person transporting the catalytic converter has in the person's possession documentation demonstrating proof of lawful ownership as specified in subdivision (b)(1) of this section.

(b) Documentation required for sale. A scrap metal processor may purchase nonferrous scrap, metal articles, proprietary articles, and railroad scrap only if the scrap metal processor complies with all the following procedures:

(1) At the time of sale, the processor:

(A) requires the seller to provide a current government-issued photographic identification that indicates the seller's full name, current address, and date of birth, and records in a permanent ledger the identification information of the seller, the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller; and

(B) requests and, ~~if available,~~ collects:

(i) ~~third-party documentation from the seller of the items offered for sale, that establishes that the seller lawfully owns the items to be sold, such as a bill of sale, itemized receipt, or letter of authorization, signed by the person from whom the seller purchased the item; or similar evidence~~

(ii) ~~a written affidavit of ownership that establishes states that the seller lawfully owns the items to be sold.~~

(2) After purchasing an item from a person who ~~fails to~~ does not provide ~~documentation a bill of sale, itemized receipt, or letter of authorization signed by the person from whom the seller purchased the item~~ pursuant to subdivision (1)(B)(i) of this subsection, the processor:

(A) submits to the Department of Public Safety ~~no~~ not later than the close of the following business day a report that describes the item and the seller's identifying information required in subdivision (1)(A) of this subsection; and

(B) holds the item for at least 10 days following purchase.

(c) Retention of records. The information collected by a scrap metal processor pursuant to this section shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.

§ 3023. PENALTIES

(a) A ~~scrap metal processor~~ person who violates any provision of this chapter for the first time may be assessed a civil penalty not to exceed \$1,000.00 for each transaction.

(b) A ~~scrap metal processor~~ person who violates any provision of this chapter for a second or subsequent time shall be fined not more than \$25,000.00 for each transaction.

Sec. 2. 24 V.S.A. § 2242 is amended to read:

§ 2242. REQUIREMENT FOR OPERATION OR MAINTENANCE

(a) A person shall not operate, establish, or maintain a salvage yard unless ~~he or she~~ the person:

(1) holds a certificate of approval for the location of the salvage yard; and

(2) holds a certificate of registration issued by the Secretary to operate, establish, or maintain a salvage yard.

(b) The issuance of a certificate of registration under subsection (a) of this section shall not relieve a salvage yard from the obligation to comply with existing State and federal environmental laws and to obtain all permits required under State or federal environmental law.

(c) The Secretary may require a person to obtain a salvage yard certificate of registration under this section upon a determination, based on available information, that the person has taken action to circumvent the requirements of this subchapter.

(d) Prior to issuing a certificate of registration, the Secretary shall obtain written acknowledgment that the person seeking the certificate is aware of, and will comply with, the requirements for buying, selling, transporting, and keeping records concerning nonferrous scrap, metal articles, proprietary articles, and railroad scrap pursuant to 9 V.S.A. chapter 82.

Sec. 3. 24 V.S.A. § 2244 is added to read:

§ 2244. PERIODIC INSPECTIONS

(a) The Secretary shall conduct an unannounced inspection of the physical operation, record-keeping practices, and regulatory compliance practices of salvage yards to ensure compliance with applicable provisions of this subchapter.

(b) As part of the inspection program, the Secretary shall annually inspect at least one facility to ensure compliance with 9 V.S.A. chapter 82.

Sec. 4. ADOPTION OF FORMS; PUBLIC OUTREACH

(a) The Department of Public Safety shall adopt and make available on its public website sample forms for an affidavit or other proof of ownership, for collection and retention of records, and for other record-keeping purposes that persons may use to comply with the requirements for buying, selling, transporting, and keeping records concerning nonferrous scrap, metal articles, proprietary articles, and railroad scrap pursuant to 9 V.S.A. chapter 82.

(b) The Department of Public Safety and the Agency of Natural Resources shall coordinate to design and implement a public outreach campaign to educate sellers of scrap metal and proprietary articles, including catalytic converters; scrap metal processors; and law enforcement on the requirements for buying, selling, transporting, and keeping records concerning nonferrous scrap, metal articles, proprietary articles, and railroad scrap pursuant to 9 V.S.A. chapter 82 and other relevant provisions of law.

Sec. 5. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer nonovernight courses whenever possible.

(2) The Council may also offer the basic officer's course for preservice students and educational outreach courses for the public, including firearms safety and use of force.

(3) Following the conclusion of each session of the General Assembly, the Council shall prepare and make available to law enforcement agencies throughout the State and constables exercising law enforcement authority pursuant to 24 V.S.A. § 1936 materials or training concerning new or amended State law that affects law enforcement activities, including changes to civil, criminal, and administrative violations, procedures, penalties, and enforcement.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

UNFINISHED BUSINESS OF TUESDAY, MAY 2, 2023

House Proposal of Amendment

S. 73.

An act relating to workers' compensation coverage for firefighters with cancer

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

Sec. 1. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

~~Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows~~ As used in this chapter:

* * *

(11) "Personal injury by accident arising out of and in the course of

employment” includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(E) In the case of a firefighter, as defined in 20 V.S.A. § 3151(3) and (4), who dies or has a disability from a cancer listed in subdivision (iii) of this subdivision (E), the firefighter shall be presumed to have had the cancer as a result of exposure to conditions in the line of duty, unless it is shown by a preponderance of the evidence that the cancer was caused by nonservice-connected risk factors or nonservice-connected exposure, provided:

(i)(I) the firefighter completed an initial and any subsequent cancer screening evaluations as recommended by the American Cancer Society based on the age and sex of the firefighter prior to becoming a firefighter or ~~within two years of July 1, 2007~~ while serving as a firefighter, and the evaluation indicated no evidence of cancer;

(II) the firefighter was engaged in firefighting duties or other hazardous activities over a period of at least five years in Vermont prior to the diagnosis; and

(III) the firefighter is under 65 years of age.

(ii) The presumption shall not apply to any firefighter who has used tobacco products at any time within 10 years of the date of diagnosis.

(iii) The disabling cancer shall be limited to leukemia, lymphoma, or multiple myeloma, and cancers originating in the bladder, brain, breast, colon, gastrointestinal tract, kidney, liver, lung, pancreas, reproductive system, skin, or ~~testicles~~ thyroid.

(F) A firefighter who is diagnosed with cancer within 10 years of the last active date of employment as a firefighter shall be eligible for benefits under this subdivision. The date of injury shall be the date of the last injurious exposure as a firefighter.

(G) It is recommended that fire departments:

(i) maintain incident report records for at least 10 years; and

(ii) offer or provide annual cancer screenings to all firefighters who are employed by or who volunteer for the department.

* * *

Sec. 2. ANNUAL CANCER SCREENINGS; PERSONAL PROTECTIVE EQUIPMENT UPGRADES; REPORT

(a) On or before January 15, 2024, the Director of the Division of Fire Safety shall submit a written report to the House Committees on Appropriations, on Commerce and Economic Development, and on Government Operations and Military Affairs and the Senate Committees on Appropriations; on Economic Development, Housing and General Affairs; and on Government Operations regarding the following topics:

(1) the projected cost for the State to fund annual or biennial cancer screenings for all career and volunteer firefighters in Vermont;

(2) the projected cost for the State to fund cancer screenings for all enrollees in the Vermont Fire Academy Firefighter I certification program prior to the commencement of training;

(3) potential opportunities for the State to reduce the cost for fire departments to provide annual cancer screenings for their firefighters;

(4) the projected cost for the State to fund the replacement of personal protective equipment for all volunteer and career firefighters on a rolling basis so that all personal protective equipment is replaced within 10 years after being acquired; and

(5) potential opportunities for the State to reduce the cost to fire departments for the replacement of personal protective equipment.

(b) The report may include recommendations for legislative action to facilitate:

(1) the early identification of cancer in firefighters;

(2) the acquisition of personal protective equipment by fire departments; and

(3) the elimination of PFAS and other carcinogens in firefighting equipment.

Sec. 3. WORKERS' COMPENSATION FOR FIREFIGHTERS WITH CANCER; ELIGIBILITY; REPORT

(a) On or before January 15, 2024, the Commissioners of Labor and of Financial Regulation, in consultation with the Director of the Division of Fire Safety, shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the following topics:

(1) the potential impacts on workers' compensation claims, premiums,

and loss costs of amending or repealing the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter:

(A) is over 65 years of age; or

(B) has used tobacco products within the last 10 years;

(2) the potential impacts on workers' compensation claims, premiums, and loss costs of amending 21 V.S.A. § 601(11)(E)(iii) to expand the list of cancers presumed to have been caused by exposure to working conditions as a firefighter, including:

(A) additional types of cancer:

(i) that occur more frequently in firefighters than the general public;

(ii) that are caused by carcinogens to which firefighters are exposed in the line of duty; or

(iii) both; or

(B) all forms of cancer; and

(3) potential methods for apportioning liability for workers' compensation in instances where a firefighter has been employed by more than one fire department, including when a firefighter is employed as a career firefighter by one department and a volunteer firefighter by another department.

(b) The report may include recommendations for legislative action to:

(1) amend or repeal the provisions of 21 V.S.A. § 601(11)(E) that bar a firefighter from the presumption that the firefighter's cancer resulted from work-related exposure if the firefighter is over 65 years of age or has used tobacco products within the last 10 years; and

(2) amend 21 V.S.A. § 601(11)(E)(iii) to expand the list of cancers presumed to have been caused by exposure to working conditions as a firefighter to include either:

(A) additional types of cancer:

(i) that occur more frequently in firefighters than the general public;

(ii) that are caused by carcinogens to which firefighters are exposed in the line of duty; or

(iii) both; or

(B) all forms of cancer.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

House Proposal of Amendment to Senate Proposal of Amendment

H. 53.

An act relating to driver's license suspensions

The House concurs in the Senate proposal of amendment with further amendment thereto by striking out Secs. 2 and 3 in their entireties and inserting in lieu thereof the following:

Sec. 2. IMPLEMENTATION

The Commissioner of Motor Vehicles shall not suspend any driver's licenses or privileges to operate that are not already suspended as of the effective date of this section solely for the nonpayment of a civil penalty for a traffic violation committed prior to the effective date of this section.

Sec. 3. LEGISLATIVE FINDINGS

The General Assembly finds that the Domestic and Sexual Violence Special Fund, created by 13 V.S.A. § 5360 and which receives \$10.00 from each Judicial Bureau Surcharge imposed pursuant to 13 V.S.A. § 7282(a)(8)(D), might see decreased revenue if fewer individuals promptly pay judgments owed on traffic violations for which the imposition of points against the individual's driving record is authorized by law and that an increased revenue source is needed in order to ensure sufficient grant funding for the Vermont Network against Domestic and Sexual Violence and for the Criminal Justice Training Council position dedicated to domestic violence training.

Sec. 4. 32 V.S.A. § 1712 is amended to read:

§ 1712. TOWN CLERKS

Town clerks shall receive the following fees for issuing marriage licenses and vital event certificates:

(1) For issuing and recording a civil marriage license, ~~\$60.00~~ \$80.00 to be paid by the applicant, ~~\$10.00~~ \$15.00 of which sum shall be retained by the town clerk as a fee, ~~\$35.00~~ \$50.00 of which shall be deposited in the Domestic and Sexual Violence Special Fund created by 13 V.S.A. § 5360, and \$15.00 of which sum shall be paid by the town clerk to the State Treasurer in a return filed quarterly upon forms furnished by the State Treasurer and specifying all

fees received by ~~him or her~~ the town clerk during the quarter. Such quarterly period shall be as of the first day of January, April, July, and October.

* * *

Sec. 5. EFFECTIVE DATES

(a) Sec. 4 (marriage licenses; 32 V.S.A. § 1712) shall take effect on July 1, 2023.

(b) All other sections shall take effect 30 calendar days after passage.

And that after passage the title of the bill be amended to read:

An act relating to driver's license suspensions and revenue for the Domestic and Sexual Violence Special Fund.

NEW BUSINESS

Second Reading

Favorable

H. 161.

An act relating to issuance of burning permits.

Reported favorably by Senator Watson for the Committee on Natural Resources and Energy.

(Committee vote: 5-0-0)

(No House amendments.)

H. 495.

An act relating to the approval of the amendment to the charter of the Town of Middlebury.

Reported favorably by Senator Hardy for the Committee on Government Operations.

(Committee vote: 5-0-1)

(No House amendments.)

Favorable with Proposal of Amendment

H. 94.

An act relating to removing the Reach Up ratable reduction.

Reported favorably with recommendation of proposal of amendment by Senator Gulick for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 1, report; Reach Up; ratable reduction, in the first sentence, by striking out the word “January” and inserting in lieu thereof the word March

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 2, 2023, page 385.)

H. 127.

An act relating to sports wagering.

Reported favorably with recommendation of proposal of amendment by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.

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

First: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1302 (Department of Liquor and Lottery; authority and duties), in subdivision (c)(5), by striking out the last sentence.

Second: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1302 (Department of Liquor and Lottery; authority and duties), in subsection (g), by striking out subdivisions (1) through (3) in their entireties and inserting in lieu thereof new subdivisions (1) and (2) to read as follows:

(1) a provision that prohibits the use of sports wagering advertisements, logos, trademarks, or brands on products that are sold in Vermont and intended primarily for persons under 21 years of age; and

(2) an advertising plan, which shall include strategies to limit unwanted advertising and advertising aimed at persons under 21 years of age.

Third: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1320 (sports wagering operators; competitive bidding process), in subsection (c), by striking out subdivisions (2) through (6) in their entireties and inserting in lieu thereof new subdivisions (2) through (6) to read as follows:

(2) For two operators, \$412,500.00 per operator.

(3) For three operators, \$366,666.00 per operator.

(4) For four operators, \$343,750.00 per operator.

(5) For five operators, \$330,000.00 per operator.

(6) For six operators, \$320,833.00 per operator.

Fourth: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1341a (Problem Gambling Program), in subsection (a), by striking out subdivisions (2) through (5) in their entirety and inserting in lieu thereof new subdivisions (2) and (3) to read as follows:

(2) promote public awareness of and provide education concerning gambling addiction using online capabilities and other best practices; and

(3) promote public awareness of assistance programs for gambling addiction using online capabilities and other best practices.

Fifth: In Sec. 2a, appropriations, by adding a subsection (c) to read as follows:

(c) In each fiscal year after fiscal year 2025, a sum equal to five percent of the annual sports wagering revenue received by the Department of Liquor and Lottery shall be appropriated from the Sports Wagering Fund to the Department of Mental Health for purposes of the Problem Gambling Program.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 24, 2023, page 684.)

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

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

First: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1304, in the section heading, following the words “SPORTS WAGERING”, by inserting the word ENTERPRISE before “FUND”, and in the text of the section, following the words “Sports Wagering”, by inserting the word Enterprise before “Fund”.

Second: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1341, in the section heading, following the words “SPORTS WAGERING”, by inserting the word ENTERPRISE before “FUND”, and in subsection (a), following the words “Sports Wagering” by inserting the word Enterprise before “Fund”.

Third: In Sec. 2a, appropriations, in both subsection (a) and subsection (b), following the words “Sports Wagering” by inserting the word Enterprise before “Fund” in both instances.

Fourth: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1320 (sports wagering operators; competitive bidding process), by striking out

subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Each operator selected through the competitive bidding process shall pay an operator fee of \$550,000.00. The Commissioner and an operator may negotiate the renewal term upon which the fee will be reassessed. However, the Department shall not require an operator to pay the fee more than once in any three-year period.

Fifth: By adding a new Sec. 3 to read as follows:

Sec. 3. 32 V.S.A. § 5823 is amended to read:

§ 5823. VERMONT INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS

* * *

(b) For any taxable year, the Vermont income of a nonresident individual, estate, or trust is the sum of the following items of income to the extent they are required to be included in the adjusted gross income of the individual or the gross income of an estate or trust for that taxable year:

* * *

(6) proceeds from wagering transactions made within the State; or any Vermont State Lottery, tri-state lottery, or multijurisdictional lottery ticket paid to a person who purchased the ticket in Vermont, including payments received from a third party for the transfer of the rights to future proceeds related to the ticket; and the Commissioner may require withholding of any taxes due to the State under this subdivision from payments of wagering or lottery proceeds.

* * *

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 5-1-1)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

By striking out the *fifth* proposal of amendment in its entirety and inserting in lieu thereof a new *fifth* proposal of amendment to read as follows:

Fifth: In Sec. 2a, appropriations, by striking out subsections (a) and (b) in their entireties and inserting in lieu thereof the following:

(a) In fiscal year 2024, the following sums are appropriated from the Sports Wagering Fund:

(1) \$250,000.00 to the Department of Mental Health for purposes of establishing and administering the Problem Gambling Program;

(2) \$550,000.00 to the Department of Liquor and Lottery in anticipation of receipts from sports wagering operator fees; and

(3) \$100,000.00 to the Agency of Digital Services for purposes of establishing the self-exclusion program required by this act.

(b) The appropriation to the Problem Gambling Program in subsection (a) of this section shall be combined with the fiscal year 2024 funding from the State Lottery Fund for the same purpose. Any contract scope of work, memorandum of understanding parameters, or program design shall be executed in consultation with the Chief Prevention Officer.

(1) On or before January 15, 2024, the Department of Mental Health, Department of Liquor and Lottery, and Chief Prevention Officer shall report to the General Assembly on the status of the Problem Gambling Program, Program funding, and the projected use of the Program. The report shall detail how the Program funding aligns with other similar programs.

(2) The report required by this subsection shall include recommendations for allocations for problem gambling programs:

(A) for fiscal year 2025, in the form of a specific appropriation from each enterprise fund; and

(B) for fiscal year 2026 and after, in the form of a recommended minimum appropriation or percentage of revenue allocation from each enterprise fund.

(Committee vote: 7-0-0)

Proposals of amendment to H. 127 to be offered by Senators Sears, Baruth, Hashim, Norris and Vyhovsky

Senators Sears, Baruth, Hashim, Norris and Vyhovsky move that the Senate propose to the House to amend the bill as follows

First: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1325 (crimes and penalties), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A corporation, association, or partnership that is not permitted to conduct sports wagering pursuant to this chapter that operates, conducts, or

exposes sports wagering for play or accepts a bet or wager associated with sports wagering shall:

(1) for a first violation of this subsection, be fined not more than \$50,000.00 or imprisoned not more than six months, or both;

(2) for a second violation of this subsection, be fined not more than \$150,000.00 or imprisoned not more than one year, or both; and

(3) for a third or subsequent violation of this subsection, be fined not more than \$300,000.00 or imprisoned not more than two years, or both.

Second: In Sec. 1, 31 V.S.A. chapter 25 (sports wagering), in section 1320 (sports wagering operators; competitive bidding process), by adding new subsections (e) and (f) to read as follows:

(e) The Board shall adopt procedures governing the review and consideration of criminal background checks as a component of the competitive bidding process. The procedures shall establish standards for determining whether an applicant should not be selected as an operator due to the criminal history of the applicant's principals or other individuals who control the operator applicant. The Department shall obtain a copy of fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation for each operator applicant, principal of an operator applicant, and any individual who controls an operator applicant.

(f) Notwithstanding subsection (e) of this section, the Department may accept third-party criminal background checks submitted by an operator applicant, principal of an operator applicant, or any individual who controls an operator applicant in lieu of obtaining those records from the Vermont Crime Information Center. The third-party background check shall:

(1) be conducted by a third-party consumer reporting agency or background screening company that is in compliance with the federal Fair Credit Reporting Act; and

(2) include a multistate and multijurisdiction criminal record locator.

Third: By adding a new Sec. 3 to read as follows:

Sec. 3. 31 V.S.A. § 655 is amended to read:

§ 655. DUTIES OF THE COMMISSIONER

* * *

(b) The Commissioner shall:

* * *

(7) Subject to the approval of the Board, establish a user agreement with the Vermont Crime Information Center in accordance with 20 V.S.A. chapter 117 for the purpose of obtaining Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation to review applications of any sports wagering operator or for any Lottery sales agent license issued under this title and by renumbering the remaining sections to be numerically correct.

H. 481.

An act relating to public health initiatives to address death by suicide.

Reported favorably with recommendation of proposal of amendment by Senator Hardy for the Committee on Health and Welfare.

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

First: In Sec. 1, 18 V.S.A. chapter 192, in section 8151, by striking out the last sentence and inserting in lieu thereof the following:

The Director shall:

- (1) expand partnerships, including with service members, veterans, and their families;
- (2) implement innovative data-driven initiatives;
- (3) coordinate suicide prevention programs across the State; and
- (4) work to secure federal funding.

Second: In Sec. 2, statewide suicide prevention; strategic plan and school protocol, in subdivision (a)(1), after the second sentence, by inserting the following sentence: The plan shall consider emerging research on factors contributing to suicide.

Third: In Sec. 2, statewide suicide prevention; strategic plan and school protocol, in subdivision (a)(1), in the last sentence, after “schools,” by inserting the phrase afterschool programs,

Fourth: In Sec. 2, statewide suicide prevention; strategic plan and school protocol, in subsection (b), by inserting a second sentence to read as follows: The model protocol shall:

- (1) reflect preliminary data related to grants to expand mental health and well-being services to youth pursuant to 2022 Acts and Resolves No. 112, Sec. 3; and

(2) ensure that school employees receive education pertaining to the prevention of, use of language regarding, and identification of eating disorders in youth.

Fifth: By inserting a new Sec. 3 after Sec. 2 to read as follows:

Sec. 3. SUICIDE PREVENTION; HEALTH CARE FACILITIES; MODEL
PROTOCOL

On or before July 1, 2024, the Director of Suicide Prevention, in collaboration with the Agency of Human Services, medical and professional boards, and stakeholders, shall develop and submit a model protocol to the House Committee on Health Care and to the Senate Committee on Health and Welfare for health care facilities regarding suicide prevention and postvention services. This model protocol shall consider the recommendations of the report required pursuant to 2022 Acts and Resolves No. 115, Sec. 13.

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 4-1-0)

(No House amendments.)

H. 482.

An act relating to Vermont Criminal Justice Council recommendations for law enforcement officer training.

Reported favorably with recommendation of proposal of amendment by Senator Norris for the Committee on Government Operations.

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

* * * Fair and Impartial Policing Training; Advanced Roadside Impaired
Driving Enforcement Training * * *

Sec. 1. PURPOSE

The purpose of this act is, in part, to amend the laws of Vermont regarding law enforcement officer training to emphasize achieving increased competency over prescribed minimum hours of training in fair and impartial policing. The change to a focus on skills and competency is meant to align with the goals of increasing transparency and accountability to historically stigmatized communities.

Sec. 2. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(e)(1) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy, adopted pursuant to subsection 2366(a) of this title.

~~(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection. [Repealed.]~~

(3) In order to remain certified, law enforcement officers shall receive a refresher course on the training required by this subsection during every odd-numbered year in a program approved by the Vermont Criminal Justice Council designed to demonstrate achieved law enforcement officer competency in fair and impartial policing.

* * *

~~(f) The criteria for all minimum training standards under this section shall include Advanced Roadside Impaired Driving Enforcement training as approved by the Vermont Criminal Justice Council. On or before December 31, 2021, law enforcement officers shall receive a minimum of 16 hours of training as required by this subsection. [Repealed.]~~

* * *

Sec. 3. FAIR AND IMPARTIAL POLICING TRAINING; REPORT

On or before January 15, 2024, the Vermont Criminal Justice Council shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations on its efforts to update and implement fair and impartial policing training and whether the integrity of training standards has been maintained in the transition from using improved competency rather than fixed hours of training as a measure of completed training. The report shall describe how competency is being measured in fair and impartial policing and include precise metrics.

Sec. 4. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

* * *

(13) Advanced Roadside Impaired Driving Enforcement training programs and requirements for Levels I, II, and III law enforcement certification, including minimum hours of training, prerequisites, and time periods for completion.

* * *

* * * Roadside Stop Data Collection * * *

Sec. 5. 20 V.S.A. § 2366 is amended to read:

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

* * *

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

- (A) the age, gender, and race of the driver;
- (B) the grounds for the stop;
- (C) the grounds for the search and the type of search conducted, if any;
- (D) the evidence located, if any;
- (E) the date, time, and location of the stop; and
- (F) the outcome of the stop, including whether physical force was employed or threatened during the stop, and, if so, the type of force employed and whether the force resulted in bodily injury or death, and whether:

* * *

* * * Duty to Contact Current or Former Agencies When Hiring Law Enforcement Officer * * *

Sec. 6. 20 V.S.A. § 2362a is amended to read:

§ 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT CURRENT OR FORMER AGENCY AGENCIES

(a)(1) Prior to hiring a law enforcement officer, the executive officer of a potential hiring law enforcement agency shall:

- (A) require that officer to execute a written waiver that explicitly authorizes ~~the officer's~~:

(i) the officer's current law enforcement agency employer to disclose its analysis of the officer's performance at that agency, if the officer is still employed at that agency; or

(ii) last any previous law enforcement agency ~~employer~~ employers to disclose their analysis of the officer's performance at that agency and the reason that officer is no longer employed by that agency, if regardless of whether or not the officer is ~~not~~ currently employed at an agency; and

(B) ~~contact that agency~~ all known previous law enforcement agencies to obtain ~~that disclosure~~ the disclosures described in subdivisions (A)(i) and (ii) of this subdivision (1) and provide to ~~that~~ the previous law enforcement agency a copy of ~~that~~ the officer's written waiver.

(2) An officer who refuses to execute the written waiver shall not be hired by the potential hiring agency.

* * *

* * * Rule Adoption Deadline Modification * * *

Sec. 7. REPEAL

2020 Acts and Resolves No. 166, Sec. 8(b) (Rules) is repealed.

Sec. 8. RULE ADOPTION DEADLINE

On or before July 1, 2025, the Vermont Criminal Justice Council shall adopt the rules regarding alternate routes to the certification required by 20 V.S.A. § 2355(a)(1).

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(No House amendments.)

NOTICE CALENDAR

Second Reading

Favorable

H. 102.

An act relating to the Art in State Buildings Program.

Reported favorably by Senator Harrison for the Committee on Institutions.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 24, 2023, page 720)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 7-0-0)

H. 282.

An act relating to the Psychology Interjurisdictional Compact.

Reported favorably by Senator Hardy for the Committee on Health and Welfare.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 5, 2023, page 888.)

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 4-1-2)

H. 414.

An act relating to establishing an unused drug repository for Vermont.

Reported favorably by Senator Williams for the Committee on Health and Welfare.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 24, 2023, page 747.)

Reported favorably by Senator Westman for the Committee on Appropriations.

(Committee vote: 6-0-1)

Favorable with Proposal of Amendment

H. 45.

An act relating to abusive litigation filed against survivors of domestic abuse, stalking, or sexual assault.

Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.

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

Sec. 1. 15 V.S.A. chapter 21, subchapter 5 is added to read:

Subchapter 5. Abusive Litigation

§ 1181. DEFINITIONS

As used in this subchapter:

(1) “Abusive litigation” means litigation where the criteria set forth below in each of subdivisions (A)–(D) are found to have been established:

(A) The opposing parties have a current or former family or household member relationship or there has been a civil order or criminal conviction determining that one of the parties stalked or sexually assaulted the other party.

(B) The party who is filing, initiating, advancing, or continuing the litigation has been found by a court to have abused, stalked, or sexually assaulted the other party pursuant to:

(i) a final order issued pursuant to subchapter 1 of this chapter (abuse prevention orders);

(ii) a final order issued pursuant to 12 V.S.A. chapter 178 (orders against stalking or sexual assault);

(iii) a final foreign abuse prevention order;

(iv) an order under section 665a of this title (conditions of parent-child contact in cases involving domestic violence);

(v) a conviction for domestic assault pursuant to 13 V.S.A. chapter 19, subchapter 6; stalking pursuant to 13 V.S.A. chapter 19, subchapter 7; or sexual assault pursuant to 13 V.S.A. chapter 72; or

(vi) a court determination of probable cause for a charge of domestic assault and the court imposed criminal conditions of release pertaining to the safety of the victim, which include distance restrictions or restrictions on contact with the victim.

(C) The litigation is being initiated, advanced, or continued primarily for the purpose of abusing, harassing, intimidating, threatening, or maintaining contact with the other party.

(D) At least one of the following applies:

(i) the claims, allegations, or other legal contentions made in the litigation are not warranted by existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law; or

(ii) the allegations and other factual contentions made in the litigation are without adequate evidentiary support or are unlikely to have evidentiary support after a reasonable opportunity for further investigation; or

(iii) an issue or issues that are the basis of the litigation have previously been filed in one or more other courts or jurisdictions and the actions have been litigated and disposed of unfavorably to the party filing, initiating, advancing, or continuing the litigation.

(2) “Foreign abuse prevention order” means any protection order issued by the court of any other state that contains provisions similar to relief provisions authorized under this chapter, the Vermont Rules for Family Proceedings, or 12 V.S.A. chapter 178. “Other state” and “issuing state” mean any state other than Vermont and any federally recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

(3) “Litigation” means any kind of legal action or proceeding, including:

(A) filing a summons, complaint, or petition;

(B) serving a summons, complaint, or petition, regardless of whether it has been filed;

(C) filing a motion, notice of court date, or order to appear;

(D) serving a motion, notice of court date, or order to appear, regardless of whether it has been filed or scheduled;

(E) filing a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request; or

(F) serving a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request.

(4) “Perpetrator of abusive litigation” means a person who files, initiates, advances, or continues litigation in violation of an order restricting abusive litigation.

§ 1182. ORDER RESTRICTING ABUSIVE LITIGATION

(a) A party who meets the requirements of subdivision 1181(1) of this title may request an order restricting abusive litigation:

(1) in any answer or response to the litigation being filed, initiated, advanced, or continued;

- (2) by motion made at any time during any open or ongoing case;
- (3) in an answer or response to any motion or request for an order; or
- (4) orally in any hearing.

(b) Any court of competent jurisdiction may, on its own motion or on motion of a party, determine that a hearing is necessary to determine if a party is engaging in abusive litigation.

(c) Proceedings pursuant to this subchapter may be initiated by petition instituting a new case or by motion in a pending case.

(d) The Court Administrator shall create forms for a petition or motion for an order restricting abusive litigation and an order restricting abusive litigation, and the forms shall be maintained by the clerks of the courts.

(e) No filing fee shall be charged to the unrestricted party for proceedings pursuant to this subchapter, regardless of whether it is filed pursuant to this subchapter.

(f) The provisions of this subchapter are nonexclusive and shall not affect any other remedy available.

§ 1183. HEARING; PROCEDURE

At the hearing, evidence of any of the following shall create a rebuttable presumption that litigation is being initiated, advanced, or continued primarily for the purpose of harassing, intimidating, or maintaining contact with the other party:

(1) The same or substantially similar issues between the same or substantially similar parties have been litigated within the past five years in the same court or any other court of competent jurisdiction.

(2) The same or substantially similar issues between the same or substantially similar parties have been raised, pled, or alleged in the past five years and were decided on the merits or dismissed.

(3) Within the last 10 years, the party allegedly engaging in abusive litigation has been sanctioned by any court for filing one or more cases, petitions, motions, or other filings that were found to have been frivolous, vexatious, intransigent, or brought in bad faith involving the same opposing party.

(4) Any court has determined that the party allegedly engaging in abusive litigation has previously engaged in abusive litigation or similar conduct and has been subject to a court order imposing prefiling restrictions.

§ 1184. BURDEN OF PROOF

(a) If the court finds by a preponderance of the evidence that a party is engaging in abusive litigation and that any or all of the motions or actions pending before the court are abusive litigation, the litigation shall be dismissed, denied, stricken, or resolved by other disposition with prejudice.

(b) After providing the parties an opportunity to be heard on any order or sanctions to be issued, the court may enter an order restricting abusive litigation that may include conditions deemed necessary and appropriate including:

(1) awarding the other party reasonable attorney's fees and costs of responding to the abusive litigation, including the cost of seeking the order restricting abusive litigation; and

(2) identifying the party protected by the order and imposing prefiling restrictions upon the party found to have engaged in abusive litigation that pertains to any future litigation against the protected party or the protected party's dependents.

(c) If the court finds that the litigation does not constitute abusive litigation, the court shall enter written or oral findings and the litigation shall proceed. Nothing in this section or chapter shall be construed as limiting the court's inherent authority to control the proceedings and litigants before it.

§ 1185. FILING OF A NEW CASE BY A PERSON SUBJECT TO AN ORDER RESTRICTING ABUSIVE LITIGATION

(a) Except as otherwise provided in this section, a person who is subject to an order restricting abusive litigation is prohibited from filing, initiating, advancing, or continuing the litigation against the protected party for the period of time that the filing restrictions are in effect.

(b) A person who is subject to an order restricting litigation against whom prefiling restrictions have been imposed pursuant to this subchapter who wishes to initiate a new case or file a motion in an existing case during the time the person is under filing restrictions shall make an application to a judicial officer. A judicial officer shall review such application and determine whether the proposed litigation is abusive litigation or if there are reasonable and legitimate grounds upon which the litigation is based. The judicial officer shall determine whether a hearing is necessary.

(c)(1) If the judicial officer determines the proposed litigation is abusive litigation based on reviewing the files, records, and pleadings, it is not necessary for the person protected by the order to appear or participate in any way. If the judicial officer is unable to determine whether the proposed

litigation is abusive without hearing from the person protected by the order, then the court shall issue an order scheduling a hearing and notifying the protected party of the party's right to appear or participate in the hearing. The order shall specify whether the protected party is expected to submit a written response. When possible, the protected party shall be permitted to appear remotely.

(2) If the judicial officer believes the litigation that the party who is subject to the prefiling order is making application to file will constitute abusive litigation, the application shall be denied, dismissed, or otherwise disposed of with prejudice.

(3) If the judicial officer believes that the litigation the party who is subject to the prefiling order is making application to file will not be abusive litigation, the judicial officer may grant the application and issue an order permitting the filing of the case, motion, or pleading. The order shall be attached to the front of the pleading to be filed with the clerk. The party who is protected by the order shall be served with a copy of the order at the same time as the underlying pleading.

(d) The judicial officer shall make findings and issue a written order supporting the ruling. If the party who is subject to the order disputes the finding of the judicial officer, the party may seek review of the decision as provided by the applicable court rules.

(e) If the application for the filing of a pleading is granted pursuant to this section, the period of time commencing with the filing of the application requesting permission to file the action and ending with the issuance of an order permitting filing of the action shall not be computed as a part of any applicable period of limitations within which the matter must be instituted.

(f) If, after a party who is subject to prefiling restrictions has made application and been granted permission to file or advance a case pursuant to this section, any judicial officer hearing or presiding over the case, or any part thereof, determines that the person is attempting to add parties, amend the complaint, or is otherwise attempting to alter the parties and issues involved in the litigation in a manner that the judicial officer reasonably believes would constitute abusive litigation, the judicial officer shall stay the proceedings and refer the case back to the judicial officer who granted the application to file, for further disposition.

(g)(1) If a party who is protected by an order restricting abusive litigation is served with a pleading filed by the person who is subject to the order, and the pleading does not have an attached order allowing the pleading, the

protected party may respond to the case by filing a copy of the order restricting abusive litigation.

(2) If it is brought to the attention of the court that a person against whom prefiling restrictions have been imposed has filed a new case or is continuing an existing case without having been granted permission pursuant to this section, the court shall dismiss, deny, or otherwise dispose of the matter. This action may be taken by the court on the court's own motion or initiative. The court may take whatever action against the perpetrator of abusive litigation deemed necessary and appropriate for a violation of the order restricting abusive litigation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on September 1, 2023.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 1, 2023, page 108 and February 2, 2023, page 116.)

H. 206.

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

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Health and Welfare.

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

First: By striking out Sec. 4, federally qualified health centers; alternative payment methodology; report, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. FEDERALLY QUALIFIED HEALTH CENTERS; ALTERNATIVE PAYMENT METHODOLOGY; REPORT

The Department of Vermont Health Access shall collaborate with representatives of Vermont's federally qualified health centers (FQHCs) to develop a mutually agreeable alternative payment methodology for Medicaid payments to the FQHCs that is at least equal to the amount that would be paid under the prospective payment system established under the Benefits Improvement and Protections Act of 2000. On or before October 1, 2023, the Department shall provide a final report on the development of the methodology to the Joint Fiscal Committee, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

Second: By striking out Sec. 5, effective date, in its entirety and inserting in lieu thereof four new sections to be Secs. 5–8 to read as follows:

Sec. 5. BLUEPRINT FOR HEALTH; DEPARTMENT OF VERMONT
HEALTH ACCESS; UPDATE

On or before March 1, 2024, the Blueprint for Health, in collaboration with other partners identified by the Blueprint for Health, shall present the Senate Committee on Health and Welfare and the House Committee on Health Care with a breakdown of Blueprint for Health per-member per-month payments to patient-centered medical homes and financial contributions for community health teams made by each payer for fiscal year 2023.

Sec. 6. REPEAL OF PROSPECTIVE REPEAL OF 18 V.S.A. § 9473(g)

2021 Acts and Resolves No. 74, Sec. E.227.2 (prospective repeal; pharmacy benefit managers; 340B entities), as amended by 2022 Acts and Resolves No. 131, Sec. 7, is repealed.

Sec. 7. 18 V.S.A. § 2251 is amended to read:

§ 2251. LIEN ESTABLISHED

(a) A ~~Except as otherwise provided in this section,~~ a hospital in Vermont, as defined in section 1801 of this title, furnishing medical or other service, including charges of private duty nurses, to a patient injured by reason of an accident not covered by the Workers' Compensation Act, 21 V.S.A. § ~~601 et seq.~~ chapter 9, shall have may file a lien upon any recovery for damages to be received by the patient, or by ~~his or her~~ the patient's heirs or personal representatives in the case of ~~his or her~~ the patient's death, whether by judgment or by settlement or compromise after the date of the services. ~~This lien shall not attach to one-third of the recovery or \$500.00, whichever shall be the lesser, and in addition the lien shall be subordinate to an attorney's lien.~~

(b)(1) Notwithstanding subsection (a) of this section, a hospital shall not have a lien under this chapter if the patient has health insurance, including coverage under Medicare, Medicaid, or a health plan issued by a health insurer, as defined in section 9402 of this title, and the patient provides the hospital with proof of health insurance not later than 90 days after the patient's discharge from the hospital.

(2) Notwithstanding subdivision (1) of this subsection, a hospital may file a lien pursuant to subsection (a) of this section for any amount owed to the hospital for the patient's deductible or coinsurance, or both, under the health insurance plan for the medical or other services furnished by the hospital by filing notice of a lien at least 120 days after the hospital billed the patient's

health insurance plan for the amount owed to the hospital for services furnished to the patient.

(3) The patient's health insurance plan shall not deny payment for services furnished by the hospital to the patient on the basis that some or all of the patient's medical costs may be covered by a property and casualty insurance plan, unless such denial is required or expressly permitted by State or federal law.

(c)(1) A hospital that recovers under this chapter shall be responsible for a pro rata share of the legal and administrative expenses incurred in obtaining the judgment, settlement, or compromise.

(2) In no event shall the hospital lien exceed one-third of the net judgment, settlement, or compromise received by the injured patient.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Sec. 7 (hospital liens) shall take effect on January 1, 2024.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 24, 2023, page 727.)

Reported favorably by Senator Lyons for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health and Welfare.

(Committee vote: 7-0-0)

Substitute proposal of amendment for the proposal of amendment of the Committee on Health and Welfare to H. 206, to be offered by Senators Lyons, Gulick and Williams

Senators Lyons, Gulick and Williams move to substitute a recommendation of proposal of amendment for the recommendation of proposal of amendment of the Committee on Health and Welfare as follows:

First: By striking out Sec. 4, federally qualified health centers; alternative payment methodology; report, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. FEDERALLY QUALIFIED HEALTH CENTERS; ALTERNATIVE PAYMENT METHODOLOGY; REPORT

The Department of Vermont Health Access shall collaborate with representatives of Vermont's federally qualified health centers (FQHCs) to develop a mutually agreeable alternative payment methodology for Medicaid payments to the FQHCs that is at least equal to the amount that would be paid under the prospective payment system established under the Benefits Improvement and Protection Act of 2000. On or before October 1, 2023, the Department shall provide a final report on the development of the methodology to the Joint Fiscal Committee, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

Second: By striking out Sec. 5, effective date, in its entirety and inserting in lieu thereof five new sections to be Secs. 5–9 to read as follows:

Sec. 5. BLUEPRINT FOR HEALTH; PAYMENTS TO PATIENT-CENTERED MEDICAL HOMES; REPORT

On or before January 15, 2024, the Director of Health Care Reform in the Agency of Human Services shall recommend to the House Committees on Health Care and on Appropriations and the Senate Committees on Health and Welfare, on Appropriations, and on Finance the amounts by which health insurers and Vermont Medicaid should increase the amount of the per-person, per-month payments they make to Blueprint for Health patient-centered medical homes in furtherance of the goal of providing the additional resources necessary for delivery of comprehensive primary care services to Vermonters and in order to sustain access to primary care services in Vermont. The Agency shall provide an estimate of the State funding that would be needed to support the increase for Medicaid, both with and without federal financial participation. The Agency shall also evaluate and report on potential mechanisms for ensuring that all payers are contributing equitably to the Blueprint on behalf of their covered lives in Vermont, including a consideration of supporting Blueprint initiatives through the health care claims tax established in 32 V.S.A. chapter 243.

Sec. 6. REPEAL OF PROSPECTIVE REPEAL OF 18 V.S.A. § 9473(g)

2021 Acts and Resolves No. 74, Sec. E.227.2 (prospective repeal; pharmacy benefit managers; 340B entities), as amended by 2022 Acts and Resolves No. 131, Sec. 7, is repealed.

Sec. 7. 18 V.S.A. § 2251 is amended to read:

§ 2251. LIEN ESTABLISHED

(a) ~~A~~ Except as otherwise provided in this section, a hospital in Vermont, as defined in section 1801 of this title, furnishing medical or other service, including charges of private duty nurses, to a patient injured by reason of an accident not covered by the Workers' Compensation Act, 21 V.S.A. § 601 et seq. chapter 9, shall have may file a lien upon any recovery for damages to be received by the patient, or by his or her the patient's heirs or personal representatives in the case of his or her the patient's death, whether by judgment or by settlement or compromise after the date of the services. This lien shall not attach to one-third of the recovery or \$500.00, whichever shall be the lesser, and in addition the lien shall be subordinate to an attorney's lien.

(b)(1) Notwithstanding subsection (a) of this section, a hospital shall not have a lien under this chapter if the patient has health insurance, including coverage under Medicare, Medicaid, or a health plan issued by a health insurer, as defined in section 9402 of this title, and the patient, or the patient's heirs or personal representatives in the case of the patient's death, provides the hospital with proof of health insurance not later than 90 days after the patient's discharge from or death at the hospital.

(2) Notwithstanding subdivision (1) of this subsection, a hospital may file a lien pursuant to subsection (a) of this section for any amount owed to the hospital for the patient's deductible or coinsurance, or both, under the health insurance plan for the medical or other services furnished by the hospital by filing notice of a lien at least 120 days after the hospital billed the patient's health insurance plan for the amount owed to the hospital for services furnished to the patient.

(3) The patient's health insurance plan shall not deny payment for services furnished by the hospital to the patient on the basis that some or all of the patient's medical costs may be covered by a property and casualty insurance plan, unless such denial is required or expressly permitted by State or federal law.

(c)(1) A hospital that recovers under this chapter shall be responsible for a pro rata share of the legal and administrative expenses incurred in obtaining the judgment, settlement, or compromise.

(2) In no event shall the hospital lien exceed one-third of the net judgment, settlement, or compromise received by the injured patient.

Sec. 8. 2022 Acts and Resolves No. 167, Sec. 2a is added to read:

Sec. 2a. GREEN MOUNTAIN CARE BOARD; HOSPITAL SYSTEM
TRANSFORMATION; PILOT PROJECTS; REPORT

(a) The Agency of Human Services shall engage in transformation planning with up to four hospitals, or other number of hospitals if possible with alternate funds, to reduce inefficiencies, lower costs, improve population health outcomes, reduce health inequities, and increase access to essential services while maintaining sufficient capacity for emergency management. The transformation planning shall be informed by the data analysis and community engagement required in Sec. 2 of this act. The Secretary of Human Services or designee and the Chair and staff of the Green Mountain Care Board shall consult with each other on the engagements in this section and the data analysis and community engagement required in Sec. 2 of this act to ensure the work is aligned.

(b) On or before February 15, 2024, the Agency of Human Services shall update the Senate Committee on Health and Welfare and the House Committee on Health Care on the progress of this work.

Sec. 9. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Sec. 7 (hospital liens) shall take effect on January 1, 2024.

H. 217.

An act relating to miscellaneous workers' compensation amendments.

Reported favorably with recommendation of proposal of amendment by Senator Harrison for the Committee on Economic Development, Housing and General Affairs.

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

* * * Workers' Compensation * * *

Sec. 1. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2024, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly determines that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall be 1.5 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

Sec. 2. 21 V.S.A. § 711 is amended to read:

§ 711. WORKERS' COMPENSATION ADMINISTRATION FUND

* * *

(b)(1) Annually, the General Assembly shall establish the rate of contribution for the direct calendar year premium for workers' compensation insurance. The rate shall equal the amount approved in the appropriations process for the program and the Department's projection of salary and benefit increases for that fiscal year, less the amount collected in the prior calendar year under subsection (a) of this section from self-insured workers' compensation losses and from corporations approved under this chapter, adjusted by any balance in the fund from the prior fiscal year, divided by the total direct calendar year premium for workers' compensation insurance for the prior year.

(2) In the event that the General Assembly does not establish the rate of contribution for the direct calendar year premium for workers' compensation insurance for a given fiscal year, the rate shall remain unchanged from the prior fiscal year.

Sec. 3. 2014 Acts and Resolves No. 199, Sec. 54b is amended to read:

Sec. 54b. 21 V.S.A. § 643a is added to read:

§ 643a. DISCONTINUANCE OF BENEFITS

Unless an injured worker has successfully returned to work, an employer shall notify both the Commissioner and the employee prior to terminating benefits under either section 642 or 646 of this title. The notice of intention to discontinue payments shall be filed on forms prescribed by the Commissioner and shall include the date of the proposed discontinuance, the reasons for it, and, if the employee has been out of work for 90 days, a verification that the employer offered vocational rehabilitation screening and services as required under this chapter. All relevant evidence, including evidence that does not support discontinuance in the possession of the employer not already filed, shall be filed with the notice. The liability for the payments shall continue for seven days after the notice is received by the Commissioner and the employee. If the claimant disputes the discontinuance, the claimant may file with the Commissioner an objection to the discontinuance and seek an extension of 14 days. The objection to the discontinuance shall be specific as to the reasons and include supporting evidence. A copy of the objection shall be provided to the employer at the time the request is made to the Commissioner. ~~Those~~ The payments shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to section 648 of this title if the

Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. Every notice shall be reviewed by the Commissioner to determine the sufficiency of the basis for the proposed discontinuance. If, after review of all the evidence in the file, the Commissioner finds that a preponderance of all the evidence in the file does not reasonably support the proposed discontinuance, the Commissioner shall order that payments continue until a hearing is held and a decision is rendered. Prior to a formal hearing, an injured worker may request reinstatement of benefits by providing additional new evidence to the Department that establishes that a preponderance of all evidence now supports the claim. If the Commissioner's decision, after a hearing, is that the employee was not entitled to any or all benefits paid between the discontinuance and the final decision, upon request of the employer, the Commissioner may order that the employee repay all benefits to which the employee was not entitled. The employer may enforce a repayment order in any court of law having jurisdiction.

Sec. 4. 21 V.S.A. § 640b is amended to read:

§ 640b. REQUEST FOR PREAUTHORIZATION TO DETERMINE IF
PROPOSED TREATMENT IS BENEFITS ARE NECESSARY

(a) As used in this section, "benefits" means medical treatment and surgical, medical, and nursing services and supplies, including prescription drugs and durable medical equipment.

(b) Within 14 days of after receiving a written request for preauthorization for a proposed medical treatment benefits and medical evidence supporting the requested treatment benefits, a workers' compensation insurer shall do one of the following, in writing:

(1) authorize Authorize the treatment benefits and notify the health care provider, the injured worker, and the Department; ~~or,~~

(2)(A) ~~deny~~ Deny the treatment benefits because the entire claim is disputed and the Commissioner has not issued an interim order to pay benefits; ~~or,~~ The insurer shall notify the health care provider, the injured worker, and the Department of the decision to deny benefits.

~~(B)~~(3) ~~deny~~ Deny the treatment benefits if, based on a preponderance of credible medical evidence specifically addressing the proposed treatment benefits, it is the benefits are unreasonable or, unnecessary, or unrelated to the work injury. The insurer shall notify the health care provider, the injured worker, and the Department of the decision to deny ~~treatment; or~~ benefits.

~~(3)~~(4) ~~notify~~ Notify the health care provider, the injured worker, and the Department that the insurer has scheduled an examination of the employee

pursuant to section 655 of this title or ordered a medical record review pursuant to section 655 655a of this title. Based on the examination or review, the insurer shall authorize or deny the treatment benefits and notify the Department and the injured worker of the decision within 45 days ~~of~~ after a request for preauthorization. The Commissioner may, in ~~his or her~~ the Commissioner's sole discretion, grant a 10-day extension to the insurer to authorize or deny treatment benefits, and such an extension shall not be subject to appeal.

~~(b)~~(c) If the insurer fails to authorize or deny the treatment benefits pursuant to subsection ~~(a)~~ (b) of this section within 14 days ~~of~~ after receiving a request, the claimant or health care provider may request that the Department issue an order authorizing treatment benefits. After receipt of the request, the Department shall issue an interim order within five days after notice to the insurer, and five days in which to respond, absent evidence that the entire claim is disputed. Upon request of a party, the Commissioner shall notify the parties that the ~~treatment has~~ benefits have been authorized by operation of law.

~~(e)~~(d) If the insurer denies the preauthorization of the treatment benefits pursuant to subdivision ~~(a)(2) or (3), or (4)~~ of this section, the Commissioner may, on ~~his or her~~ the Commissioner's own initiative or upon a request by the claimant, issue an order authorizing the treatment benefits if ~~he or she~~ the Commissioner finds that the evidence shows that the ~~treatment is~~ benefits are reasonable, necessary, and related to the work injury.

Sec. 5. 21 V.S.A. § 643d is added to read:

§ 643d. WORK SEARCH; REQUIREMENTS; EXCEPTIONS

(a) An employer may require an employee who is receiving temporary disability benefits pursuant to section 646 of this chapter to engage in a good faith search for suitable work if:

(1) the injured employee is medically released to return to work, either with or without limitations;

(2) the employer has provided the injured employee with written notification that the employee is medically released to return to work and the notification describes any applicable limitations; and

(3) the employer cannot offer the injured employee work that the employee is medically released to do.

(b) An injured employee shall not be required to engage in a good faith search for suitable work if the employee:

(1) is already employed; or

(2) has been referred for or is scheduled to undergo one or more surgical procedures.

(c) An employer shall not require an injured employee to contact more than three employers per week as part of a good faith work search performed pursuant to this section.

Sec. 6. 21 V.S.A. § 646 is amended to read:

§ 646. TEMPORARY PARTIAL DISABILITY BENEFITS

(a)(1) Where the disability for work resulting from an injury is partial, during the disability and beginning on the eighth day thereof of the period of disability, the employer shall pay the injured employee a weekly compensation equal to the greater of:

(A) the difference between the amount the injured employee would be eligible to receive pursuant to section 642 of this chapter, including any applicable cost of living adjustment or dependency benefits that would be due, and the wage the injured employee earns during the period of disability; and

(B) two-thirds of the difference between his or her the injured employee's average weekly wage before the injury and the average weekly wage which he or she is able to earn thereafter amount the employee earns during the period of disability.

(2) Compensation paid pursuant to this subsection shall be adjusted following the receipt of 26 weeks of benefits and annually on each subsequent July 1, so that the compensation continues to bear the same percentage relationship to the average weekly wage in the State as it did at the time of injury.

(b)(1) In addition to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability \$20.00 per week for each dependent child under 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children.

(2) The amount allowed for dependent children shall be adjusted weekly to reflect the number of dependent children during each week of payment.

Sec. 7. 21 V.S.A. § 646 is amended to read:

§ 646. TEMPORARY PARTIAL DISABILITY BENEFITS

* * *

~~(b)(1) In addition to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability \$20.00 per week for each dependent child under 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children.~~

~~(2) The amount allowed for dependent children shall be adjusted weekly to reflect the number of dependent children during each week of payment. [Repealed.]~~

Sec. 8. 21 V.S.A. § 642 is amended to read:

§ 642. TEMPORARY TOTAL DISABILITY BENEFITS

(a)(1) Where the injury causes total disability for work, during such the disability, but not including the first three days, with the day of the accident to be counted as the first day, unless the employee received full wages for that day, the employer shall pay the injured employee a weekly compensation equal to two-thirds of the employee's average weekly wages, but,

(2) The weekly compensation shall be in an amount that is not more than the maximum nor less than the minimum weekly compensation.

(3) Compensation paid pursuant to this subsection shall be adjusted on the first July 1 following the receipt of 26 weeks of benefits and annually on each subsequent July 1, so that the compensation continues to bear the same percentage relationship to the average weekly wage in the State as it did at the time of injury.

(b)(1) In addition, the injured employee, during the disability period shall receive \$10.00 a to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability \$20.00 per week for each dependent child who is unmarried and under the age of 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children. However, in no event shall an

(2) The amount allowed for the dependent children shall be adjusted weekly to reflect the number of dependent children during each week of payment.

(c) Notwithstanding any provision of subsection (a) or (b) of this section to the contrary:

(1) An employee's total weekly wage replacement benefits, including any payments for a dependent child, shall not exceed 90 percent of the employee's average weekly wage prior to applying any applicable cost of living adjustment. ~~The amount allowed for dependent children shall be increased or decreased weekly to reflect the number of dependent children extant during the week of payment.~~

(2) If the total disability continues after the third day for a period of seven consecutive calendar days or more, compensation shall be paid for the whole period of the total disability.

Sec. 9. 21 V.S.A. § 642 is amended to read:

§ 642. TEMPORARY TOTAL DISABILITY BENEFITS

* * *

(b)(1) In addition to the amount paid pursuant to subsection (a) of this section, the employer shall pay the injured employee during the disability ~~\$20.00~~ \$10.00 per week for each dependent child who is under 21 years of age, provided that no other injured worker is receiving the same benefits on behalf of the dependent child or children.

* * *

Sec. 10. 21 V.S.A. § 650 is amended to read:

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

* * *

(d)(1) Compensation computed pursuant to this section shall be adjusted annually on July 1, so that ~~such~~ the compensation continues to bear the same percentage relationship to the average weekly wage in the State ~~as computed under this chapter~~ as it did at the time of injury.

(2) Temporary total or temporary partial compensation shall first be adjusted on the first July 1 following the receipt of 26 weeks of benefits.

(3) Permanent total and permanent partial compensation shall be adjusted for each July 1 following the date of injury regardless of whether indemnity benefits were paid on each intervening July 1.

(e)(1) If weekly compensation benefits or weekly accrued benefits are not paid within 21 days after becoming due and payable pursuant to an order of the Commissioner, or in cases in which the overdue benefit is not in dispute, 10 percent of the overdue amount shall be added and paid to the employee, in addition to any amounts due pursuant to subsection (f) of this section and interest and any other penalties.

(2) In the case of an initial claim, benefits are due and payable upon entering into an agreement pursuant to subsection 662(a) of this title, upon issuance of an order of the Commissioner pursuant to subsection 662(b) of this title, or if the employer has not denied the claim within 21 days after the claim is filed.

(3) Benefits are in dispute if the claimant has been provided actual written notice of the dispute within 21 days of after the benefit being due and payable and the evidence reasonably supports the denial.

(4) Interest shall accrue and be paid on benefits that are found to be compensable during the period of nonpayment.

(5) The Commissioner shall promptly review requests for payment under this section and, consistent with subsection 678(d) of this title, shall allow for the recovery of reasonable attorney's fees associated with an employee's successful request for payment under this subsection.

(f)(1)(A) When benefits have been awarded or are not in dispute as provided in subsection (e) of this section, the employer shall establish a weekday on which payment shall be mailed or deposited and notify the claimant and the Department of that day. The employer shall ensure that each weekly payment is mailed or deposited on or before the day established.

(B) Payment shall be made by direct deposit to a claimant who elects that payment method. The employer shall notify the claimant of ~~his or her~~ the claimant's right to payment by direct deposit.

(2) If the benefit payment is not mailed or deposited on the day established, the employer shall pay to the claimant a late fee of \$10.00 or five percent of the benefit amount, whichever is greater, for each weekly payment that is made after the established day.

(3) As used in this subsection, "paid" means the payment is mailed to the claimant's mailing address or, in the case of direct deposit, transferred into the designated account. In the event of a dispute, proof of payment shall be established by affidavit.

Sec. 11. 21 V.S.A. § 678 is amended to read:

§ 678. COSTS; ATTORNEY'S FEES

(a) ~~Necessary costs of proceedings under this chapter, including deposition expenses, subpoena fees, and expert witness fees, shall be assessed by the Commissioner against the employer or its workers' compensation carrier when the claimant prevails. The Commissioner may allow the claimant to recover reasonable attorney's fees when the claimant prevails.~~ Costs shall not be taxed

or allowed either party except as provided in this section.

(b)(1) When a claimant prevails in either a formal or informal proceeding under this chapter, the Commissioner shall award the claimant necessary costs incurred in relation to the proceeding, including deposition expenses, subpoena fees, and expert witness fees.

(2) The Commissioner may allow a claimant to recover reasonable attorney's fees when the claimant prevails.

(3) In cases for which a formal hearing is requested and the case is resolved prior to a formal hearing:

(A) the Commissioner may award reasonable attorney's fees if the claimant retained an attorney in response to an actual or effective denial of a claim and payments were made to the claimant as a result of the attorney's efforts; and

(B) the Commissioner shall award necessary costs if the claimant incurred the costs in response to an actual or effective denial of a claim and payments were made to the claimant as a result of the costs incurred.

(c)(1) In appeals to the Superior or Supreme Court, if the claimant prevails, he or she the claimant shall be entitled to reasonable attorney's fees as approved by the court,; necessary costs, including deposition expenses, subpoena fees, and expert witness fees,; and interest at the rate of 12 percent per annum on that portion of any award the payment of which is contested.

(2) Interest shall be computed from the date of the award of the Commissioner.

(e)(d) By January 1, 1999, and at least every five years thereafter, the Commissioner shall amend existing rules regarding reasonable attorney's fees awarded under subsection (a) of this section. In amending these rules, the Commissioner shall consider accessibility to legal services, appropriate inflation factors, and any other related factors consistent with the purposes of this chapter. In the event the Commissioner proposes no change in the rules in any five-year period, the Commissioner shall provide a written report to the Legislative Committee on Administrative Rules of the General Assembly explaining the reasons for not changing the rules.

(d) In cases for which a formal hearing is requested and the case is resolved prior to formal hearing, the Commissioner may award reasonable attorney's fees if the claimant retained an attorney in response to an actual or effective denial of a claim and thereafter payments were made to the claimant as a result of the attorney's efforts.

* * *

Sec. 12. ADOPTION OF RULES

The Commissioner of Labor shall, on or before July 1, 2024, adopt rules as necessary to implement the provisions of Secs. 4 through 11 of this act.

* * * Unemployment Insurance * * *

Sec. 13. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

~~The following words and phrases, as As used in this chapter, shall have the following meanings unless the context clearly requires otherwise:~~

* * *

(25) “Son,” “daughter,” and “child” include an individual’s biological child, foster child, adoptive child, stepchild, a child for whom the individual is listed as a parent on the child’s birth certificate, a legal ward of the individual, a child of the individual’s spouse, or a child that the individual has day-to-day responsibilities to care for and financially support.

(26) “Spouse” includes an individual’s domestic partner or civil union partner. As used in this subdivision, “domestic partner” means another individual with whom an individual has an enduring domestic relationship of a spousal nature, provided that the individual and the individual’s domestic partner:

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

(B) are at least 18 years of age;

(C) are not married to, in a civil union with, or considered the domestic partner of another individual;

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

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

Sec. 14. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

As used in this chapter:

* * *

(5) “Employer” includes:

(A) Any employing unit ~~which, after December 31, 1971~~ that in any calendar quarter in either the current or preceding calendar year paid for service in employment, as ~~hereinafter~~ pursuant to subdivision (6) of this section, wages of \$1,500.00 or more, or for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment, ~~as hereinafter defined~~, at least one individual (irrespective of whether the same individual was in employment in each such day). When an employing unit described in either this subdivision or subdivision (5)(B) of this ~~section~~ subdivision (5), becomes an employer within any calendar year, it shall be subject to this chapter for the whole of ~~such~~ the calendar year.

(B)(i) Any employing unit for which service in employment for a religious, charitable, educational, or other organization as defined in subdivision (6)(A)(ix) of this section is performed after December 31, 1971₂, except as provided in subdivision (5)(C) of this ~~section~~ subdivision (5).

* * *

(6)(A)(i) “Employment,” subject to the other provisions of this subdivision (6), means service within the jurisdiction of this State, ~~performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision,~~ service performed after December 31, 1977, performed by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly ~~without~~ outside this State may by election as ~~hereinbefore~~ provided in subdivision (5)(E)(i) of this section be treated as if wholly within the jurisdiction of this State. ~~And whenever~~ If an employing unit shall ~~have~~ has elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the Commissioner, upon ~~his or her~~ approval of said approving the election as to ~~any such~~ the employee, may treat the services covered by ~~said approved~~ the election as having been performed wholly ~~without~~ outside the jurisdiction of this State.

* * *

(ix) The term “employment” shall also include service for any employing unit ~~which is performed after December 31, 1971~~ by an individual in the employ of a religious, charitable, educational, or other organization ~~but only if:~~

(4) the service is excluded from “employment” as defined in the Federal Unemployment Tax Act solely by reason of ~~section~~ subdivision

3306(c)(8) of that act; and

~~(H) the organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.~~

* * *

Sec. 15. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

* * *

(c)(1) Financing benefits paid to employees of nonprofit organizations.

~~(A) Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection (c).~~

~~(B) For the purposes of As used in this subsection (c), a “nonprofit organization” is means an organization (, or group of organizations), described in Section 501(c)(3) of the U.S. Internal Revenue Code which that is exempt from income tax under Section 501(a) of such the Internal Revenue Code.~~

(2) Liability for contributions and election of reimbursement. Any nonprofit organization which that, pursuant to subdivision 1301(5)(B)(i) of this title chapter, is, or becomes, subject to this chapter on or after January 1, 1972 shall pay contributions under the provisions of this section, unless it elects, in accordance with this subsection, to pay to the Commissioner, for the Unemployment Insurance Trust Fund, an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such the nonprofit organization, to individuals for weeks of unemployment which that begin during the effective period of such the election.

~~(A) Any nonprofit organization which is, or becomes, subject to this chapter on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than one calendar year beginning with January 1, 1972 provided it files with the Commissioner a written notice of its election within the 30-day period immediately following such date or within a like period immediately following April 16, 1971, whichever occurs later. [Repealed.]~~

~~(B) Any nonprofit organization which that becomes subject to this chapter after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than 12 months beginning with the~~

~~date on which such subjectivity begins~~ by filing a written notice of its election with the Commissioner not later than 30 days immediately following the date of the determination ~~of such subjectivity~~ that the organization is subject to this chapter.

(C) Any nonprofit organization ~~which~~ that makes an election in accordance with ~~subdivisions (c)(2)(A) and subdivision (B) of this section will subdivision (c)(2) shall~~ continue to be liable for payments in lieu of contributions until it files with the Commissioner a written notice terminating its election not later than 30 days prior to the beginning of the calendar year for which ~~sueh~~ the termination shall first be effective.

(D) Any nonprofit organization ~~which~~ that has been paying contributions under this chapter ~~for a period subsequent to January 1, 1972 may change to a reimbursable basis~~ elect to become liable for payments in lieu of contributions by filing with the Commissioner not later than 30 days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. ~~Sueh~~ An election under this subdivision (c)(2)(D) shall not be terminable by the organization for that year and the next year.

(E) The Commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive ~~but not any earlier than with respect to benefits paid after December 31, 1969.~~

(F) The Commissioner, in accordance with ~~sueh~~ any applicable rules as adopted by the Board ~~may prescribe,~~ shall notify each nonprofit organization of any determination ~~which he or she may make of that the Commissioner makes with regard to~~ its status as an employer and ~~of the effective date of any election which it that the organization makes and of any termination of sueh an election.~~ ~~Sueh~~ The determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

(3) Reimbursement payments. Payments in lieu of contributions shall be made in accordance with the provisions of this subdivision, including either subdivision (A) or ~~subdivision (B).~~

(A) At the end of each calendar quarter, or at the end of any other period as determined by the Commissioner, the Commissioner shall bill each nonprofit organization, or group of ~~sueh~~ nonprofit organizations, ~~which~~ that has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during ~~sueh~~ the quarter or other prescribed period that is

attributable to service in the employ of ~~such~~ the organization.

(B)(i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make ~~such~~ payments as provided in this subdivision (c)(3)(B). ~~Such method of payment~~ Payment pursuant to the provisions of this subdivision (c)(3)(B) shall become effective upon approval of the Commissioner.

(ii) At the end of each calendar quarter, the Commissioner shall bill each nonprofit organization approved to make payments pursuant to the provisions of this subdivision (c)(3)(B) for an amount representing ~~one of the following:~~

~~(I) For 1972, two-tenths of one percent of its total payroll for 1971.~~

~~(II) For years after 1972, such a percentage of its total payroll for the immediately preceding calendar year as that the Commissioner shall determine. The determination shall be determines to be appropriate based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.~~

~~(III) For The Commissioner may determine a different rate for any organization which that did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during that year as the Commissioner shall determine.~~

(iii) At the end of each calendar year, the Commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each calendar year, the Commissioner shall determine whether the total of payments for ~~such~~ the year made by a nonprofit organization is less than, or in excess of, the total amount of regular benefits plus one-half of the amount of extended benefits paid to individuals during ~~such~~ the taxable year based on wages attributable to service in the employ of ~~such~~ the organization. Each nonprofit organization whose total payments for ~~such~~ the year are less than the amount so determined shall be liable for payment of the unpaid balance to the Trust Fund in accordance with subdivision (3)(C) of this ~~subsection~~ subdivision (c)(3). If the total payments exceed the amount so determined for the taxable year, all or a part of the excess shall, at the election of the nonprofit organization, be refunded from the Trust Fund or retained in the Trust Fund as part of the payments ~~which~~ that may be required for the next calendar year.

(C) Payment of any bill rendered under subdivision (2) ~~or~~

~~subdivision (3)~~ of this subsection (c) or this subdivision (c)(3) shall be made not later than 30 days after the bill is mailed to the last known address of the nonprofit organization or is otherwise delivered to it, unless there has been an application for redetermination by the Commissioner or a petition for hearing before a referee in accordance with ~~subdivision (3)(E)~~ of this ~~subsection~~ subdivision (c)(3).

(D) Payments made by any nonprofit ~~corporation~~ organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(E)(i) The amount due specified in any bill from the Commissioner shall be conclusive on the organization unless, not later than 30 days after the date of the bill, the organization files an application for reconsideration by the Commissioner, or a petition for a hearing before a referee, setting forth the grounds for ~~such~~ the application or petition.

(ii) The Commissioner shall promptly review and reconsider the amount due specified in the bill and shall thereafter issue a redetermination in any case in which ~~such~~ an application for redetermination has been filed. Any such redetermination shall be conclusive on the organization unless, not later than 30 days after the date of the redetermination, the organization files a petition for a hearing before a referee, setting forth the grounds for the petition.

(iii) Proceedings on the petition for a hearing before a referee on the amount of a bill rendered under this section or a redetermination of ~~such~~ the amount shall be in accordance with the provisions of section 1331 of this title, and the decision of the referee shall be subject to the provisions of that section. Review of the decision of the referee by the Employment Security Board shall be in accordance with, and its decision shall be subject to, the provisions of section 1332 of this title.

(F) Any employer, including the State of Vermont ~~which,~~ that makes payments in lieu of contributions under this section shall be subject to the provisions of sections 1314, 1322, 1328, 1329, 1334, and 1336 of this title as follows:

(i) ~~that~~ The employer shall be liable for any reports as required by the Commissioner ~~may require~~ pursuant to sections 1314 and 1322 of this title;

(ii) ~~that~~ The employer shall be liable for any penalty imposed pursuant to sections 1314 and 1328 of this title;

(iii) ~~that~~ The employer shall be liable for the same interest on past due payments pursuant to subsection 1329(a) of this title;

(iv) ~~that~~ The employer shall be subject to a civil action for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(b) and 1334(a) of this title; ~~and~~.

(v) ~~that~~ The employer shall be subject to ~~those~~ actions for the collection of past due payments as if those payments were contributions pursuant to subsections 1329(c) and (d), ~~and~~ 1334(b) and (c), and section 1336 of this title; however, those provisions shall not apply to the State of Vermont.

(4) Authority to terminate elections. If any nonprofit organization is delinquent in making payments in lieu of contributions as required under this subsection, the Commissioner may terminate ~~such~~ the organization's election to make payments in lieu of contributions as of the beginning of the next taxable year, and the termination shall be effective for that and the next taxable year.

(5) Allocation of benefit costs.

(A) Each employer that is liable for payments in lieu of contributions shall pay to the Commissioner for the Trust Fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of ~~such~~ the employer.

(B) If benefits paid to an individual are based on wages paid by more than one employer and one or more of ~~such~~ the employers are liable for payments in lieu of contributions, the amount payable to the Trust Fund by each employer that is liable for ~~such~~ payments in lieu of contributions shall be ~~determined in accordance with subdivisions (5)(A) and (B) of this subsection~~ (e):

~~(A) — Proportionate allocation when fewer than all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which that bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by ~~such~~ the employer bear to the total base-period wages paid to the individual by all of his or her the individual's base-period employers.~~

~~(B) — Proportionate allocation when all base-period employers are liable for reimbursement. If benefits paid to an individual are based on wages~~

~~paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by the employer bear to the total base-period wages paid to the individual by all of his or her base-period employers.~~

(6) Group accounts. Two or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of this section and section 1380 of this title, may file a joint application to the Commissioner for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of ~~such~~ the employers. Each application shall identify and authorize a group representative to act as the group's agent for the purpose of this section. Upon ~~his or her~~ approval of the application, the Commissioner shall establish a group account for ~~such~~ the employers effective as of the beginning of the calendar quarter in which ~~he or she~~ the Commissioner receives the application and shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the Commissioner or upon application by the group. Upon establishment of the account, each member of the group shall be liable for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in ~~such~~ the quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by ~~such~~ the member in ~~such~~ the quarter bear to the total wages paid during ~~such~~ the quarter for service performed in the employ of all members of the group. The Board shall ~~prescribe regulations~~ adopt rules as it deems necessary with respect to applications for establishment, maintenance, and termination of group accounts that are authorized by this subdivision, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this ~~section~~ subsection by members of the group and the time and manner of ~~such~~ the payments.

(7) ~~Notwithstanding any of the foregoing provisions of this section, any nonprofit organization that prior to January 1, 1969, paid contributions required by this section, and, pursuant to subsection (c) of this section, elects within 30 days after January 1, 1972, to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on and after the effective date of the election until the total amount of benefits equals the amount (1) by which the contributions paid by the organization with~~

~~respect to the two-year period before the effective date of the election under subsection (b) of this section exceed (2) the total amount of unemployment benefits paid for the same period that were attributable to service performed in the employ of the organization and were charged to the experience rating record of the organization. [Repealed.]~~

* * *

(f) Any employer who makes payments in lieu of contributions under the provisions of this section is considered to be self-insuring and shall pay to the Commissioner for the Unemployment Compensation Trust Fund ~~such~~ any amounts as the Commissioner finds to be due under this chapter, including benefits paid but denied on appeal or benefits paid in error ~~which~~ that cannot be properly charged either against another employer who makes payments in lieu of contributions or against the experience-rating record of another employer who pays contributions. Benefits improperly paid where repayment by the claimant is ordered pursuant to subsection 1347(a) or (b) of this title will be credited to the employer's account when repayment from the claimant is actually received by the Commissioner.

Sec. 16. NONPROFIT AND MUNICIPAL REIMBURSABLE
EMPLOYERS; EDUCATION; OUTREACH

(a) On or before October 1, 2023, the Commissioner of Labor, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall develop information and education materials for nonprofit and municipal employers regarding the unemployment insurance system. At a minimum, the materials shall:

(1) explain the options available to nonprofit and municipal employers, including paying regular unemployment insurance contributions, reimbursing the Unemployment Insurance Trust Fund for attributable unemployment insurance costs, and, with respect to nonprofit employers, quarterly payments of estimated unemployment insurance costs;

(2) identify the potential benefits and drawbacks of each of the options identified in subdivision (1) of this subsection;

(3) provide information on how a nonprofit or municipal employer can evaluate its potential liability under each of the options identified in subdivision (1) of this subsection;

(4) provide information developed by the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders regarding how a nonprofit or municipal employer

can plan and budget for the potential expenses associated with each of the options identified in subdivision (1) of this subsection; and

(5) provide additional information regarding the Unemployment Insurance program and related laws that the Commissioner determines, in consultation with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, to be helpful or necessary for nonprofit and municipal employers.

(b)(1) The informational and educational materials developed pursuant to subsection (a) of this section shall be made available on the Department's website and shall, in coordination with the Secretary of State, Common Good Vermont, United Way of Northwest Vermont, the Vermont League of Cities and Towns, and other interested stakeholders, be shared directly with Vermont nonprofit and municipal employers to the extent practicable.

(2) The Secretary of State shall assist the Commissioner of Labor in identifying and contacting all active Vermont nonprofit employers. The Office of the Secretary of State shall also make available on its website a link to the information and educational materials provided on the Department of Labor's website pursuant to this section.

(c) The Department of Labor, in collaboration with the Vermont League of Cities and Towns, Common Good Vermont, United Way of Northwest Vermont, and other interested stakeholders, shall hold one or more informational sessions to present the materials and information developed pursuant to subsection (a) of this section to nonprofit employers and municipal employers. At least one session shall be held on or before November 1, 2023. Each session shall allow for both in-person and remote participation and shall be recorded. Recordings shall be made available to the public and to stakeholder organizations for distribution to their members.

Sec. 17. 2021 Acts and Resolves No. 183, Sec. 59(b)(6) is amended to read:

(6) Sec. 52g (prospective repeal of unemployment insurance benefit increase) shall take effect upon the payment of a when the cumulative total amount of additional benefits paid pursuant to 21 V.S.A. § 1338(e) when, compared to the rate at which benefits would have been paid under the formula set forth in 21 V.S.A. § 1338(e) on June 30, 2025 equal to \$92,000,000.00, plus the difference between \$8,000,000.00 and the amount of additional benefits paid out pursuant to section 52b, if any, compared to the amount that would have been paid pursuant to the provisions of 21 V.S.A. § 1338(f)(1) on June 30, 2022, equals \$100,000,000.00 and shall apply to benefit weeks beginning after that date.

Sec. 18. UNEMPLOYMENT DUE TO URGENT, COMPELLING, OR
NECESSITOUS CIRCUMSTANCES; COVERAGE; IMPACT;
REPORT

(a) On or before January 15, 2024, the Commissioner of Labor shall submit a written report prepared in consultation with the Joint Fiscal Office to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential impact of extending eligibility for unemployment insurance benefits to individuals who separate from employment due to urgent, compelling, or necessitous circumstances, including the individual's injury or illness, to obtain or recover from medical treatment, to escape domestic or sexual violence, to care for a child following an unexpected loss of child care, or to care for an ill or injured family member.

(b) The report shall include:

(1) a list of states in which individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are eligible for unemployment insurance and shall identify the specific circumstances for separation from employment in each identified state for which there is no waiting period or period of disqualification related to the circumstance;

(2) information, to the extent it is available, regarding the number of approved claims in the states identified pursuant to subdivision (1) of this subsection where the individual separated from employment due to circumstances similar to those described in subsection (a) of this section;

(3) an estimate of the projected range of additional approved claims per year in Vermont if individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section are made eligible for unemployment insurance;

(4) an estimate of the range of potential impacts on the Unemployment Insurance Trust Fund of making individuals who separate from employment due to circumstances similar to those described in subsection (a) of this section eligible for unemployment insurance; and

(5) any recommendations for legislative action.

Sec. 19. DOMESTIC AND SEXUAL VIOLENCE SURVIVORS'
TRANSITIONAL EMPLOYMENT PROGRAM; UTILIZATION;
REPORT

On or before January 15, 2024, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic

Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the utilization of the Domestic and Sexual Violence Survivors' Transitional Employment Program. The report shall include information regarding the utilization of the Program during the past 10 years, a summary of the Department's efforts to make members of the public aware of the Program and improve access to it, how the identified changes have impacted utilization of the Program in comparison to prior years, any potential ways to further increase awareness and utilization of the Program, and any suggestions for legislative action to improve awareness or utilization of the Program.

Sec. 20. 21 V.S.A. § 1256 is added to read:

§ 1256. NOTIFICATION TO THE PUBLIC

The Department shall take reasonable measures to provide information to the public about the Program, including publishing information on the Department's website and providing timely materials related to the Program to public agencies of the State and organizations that work with domestic and sexual violence survivors, including law enforcement, State's Attorneys, community justice centers, the Center for Crime Victim Services, the Vermont Network Against Domestic and Sexual Violence (the Network), and any others deemed appropriate by the Commissioner in consultation with the Network.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

- (a) This section and Secs. 1 and 3 shall take effect on passage.
- (b) Sec. 14 shall take effect on July 1, 2024.
- (c) Secs. 7 and 9 shall take effect on July 1, 2028.
- (d) The remaining sections shall take effect on July 1, 2023.

(Committee vote: 5-0-0)

(No House amendments.)

H. 305.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

Reported favorably with recommendation of proposal of amendment by Senator Hardy for the Committee on Government Operations.

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

First: In Sec. 7, 26 V.S.A. § 2022, by striking out subdivision (14) in its entirety and inserting in lieu thereof a new subdivision (14) to read as follows:

(14) “Pharmacy technician” means an individual who, only while assisting and under the supervision of a licensed pharmacist, performs tasks relative to dispensing only while assisting and under the supervision and control of a licensed pharmacist prescription drugs, administering immunizations, and performing tests for COVID-19. Pharmacy technicians shall administer immunizations and perform tests for COVID-19 in compliance and accordance with section 2042a of this title.

Second: By striking out Sec. 8, 26 V.S.A. § 2023, in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. 26 V.S.A. § 2023 is amended to read:

§ 2023. CLINICAL PHARMACY; PRESCRIBING

* * *

(b) A pharmacist may prescribe in the following contexts:

* * *

(2) State protocol.

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

* * *

(v) self-administered hormonal contraceptives, including subcutaneous depot medroxyprogesterone acetate;

* * *

(vii) influenza vaccines for patients 18 years of age or older, vaccinations recommended by the Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practices (ACIP) and administered consistently with the ACIP-approved immunization schedules, as may be amended from time to time;

(viii) for patients five years of age or older, influenza vaccine, COVID-19 vaccine, and subsequent formulations or combination products thereof;

(ix) in the event of a significant public health risk, an appropriate vaccine to mitigate the effects on public health after finding that existing

channels for vaccine administration are insufficient to meet the public health need;

~~(ix)~~(x) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services; and

(xi) tests for COVID-19 for individuals by entities holding a Certificate of Waiver pursuant to the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a). If a test for COVID-19, prescribed, ordered, or administered by a pharmacist in accordance with this section and the resulting State protocol incidentally detects influenza or human respiratory syncytial virus, a pharmacist shall advise the individual tested that the results indicate influenza or human respiratory syncytial virus infection and recommend to the individual to seek further care from an appropriate health care provider.

* * *

Third: By striking out Sec. 9, 26 V.S.A. § 2042a, in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 26 V.S.A. § 2042a is amended to read:

§ 2042a. PHARMACY TECHNICIANS; QUALIFICATIONS FOR
REGISTRATION

(a) No person shall perform the duties of a pharmacy technician unless registered with the Board. To obtain a registration as a pharmacy technician, an applicant shall:

* * *

(b) Pharmacy technicians administering immunizations shall meet the following requirements:

(1) hold a registration as a pharmacy technician in accordance with subsection (a) of this section;

(2) hold a current CPR certification;

(3) have successfully completed an Accreditation Council of Pharmacy Education–accredited training program approved by the Board; and

(4) successfully complete two hours of immunization-related continuing education approved by the Accreditation Council for Pharmacy Education every two-year licensing period.

(c) Pharmacy technicians shall only administer immunizations:

(1) to patients 18 years of age or older, as established in subdivision 2023(b)(2)(A)(vii) and the resulting State protocol;

(2) to patients five years of age or older, influenza vaccine, COVID-19 vaccine, and subsequent formulations or combination products thereof, in accordance with subdivision 2023(b)(2)(A)(viii) and the resulting State protocol;

(3) pursuant to the schedules and recommendations of the Advisory Committee on Immunization Practices' recommendations for the administration of immunizations, as those recommendations may be updated from time to time; and

(4) when a licensed pharmacist who is trained to immunize is present and able to assist with the immunization, as needed.

(d) Pharmacy technicians shall administer only those immunizations that:

(1) are recommended by the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices (ACIP); and

(2) licensed pharmacists are permitted to administer under the State clinical pharmacy protocol, as established in subdivision 2023(b)(2) of this title.

(e) Pharmacy technicians performing COVID-19 tests shall do so only:

(1) when a licensed pharmacist who is trained to perform COVID-19 tests is present and able to assist with the test, as needed;

(2) in accordance with a State protocol adopted under subdivision 2023(b)(2)(A)(x) of this title; and

(3) in accordance with rules adopted by the Board.

(f) The Board may adopt rules regarding the administration of immunizations and the performance of COVID-19 tests by pharmacy technicians.

Fourth: By striking out Sec. 12, effective date, and its reader assistance heading in their entireties and inserting in lieu thereof the following:

Sec. 12. 2022 Acts and Resolves No. 117, Sec. 8, mental health professional licensure; study, is amended to read:

Sec. 8. MENTAL HEALTH PROFESSIONAL LICENSURE; STUDY

* * *

(b) Stakeholder input. The Director of the Office of Professional Regulation shall seek the input and recommendations of the following stakeholders in completing the study:

* * *

(7) other interested stakeholders, including individuals from diverse backgrounds to represent the interests of communities of color and other historically underrepresented populations in mental health care professions, and individuals representing the interests of art and music therapists.

(c) Findings and recommendations. On or before December 15, 2024, the Director of the Office of Professional Regulation shall provide the Office's findings and recommendations to the House Committees on Health Care and on Government Operations and the Senate Committees on Health and Welfare and on Government Operations. The findings and recommendations shall include a process for the certification of music therapists and art therapists.

Sec. 13. 26 V.S.A. § 2061 is amended to read:

§ 2061. REGISTRATION AND LICENSURE

* * *

(e) Retail and institutional drug outlets shall be managed by licensed pharmacists who have held an unrestricted license in this or another state for at least one year. The Board may grant a pharmacy permission to appoint a licensed pharmacist to manage the pharmacy who has been licensed for less than a year, subject to rules adopted by the Board. A pharmacist who holds a restricted license may petition the Board for permission to be a pharmacist manager, which may be granted by the Board for good cause shown.

* * *

* * * Secretary of State Fees * * *

* * * Advisor Professions * * *

Sec. 14. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

(a) In addition to the fees otherwise authorized by law, a board or advisor profession may charge the following fees:

(1) Verification of license, \$20.00.

(2) An examination fee established by the Secretary, which shall be ~~no~~ not greater than the costs associated with examinations.

(3) Reinstatement fees for expired licenses pursuant to section 127 (unauthorized practice) of this title.

(4) Continuing, qualifying, or prelicensing education course approval:

(A) Provider, \$100.00.

(B) Individual, \$25.00.

(5) A preapplication criminal background determination, \$25.00.

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

(1) Application for registration, ~~\$75.00~~ \$100.00, except application for:

(A) Private investigator and security services employees, unarmed registrants, ~~\$60.00~~ \$70.00.

(B) Private investigator and security service employees, transitory permits, ~~\$60.00~~ \$70.00.

(C) Private investigator and security service employees, armed registrants, ~~\$120.00~~ \$140.00.

(2) Application for licensure or certification, ~~\$100.00~~ \$115.00, except application for:

(A) Barbering or cosmetology schools and shops, ~~\$300.00~~ \$355.00.

(B) Funeral directors, embalmers, disposition facility personnel, removal personnel, funeral establishments, disposition facilities, and limited services establishments, ~~\$70.00~~ \$85.00.

(C) Application for real estate appraisers, ~~\$275.00~~ \$315.00.

(D) Temporary real estate appraiser license, ~~\$150.00~~ \$175.00.

(E) Appraisal management company registration, ~~\$600.00~~ \$685.00.

(F) Private investigator or security services agency, ~~\$340.00~~ \$390.00.

(G) Private investigator and security services agency, ~~\$400.00~~ \$460.00.

(H) Private investigator or security services sole proprietor, \$250.00.

(I) Private investigator or security services unarmed licensee, ~~\$150.00~~ \$175.00.

(J) Private investigator or security services armed licensee, ~~\$200.00~~ \$230.00.

(K) Private investigator and security services instructor, ~~\$120.00~~ \$140.00.

(L) Barbers, cosmetologists, nail technicians, and estheticians, \$120.00.

- (M) Massage therapist, bodyworker, or touch professional, \$90.00.
- (N) Optician, \$145.00.
- (O) Physical therapists and assistants, \$120.00.
- (P) Independent clinical social workers and master's social workers, \$120.00.
- (3) Optician trainee registration, ~~\$50.00~~ \$75.00.
- (4) Biennial renewal, ~~\$240.00~~ \$275.00, except biennial renewal for:
- (A) Independent clinical social workers and master's social workers, \$150.00 \$180.00.
- (B) Occupational therapists and assistants, \$150.00 \$180.00.
- (C) Physical therapists and assistants, \$150.00 \$180.00.
- (D) Optician trainees, \$100.00 \$135.00.
- (E) Barbers, cosmetologists, nail technicians, and estheticians, \$130.00 \$155.00.
- (F) Schools of barbering or cosmetology, \$300.00 \$355.00.
- (G) Funeral directors and embalmers, \$280.00 \$415.00.
- (H) Disposition facility personnel and removal personnel, \$100.00 \$150.00.
- (I) Funeral establishments, disposition facilities, and limited services establishments, \$640.00 \$945.00.
- (J) [Repealed.]
- (K) Radiologic therapist, radiologic technologist, nuclear medicine technologist, \$150.00 \$175.00.
- (L) Certified alcohol and drug abuse counselor, certified apprentice addiction professional, and licensed alcohol and drug abuse counselor, \$225.00 \$260.00.
- (M) Private investigator or security services agency, or both, \$300.00 \$345.00.
- (N) Private investigator or security services unarmed licensee, \$120.00 \$140.00.
- (O) Private investigator or security services armed licensee, \$180.00 \$205.00.

(P) Private investigator or security services unarmed registrant, ~~\$80.00~~ \$95.00.

(Q) Private investigator or security services armed registrant, ~~\$130.00~~ \$150.00.

(R) Private investigator or security services sole proprietor, \$250.00.

(S) Private investigator or security services instructor, ~~\$180.00~~ \$205.00.

(T) Barbering or cosmetology shop, \$285.00.

(5) Limited temporary license or work permit, ~~\$50.00~~ \$60.00.

(6) Radiologic evaluation, \$125.00.

(7) Annual renewal for appraisal management company registration, ~~\$300.00~~ \$345.00.

(8) Real estate appraiser trainee, \$115.00.

* * *

* * * Boxing * * *

Sec. 15. 26 V.S.A. § 6009 is amended to read:

§ 6009. FEES

(a) Applicants and persons regulated by this subchapter shall be subject to the following fees:

(1) Promoter registration ~~\$500.00~~ \$825.00

(2) Boxer registration ~~\$25.00~~ \$30.00

(3) Manager registration ~~\$25.00~~ \$30.00

(4) Second registration ~~\$25.00~~ \$30.00

(5) Referee registration ~~\$25.00~~ \$30.00

(6) Judge registration ~~\$25.00~~ \$30.00

(7) Biennial renewal for ~~professional boxers,~~ managers, seconds, referees, and judges ~~\$25.00~~ \$30.00

(8) Biennial renewal for professional boxer \$35.00

(9) Biennial renewal for professional promotor \$45.00

* * *

* * * Mixed Martial Arts * * *

Sec. 16. 26 V.S.A. § 6033 is amended to read:

§ 6033. FEES

Applicants and persons regulated by this subchapter shall be subject to the following fees:

(1) Application:

(A) Promoter license ~~\$500.00~~ \$545.00

(B) Event license ~~\$250.00~~ \$275.00

(C) Contestant license ~~\$25.00~~ \$30.00

(D) Participant license ~~\$25.00~~ \$30.00

(2) Biennial renewal for managers, seconds, referees, and judges ~~\$25.00~~ \$30.00

(3) Biennial renewal for promoters ~~\$500.00~~ \$545.00

(4) Annual renewal for contestants ~~\$25.00~~ \$30.00

(5) Late fees set pursuant to 3 V.S.A. § 127(d)(1).

* * * Nursing Home Administrators * * *

Sec. 17. 18 V.S.A. § 2058 is amended to read:

§ 2058. LICENSE FEES

Applicants and persons regulated under this chapter shall be subject to the following fees:

(1) Application ~~\$100.00~~ \$115.00

(2) Biennial renewal ~~\$200.00~~ \$275.00

* * * Board Professions * * *

* * * Accounting * * *

Sec. 18. 26 V.S.A. § 56 is amended to read:

§ 56. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license ~~\$100.00~~ \$115.00

(2) Biennial renewal of license ~~\$220.00~~ \$255.00

- (3) Firm registration ~~\$200.00~~ \$230.00
- (4) [Repealed.]
- (5) Firm biennial renewal of registration ~~\$400.00~~ \$460.00
- (6) Sole proprietor firm biennial renewal of registration ~~\$200.00~~ \$230.00

* * * Allied Mental Health * * *

Sec. 19. 26 V.S.A. § 4089a is amended to read:

§ 4089a. FEES

A person who seeks entry on the roster shall pay the following fees:

- (1) Initial roster entry ~~\$80.00~~ \$95.00
- (2) Biennial roster reentry ~~\$150.00~~ \$175.00

Sec. 20. 26 V.S.A. § 4041a is amended to read:

§ 4041a. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for licensure ~~\$150.00~~ \$175.00
- (2) Biennial renewal ~~\$250.00~~ \$285.00

Sec. 21. 26 V.S.A. § 3270a is amended to read:

§ 3270a. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for licensure ~~\$150.00~~ \$175.00
- (2) Biennial renewal ~~\$200.00~~ \$230.00

* * * Architect * * *

Sec. 22. 26 V.S.A. § 209 is amended to read:

§ 209. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for initial license ~~\$60.00~~ \$120.00
- (2) ~~Initial license issuance~~ \$20.00

(3) Biennial renewal ~~\$155.00~~ \$225.00

* * * Chiropractor * * *

Sec. 23. 26 V.S.A. § 535 is amended to read:

§ 535. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Chiropractors

(A) Application ~~\$200.00~~ \$225.00

(B) Biennial renewal ~~\$265.00~~ \$295.00

(C) Initial competency endorsement under section 525 of this title
\$70.00

(D) Biennial renewal of competency endorsement under section 525 of
this title \$70.00

(E) Evaluation \$125.00

(2) Registration of intern ~~\$50.00~~ \$80.00

* * * Dental * * *

Sec. 24. 26 V.S.A. § 662 is amended to read:

§ 662. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application

(A) Dentist ~~\$250.00~~ \$285.00

(B) Dental therapist ~~\$185.00~~ \$215.00

(C) Dental hygienist ~~\$175.00~~ \$200.00

(D) Dental assistant ~~\$70.00~~ \$80.00

(2) Biennial renewal

(A) Dentist ~~\$575.00~~ \$655.00

(B) Dental therapist ~~\$270.00~~ \$310.00

(C) Dental hygienist ~~\$215.00~~ \$245.00

(D) Dental assistant ~~\$90.00~~ \$105.00

* * *

* * * Engineer * * *

Sec. 25. 26 V.S.A. § 1176 is amended to read:

§ 1176. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for engineering license or application to add additional specialty discipline ~~\$100.00~~ \$115.00
- (2) Application for engineer intern certificate ~~\$50.00~~ \$60.00
- (3) Biennial license renewal ~~\$150.00~~ \$175.00
- (4) [Repealed.]

* * * Land Surveyor * * *

Sec. 26. 26 V.S.A. § 2597 is amended to read:

§ 2597. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application ~~\$200.00~~ \$290.00
- (2) Biennial renewal of license ~~\$300.00~~ \$365.00

* * * Nursing * * *

Sec. 27. 26 V.S.A. § 1577 is amended to read:

§ 1577. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Nursing Assistants
 - (A) Application ~~\$20.00~~ \$25.00
 - (B) Biennial renewal ~~\$55.00~~ \$65.00
- (2) Practical Nurses and Registered Nurses
 - (A) Application by exam \$75.00
 - (B) Application by endorsement ~~\$150.00~~ \$175.00
 - (C) Biennial renewal for Practical Nurses ~~\$175.00~~ \$200.00

(D) Biennial renewal for Registered Nurses ~~\$190.00~~ \$220.00

(3) Advanced Practice Registered Nurses

(A) Initial endorsement of advanced practice registered nurses ~~\$100.00~~
\$115.00

(B) Biennial renewal of advanced practice registered nurses ~~\$125.00~~
\$145.00

* * * Optometry * * *

Sec. 28. 26 V.S.A. § 1718 is amended to read:

§ 1718. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application ~~\$225.00~~ \$325.00

(2) Biennial renewal ~~\$350.00~~ \$395.00

* * * Osteo * * *

Sec. 29. 26 V.S.A. § 1794 is amended to read:

§ 1794. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application

(A) Licensure ~~\$500.00~~ \$450.00

(B) Limited temporary license ~~\$50.00~~ \$75.00

(2) Biennial license renewal ~~\$300.00~~ \$350.00

(3) Annual limited temporary license renewal ~~\$100.00~~ \$145.00

* * *

* * * Pharmacy * * *

Sec. 30. 26 V.S.A. § 2046 is amended to read:

§ 2046. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Initial application:

(A) Pharmacists ~~\$110.00~~ \$155.00

- (B) Retail drug outlets ~~\$300.00~~ \$410.00
 - (C) Institutional drug outlets ~~\$400.00~~ \$460.00
 - (D) Manufacturing drug outlet ~~\$400.00~~ \$550.00
 - (E) Wholesale drug outlet ~~\$700.00~~ \$800.00
 - (F) Investigative and research projects ~~\$300.00~~ \$410.00
 - (G) Pharmacy technicians ~~\$50.00~~ \$70.00
 - (H) Outsourcing drug outlet ~~\$700.00~~ \$800.00
 - (I) Nuclear drug outlet ~~\$700.00~~ \$800.00
 - (J) Compounding drug outlet ~~\$700.00~~ \$800.00
 - (K) Home infusion drug outlet ~~\$700.00~~ \$800.00
 - (L) Third-party logistics ~~\$700.00~~ \$800.00
 - (M) Pharmacy interns ~~\$20.00~~ \$25.00
 - (N) Nonresident manufacturers ~~\$800.00~~
 - (O) Community-based long-term care pharmacy ~~\$550.00~~
 - (P) Institutional long-term care pharmacy ~~\$550.00~~
- (2) Biennial renewal:
- (A) Pharmacists ~~\$125.00~~ \$145.00
 - (B) Retail drug outlets ~~\$400.00~~ \$460.00
 - (C) Institutional drug outlets ~~\$500.00~~ \$570.00
 - (D) Manufacturing drug outlet ~~\$500.00~~ \$570.00
 - (E) Wholesale drug outlet ~~\$500.00~~ \$570.00
 - (F) Investigative and research projects ~~\$300.00~~ \$345.00
 - (G) Pharmacy technicians ~~\$60.00~~ \$85.00
 - (H) Outsourcing drug outlet ~~\$500.00~~ \$570.00
 - (I) Nuclear drug outlet ~~\$500.00~~ \$570.00
 - (J) Compounding drug outlet ~~\$500.00~~ \$570.00
 - (K) Home infusion drug outlet ~~\$500.00~~ \$570.00
 - (L) Third-party logistics ~~\$500.00~~ \$570.00
 - (M) Pharmacy interns ~~\$45.00~~ \$55.00

(N) Nonresident manufacturers \$570.00

(O) Community-based long-term care pharmacy \$570.00

(P) Institutional long-term care pharmacy \$570.00

(3) Pharmacy reinspection \$100.00

* * * Psychology * * *

Sec. 31. 26 V.S.A. § 3010 is amended to read:

§ 3010. FEES; LICENSES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license ~~\$175.00~~ \$240.00

(2) Biennial renewal of license ~~\$150.00~~ \$195.00

(3) [Repealed.]

(4) [Repealed.]

* * * Real Estate * * *

Sec. 32. 26 V.S.A. § 2255 is amended to read:

§ 2255. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

* * *

(2) Biennial renewal of broker or salesperson license ~~\$240.00~~ \$220.00

* * *

* * * Veterinary * * *

Sec. 33. 26 V.S.A. § 2414 is amended to read:

§ 2414. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application ~~\$100.00~~ \$145.00

(2) Biennial Renewal ~~\$175.00~~ \$200.00

* * * Corporations Division * * *

* * * Assumed Business Name * * *

Sec. 34. 11 V.S.A. § 1625 is amended to read:

§ 1625. FEES

(a) A person, copartnership, association, limited liability company, or corporation required by the provisions of this chapter to file a return, shall, at the time of filing as provided, pay a registration fee of ~~\$50.00~~ \$70.00 to the Secretary of State.

(b) A person, copartnership, association, limited liability company, or corporation required by the provisions of this chapter to file a certificate of cessation or change of business status or an application to reserve a business name shall, at the time of filing, pay a fee of ~~\$20.00~~ \$35.00 to the Secretary of State.

* * *

Sec. 35. 11 V.S.A. § 1635 is amended to read:

§ 1635. REREGISTRATION

(a) One or more persons doing business under a registered business name shall reregister the name every five years by filing a reregistration return with the Secretary of State with a fee of ~~\$40.00~~ \$65.00 within 60 days following the date five years after the date of the original registration or of the last reregistration. The Secretary of State shall prepare and supply the necessary forms.

* * *

* * * Corporation * * *

Sec. 36. 11A V.S.A. § 1.22 is amended to read:

§ 1.22. FILING; SERVICE AND COPYING FEES

(a) The Secretary of State shall collect the following fees when the documents described in this section are delivered to the Office of the Secretary of State for filing:

(1) Articles of incorporation	\$125.00 <u>\$155.00</u>
(2) Application for reserved name	\$20.00 <u>\$40.00</u>

(3) Notice of transfer of reserved name	No fee <u>\$20.00</u>
(4) Application for registered name of a foreign corporation	\$25.00 <u>\$50.00</u>
(5) Application for renewal of registered name of a foreign corporation	\$25.00 <u>\$50.00</u>
(6) Statement of change of registered agents or registered office, or both	\$25.00 and not to exceed \$1,000.00 per filer per calendar year.
(7) Agent's statement of resignation	No fee
(8) Amendment of articles of incorporation	\$25.00 <u>\$50.00</u>
(9) Restatement of articles of incorporation	\$25.00 <u>\$50.00</u>
(10) Articles of merger or share exchange	\$50.00 <u>\$95.00</u>
(11) Articles of dissolution	\$20.00 <u>\$35.00</u>
(12) Articles of revocation of dissolution	\$20.00 <u>\$35.00</u>
(13) Application for certificate of authority	\$125.00 <u>\$155.00</u>
(14) Application for amended certificate of authority	\$25.00 <u>\$50.00</u>
(15) Application for certificate of withdrawal	\$20.00 <u>\$25.00</u>
(16) Annual report of a foreign corporation	\$200.00 <u>\$250.00</u>

(17) Annual report of a domestic corporation	\$45.00 <u>\$60.00</u>
(18) Application for certificate of good standing	\$25.00
(19) Any other document required or permitted to be filed by this title	\$20.00 <u>\$35.00</u>
<u>(20) Articles of correction</u>	<u>\$20.00</u>
<u>(21) Articles of domestication</u>	<u>\$20.00</u>
<u>(22) Statement of conversion</u>	<u>\$20.00</u>

* * *

(d) When a corporation has been involuntarily terminated for failure to file its annual report, the Secretary of State shall collect, for each year the corporation failed to file its annual report, the annual report filing fee and a reinstatement fee of ~~\$25.00~~ \$50.00.

* * * Limited Liability Company * * *

Sec. 37. 11 V.S.A. § 4012 is amended to read:

§ 4012. FEES

(a) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

- (1) Articles of organization ~~\$125.00~~ \$155.00
- (2) Application for certificate of authority ~~\$125.00~~ \$155.00
- (3) Amendment of articles or certificate of authority ~~\$25.00~~ \$35.00
- (4) Cancellation of certificate of authority ~~\$20.00~~ \$25.00
- (5) Application for reserved name ~~\$20.00~~ \$25.00
- (6) Notice of transfer of reserved name ~~No fee~~ \$20.00
- (7) Application for registered name \$25.00
- (8) Application for renewal of registered name \$25.00
- (9) Statement of change of designated agent or designated office, or both ~~\$25.00~~ \$35.00 and not to exceed \$1,000.00 per filer per calendar year
- (10) Agent's statement of resignation no fee
- (11) Restatement of articles of organization \$25.00

- (12) Articles of correction ~~\$25.00~~ \$35.00
- (13) Application for certificate of existence or authorization ~~\$25.00~~ \$35.00
- (14) Articles of merger ~~\$50.00~~ \$55.00
- (15) Annual report of a domestic limited liability company ~~\$35.00~~ \$45.00
- (16) Annual report of a foreign limited liability company ~~\$140.00~~ \$170.00
- (17) Reinstatement ~~\$25.00~~ \$35.00
- (18) Any other document required or permitted to be filed by this chapter \$20.00
- (19) Articles of domestication \$20.00
- (20) Articles of termination \$20.00
- (21) Notice of withdrawal of reserved name \$20.00
- (22) Statement of conversion \$20.00

(b) The Secretary of State shall collect the following fees:

(1) ~~\$25.00~~ \$35.00 each time process is served on the Secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if ~~he or she~~ the party prevails in the proceeding.

(2) \$25.00 for the certificate certifying the copy of any filed document relating to a limited liability company or a foreign limited liability company.

* * * Limited Liability Partnership * * *

Sec. 38. 11 V.S.A. § 3310 is amended to read:

§ 3310. FEES

(a) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

- | | |
|-------------------------------|-----------------------------|
| (1) Statement of authority | \$125.00
<u>\$155.00</u> |
| (2) Statement of denial | No fee
<u>\$25.00</u> |
| (3) Statement of dissociation | No fee
<u>\$20.00</u> |

(4) Statement of dissolution	No fee <u>\$25.00</u>
(5) Statement of merger	\$50.00 <u>\$85.00</u>
(6) Statement of qualification	\$75.00 <u>\$130.00</u>
(7) Statement of foreign qualification	\$100.00 <u>\$170.00</u>
(8) Amendment	\$25.00 <u>\$45.00</u>
(9) Cancellation	\$5.00 <u>\$10.00</u>
(10) Annual report of domestic limited liability partnership	\$15.00 <u>\$30.00</u>
(11) Annual report of foreign limited liability partnership	\$100.00 <u>\$170.00</u>
(12) Reinstatement	\$25.00 <u>\$45.00</u>
(13) Statement of change of designated agent or designated office, or both	\$25.00 <u>\$35.00</u> , not to exceed \$1,000.00 per filer per calendar year
(14) Application for certificate of good standing	\$25.00 <u>\$45.00</u>
(15) Any other document permitted or required to be filed by this chapter	\$20.00
(16) <u>Amendment – Foreign</u>	<u>\$35.00</u>

* * *

* * * Limited Partnership * * *

Sec. 39. 11 V.S.A. § 3420 is amended to read:

§ 3420. FEES

(a) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

(1) Certificate of Limited Partnership	\$125.00 <u>\$130.00</u>
(2) Registration of Foreign Limited Partnership	\$125.00 <u>\$155.00</u>
(3) Amendment - <u>Domestic</u>	\$25.00 <u>\$35.00</u>
(4) Cancellation	No fee <u>\$25.00</u>
(5) Merger	\$50.00 <u>\$65.00</u>
(6) Statement of change of designated agent or designated office, or both	\$25.00 <u>\$35.00</u> , not to exceed \$1,000.00 per filer per calen- dar year
(7) Application for certificate of good standing	\$25.00 <u>\$35.00</u>
(8) Any other document permitted or required to be filed by this chapter	\$20.00
(9) <u>Amendment – Foreign</u>	<u>\$35.00</u>
(10) <u>Name reservation, application</u>	<u>\$20.00</u>
(11) <u>Name reservation, transfer</u>	<u>\$20.00</u>
(12) <u>Restated certificate of limited partnership</u>	<u>\$20.00</u>

* * *

* * * Nonprofit Corporations * * *

Sec. 40. 11B V.S.A. § 1.22 is amended to read:

§ 1.22. FILING; SERVICE AND COPYING FEES

The Secretary of State shall collect the following fees when the documents described in this section are delivered to the Office of the Secretary of State for filing:

(1) Articles of incorporation	\$125.00 <u>\$155.00</u>
(2) Application for reserved name	\$20.00 <u>\$35.00</u>
(3) Transfer of reserved name	No fee <u>\$35.00</u>
(4) Application for registered name	\$25.00 <u>\$45.00</u>
(5) Renewal of registered name	\$25.00 <u>\$45.00</u>
(6) Statement of change of registered agents or registered office, or both	\$25.00 <u>\$35.00</u> and not to exceed \$1,000.00 per filer per calendar year.
(7) Agent's statement of registration	No fee
(8) Amendment of articles of association	\$25.00 <u>\$45.00</u>
(9) Restatement of articles of association	\$25.00 <u>\$45.00</u>
(10) Articles of merger	\$50.00 <u>\$90.00</u>
(11) Articles of dissolution	No fee

(12) Articles of revocation of dissolution	\$5.00 <u>\$10.00</u>
(13) Application for reinstatement following administrative dissolution	\$25.00 <u>\$45.00</u>
(14) Application for certificate of authority for a foreign corporation	\$100.00 <u>\$175.00</u>
(15) Application for amended certificate of authority	\$25.00 <u>\$45.00</u>
(16) Application for certificate of withdrawal	\$5.00 <u>\$10.00</u>
(17) Biennial report	\$20.00 <u>\$35.00</u>

except that a corporation ~~which~~ that certifies to the Secretary of State, on a form approved by the Secretary, that it did not compensate its officers, directors, or employees during the prior calendar year shall be exempt from the fee required by this subdivision.

(18) Articles of correction	\$15.00 <u>\$30.00</u>
(19) Application for certificate of good standing	\$25.00 <u>\$35.00</u>
(20) Certified copy of any filed document	\$25.00
(21) <u>Restatement of articles of organization</u>	<u>\$30.00</u>

Sec. 41. 12 V.S.A. § 852 is amended to read:

§ 852. FEES; MAILING OF COPY TO CORPORATION

When process is served on the Secretary of State under the provisions of section 851 of this title, there shall be paid to ~~him or her~~ the Secretary by the officer at the time of such service the sum of ~~\$5.00~~ \$35.00. The Secretary shall forthwith forward by mail prepaid one of the duplicate copies to the corporation at its home office or to a person whom it designates.

* * * Trademark * * *

Sec. 42. 9 V.S.A. § 2523 is amended to read:

§ 2523. CERTIFICATE OF REGISTRATION; FILING FEE

There shall be paid to the Secretary of State for the filing of such statement a fee of ~~\$20.00~~ \$35.00. The Secretary of State shall deliver to the person filing such statement or causing the same to be filed, a certificate of registration under ~~his or her~~ the Secretary's signature and State Seal, showing the name and address of the person claiming ownership of the trademark registered, the date of such filing, a general description of the trademark to be registered, and a receipt showing the payment of the filing fee therefore. The fee for renewal of any registration shall be ~~\$20.00~~ \$35.00.

Sec. 43. 9 V.S.A. § 2525 is amended to read:

§ 2525. ASSIGNMENTS

Title to any trademark and its registration hereunder may be transferred and assigned to any person together with the goodwill of the business to which such trademark pertains or with that part of the goodwill of the business connected with the use of and symbolized by the mark. Written assignments shall be recorded by the Secretary of State upon payment of the fee of ~~\$20.00~~ \$35.00. When such assignment is recorded, a new certificate of registration shall be issued in the name of the assignee.

* * * Uniform Commercial Code * * *

Sec. 44. 9A V.S.A. § 9-525 is amended to read:

§ 9—525. FEES

(a) The fee for filing and indexing a record under this article is ~~\$35.00~~ \$45.00.

(b) ~~The fee for filing and indexing an initial financing statement of the kind described in subsection 9—502(c) of this title is \$6.00 per page. In addition to the fee provided in subsection (a) of this section:~~

(1) the fee for filing and indexing an initial financing statement of the kind described in subsection 9-502(c) of this title is \$25.00;

(2) the fee for filing and indexing a record under this article for a manufactured home, transmitting utility, or public finance transaction is \$25.00.

(c) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any

financing statement naming a particular debtor is ~~\$25.00~~ \$35.00.

(d) ~~This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as extracted collateral or timber to be cut under subsection 9-502(e) of this title. However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply. [Repealed.]~~

* * * Effective Date * * *

Sec. 45. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-0-0)

(No House amendments.)

Reported favorably by Senator Chittenden for the Committee on Finance.

(Committee vote: 5-0-2)

H. 493.

An act relating to capital construction and State bonding.

Reported favorably with recommendation of proposal of amendment by Senator Ingalls for the Committee on Institutions.

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

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the \$122,767,376.00 authorized in this act, not more than \$56,445,325.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of the Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services, and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions are notified before that action is taken.

(b) The following sums are appropriated in FY 2024:

<u>(1) Statewide, major maintenance:</u>	<u>\$8,001,244.00</u>
<u>(2) Statewide, physical security enhancements:</u>	<u>\$250,000.00</u>
<u>(3) Statewide, planning, reuse, and contingency:</u>	<u>\$425,000.00</u>
<u>(4) Bennington, Battle Monument, construction of safety fencing:</u>	<u>\$500,000.00</u>
<u>(5) Brattleboro, courthouse, roof replacement:</u>	<u>\$2,750,000.00</u>
<u>(6) Middlesex, Middlesex Therapeutic Community Residence, master plan, design, and decommissioning:</u>	<u>\$350,000.00</u>
<u>(7) Montpelier, State House, replacement of historic finishes:</u>	<u>\$50,000.00</u>
<u>(8) Montpelier, State House, HVAC renovations:</u>	<u>\$3,725,000.00</u>
<u>(9) Montpelier, 133 State Street, Office of Legislative Information Technology, renovations:</u>	<u>\$200,000.00</u>
<u>(10) St. Albans, Northwest State Correctional Facility, roof replacement:</u>	<u>\$1,300,000.00</u>
<u>(11) St. Johnsbury, Northeast State Correctional Facility, Caledonia Community Work Camp, door control system replacement:</u>	<u>\$1,000,000.00</u>
<u>(12) White River Junction, courthouse, renovations:</u>	<u>\$2,000,000.00</u>
<u>(13) Statewide, three-acre parcel, stormwater, planning, design, and construction:</u>	<u>\$1,500,000.00</u>
<u>(14) Statewide, R22 refrigerant phase out:</u>	<u>\$250,000.00</u>
<u>(15) Statewide, Art in State Buildings Program:</u>	<u>\$75,000.00</u>

(c) The following sums are appropriated in FY 2025:

<u>(1) Statewide, major maintenance:</u>	<u>\$8,500,000.00</u>
<u>(2) Statewide, physical security enhancements:</u>	<u>\$250,000.00</u>

<u>(3) Statewide, planning, reuse, and contingency:</u>	<u>\$425,000.00</u>
<u>(4) Middlesex, Middlesex Therapeutic Community Residence, master plan, design, and decommissioning:</u>	<u>\$400,000.00</u>
<u>(5) Montpelier, State House, replacement of historic finishes:</u>	<u>\$50,000.00</u>
<u>(6) Montpelier, State House, HVAC renovations:</u>	<u>\$3,900,000.00</u>
<u>(7) Newport, Northern State Correctional Facility, planning and construction for the boiler replacement:</u>	<u>\$3,500,000.00</u>
<u>(8) St. Johnsbury, Northeast State Correctional Facility, Caledonia Community Work Camp, door control system replacement:</u>	<u>\$1,750,000.00</u>
<u>(9) White River Junction, courthouse, renovations:</u>	<u>\$4,000,000.00</u>
<u>(10) Statewide, three-acre parcel, stormwater, planning, design, and construction:</u>	<u>\$1,500,000.00</u>
<u>(11) Statewide, R22 refrigerant phase out:</u>	<u>\$1,000,000.00</u>

(d) For the project described in subdivisions (b)(10) and (c)(6) of this section, the Department of Buildings and General Services is authorized to expend funds for a water-to-water heat pump system to dehumidify the State House in the summer months.

<u>Appropriation – FY 2024</u>	<u>\$22,376,244.00</u>
<u>Appropriation – FY 2025</u>	<u>\$25,275,000.00</u>
<u>Total Appropriation – Section 2</u>	<u>\$47,651,244.00</u>

Sec. 3. HUMAN SERVICES

(a) The sum of \$300,000.00 is appropriated in FY 2024 to the Department of Buildings and General Services for the Department of Corrections for planning, design, and construction for HVAC system upgrades and replacements at statewide correctional facilities.

(b) The following sums are appropriated in FY 2025 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

<u>(1) Northwest State Correctional Facility, booking expansion, planning, design, and construction:</u>	<u>\$2,500,000.00</u>
<u>(2) Women’s correctional facility and reentry facility, replacement, planning and design:</u>	<u>\$13,000,000.00</u>
<u>(3) Statewide, correctional facilities, HVAC systems, planning, design,</u>	

and construction for upgrades and replacements: \$700,000.00

(c) For the amount appropriated in subsection (a) and subdivision (b)(3) of this section, the Department of Buildings and General Services shall evaluate and develop a design for upgrades and replacement of HVAC systems in all State correctional facilities. To the extent the Department identifies HVAC systems in common areas, break rooms, day rooms, and cafeterias that can be replaced to immediately alleviate heat-related stress for staff and residents at the facility, the Department is authorized to use the funds appropriated in subsection (a) and subdivision (b)(3) of this section for installation of HVAC systems in those areas.

Appropriation – FY 2024 \$300,000.00

Appropriation – FY 2025 \$16,200,000.00

Total Appropriation – Section 3 \$16,500,000.00

Sec. 4. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2024 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Major maintenance at statewide historic sites: \$500,000.00

(2) Underwater preserves: \$46,000.00

(3) Placement and replacement of roadside historic markers:
\$25,000.00

(4) Unmarked Burial Sites Special Fund: \$25,000.00

(b) The following sums are appropriated in FY 2025 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Major maintenance at statewide historic sites: \$500,000.00

(2) Underwater preserves: \$46,000.00

(3) Placement and replacement of roadside historic markers:
\$25,000.00

(4) Unmarked Burial Sites Special Fund: \$25,000.00

Appropriation – FY 2024 \$596,000.00

Appropriation – FY 2025 \$596,000.00

Total Appropriation – Section 4 \$1,192,000.00

Sec. 5. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2024 for the Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$300,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$325,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the Cultural Facilities Grant Program: \$300,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$300,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$150,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education): \$150,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$300,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs and Field Days Capital Projects Competitive Grant Program: \$350,000.00

(b) The following sums are appropriated in FY 2025 for the Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$300,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$325,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities

Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the Cultural Facilities Grant Program:
\$300,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program:
\$300,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services):
\$150,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education):
\$150,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program:
\$300,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs and Field Days Capital Projects Competitive Grant Program:
\$350,000.00

Appropriation – FY 2024 \$2,175,000.00

Appropriation – FY 2025 \$2,175,000.00

Total Appropriation – Section 5 \$4,350,000.00

Sec. 6. EDUCATION

(a) The sum of \$50,000.00 is appropriated in FY 2024 to the Agency of Education for funding emergency projects.

(b) The sum of \$50,000.00 is appropriated in FY 2025 to the Agency of Education for the projects described in subsection (a) of this section.

Appropriation – FY 2024 \$50,000.00

Appropriation – FY 2025 \$50,000.00

Total Appropriation – Section 6 \$100,000.00

Sec. 7. UNIVERSITY OF VERMONT

(a) The sum of \$1,600,000.00 is appropriated in FY 2024 to the University of Vermont for construction, renovation, and major maintenance at any facility owned or operated in the State by the University of Vermont.

(b) The sum of \$1,500,000.00 is appropriated in FY 2025 to the University of Vermont for the projects described in subsection (a) of this section.

<u>Appropriation – FY 2024</u>	<u>\$1,600,000.00</u>
<u>Appropriation – FY 2025</u>	<u>\$1,500,000.00</u>
<u>Total Appropriation – Section 7</u>	<u>\$3,100,000.00</u>

Sec. 8. VERMONT STATE COLLEGES

(a) The sum of \$1,500,000.00 is appropriated in FY 2024 to the Vermont State Colleges for construction, renovation, and major maintenance at any facility owned or operated in the State by the Vermont State Colleges.

(b) The sum of \$1,500,000.00 is appropriated in FY 2025 to the Vermont State Colleges for the projects described in subsection (a) of this section.

<u>Appropriation – FY 2024</u>	<u>\$1,500,000.00</u>
<u>Appropriation – FY 2025</u>	<u>\$1,500,000.00</u>
<u>Total Appropriation – Section 8</u>	<u>\$3,000,000.00</u>

Sec. 9. NATURAL RESOURCES

(a) The following sums are appropriated in FY 2024 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) State match, drinking water supply, Drinking Water State Revolving Fund: \$174,586.00

(2) Dam safety and hydrology projects: \$1,000,000.00

(b) The following sums are appropriated in FY 2024 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the following projects:

(1) Infrastructure rehabilitation, including statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, statewide small-scale road rehabilitation projects, and three-acre stormwater rule compliance: \$3,750,000.00

(2) Open access recreational infrastructure and State forests and recreational access points: \$768,863.00

(c) The following amounts are appropriated in FY 2024 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including small-scale maintenance and rehabilitation of infrastructure: \$1,878,632.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the

Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

(d) The sum of \$2,207,901.00 is appropriated in FY 2025 to the Agency of Natural Resources for the Department of Environmental Conservation for the State’s match to the Drinking Water State Revolving Fund for the drinking water supply.

(e) The following sums are appropriated in FY 2025 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the following projects:

(1) Infrastructure rehabilitation, including statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, statewide small-scale road rehabilitation projects, and three-acre stormwater rule compliance: \$3,250,000.00

(2) Open access recreational infrastructure and forest park access roads: \$670,000.00

(f) The following amounts are appropriated in FY 2025 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including small-scale maintenance and rehabilitation of infrastructure: \$1,344,150.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

Appropriation – FY 2024 \$7,597,081.00

Appropriation – FY 2025 \$7,497,051.00

Total Appropriation – Section 9 \$15,094,132.00

Sec. 10. CLEAN WATER INITIATIVES

(a) The sum of \$2,202,019.00 is appropriated in FY 2024 to the Agency of Agriculture, Food and Markets for water quality grants and contracts.

(b) The following sums are appropriated in FY 2024 to the Agency of Natural Resources for the following projects:

(1) the Clean Water State/EPA Revolving Loan Fund (CWSRF) match for the Water Pollution Control Fund: \$332,981.00

(2) municipal pollution control grants: \$4,000,000.00

(c) The sum of \$550,000.00 is appropriated in FY 2024 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for forestry access roads, recreation access roads, and water quality improvements.

(d)(1) The following sums are appropriated in FY 2024 to the Vermont Housing and Conservation Board for the following projects:

(A) Agricultural water quality projects: \$800,000.00

(B) Land conservation and water quality projects: \$2,000,000.00

(2) A grant issued under subdivision (1)(A) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient’s cost-share requirements.

(e) The sum of \$6,000,000.00 is appropriated in FY 2025 to the Agency of Natural Resources for the Department of Environmental Conservation for clean water implementation projects.

(f) On or before December 1, 2023:

(1) The Clean Water Board shall review and recommend Clean Water Act implementation programs funded from subsection (e) of this section.

(2) The Board shall submit a report with the list of programs recommended for FY 2025 to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and to the Governor for the FY 2024 capital budget adjustment report. The report shall include a recommendation on whether funds appropriated to the Clean Water Fund, established in 10 V.S.A. § 1388, may be used for municipal pollution control grants in FY 2025.

(g) In FY 2024 and FY 2025, any agency that receives funding from this section shall consult with the State Treasurer to ensure that the projects are capital eligible.

Appropriation – FY 2024 \$9,885,000.00

Appropriation – FY 2025 \$6,000,000.00

Total Appropriation – Section 10 \$15,885,000.00

Sec. 11. MILITARY

(a) The sum of \$1,251,000.00 is appropriated in FY 2024 to the Department of Military for maintenance, renovations, and ADA compliance at State armories.

(b) The sum of \$1,064,000.00 is appropriated in FY 2025 to the Department of Military for the projects described in subsection (a) of this

section.

<u>Appropriation – FY 2024</u>	<u>\$1,251,000.00</u>
<u>Appropriation – FY 2025</u>	<u>\$1,064,000.00</u>
<u>Total Appropriation – Section 11</u>	<u>\$2,315,000.00</u>

Sec. 12. AGRICULTURE, FOOD AND MARKETS

(a) The sum of \$1,200,000.00 is appropriated in FY 2024 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance at the Vermont building of the Eastern States Exposition.

(b) The following sums are appropriated in FY 2025 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for the following projects:

(1) Vermont Agriculture and Environmental Laboratory Heat Plant, construction: \$1,040,000.00

(2) Vermont building of the Eastern States Exposition, major maintenance: \$1,500,000.00

<u>Appropriation – FY 2024</u>	<u>\$1,200,000.00</u>
<u>Appropriation – FY 2025</u>	<u>\$2,540,000.00</u>
<u>Total Appropriation – Section 12</u>	<u>\$3,740,000.00</u>

Sec. 13. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$125,000.00 is appropriated in FY 2024 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$125,000.00 is appropriated in FY 2025 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

<u>Appropriation – FY 2024</u>	<u>\$125,000.00</u>
<u>Appropriation – FY 2025</u>	<u>\$125,000.00</u>
<u>Total Appropriation – Section 13</u>	<u>\$250,000.00</u>

Sec. 14. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,800,000.00 is appropriated in FY 2024 to the Vermont Housing and Conservation Board for housing and conservation projects.

(b) The sum of \$1,800,000.00 is appropriated in FY 2025 to the Vermont

Housing and Conservation Board for the project described in subsection (a) of this section.

<u>Appropriation – FY 2024</u>	<u>\$1,800,000.00</u>
<u>Appropriation – FY 2025</u>	<u>\$1,800,000.00</u>
<u>Total Appropriation – Section 14</u>	<u>\$3,600,000.00</u>

Sec. 15. VETERANS HOME

(a) The sum of \$260,000.00 is appropriated in FY 2024 to the Department of Buildings and General Services for the Vermont Veterans’ Home for maintenance at the Veterans’ Home.

(b) The following sums are appropriated in FY 2024 to the Vermont Veterans’ Home for the following projects:

- (1) an emergency generator and boiler plant replacement:
\$4,500,000.00
- (2) elevator upgrade:
\$1,000,000.00
- (3) resident care furnishings and security systems:
\$230,000.00

(c) For the amounts appropriated in subsection (a) and subdivision (b)(3) of this section, on or before January 15, 2024, the Veterans’ Home shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the status of expended funds and an anticipated timeline of when any remaining funds will be expended.

<u>Appropriation – FY 2024</u>	<u>\$5,990,000.00</u>
<u>Total Appropriation – Section 15</u>	<u>\$5,990,000.00</u>

* * * Funding * * *

Sec. 16. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

- (1) of the amount appropriated in 2012 Acts and Resolves No. 40, Sec. 19(a) (Veterans’ Home, replace nurse call system):
\$14,668.72
- (2) of the amount appropriated 2012 Acts and Resolves No. 40, Sec. 19(b) (Veterans’ Home kitchen upgrade):
\$13,522.98
- (3) of the amount appropriated in 2014 Acts and Resolves No. 51, Sec. 2(b) (various projects):
\$365.00

(4) of the amount appropriated in 2014 Acts and Resolves No. 51, Sec. 17 (Veterans' Home kitchen renovation and mold remediation): \$21,493.59

(5) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (various projects): \$65,463.17

(6) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b)(9) (108 Cherry Street, parking garage): \$134,937.34

(7) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 1(c)(5) (major maintenance): \$93,549.00

(8) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 9(g) (Roxbury Fish Hatchery): \$6,175.00

(9) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(b)(13) (108 Cherry Street, parking garage): \$1,736,256.55

(10) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(c) (various projects): \$24,363.06

(11) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 6(a)(4) (Recreational Facilities Grant Program): \$14,833.00

(12) Of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 16(b) (Veterans' Home kitchen renovation and mold remediation): \$209,533.90

(13) of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 2(b)(3) (major maintenance): \$32,780.00

(14) of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 2(c)(5) (108 Cherry Street, parking garage): \$6,944,999.00

(15) of the amount appropriated in 2021 Acts and Resolves No. 50, Sec. 2(b)(5)(108 Cherry Street, parking garage): \$3,100,000.00

(16) of the amount appropriated in 2022 Acts and Resolves No. 180, Sec. 2(c)(18) (108 Cherry Street, parking garage): \$1,940,000.00

(b) Of the amount appropriated to the Department of Buildings and General Services for the Agency of Human Services in 2020 Acts and Resolves No. 139, Sec. 2(c)(5) (relocation of greenhouse), the sum of \$26,131.60 is reallocated to defray expenditures authorized in this act.

(c) Of the amount appropriated to the Agency of Education in 2019 Acts and Resolves No. 42, Sec. 7(a) (emergency projects), the sum of \$34,760.56 is reallocated to defray expenditures authorized in this act.

(d) Of the amount appropriated to the Department of Environmental

Conservation in 2017 Acts and Resolves No. 84, Sec. 10(a)(3) (municipal pollution control grants), the sum of \$64,628.10 is reallocated to defray expenditures authorized in this act.

(e) The following sums appropriated to the Department of Forest, Parks and Recreation are reallocated to defray expenditures authorized in this act:

(1) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 10(b) (infrastructure rehabilitation): \$219.08

(2) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 10(f) (infrastructure rehabilitation): \$1,865.52

(3) of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 10(b) (infrastructure rehabilitation): \$33,638.68

(4) of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 10(g) (infrastructure rehabilitation): \$16,043.11

(5) of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 11(c)(1) (forestry skidder bridges): \$3,600.00

(f) of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 17(a)(2) (committee room chairs), the sum of \$2,006.46 is reallocated to defray expenditures authorized in this act.

(g) The following sums appropriated to the Vermont Veterans' Home are reallocated to defray expenditures authorized in this act:

(1) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 16(a) (resident care furnishings): \$88,835.00

(2) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 16(c)(resident care furnishings): \$49,914.00

(3) of the amount appropriated in 2018 Acts and Resolves No. 190, Sec. 11 (security access system): \$92,794.00

Total Reallocations and Transfers – Section 16 \$14,767,376.32

Sec. 17. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

The State Treasurer is authorized to issue general obligation bonds in the amount of \$108,000,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this

section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

Total Revenues – Section 17 \$108,000,000.00

Sec. 18. FY 2024 AND 2025; CAPITAL PROJECTS; FY 2024
APPROPRIATIONS ACT; INTENT; AUTHORIZATIONS

(a) Findings. The General Assembly finds that in addition to the issuance of general obligation bonds, eligible capital projects may be funded from the Fund established in 32 V.S.A. § 1001b.

(b) Intent. It is the intent of the General Assembly to authorize certain capital projects eligible for funding by 32 V.S.A. § 1001b in this act but appropriate the funds for these projects in the FY 2024 Appropriations Act. It is also the intent of the General Assembly that the FY 2024 Appropriations Act appropriate funds to the Fund established in 32 V.S.A. § 1001b for projects in FY 2025, which shall be allocated pursuant to the process set forth in subsection (e) of this section.

(c) Authorizations. In FY 2024, spending authority for the following capital projects are authorized as follows:

(1) the Department of Buildings and General Services is authorized to spend \$400,000.00 for planning, reuse, and contingency;

(2) Barre, McFarland State Office Building, roof replacement and brick façade repairs: \$1,700,000.00

(3) the Department of Buildings and General Services is authorized to spend \$135,000.00 for parking garage repairs at 32 Cherry Street in Burlington;

(4) Middlesex, Central Services complex, roof replacement: \$1,000,000.00

(5) Montpelier, State House expansion, design documents: \$150,000.00

(6) the Department of Buildings and General Services is authorized to spend \$1,000,000.00 for the renovation of the interior HVAC steam lines at 120 State Street in Montpelier;

(7) the Department of Buildings and General Services is authorized to spend \$600,000.00 for planning for the boiler replacement at the Northern State Correctional Facility in Newport;

(8) the Department of Buildings and General Services is authorized to spend \$750,000.00 for planning for renovations to the administration building.

West Cottage, at the Criminal Justice Training Council in Pittsford;

(9) the Department of Buildings and General Services is authorized to spend \$600,000.00 for the Agency of Human Services for the planning and design of the booking expansion at the Northwest State Correctional Facility;

(10) the Department of Buildings and General Services is authorized to spend \$1,500,000.00 for the Agency of Human Services for the planning and design for the replacement of the women's correctional facility and reentry facility;

(11) the Department of Buildings and General Services is authorized to spend \$1,000,000.00 for the Agency of Human Services for the planning and design of the Department for Children and Families' short-term stabilization facility;

(12) the Department of Buildings and General Services is authorized to spend \$750,000.00 for the Judiciary for renovations at the Washington County Superior Courthouse in Barre;

(13) the Department of Buildings and General Services is authorized to spend \$250,000.00 for the Department of Public Safety for the planning and design of the Special Teams Facility and Storage;

(14) the Department of Buildings and General Services is authorized to spend \$250,000.00 for the Department of Public Safety for the planning and design of the Rutland Field Station;

(15) the Department of Buildings and General Services is authorized to spend \$300,000.00 for the Agency of Agriculture, Food and Markets for the planning and design of the Vermont Agriculture and Environmental Laboratory Heat Plant;

(16) the Department of Buildings and General Services is authorized to spend \$1,000,000.00 for electric vehicle charging stations at State buildings;

(17) the Vermont State Colleges is authorized to spend \$6,000,000.00 for construction, renovation, and major maintenance at any facility owned or operated in the State by the Vermont State Colleges; infrastructure transformation planning; and the planning, design, and construction of Green Hall and Vail Hall;

(18) the Agency of Natural Resources is authorized to spend \$9,800,000.00 for the Department of Environmental Conservation for the State match to the Infrastructure Investment and Jobs Act for the Drinking Water State Revolving Fund and the Clean Water State Revolving Fund;

(19) the Agency of Natural Resources is authorized to spend

\$4,500,000.00 for the Department of Environmental Conservation for the Waterbury Dam rehabilitation;

(20) the Agency of Natural Resources is authorized to spend \$4,000,000.00 for the Department of Environmental Conservation for the Municipal Pollution Control Grants for pollution control projects and planning advances for feasibility studies;

(21) the Agency of Natural Resources is authorized to spend \$3,000,000.00 for the Department of Forests, Parks and Recreation for the maintenance facilities at the Gifford Woods State Park and Groton Forest State Park; and

(22) the Agency of Natural Resources is authorized to spend \$800,000.00 for the Department of Fish and Wildlife for infrastructure maintenance and improvements of the Department's buildings, including conservation camps.

(d) FY 2025 capital projects. To the extent general funds are available to appropriate to the Fund established in 32 V.S.A. § 1001b in FY 2025, it is the intent of the General Assembly that the following capital projects receive funding from the Fund:

(1) the sum of \$250,000.00 to the Department of Buildings and General Services for planning, reuse, and contingency;

(2) the sum of \$2,300,000.00 to the Department of Buildings and General Services for parking garage repairs at 32 Cherry Street in Burlington;

(3) the sum of \$2,000,000.00 to the Department of Buildings and General Services for the renovation of the interior HVAC steam lines at 120 State Street in Montpelier;

(4) the sum of \$1,000,000.00 to the Department of Buildings and General Services for the Judiciary for renovations at the Washington County Superior Courthouse in Barre;

(5) the sum of \$1,000,000.00 to the Department of Buildings and General Services for the Department of Public Safety for the planning and design of the Special Teams Facility and Storage;

(6) the sum of \$1,000,000.00 to the Department of Buildings and General Services for the Department of Public Safety for the planning and design of the Rutland Field Station;

(7) the sum of \$1,500,000.00 to the Vermont Veterans' Home for design for the renovation of the Brandon and Cardinal units;

(8) the sum of \$500,000.00 to the Department of Buildings and General Services for the Newport courthouse replacement, planning, and design;

(9) the sum of \$250,000.00 to the Department of Buildings and General Services for planning for the 133-109 State Street tunnel waterproofing and Aiken Avenue reconstruction; and

(10) the sum of \$200,000.00 to the Department of Buildings and General Services for the renovation of the stack area, HVAC upgrades, and the elevator replacement at 111 State Street.

(e) Recommendation. On or before December 15, 2023:

(1) the Secretary of Administration shall review and recommend capital projects to be funded from the Fund established in 32 V.S.A. § 1001b; and

(2) the Secretary of Administration shall submit the list of capital projects recommended for FY 2025 to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and to the Governor for the FY 2025 capital budget adjustment report.

* * * Policy * * *

* * * Agriculture, Food and Markets * * *

Sec. 19. 26 V.S.A. § 4811 is amended to read:

§ 4811. SAFETY STANDARDS

Minimum safety standards for the conduct of any race covered by this chapter are established as follows:

(1) Each race track shall have a substantial fence of steel wire or plank construction or other barrier not less than three feet high between the track and area designated for spectators. No grandstand shall be constructed or spectators allowed on a curved side of a track unless the barrier, including all walls, fencing, and overhangs, meets the same standards for the straightaway of the track with spectators. For motorcycle, ATV, or snowmobile racing, each track shall have a snow fence or other suitable barrier not less than four feet high between the track and the area designated for spectators. The outside portion of all tracks shall be a reasonable distance from the spectators.

* * *

* * * Buildings and General Services * * *

Sec. 20. 29 V.S.A. § 166 is amended to read:

§ 166. SELLING OR RENTING STATE PROPERTY

* * *

(b)(1) Upon authorization by the General Assembly, which may be granted by resolution, and with the advice and consent of the Governor, the Commissioner of Buildings and General Services may sell real estate owned by the State. Such property shall be sold to the highest bidder therefor at public auction or upon sealed bids in the discretion of the Commissioner of Buildings and General Services, who may reject any or all bids. Notice, or the Commissioner is authorized to list the sale of property with a real estate agent licensed by the State.

(2) If the Commissioner elects to sell the property at auction or by sealed bid, notice of the sale or a request for sealed bids shall be posted:

(A) by electronic means; or

(B) in at least three public places in the town where the property is located and also published three times in a newspaper having a known circulation in the town, the last publication to be not less than 10 days before the date of sale or opening of the bids. ~~Failing to consummate a sale under the method prescribed in this section, the Commissioner of Buildings and General Services is authorized to list the sale of this property with a real estate agent licensed by the State of Vermont.~~

(3) This subsection shall not apply to the sale, conveyance, exchange, or lease of lands or interests in lands; to the amendment of deeds, leases, and easements; or to sales of timber made in accordance with the provisions of 10 V.S.A. chapter 155 or the provisions of 10 V.S.A. chapter 83.

* * *

Sec. 21. SALE OF PROPERTIES

(a) 110 State Street. Notwithstanding 29 V.S.A. § 166(b), the Commissioner of Buildings and General Services is authorized to sell the property located at 110 State Street in the City of Montpelier. The Commissioner shall first offer in writing to the City the right to purchase the property.

(1) The City's preferential right to purchase the property authorized in this subsection shall terminate unless the City submits a written notification to the Commissioner of its intent to purchase the property within 90 days from

the date of the written offer.

(2) If the City submits a notification of its intent to purchase the property pursuant to subdivision (1) of this subsection, the City shall submit a written offer to the Commissioner not later than June 1, 2024. In the event the City fails to submit a written offer by June 1, 2024, then the City's preferential right to purchase the property shall terminate and the Commissioner is authorized to sell the property to another party.

(b) Stanley Hall and Wasson Hall. Notwithstanding 29 V.S.A. § 166(b), the Commissioner of Buildings and General Services is authorized to subdivide, sell, or otherwise dispose of the portion of land in the Waterbury State Office Complex (Parcel ID # 916-0103.V as designated on the Town of Waterbury's Tax Parcel Maps) that housed the former Stanley Hall and the adjacent parking lot, located at 32 Park Row, and Wasson Hall, located at 64 Horseshoe Drive, to the Town of Waterbury.

(1) The Commissioner of Buildings and General Services shall notify, in writing, the Town of Waterbury of the right to purchase or acquire the properties described in subdivision (1) of this subsection provided that the following conditions are met:

(A) the Town of Waterbury's Select Board takes a formal action within 90 days from the date of the written offer indicating the Town's interest in purchasing or acquiring the properties; and

(B) if the Town elects to purchase or acquire the properties, the Town submits a written offer not later than June 1, 2024;

(2) If the conditions in subdivision (1) of this subsection are not met, then the Commissioner's authority to subdivide, sell, or otherwise dispose of the property described in this subsection shall be rescinded.

(c) 108 Cherry Street. Notwithstanding 29 V.S.A. § 166(b), the Commissioner of Buildings and General Services is authorized to sell the property located at 108 Cherry Street in the City of Burlington. The Commissioner shall first offer in writing to the City the right to purchase the property.

(1) The City's preferential right to purchase the property authorized in this subsection shall terminate unless the City submits a written notification to the Commissioner of its intent to purchase the property within 90 days from the date of the written offer.

(2) If the City submits a notification of its intent to purchase the property pursuant to subdivision (1) of this subsection, the City shall submit a written offer to the Commissioner not later than June 1, 2024. In the event the

City fails to submit a written offer by June 1, 2024, then the City's preferential right to purchase the property shall terminate and the Commissioner is authorized to sell the property to another party.

Sec. 22. RELOCATION OF STATE EMPLOYEES; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; CITY OF BURLINGTON

Prior to the sale of the building located at 108 Cherry Street in Burlington, the Department of Buildings and General Services shall work with the City of Burlington to find another appropriate location in downtown Burlington to relocate State employees who provide client services.

Sec. 23. 32 V.S.A. § 701a is amended to read:

§ 701a. CAPITAL CONSTRUCTION BILL

(a) When the capital budget has been submitted by the Governor to the General Assembly, it shall immediately be referred to the House Committee on Corrections and Institutions, which shall proceed to consider the budget request in the context of the 10-year capital program plan also submitted by the Governor pursuant to sections 309 and 310 of this title. The Committee shall also propose to the General Assembly:

(1) a prudent amount of total general obligation bonding for the following fiscal year, for support of the capital budget, in consideration of the recommendation of the Capital Debt Affordability Advisory Committee pursuant to chapter 13, subchapter 8 of this title; and

(2) recommendations for capital projects that may be paid for from the Cash Fund for Capital Infrastructure and Other Essential Investments, established in section 1001b of this title.

(b) As soon as possible, the Committee shall prepare a bill to be known as the "capital construction bill," which shall be introduced for action by the General Assembly.

(c) The spending authority authorized by a capital construction act shall carry forward until expended, unless otherwise provided.

(1) All unexpended funds remaining for projects authorized by capital construction acts enacted in a legislative session that was two or more years prior to the current legislative session shall be reported to the General Assembly and may be reallocated in future capital construction acts.

(2) Notwithstanding subdivision (1) of this subsection, any amounts appropriated in a previous capital construction act that are unexpended for at least five years shall be reallocated to future capital construction acts.

(d)(1) On or before ~~January 15~~, November 15 each year, the Commissioner of Finance and Management shall require each entity to which spending authority has been authorized by a capital construction act enacted in a legislative session that was two or more years prior to the current legislative session shall submit to the ~~House Committee on Corrections and Institutions and the Senate Committee on Institutions~~ to submit a report on the current fund balances of each authorized project with unexpended funds. The report shall include plans for the unexpended funds, any projects or contracts the funds are assigned to, and an anticipated timeline for expending the funds.

(2) On or before December 15 each year, the Commissioner of Finance and Management shall submit in a consolidated format the reports required by subdivision (1) of this subsection to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(e) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the reports to be made under subsections (c) and (d) of this section.

* * * Corrections * * *

Sec. 24. 29 V.S.A. § 170a is added to read:

§ 170a. DESIGN OF CORRECTIONAL FACILITIES; USE OF EVIDENCE-BASED DESIGN PRINCIPLES FOR WELLNESS ENVIRONMENTS

The Department of Buildings and General Services shall coordinate with the Department of Corrections on the design and planning for any maintenance, renovation, or construction to a State correctional facility to ensure that evidence-based design principles for wellness environments are incorporated into the design and planning phase of a project.

Sec. 25. NORTHWEST STATE CORRECTIONAL FACILITY; FUNDING REQUEST FOR FEDERAL DETAINEES; INTENT FOR BOOKING EXPANSION DESIGN

(a) On or before August 15, 2023, the Secretary of Human Services shall request federal funds to support capital construction at the Northwest State Correctional Facility, which houses federal detainees, including U.S. Immigration and Customs Enforcement detainees. The Commissioner of Finance and Management shall only release the funds appropriated in Sec. 3(1) of this act upon notification from the Secretary that the request was submitted.

(b) It is the intent of the General Assembly that the Commissioner of Buildings and General Services shall incorporate into booking expansion design at the Northwest State Correctional Facility:

- (1) renovations to the HVAC system;
- (2) enhanced employee amenities, including amenities to address employee health and wellness needs;
- (3) the use of renewable energy; and
- (4) the use of evidence-based principles for wellness environments for supporting trauma-informed practices.

Sec. 26. REPLACEMENT WOMEN'S FACILITIES; SITE LOCATION PROPOSAL; DESIGN INTENT

(a)(1) Site location proposal. On or before January 15, 2024, the Commissioner of Buildings and General Services shall submit a site location proposal for replacement women's facilities for justice-involved women to the House Committee on Corrections and Institutions and the Senate Committee on Institutions. It is the intent of the General Assembly that when evaluating site locations, preference shall be given to State-owned property. The proposal shall consider both co-locating facilities in a campus-style approach for operational efficiencies and the need for separate facilities at different locations.

(2) Beginning September 15, 2023 and ending December 15, 2023, the Commissioner of Buildings and General Services shall submit monthly status reports on the site location proposal described in subdivision (1) of this subsection (a).

(b) Design intent. It is the intent of the General Assembly that the Commissioner of Buildings and General Services, in consultation with the Commissioner of Corrections, shall incorporate into the design of any women's replacement facility the use of evidence-based principles for wellness environments for supporting trauma-informed practices.

Sec. 27. DEPARTMENT OF CORRECTIONS, REPLACEMENT WOMEN'S FACILITIES; REPORT

(a) It is the intent of the General Assembly that the State's long-term goal and vision for justice-involved individuals includes their reentry into the community through a system of supports grounded in restorative justice principles.

(b) On or before November 15, 2023, the Department of Corrections shall submit a written report to the House Committees on Corrections and Institutions and on Judiciary and the Senate Committees on Institutions and on Judiciary regarding the proposed size and scale of replacement women's facilities. The report shall address the following:

- (1) proposed allocation of beds in correctional and re-entry facilities;
- (2) bed types for specialized populations in each facility; and
- (3) data and rationale used to inform size of each facility.

* * * Judiciary * * *

Sec. 28. BARRE; WASHINGTON COUNTY SUPERIOR COURTHOUSE;
RENOVATIONS

On or before September 15, 2023, the Commissioner of Buildings and General Services shall engage the City of Barre on options for renovating the existing Washington County Superior Courthouse or finding a new site location for the building.

* * * Legislature * * *

Sec. 29. 2020 Acts and Resolves No. 154, Sec. E.126.3, as amended by 2021 Acts and Resolves No. 50, Sec. 31 and 2022 Acts and Resolves No. 180, Sec. 20, is further amended to read:

Sec. E.126.3 GENERAL ASSEMBLY; STATE BUILDINGS; USE OF
SPACE; AUTHORITY OF SERGEANT AT ARMS

* * *

(c) Beginning on January 1, 2023 and ending on June 30, ~~2023~~ 2024, notwithstanding the provisions of 29 V.S.A. § 165 and any other provision of law to the contrary, in order to perform its constitutional duties, the Legislative Branch shall have exclusive use of rooms 264, 267, 268, and 270 on the second floor of 109 State Street.

* * *

Sec. 30. STATE HOUSE; EXPANSION; DESIGN; SPECIAL COMMITTEE

(a) The Department of Buildings and General Services has contracted with Freeman, French, Freeman to develop programming options that will be the basis for a schematic design for the expansion of the State House. The programming options will be finalized in June 2023 and the schematic design in November 2023 when the General Assembly is not in session. It is the intent of the General Assembly to approve the programming option for a schematic design plan for the State House expansion as soon as practicable to allow the Department of Buildings and General Services to begin the design development phase of the expansion.

(b) A special committee consisting of the Joint Legislative Management Committee and the Chairs of the House Committee on Corrections and

Institutions and the Senate Committee on Institutions (special committee) is hereby established. The special committee is authorized to meet to review, approve, or recommend alterations to the schematic design described in subsection (a) of this section at a regularly scheduled Joint Legislative Management Committee meeting. In making its decision, the special committee shall consider:

(1) how the design impacts the ability of the General Assembly to conduct legislative business;

(2) allows for public access to citizens;

(3) the financial consequences to the State of approval or disapproval of the proposal; and

(4) whether any potential alternatives are available.

(c) The special committee shall be entitled to per diem and expenses as provided in 2 V.S.A. § 23.

Sec. 31. 2016 Acts and Resolves No. 88, Sec. 3a, as amended by 2019 Acts and Resolves No. 42, Sec. 24 and 2021 Acts and Resolves No. 50, Sec. 23, is further amended to read:

Sec. 3a. REPEAL

2 V.S.A. chapter 30 (Capitol Complex Security Advisory Committee) is repealed on ~~June 30, 2023~~ June 30, 2024.

* * * Natural Resources * * *

Sec. 32. REPEAL

2018 Acts and Resolves No. 185, Sec. 12 (suspension of private loans for clean water projects) is repealed.

* * * Public Safety * * *

Sec. 33. 2021 Acts and Resolves No. 50, Sec. 12, as amended by 2022 Acts and Resolves No. 180, Sec. 10, is further amended to read:

Sec. 12. PUBLIC SAFETY

* * *

~~(b) The following amounts are~~ sum of \$50,000.00 is appropriated in FY 2023 to the Department of Public Safety for the ~~projects described in this subsection:~~

~~(1) Pittsford, Vermont Policy Academy, feasibility study:—\$50,000.00.~~

~~(2) Williston Public Safety Field Station, construction:—\$3,500,000.00~~

(c) The sum of \$3,500,000.00 is appropriated in FY 2023 to the Department of Buildings and General Services for the Department of Public Safety for the construction of the Williston Public Field Station.

Appropriation – FY 2022	\$6,120,000.00
Appropriation – FY 2023	\$3,550,000.00
Total Appropriation – Section 12	\$9,670,000.00

* * * Effective Date * * *

Sec. 34. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 30, 2023, page 854.)

Reported favorably by Senator Perchlik for the Committee on Appropriations.

(Committee vote: 7-0-0)

House Proposals of Amendment

S. 14.

An act relating to a report on criminal justice-related investments and trends.

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

Sec. 1. 28 V.S.A. § 125 is amended to read:

§ 125. ~~JUSTICE REINVESTMENT II INITIATIVES~~ CRIMINAL JUSTICE INVESTMENTS AND TRENDS; REPORT

(a) Intent. It is the intent of the General Assembly that the report on Vermont’s criminal justice investments and trends required under this section assist in the systemic assessment of the State’s Justice Reinvestment and justice reform efforts and initiatives to inform future legislative policy and fiscal decisions.

(b) Definitions. As used in this section:

(1) “Arrest” means when a person is seized by law enforcement, charged with the commission of an offense, and referred for prosecution.

(2) “Clearance” means the process by which a law enforcement agency closes an offense by arrest or exceptional means in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program.

(3) “Desistance” means the process by which criminality, or the individual risk for antisocial conduct, declines over the life-course of the individual, generally after adolescence.

(4) “Exceptional means” means the death of the offender, the victim’s refusal to cooperate with the prosecution after the offender is identified, the denial of extradition because the offender committed a crime in another jurisdiction and is being prosecuted for that offense, or other circumstance in accordance with the Federal Bureau of Investigation’s Uniform Crime Reporting Program.

(5) “Recidivism” has the same meaning as in section 4 of this title.

(c) Report.

(1) On or before January November 15 each year, 2024 and every three years thereafter, the Commissioner of Corrections Vermont Statistical Analysis Center (SAC), in consultation with the Commissioners of Corrections, of Health, of Mental Health, of Public Safety, of Labor, and for Children and Families and; the Attorney General; the Defender General; the Chief Superior Judge of the Superior Court; the Division of Racial Justice Statistics; the Executive Director of the Department of State’s Attorneys and Sheriffs; and the Parole Board Director, shall submit a report to the House Committees on Appropriations, on Judiciary, and on Corrections and Institutions and, the Senate Committees on Appropriations and on Judiciary detailing the expenditures on Justice Reinvestment II and the following related initiatives:

(1) — funding for domestic violence intervention programming in the Department of Corrections;

(2) — funding for offender transitional housing capacity with the Department of Corrections and other departments;

(3) — funding for the Department of Correction’s data collection Offender Management System;

(4) — funding for community-based mental health and substance use services for individuals under Department of Corrections supervision;

(5) — funding provided for diversion and restorative justice programs including community justice centers, court diversion, and balanced and restorative justice (BARJ); and

(6) funding and a description of any other General Fund expenditures for Justice Reinvestment II initiatives., the Joint Legislative Justice Oversight Committee, and the Executive Director of the Office of Racial Equity examining the trends associated with Vermont's criminal justice-related investments and expenditures since the last report was submitted pursuant to this section.

(2) The report required pursuant to subdivision (1) of this subsection shall include data showing:

(A) recidivism rates;

(B) clearance rates;

(C) evidence of desistance, including successful completion of community supervision;

(D) returns to incarceration from community supervision with the following relevant data points:

(i) community supervision type, classified by probation, parole, and furlough;

(ii) an indication if a return was for a violation or a new charge, including the crime type;

(iii) an indication if a violation was classified as "significant/not violent" or "significant and violent" for any applicable statuses; and

(iv) all available demographic information;

(E) bail rates, including detainees held without bail, detainees held with bail and the associated monetary amounts, and bailees who post bail and are released;

(F) pretrial detainees held in Vermont correctional facilities, including the crime type and jurisdiction for which they are held;

(G) the funding for, and utilization of, substance use disorder treatment, mental health, educational, and vocational initiatives for incarcerated individuals; and

(H) the funding for, and utilization by, individuals served through Justice Reinvestment II and related initiatives, including:

(i) domestic violence intervention programming in the Department of Corrections, including the results from the evaluation framework between the Vermont Network Against Domestic and Sexual Violence and the University of Nebraska;

(ii) offender transitional housing capacity with the Department of Corrections and other departments;

(iii) advancements to the Department of Corrections' data collection Offender Management System;

(iv) agencies, departments, municipalities, programs, and services employing restorative justice principles, including community justice centers;

(v) other General Fund expenditures for Justice Reinvestment II initiatives;

(vi) the Department of Corrections' out-of-state beds contracted by the Department and the average cost per bed in fiscal year 2019 and for each fiscal year thereafter; and

(vii) the Department of Corrections' in-state beds, separated by gender, including specialty units and units closed or unavailable in fiscal year 2019 and for each fiscal year thereafter.

~~(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.~~

(d) Informational availability.

(1) The information required pursuant to subsection (c) of this section shall include race, gender, age, and other demographic variables whenever possible.

(2) The report required pursuant to subsection (c) of this section shall explain any obstacles or impediments to the availability and collectability of data required pursuant to this section, including whether collecting certain data would put particular populations at risk, along with the substance use and mental health needs and educational and vocational status of justice-involved individuals.

(e) Data sharing. Notwithstanding any provision of law to the contrary, all State and local agencies and departments that possess the data necessary to compile the report required pursuant to this section shall, upon request, provide SAC with any data that it determines is relevant to the report. The obligation to disclose shall supersede any other legal obligation with respect to the data required pursuant to this section, and a department, agency, or other entity shall not decline to disclose data required based on any other purported legal obligation.

(f) Confidentiality. Any data or records transmitted to or obtained by SAC are exempt from public inspection and copying under the Public Records Act and shall be confidential to the extent required by law unless and until the data

or records are included in the report required by this section. A State or local agency or department that transmits data or records to SAC shall be the sole records custodian for purposes of responding to requests for the data or records. SAC may direct any request for these data or records to the transmitting agency or department for response.

Sec. 2. 28 V.S.A. § 126 is added to read:

§ 126. COORDINATED JUSTICE REFORM ADVISORY COUNCIL

(a) Creation. There is created the Coordinated Justice Reform Advisory Council to establish a unified and collaborative State approach to support State and local community-based programs and services that are consistent with Vermont's restorative justice policy pursuant to section 2a of this title. The Council shall consult with State and local partners to use a data-driven approach that improves public safety, reduces correctional and criminal justice spending, and reinvests savings or redirects funding in strategies that foster desistance or decrease crime, delinquencies, and recidivism.

(b) Membership. The Coordinated Justice Reform Advisory Council shall be composed of the following members:

(1) the Attorney General or designee;

(2) the Chief Superior Judge of the Vermont Superior Court or designee;

(3) the Commissioner of Corrections or designee;

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

(5) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(6) the Executive Director of the Vermont Statistical Analysis Center or designee;

(7) one current member of the House of Representatives selected from the Committee on Appropriations, the Committee on Corrections and Institutions, or the Committee on Judiciary, appointed by the Speaker of the House; and

(8) one current member of the Senate selected from the Committee on Appropriations or the Committee on Judiciary, appointed by the Committee on Committees.

(c) Powers and duties. The Coordinated Justice Reform Advisory Council shall:

(1) Review and provide data-driven recommendations for the priorities and appropriations necessary to support a unified and collaborative State approach in accordance with subsection (a) of this section.

(2) Review all relevant government appropriations, reauthorizations, and allocations made during the most recent fiscal year.

(3) Consult with Department of Mental Health; the Department of State's Attorneys and Sheriffs; the Office of the Defender General; the Parole Board; the Office of Racial Equity; the Office of the Child, Youth, and Family Advocate; the Vermont Network Against Domestic and Sexual Violence; and community justice entities that receive State funding for programs and services employing restorative justice principles on the potential uses and priorities of funding in accordance with subsection (a) of this section.

(4) Consistent with subsection (a) of this section, consider opportunities and make recommendations to establish a sustainable planning and funding structure to administer State and local community-based programs and services and modern data collection systems.

(5) On or before September 1, 2023 and annually thereafter, recommend to the Commissioner of Corrections the appropriate allocation of not more than \$900,000.00 from the Justice Reinvestment II line item of the Department of Corrections' budget for the upcoming fiscal year to support community-based programs and services, related data collection and analysis capacity, and other initiatives in accordance with subsection (a) of this section.

(d) Assistance. The Coordinated Justice Reform Advisory Council shall have the administrative, technical, and legal assistance of the Office of the Attorney General, the Department of Corrections, and the Department for Children and Families for those issues and services within the jurisdiction of the respective office or department.

(e) Reports. On or before November 15, 2023 and annually thereafter, the Coordinated Justice Reform Advisory Council shall submit recommendations pursuant to subdivisions (c)(4) and (c)(5) of this section to the Joint Legislative Justice Oversight Committee; the Senate Committees on Appropriations and on Judiciary; and the House Committees on Appropriations, on Corrections and Institutions, and on Judiciary. Any recommendations submitted pursuant to subdivision (c)(4) shall be in the form of proposed legislation.

(f) Meetings; officers; committees; rules; compensation; term.

(1) The Chief Superior Judge of the Vermont Superior Court or designee shall call the first meeting of the Coordinated Justice Reform Advisory Council on or before July 15, 2023.

(2) The Council shall meet not more than six times per year.

(3) The Chief Superior Judge of the Vermont Superior Court or designee shall serve as the Chair of the Council.

(4) The Council may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules or bylaws as necessary and appropriate to perform its work.

(5) Members who are appointed to the Council shall be appointed for terms of three years, except that the Commissioners of Corrections and for Children and Families and members appointed by the Speaker of the House of Representative and the Senate Committee on Committees shall be appointed for a term of two years. Initial appointments shall be made such that the Commissioners of Corrections and for Children and Families and the members appointed by the Speaker of the House of Representative and the Senate Committee on Committees shall be appointed for a term of one year. Members shall hold office for the term of their appointments until their successors have been appointed. Vacancies on the Council shall be filled for the remaining period of the term in the same manner as initial appointments. Members are eligible for reappointment.

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

(7) Members of the 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 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings per year.

(8) Council meetings shall be subject to the Open Meeting Law.

Sec. 3. 28 V.S.A. § 102(c) is amended to read:

(c) The Commissioner is charged with the following responsibilities:

* * *

(23) To include the Coordinated Justice Reform Advisory Council's appropriation recommendations made pursuant to subdivision 126(c)(5) of this title in the Department's annual proposed budget for the purposes of developing the State budget required to be submitted to the General Assembly in accordance with 32 V.S.A. § 306.

Sec. 4. REPEALS

(a) 28 V.S.A. 102(c)(23) (Commissioner of Corrections' responsibility to incorporate Coordinated Justice Reform Advisory Council's recommendations into the Department's budget) is repealed on July 1, 2028.

(b) 28 V.S.A. § 125 (criminal justice investments and trends; report) is repealed on July 1, 2028.

(c) 28 V.S.A. § 126 (Coordinated Justice Reform Advisory Council) is repealed on July 1, 2028.

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Secs. 1 (criminal justice investments and trends; report) and 4(b) (prospective repeal of 28 V.S.A. § 125) shall take effect on passage.

S. 91.

An act relating to competency to stand trial and insanity as a defense.

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

Sec. 1. 13 V.S.A. § 4801 is amended to read:

§ 4801. TEST OF INSANITY IN CRIMINAL CASES

(a) The test when used as a defense in criminal cases shall be as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect ~~he or she~~ the person lacks adequate capacity either to appreciate the criminality of ~~his or her~~ the person's conduct or to conform ~~his or her~~ the person's conduct to the requirements of law.

(2) The terms "mental disease or defect" do not include an abnormality manifested only by repeated criminal or otherwise ~~anti-social~~ antisocial conduct. The terms "mental disease or defect" ~~shall include~~ includes congenital and traumatic mental conditions as well as disease.

(b) The defendant shall have the burden of proof in establishing insanity as an affirmative defense by a preponderance of the evidence. The defendant shall be responsible for hiring the defendant's own forensic evaluator for the purpose of establishing insanity, provided that the Office of the Defender General shall pay for the evaluation of an indigent defendant.

Sec. 2. 13 V.S.A. § 4814 is amended to read:

§ 4814. ORDER FOR EXAMINATION OF COMPETENCY

(a) Any court before which a criminal prosecution is pending may order the Department of Mental Health to have the defendant examined by a psychiatrist at any time before, during, or after trial, and before final judgment in any of the following cases:

~~(1) when the defendant enters a plea of not guilty, or when such a plea is entered in the defendant's behalf, and then gives notice of the defendant's intention to rely upon the defense of insanity at the time of the alleged crime, or to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he or she had the mental state required for the offense charged; [Repealed.]~~

(2) when the defendant, the State, or an attorney, guardian, or other person acting on behalf of the defendant, raises before such court the issue of whether the defendant is mentally competent to stand trial for the alleged offense; or

~~(3) when the court believes that there is doubt as to the defendant's sanity at the time of the alleged offense; or [Repealed.]~~

(4) when the court believes that there is doubt as to the defendant's mental competency to be tried for the alleged offense.

(b) ~~Such~~ The order may be issued by the court on its own motion, or on motion of the State, the defendant, or an attorney, guardian, or other person acting on behalf of the defendant.

(c) An order issued pursuant to this section or Rule 16.1 of the Vermont Rules of Criminal Procedure shall order the release of all relevant records to the examiner, including all juvenile and adult court, mental health, and other health records.

(d) Notwithstanding any other provision of law, an examination ordered pursuant to subsection (a) of this section may be conducted by a doctoral-level psychologist trained in forensic psychology and licensed under 26 V.S.A. chapter 55. This subsection shall be repealed on July 1, 2024.

(e) After an initial competency determination, a court may order subsequent evaluations of a defendant to be performed by the Department of Mental Health only upon a showing of changed circumstances. In determining whether to order subsequent evaluations, the court shall consider a treating physician's clinical evidence, if any, indicating that the defendant's competency may have changed. This section shall not limit the parties'

abilities to secure their own evaluations voluntarily or under Vermont Rule of Criminal Procedure 16.1.

(f) The court may issue a warrant for the arrest of a defendant who, after receiving notice of an evaluation ordered under this section, fails to appear for the evaluation.

Sec. 3. 13 V.S.A. § 4815 is amended to read:

§ 4815. PLACE OF EXAMINATION; TEMPORARY COMMITMENT

* * *

(c) A motion for examination shall be made as soon as practicable after a party or the court has good faith reason to believe that there are grounds for an examination. A motion for an examination shall detail the facts indicating incompetency on which the motion is based and shall certify that the motion is made after the moving party has met with or personally observed the defendant. An attorney making such a motion shall be subject to the potential sanctions of Rule 11 of the Vermont Rules of Civil Procedure.

(d) Upon the making of a motion for examination, if the court finds sufficient facts to order an examination, the court shall order a mental health screening to be completed by a designated mental health professional while the defendant is still at the court.

(e) If the screening cannot be commenced and completed at the courthouse within two hours from the time of the defendant's appearance before the court, the court may forgo consideration of the screener's recommendations.

(f) The court and parties shall review the recommendation of the designated mental health professional and consider the facts and circumstances surrounding the charge and observations of the defendant in court. If the court finds sufficient facts to order an examination, it may be ordered to be completed in the least restrictive environment deemed sufficient to complete the examination, consistent with subsection (a) of this section.

* * *

(h) ~~Except upon good cause shown, defendants~~ Defendants charged with misdemeanor offenses who are not in the custody of the Commissioner of Corrections shall be examined on an outpatient basis for mental competency unless the court makes findings on the record that there is good cause for an inpatient evaluation. Examinations occurring in the community shall be conducted at a location within 60 miles of the defendant's residence or at another location agreed to by the defendant.

* * *

Sec. 4. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to ~~one or both of the following:~~

(1) mental competency of the person examined to stand trial for the alleged offense.

~~(2) sanity of the person examined at the time of the alleged offense.~~

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c)(1) As soon as practicable after the examination has been completed, the examining psychiatrist or, if applicable under subsection (b) of this section, ~~the psychiatrist and the psychologist~~ shall prepare a report containing findings in regard to the applicable provisions of subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, to the respondent, to the respondent's attorney if the respondent is represented by counsel, to the Commissioner of Mental Health, and, if applicable, to the Department of Disabilities, Aging, and Independent Living.

~~(2) If the court orders examination of both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist are able to form the opinion that the person is competent to stand trial, unless the defendant requests that the examinations occur concurrently. If the evaluation of the defendant's sanity at the time of the alleged offense does not occur until the defendant is deemed competent to stand trial, the psychiatrist or, if applicable under subsection (b) of this section, the psychiatrist and the psychologist shall make a reasonable effort to collect and preserve any evidence necessary to form an opinion as to sanity if the person regains competence.~~

(d) No statement made in the course of the examination by the person examined, whether or not ~~he or she~~ the person has consented to the examination, shall be admitted as evidence in any criminal proceeding for the purpose of proving the commission of a criminal offense or for the purpose of impeaching testimony of the person examined.

(e) The relevant portion of a psychiatrist's report shall be admitted into evidence as an exhibit on the issue of the person's mental competency to stand trial and the opinion shall be conclusive on the issue if agreed to by the parties and if found by the court to be relevant and probative on the issue.

(f) Introduction of a report under subsection (d) of this section shall not preclude either party or the court from calling the psychiatrist who wrote the report as a witness or from calling witnesses or introducing other relevant evidence. Any witness called by either party on the issue of the defendant's competency shall be at the State's expense, or, if called by the court, at the court's expense.

Sec. 5. 13 V.S.A. § 4817 is amended to read:

§ 4817. COMPETENCY TO STAND TRIAL; DETERMINATION

(a) A defendant shall be presumed to be competent and shall have the burden of proving incompetency by a preponderance of the evidence.

(b) A person shall not be tried for a criminal offense if ~~he or she~~ the person is found incompetent to stand trial by a preponderance of the evidence.

~~(b)~~(c) If a person indicted, complained, or informed against for an alleged criminal offense, an attorney or guardian acting in ~~his or her~~ the person's behalf, or the State, at any time before final judgment, raises before the court before which such person is tried or is to be tried, the issue of whether such person is incompetent to stand trial, or if the court has reason to believe that such person may not be competent to stand trial, a hearing shall be held before such court at which evidence shall be received and a finding made regarding ~~his or her~~ the person's competency to stand trial. However, in cases where the court has reason to believe that such person may be incompetent to stand trial due to a mental disease or mental defect, such hearing shall not be held until an examination has been made and a report submitted by an examining psychiatrist in accordance with sections 4814–4816 of this title.

~~(e)~~(d) A person who has been found incompetent to stand trial for an alleged offense may be tried for that offense if, upon subsequent hearing, such person is found by the court having jurisdiction of ~~his or her~~ the person's trial for the offense to have become competent to stand trial.

Sec. 6. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) ~~Is reported by the examining psychiatrist following examination pursuant to sections 4814-4816 of this title to have been insane at the time of the alleged offense. [Repealed.]~~

(2) ~~Is is~~ found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect;

(3) ~~Is is~~ not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court; or

(4) ~~Upon~~ upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding ~~15~~ 21 days.

(b) When a person is found to be incompetent to stand trial, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health and, if applicable, the Department of Disabilities, Aging, and Independent Living shall be entitled to appear and call witnesses at the proceeding.

(c) Notwithstanding any other provision of law, a commitment order issued pursuant to this chapter shall not modify or vacate orders concerning conditions of release or bail issued pursuant to chapter 229 of this title, and the commitment order shall remain in place unless expressly modified, provided that inpatient treatment shall be permitted if a person who is held without bail is found to be in need of inpatient treatment under this chapter.

Sec. 7. COMPETENCY RESTORATION PROGRAM PLAN

(a)(1) On or before November 15, 2023, the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall report to the Governor, the Senate Committees on Judiciary and on Health and Welfare, and the House Committees on Judiciary, on Health Care, and on Human Services on whether a plan for a competency restoration program should be adopted in Vermont.

(2) For purposes of the report required by the section:

(A) the Department of Mental Health and the Department of Disabilities, Aging, and Independent Living shall consult with:

- (i) the Chief Superior Judge or designee;
- (ii) the Commissioner of Corrections or designee;
- (iii) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;
- (iv) the Executive Director of the Vermont Center for Crime Victim Services or designee;
- (v) the Vermont Legal Aid Disability Law Project; and
- (vi) the Defender General or designee; and

(B) consideration shall be given to providing notification and information to victims of record.

(b) If a competency restoration plan is recommended, the report shall include recommendations for best practices, any changes to law necessary to establish the program, estimated costs, and a proposal for implementing the program.

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE REVIEW; COMPETENCY EXAMINATIONS

(a) The Joint Legislative Justice Oversight Committee shall review whether Vermont law should permit competency examinations of defendants under 13 V.S.A. § 4814 to be conducted, in addition to psychiatrists and doctoral-level psychologists trained in forensic psychology, by other doctoral-level mental health providers, psychiatric nurse practitioners, or any other professionals. The review shall include consideration of laws on the issue in other states and whether any changes to 13 V.S.A. § 4814 or any other Vermont laws are necessary to permit referral of the evaluation to a psychiatrist when appropriate. The Committee's recommendation under subsection (c) of this section shall reflect its determination of which professionals, if any, should be permitted to conduct the competency examinations.

(b) The Joint Legislative Justice Oversight Committee shall conduct the review of competency evaluation procedures required by subsection (a) of this section at not more than four of its 2023 meetings. Two members of the Senate Committee on Health and Welfare appointed by the Chair of that Committee and two members of the House Committee on Health Care appointed by the Chair of that Committee shall be permitted to attend and participate in the meetings. Members of the Committees on Health and Welfare and on Health Care who attend the meetings as authorized by this section shall be permitted to participate in the Justice Oversight Committee's

development of the recommendations required by subsection (c) of this section.

(c) On or before November 15, 2023, the Committee shall recommend any changes it deems advisable to 13 V.S.A. § 4814(d) (permitting competency examinations by doctoral-level psychologists trained in forensic psychology) to the Senate and House Committees on Judiciary, the Senate Committee on Health and Welfare, the House Committee on Health Care, and the House Committee on Human Services.

Sec. 9. REPORT ON CUMULATIVE COMPETENCY EVALUATIONS

On or before December 15, 2023, the Department of Mental Health, in consultation with the Department of Disabilities, Aging, and Independent Living shall report on cumulative competency evaluations to the House Committees on Judiciary and Health Care and the Senate Committees on Judiciary and Health and Welfare. The report shall include recommendations on how to address competency evaluations of persons who have already been determined incompetent to stand trial in another matter, including whether previous evaluations may be used or relied upon for subsequent evaluations.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

House Proposal of Amendment to Senate Proposal of Amendment

H. 222.

An act relating to reducing overdoses

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

First: In Sec. 9, 24 V.S.A. § 4412, in subdivision (1)(G)(i), by striking out the phrase “persons in recovery” and inserting in lieu thereof the word “tenants”

Second: By striking out Sec. 11, 18 V.S.A. § 4201, in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, ~~unless the context otherwise requires:~~

* * *

(45) “Approved drug-checking service provider” means a provider who complies with operating guidelines developed by the Department of Health pursuant to section 4240a of this title.

(46) “Drug-checking” means the testing of a substance to determine its chemical composition or assist in determining whether the substance contains contaminants, toxic substances, or hazardous compounds.

Third: By striking out Sec. 12, 18 V.S.A. § 4240a, in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. 18 V.S.A. § 4240a is added to read:

§ 4240a. OVERDOSE PREVENTION; DRUG-CHECKING FOR
CONTAMINANT DETECTION

(a) Notwithstanding any other provision of law, it shall not be a violation of this chapter for an approved drug-checking service provider to receive, possess, transport, or store samples of a substance that may contain a regulated drug solely for purposes of analyzing the substance to determine its chemical composition and disseminate information regarding the analysis to the provider of the substance.

(b) On-site approved drug-checking service providers shall be permitted to:

(1) collect voluntarily provided residual samples of substances potentially containing regulated drugs, possess, transport, or store samples of a regulated drug solely for purposes of analyzing the substances to determine its chemical composition as a lifesaving intervention;

(2) use any available technologies to analyze the contents of samples to obtain timely, highly accurate information regarding the composition of drugs to prevent overdose and mitigate health risks;

(3) provide results of analysis obtained from drug-checking technology to the person requesting drug services;

(4) disseminate data containing only the results of analysis and containing no personally identifiable information to community members at risk of overdose; and

(5) if necessary, arrange for a sample of a drug or substance to be tested by an approved laboratory.

(c) In operating any drug-checking service, personally identifiable information may be collected from a person providing a controlled substance to an approved drug-checking service provider only as necessary to communicate drug-checking results to the person. Personally identifiable

information collected solely for the purposes of communicating drug-checking results shall not be retained or shared by an approved drug-checking service provider.

(d) An employee, contractor, volunteer, or other person acting in the good faith provision of drug-checking services and, acting in accordance with established protocols shall not:

(1) be subject to arrest, charge, or prosecution for a violation pursuant to this chapter, including for attempting to, aiding and abetting in, or conspiracy to commit a violation of this chapter;

(2) have their property subject to forfeiture, any civil or administrative penalty, or liability of any kind, including disciplinary action by a professional licensing board, credentialing restrictions, contractual or civil liability, or medical staff or other employment action; or

(3) be denied any right or privilege for actions, conduct, or omissions relating to the operation of a drug-checking service in compliance with this chapter and any rules adopted pursuant to this chapter.

(e) An individual possessing a regulated substance and who provides any portion of the substance to an approved drug-checking service provider pursuant to this section for purposes of obtaining drug-checking services shall not be subject to arrest, charge, or prosecution for possession of a regulated substance pursuant to this chapter or civil or administrative penalty or disciplinary action by a professional licensing board for a violation of this chapter based on the individual's use or attempted use of drug-checking services in accordance with this section. The immunity provisions of this subsection shall apply only to the use and derivative use of evidence gained as a proximate result of an individual seeking drug-checking services and shall not preclude prosecution of the individual on the basis of evidence obtained from an independent source.

(f) Local governments shall not collect, maintain, use, or disclose any personal information relating to an individual from whom local government receives any drug or substance for checking or disposal.

(g) The result of a test carried out by an approved drug-checking service provider shall not be admissible as evidence in any criminal or civil proceeding.

(h)(1) The Department shall provide technical assistance to and develop operating guidelines for drug-checking service providers.

(2) The Department shall coordinate the collection and dissemination of deidentified data related to drug-checking services to inform prevention and public health initiatives.

Fourth: In Sec. 13, 18 V.S.A. § 4774, in subdivision (a)(2), in the first sentence, by inserting the phrase “annually on or before January 15” after “subchapter, as part of its annual budget submission,”

Fifth: In Sec. 14, appropriation; Opioid Abatement Special Fund, in subdivision (3)(A), by striking out the phrase “and within syringe service organizations”

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Kristin L. Clouser of Jericho – Secretary, Agency of Administration – By Senator Hardy for the Committee on Government Operations (4/6/23)

Michael A. Harrington of Northfield – Commissioner, Department of Labor – By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (4/18/23)

Lindsay Kurrle of Middlesex – Secretary, Agency of Commerce and Community Development – By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (4/19/23)

Sabina Haskell of Burlington - Chair, Natural Resource Board - By Senator Bray for the Committee on Natural Resources and Energy (4/25/23)

Craig Bolio of Essex Junction - Commissioner, Department of Taxes - By Senator Cummings for the Committee on Finance (4/25/23)

Adam Greshin of Warren - Commissioner, Department of Finance and Management - By Senator Brock for the Committee on Finance (4/25/23)

Jenney Samuelson of Shelburne – Secretary, Agency of Human Services – By Senator Lyons for the Committee on Health and Welfare (4/26/23)

Dawn Philibert of South Burlington – Chair – Public Member, Board of Health – By Senator Lyons for the Committee on Health and Welfare (4/26/23)

Christopher Winters of Berlin – Commissioner, Department for Children and Families – By Senator Gulick for the Committee on Health and Welfare (4/26/23)

Christopher Winters of Berlin – Commissioner, Department for Children and Families – By Senator Gulick for the Committee on Health and Welfare (4/26/23)

John Beling of East Montpelier - Commissioner, Department of Environmental Conservation - By Senator Watson for the Committee on Natural Resources and Energy (4/27/23)

Wendy Knight of Panton - Commissioner, Department of Liquor and Lottery - By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (4/27/23)

Benjamin O'Brien of Randolph – Member, Vermont Occupational Safety and Health Review Board – By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Brian Thomas of Shrewsbury – Journeyman Plumber Member, Plumbers Examining Board – By Senator Harrison for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Brian Thomas of Shrewsbury – Journeyman Plumber Member, Plumbers Examining Board – By Senator Harrison for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Steve Goodrich of North Bennington – Master Plumber Member, Plumbers Examining Board – By Senator Harrison for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Robert Greenmore of Barre – Member, Vermont Labor Relations Board – By Senator Cummings for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Karen Saudek of Montpelier – Member, Vermont Labor Relations Board – By Senator Cummings for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Jo Ann Troiano – Member, Vermont State Housing Authority – By Senator Cummings for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Alex Farrell of South Burlington – Commissioner, Vermont State Housing Authority – By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (5/2/23)

Megan Cicio of Northfield – Member, Board of Liquor and Lottery – By Senator Cummings for the Committee on Economic Development, Housing and General Affairs (5/4/23)

Dean George of Middlebury - Member, Parole Board - By Senator Wrenner for the Committee on Institutions (5/4/23)

Roger Donegan of Hinesburg - Member, Vermont Labor Relations Board - By Senator Clarkson for the Committee on Economic Development, Housing and General Affairs (5/4/23)

JFO NOTICE

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

JFO #3149: One (1) limited-service position, Recreational Boating Safety Administrator, to the Vermont State Police, Department of Public Safety to administer the Recreational Boating Safety program. Funded through the ongoing and annually awarded Recreational Boating Safety grant from the United States Coast Guard.

[Received April 18, 2023]

JFO #3148: \$7,797,240.00 to the VT Department of Health from the Centers for Disease Control and Prevention. The majority of funds, \$7,346,379.00, will be used to reinforce the public health workforce and the remainder, \$450,861.00, will support strengthening of systems, policies and processes.

[Note: A supplemental award to this grant for data modernization is expected, but not yet funded.] [Received April 18, 2023]

JFO #3147 - \$2,00,000.00 to the VT Department of Children and Families, Office of Economic Development from the U.S. Department of Energy. Funds will be used to launch a VT Weatherization Training Center to support weatherization of Vermont households. This facility will be operationalized via contract to a provider and sub-grants to several community partners. The performance period ends on 2/28/2026 with an end goal of over one thousand trained specialists. This program will work in conjunction with the ARPA funded \$45M Weatherization project currently in the Office of Economic Development.

[Received April 18, 2023]

JFO #3146: \$737,685.00 to the Vermont Department of Corrections from the U.S. Department of Justice. This grant was awarded to Vermont State Colleges who will sub-grant to the VT Department of Corrections. This grant includes two (2) limited-service positions, Post-Secondary Program Coordinators, to engage Vermont's correctional facility staff in post-secondary educational opportunities and improved employment opportunities, both within and without the Department and State government. Positions are fully funded through 8/31/2025 with a potential one-year extension.

[Received April 3, 2023]

JFO #3145: \$250,000.00 to the Vermont Agency of Human Services Department of Mental Health from the National Association of State Mental Health Program Directors. Funds will support direct services to be provided to the public through the Crisis Assistance Helping Out on the Street (CAHOOTS) program. The VT Department of Health will collaborate with the City of Burlington, Burlington Police Department and local area health providers to support this pilot. The goal is to establish a trauma-informed approach that will only utilize system components that are necessary for individual situations.

[Received April 3, 2023]

JFO #3144: \$173,973.00 to the Vermont Attorney General's Office from the Vermont Network Against Domestic and Sexual Violence. The Firearm Technical Assistant Project serves to improve Vermont's statewide responses to the intersection of firearms and domestic violence. The Attorney General's office will lead the management team and provide project oversight including communication with the project partners: Vermont Network, Defender General's Office, Vermont State Police, Vermont Judiciary, Disability Rights Vermont, AALV-VT and the Abenaki Nation.

[Received April 3, 2023]