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ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, MAY 1, 2024

Second Reading

Favorable with Proposal of Amendment

H. 121.

An act relating to enhancing consumer privacy.

Reported favorably with recommendation of proposal of amendment by Senator Ram Hinsdale 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:

Sec. 1. 9 V.S.A. chapter 61A is added to read:

CHAPTER 61A. VERMONT DATA PRIVACY ACT

§ 2415. DEFINITIONS

As used in this chapter:

(1) "Abortion" has the same meaning as in section 2492 of this title.

(2)(A) "Affiliate" means a legal entity that shares common branding with another legal entity or controls, is controlled by, or is under common control with another legal entity.

(B) As used in subdivision (A) of this subdivision (2), "control" or "controlled" means:

(i) ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(ii) control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(iii) the power to exercise controlling influence over the management of a company.

(3) "Authenticate" means to use reasonable means to determine that a request to exercise any of the rights afforded under subdivisions 2418(a)(1)–

(5) of this title is being made by, or on behalf of, the consumer who is entitled to exercise the consumer rights with respect to the personal data at issue.

(4)(A) "Biometric data" means personal data generated from the technological processing of an individual's unique biological, physical, or physiological characteristics that is linked or reasonably linkable to an individual, including:

(i) iris or retina scans;

(ii) fingerprints;

(iii) facial or hand mapping, geometry, or templates;

(iv) vein patterns;

(v) voice prints; and

(vi) gait or personally identifying physical movement or patterns.

(B) "Biometric data" does not include:

(i) a digital or physical photograph;

(ii) an audio or video recording; or

(iii) any data generated from a digital or physical photograph, or an audio or video recording, unless such data is generated to identify a specific individual.

(5) "Broker-dealer" has the same meaning as in 9 V.S.A. § 5102.

(6) "Business associate" has the same meaning as in HIPAA.

(7) "Child" has the same meaning as in COPPA.

(8)(A) "Consent" means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to allow the processing of personal data relating to the consumer.

(B) "Consent" may include a written statement, including by electronic means, or any other unambiguous affirmative action.

(C) "Consent" does not include:

(i) acceptance of a general or broad terms of use or similar document that contains descriptions of personal data processing along with other, unrelated information;

(ii) hovering over, muting, pausing, or closing a given piece of content; or

(iii) agreement obtained through the use of dark patterns.

(9)(A) "Consumer" means an individual who is a resident of the State.

(B) "Consumer" does not include an individual acting in a commercial or employment context or as an employee, owner, director, officer, or contractor of a company, partnership, sole proprietorship, nonprofit, or government agency whose communications or transactions with the controller occur solely within the context of that individual's role with the company, partnership, sole proprietorship, nonprofit, or government agency.

(10) "Consumer health data" means any personal data that a controller uses to identify a consumer's physical or mental health condition or diagnosis, including gender-affirming health data and reproductive or sexual health data.

(11) "Consumer health data controller" means any controller that, alone or jointly with others, determines the purpose and means of processing consumer health data.

(12) "Consumer reporting agency" has the same meaning as in the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

(13) "Controller" means a person who, alone or jointly with others, determines the purpose and means of processing personal data.

(14) "COPPA" means the Children's Online Privacy Protection Act of 1998, 15 U.S.C. § 6501–6506, and any regulations, rules, guidance, and exemptions promulgated pursuant to the act, as the act and regulations, rules, guidance, and exemptions may be amended.

(15) "Covered entity" has the same meaning as in HIPAA.

(16) "Credit union" has the same meaning as in 8 V.S.A. § 30101.

(17) "Dark pattern" means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice and includes any practice the Federal Trade Commission refers to as a "dark pattern."

(18) "Decisions that produce legal or similarly significant effects concerning the consumer" means decisions made by the controller that result in the provision or denial by the controller of financial or lending services, housing, insurance, education enrollment or opportunity, criminal justice, employment opportunities, health care services, or access to essential goods or services.

(19) "De-identified data" means data that does not identify and cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to the individual, if the controller that possesses the data:

(A)(i) takes reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(ii) for purposes of this subdivision (A), "reasonable measures" shall include the de-identification requirements set forth under 45 C.F.R. § 164.514 (other requirements relating to uses and disclosures of protected health information);

(B) publicly commits to process the data only in a de-identified fashion and not attempt to re-identify the data; and

(C) contractually obligates any recipients of the data to satisfy the criteria set forth in subdivisions (A) and (B) of this subdivision (19).

(20) "Educational institution" has the same meaning as "educational agency or institution" in 20 U.S.C. § 1232g (family educational and privacy rights);

(21) "Financial institution":

(A) as used in subdivision 2417(a)(12) of this title, has the same meaning as in 15 U.S.C. § 6809; and

(B) as used in subdivision 2417(a)(14) of this title, has the same meaning as in 8 V.S.A. § 11101.

(22) "Gender-affirming health care services" has the same meaning as in 1 V.S.A. § 150.

(23) "Gender-affirming health data" means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer's receipt of, gender-affirming health care services, including:

(A) precise geolocation data that is used for determining a consumer's attempt to acquire or receive gender-affirming health care services;

(B) efforts to research or obtain gender-affirming health care services; and

(C) any gender-affirming health data that is derived from nonhealth information.

(24) "Genetic data" means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material, including deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or

RNA, single nucleotide polymorphisms (SNPs), epigenetic markers, uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(25) "Geofence" means any technology that uses global positioning coordinates, cell tower connectivity, cellular data, radio frequency identification, wireless fidelity technology data, or any other form of location detection, or any combination of such coordinates, connectivity, data, identification, or other form of location detection, to establish a virtual boundary.

(26) "Health care facility" has the same meaning as in 18 V.S.A. § 9432.

(27) "Heightened risk of harm to a minor" means processing the personal data of a minor in a manner that presents a reasonably foreseeable risk of:

(A) material physical or financial injury to a minor;

(B) emotional distress, as that term is defined in 13 V.S.A. § 1061(2), to a minor;

(C) a highly offensive intrusion on the reasonable privacy expectations of a minor;

(D) the encouragement of excessive or compulsive use of an online service, product, or feature by a minor; or

(E) discrimination against the minor based upon the minor's race, ethnicity, sex, disability, sexual orientation, gender identity, gender expression, or national origin.

(28) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and any regulations promulgated pursuant to the act, as may be amended.

(29) "Identified or identifiable individual" means an individual who can be readily identified, directly or indirectly, including by reference to an identifier such as a name, an identification number, specific geolocation data, or an online identifier.

(30) "Independent trust company" has the same meaning as in 8 V.S.A. § 2401.

(31) "Investment adviser" has the same meaning as in 9 V.S.A. § 5102.

(32) "Mental health facility" means any health care facility in which at least 70 percent of the health care services provided in the facility are mental health services.

(33) "Nonpublic personal information" has the same meaning as in 15 U.S.C. § 6809.

(34)(A) "Online service, product, or feature" means any service, product, or feature that is provided online, except as provided in subdivision (B) of this subdivision (33).

(B) "Online service, product, or feature" does not include:

(i) telecommunications service, as that term is defined in the Communications Act of 1934, 47 U.S.C. § 153;

(ii) broadband internet access service, as that term is defined in 47 C.F.R. § 54.400 (universal service support); or

(iii) the delivery or use of a physical product.

(35) "Patient identifying information" has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

(36) "Patient safety work product" has the same meaning as in 42 C.F.R. § 3.20 (patient safety organizations and patient safety work product).

(37)(A) "Personal data" means any information, including derived data and unique identifiers, that is linked or reasonably linkable to an identified or identifiable individual or to a device that identifies, is linked to, or is reasonably linkable to one or more identified or identifiable individuals in a household.

(B) "Personal data" does not include de-identified data or publicly available information.

(38)(A) "Precise geolocation data" means personal data derived from technology that accurately identifies within a radius of 1,850 feet a consumer's present or past location or the present or past location of a device that links or is linkable to a consumer or any data that is derived from a device that is used or intended to be used to locate a consumer within a radius of 1,850 feet by means of technology that includes a global positioning system that provides latitude and longitude coordinates.

(B) "Precise geolocation data" does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(39) "Process" or "processing" means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(40) "Processor" means a person who processes personal data on behalf of a controller.

(41) "Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable individual's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

(42) "Protected health information" has the same meaning as in HIPAA.

(43) "Pseudonymous data" means personal data that cannot be attributed to a specific individual without the use of additional information, provided the additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable individual.

(44) "Publicly available information" means information that:

(A) is lawfully made available through federal, state, or local government records or widely distributed media; or

(B) a controller has a reasonable basis to believe a consumer has lawfully made available to the general public.

(45) "Qualified service organization" has the same meaning as in 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records);

(46) "Reproductive or sexual health care" has the same meaning as "reproductive health care services" in 1 V.S.A. § 150(c)(1).

(47) "Reproductive or sexual health data" means any personal data concerning a past, present, or future effort made by a consumer to seek, or a consumer's receipt of, reproductive or sexual health care.

(48) "Reproductive or sexual health facility" means any health care facility in which at least 70 percent of the health care-related services or products rendered or provided in the facility are reproductive or sexual health care.

(49)(A) "Sale of personal data" means the exchange of a consumer's personal data by the controller to a third party for monetary or other valuable consideration.

(B) "Sale of personal data" does not include:

(i) the disclosure of personal data to a processor that processes the personal data on behalf of the controller;

(ii) the disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(iii) the disclosure or transfer of personal data to an affiliate of the controller;

(iv) the disclosure of personal data where the consumer directs the controller to disclose the personal data or intentionally uses the controller to interact with a third party;

(v) the disclosure of personal data that the consumer:

(I) intentionally made available to the general public via a channel of mass media; and

(II) did not restrict to a specific audience; or

(vi) the disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy or other transaction, or a proposed merger, acquisition, bankruptcy, or other transaction, in which the third party assumes control of all or part of the controller's assets.

(50) "Sensitive data" means personal data that:

(A) reveals a consumer's government-issued identifier, such as a Social Security number, passport number, state identification card, or driver's license number, that is not required by law to be publicly displayed;

(B) reveals a consumer's racial or ethnic origin, national origin, citizenship or immigration status, religious or philosophical beliefs, or union membership;

(C) reveals a consumer's sexual orientation, sex life, sexuality, or status as transgender or nonbinary;

(D) reveals a consumer's status as a victim of a crime;

(E) is financial information, including a consumer's tax return and account number, financial account log-in, financial account, debit card number, or credit card number in combination with any required security or access code, password, or credentials allowing access to an account;

(F) is consumer health data;

(G) is personal data collected and analyzed concerning consumer health data or personal data that describes or reveals a past, present, or future mental or physical health condition, treatment, disability, or diagnosis, including pregnancy, to the extent the personal data is not used by the

controller to identify a specific consumer's physical or mental health condition or diagnosis;

(H) is biometric or genetic data;

(I) is personal data collected from a known child;

(J) is a photograph, film, video recording, or other similar medium that shows the naked or undergarment-clad private area of a consumer; or

(K) is precise geolocation data.

(51)(A) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained or inferred from that consumer's activities over time and across nonaffiliated internet websites or online applications to predict the consumer's preferences or interests.

(B) "Targeted advertising" does not include:

(i) an advertisement based on activities within a controller's own websites or online applications;

(ii) an advertisement based on the context of a consumer's current search query, visit to a website, or use of an online application;

(iii) an advertisement directed to a consumer in response to the consumer's request for information or feedback; or

(iv) processing personal data solely to measure or report advertising frequency, performance, or reach.

(52) "Third party" means a person, such as a public authority, agency, or body, other than the consumer, controller, or processor or an affiliate of the processor or the controller.

(53) "Trade secret" has the same meaning as in section 4601 of this title.

(54) "Victim services organization" means a nonprofit organization that is established to provide services to victims or witnesses of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking.

§ 2416. APPLICABILITY

(a) Except as provided in subsection (b) of this section, this chapter applies to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State and that during the preceding calendar year:

(1) controlled or processed the personal data of not fewer than 25,000 consumers, excluding personal data controlled or processed solely for the purpose of completing a payment transaction; or

(2) derived more than 50 percent of the person's gross revenue from the sale of personal data.

(b) Sections 2420 and 2426 of this title, and the provisions of this chapter concerning consumer health data and consumer health data controllers apply to a person that conducts business in this State or a person that produces products or services that are targeted to residents of this State.

§ 2417. EXEMPTIONS

(a) This chapter does not apply to:

(1) a federal, State, tribal, or local government entity in the ordinary course of its operation;

(2) protected health information that a covered entity or business associate processes in accordance with, or documents that a covered entity or business associate creates for the purpose of complying with HIPAA;

(3) information used only for public health activities and purposes described in 45 C.F.R. § 164.512 (disclosure of protected health information without authorization);

(4) information that identifies a consumer in connection with:

(A) activities that are subject to the Federal Policy for the Protection of Human Subjects, codified as 45 C.F.R. part 46 (HHS protection of human subjects) and in various other federal regulations;

(B) research on human subjects undertaken in accordance with good clinical practice guidelines issued by the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use;

(C) activities that are subject to the protections provided in 21 C.F.R. parts 50 (FDA clinical investigations protection of human subjects) and 56 (FDA clinical investigations institutional review boards); or

(D) research conducted in accordance with the requirements set forth in subdivisions (A) through (C) of this subdivision (a)(4) or otherwise in accordance with applicable law;

(5) patient identifying information that is collected and processed in accordance with 42 C.F.R. part 2 (confidentiality of substance use disorder patient records);

(6) patient safety work product that is created for purposes of improving patient safety under 42 C.F.R. part 3 (patient safety organizations and patient safety work product);

(7) information or documents created for the purposes of the Healthcare Quality Improvement Act of 1986, 42 U.S.C. § 11101–11152, and regulations adopted to implement that act;

(8) information that originates from, that is intermingled so as to be indistinguishable from, or that is treated in the same manner as information described in subdivisions (2)–(7) of this subsection that a covered entity, business associate, or a qualified service organization program creates, collects, processes, uses, or maintains in the same manner as is required under the laws, regulations, and guidelines described in subdivisions (2)–(7) of this subsection;

(9) information processed or maintained solely in connection with, and for the purpose of, enabling:

(A) an individual's employment or application for employment;

(B) an individual's ownership of, or function as a director or officer of, a business entity;

(C) an individual's contractual relationship with a business entity;

(D) an individual's receipt of benefits from an employer, including benefits for the individual's dependents or beneficiaries; or

(E) notice of an emergency to persons that an individual specifies;

(10) any activity that involves collecting, maintaining, disclosing, selling, communicating, or using information for the purpose of evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living if done strictly in accordance with the provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, as may be amended, by:

(A) a consumer reporting agency;

(B) a person who furnishes information to a consumer reporting agency under 15 U.S.C. § 1681s-2 (responsibilities of furnishers of information to consumer reporting agencies); or

(C) a person who uses a consumer report as provided in 15 U.S.C. § 1681b(a)(3) (permissible purposes of consumer reports);

(11) information collected, processed, sold, or disclosed under and in accordance with the following laws and regulations:

(A) the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725;

(B) the Airline Deregulation Act, Pub. L. No. 95-504, only to the extent that an air carrier collects information related to prices, routes, or services, and only to the extent that the provisions of the Airline Deregulation Act preempt this chapter;

(C) the Farm Credit Act, Pub. L. No. 92-181, as may be amended; or

(D) federal policy under 21 U.S.C. § 830 (regulation of listed chemicals and certain machines);

(12) nonpublic personal information that is processed by a financial institution or data subject to the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, and regulations adopted to implement that act;

(13) information that originates from, or is intermingled so as to be indistinguishable from, information described in subdivision (12) of this subsection and that a controller or processor collects, processes, uses, or maintains in the same manner as is required under the law and regulations specified in subdivision (12) of this subsection;

(14) a financial institution, credit union, independent trust company, broker-dealer, or investment adviser or a financial institution's, credit union's, independent trust company's, broker-dealer's, or investment adviser's affiliate or subsidiary that is only and directly engaged in financial activities, as described in 12 U.S.C. § 1843(k);

(15) a person regulated pursuant to part 3 of Title 8 (chapters 101–165) other than a person that, alone or in combination with another person, establishes and maintains a self-insurance program and that does not otherwise engage in the business of entering into policies of insurance;

(16) a third-party administrator, as that term is defined in the Third Party Administrator Rule adopted pursuant to 18 V.S.A. § 9417;

(17) a nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance;

(18) a public service company subject to the rules and orders of the Vermont Public Utility Commission regarding data sharing and service quality;

(19) an educational institution subject to the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and regulations adopted to implement that act;

(20) personal data of a victim or witness of child abuse, domestic violence, human trafficking, sexual assault, violent felony, or stalking that a victim services organization collects, processes, or maintains in the course of its operation;

(21) personal data of health care service volunteers held by nonprofit organizations to facilitate provision of health care services; or

(22) noncommercial activity of:

(A) a publisher, editor, reporter, or other person who is connected with or employed by a newspaper, magazine, periodical, newsletter, pamphlet, report, or other publication in general circulation;

(B) a radio or television station that holds a license issued by the Federal Communications Commission;

(C) a nonprofit organization that provides programming to radio or television networks; or

(D) an entity that provides an information service, including a press association or wire service.

(b) Controllers, processors, and consumer health data controllers that comply with the verifiable parental consent requirements of COPPA shall be deemed compliant with any obligation to obtain parental consent pursuant to this chapter, including pursuant to section 2420 of this title.

§ 2418. CONSUMER PERSONAL DATA RIGHTS

(a) A consumer shall have the right to:

(1) confirm whether or not a controller is processing the consumer's personal data and access the personal data, unless the confirmation or access would require the controller to reveal a trade secret;

(2) obtain from a controller a list of third parties, other than individuals, to which the controller has transferred, at the controller's election, either the consumer's personal data or any personal data;

(3) correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(4) delete personal data provided by, or obtained about, the consumer;

(5) obtain a copy of the consumer's personal data processed by the controller, in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller

without hindrance, where the processing is carried out by automated means, provided such controller shall not be required to reveal any trade secret; and

(6) opt out of the processing of the personal data for purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of solely automated decisions that produce legal or similarly significant effects concerning the consumer.

(b)(1) A consumer may exercise rights under this section by submitting a request to a controller using the method that the controller specifies in the privacy notice under section 2419 of this title.

(2) A controller shall not require a consumer to create an account for the purpose described in subdivision (1) of this subsection, but the controller may require the consumer to use an account the consumer previously created.

(3) A parent or legal guardian may exercise rights under this section on behalf of the parent's child or on behalf of a child for whom the guardian has legal responsibility. A guardian or conservator may exercise the rights under this section on behalf of a consumer that is subject to a guardianship, conservatorship, or other protective arrangement.

(4)(A) A consumer may designate another person to act on the consumer's behalf as the consumer's authorized agent for the purpose of exercising the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(B) The consumer may designate an authorized agent by means of an internet link, browser setting, browser extension, global device setting, or other technology that enables the consumer to exercise the consumer's rights under subdivision (a)(4) or (a)(6) of this section.

(c) Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to this chapter as follows:

(1)(A) A controller shall respond to the consumer without undue delay, but not later than 60 days after receipt of the request.

(B) The controller may extend the response period by 45 additional days when reasonably necessary, considering the complexity and number of the consumer's requests, provided the controller informs the consumer of the extension within the initial 60-day response period and of the reason for the extension.

(2) If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but not later than 45 days after receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision.

(3)(A) Information provided in response to a consumer request shall be provided by a controller, free of charge, once per consumer during any 12-month period.

(B) If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request.

(C) The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(4)(A) If a controller is unable to authenticate a request to exercise any of the rights afforded under subdivisions (a)(1)–(5) of this section using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action pursuant to this section and shall provide notice to the consumer that the controller is unable to authenticate the request to exercise the right or rights until the consumer provides additional information reasonably necessary to authenticate the consumer and the consumer's request to exercise the right or rights.

(B) A controller shall not be required to authenticate an opt-out request, but a controller may deny an opt-out request if the controller has a good faith, reasonable, and documented belief that the request is fraudulent.

(C) If a controller denies an opt-out request because the controller believes the request is fraudulent, the controller shall send a notice to the person who made the request disclosing that the controller believes the request is fraudulent, why the controller believes the request is fraudulent, and that the controller shall not comply with the request.

(5) A controller that has obtained personal data about a consumer from a source other than the consumer shall be deemed in compliance with a consumer's request to delete the data pursuant to subdivision (a)(4) of this section by:

(A) retaining a record of the deletion request and the minimum data necessary for the purpose of ensuring the consumer's personal data remains deleted from the controller's records and not using the retained data for any other purpose pursuant to the provisions of this chapter; or

(B) opting the consumer out of the processing of the personal data for any purpose except for those exempted pursuant to the provisions of this chapter.

(6) A controller may not condition the exercise of a right under this section through:

(A) the use of any false, fictitious, fraudulent, or materially misleading statement or representation; or

(B) the employment of any dark pattern.

(d) A controller shall establish a process by means of which a consumer may appeal the controller's refusal to take action on a request under subsection (b) of this section. The controller's process must:

(1) Allow a reasonable period of time after the consumer receives the controller's refusal within which to appeal.

(2) Be conspicuously available to the consumer.

(3) Be similar to the manner in which a consumer must submit a request under subsection (b) of this section.

(4) Require the controller to approve or deny the appeal within 45 days after the date on which the controller received the appeal and to notify the consumer in writing of the controller's decision and the reasons for the decision. If the controller denies the appeal, the notice must provide or specify information that enables the consumer to contact the Attorney General to submit a complaint.

§ 2419. DUTIES OF CONTROLLERS

(a) A controller shall:

(1) specify in the privacy notice described in subsection (d) of this section the express purposes for which the controller is collecting and processing personal data;

(2) process personal data only:

(A) as reasonably necessary and proportionate to achieve a disclosed purpose for which the personal data was collected, consistent with the reasonable expectations of the consumer whose personal data is being processed;

(B) for another disclosed purpose that is compatible with the context in which the personal data was collected; or

(C) for a further disclosed purpose if the controller obtains the consumer's consent;

(3) establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data appropriate to the volume and nature of the personal data at issue; and

(4) provide an effective mechanism for a consumer to revoke consent to the controller's processing of the consumer's personal data that is at least as easy as the mechanism by which the consumer provided the consumer's consent and, upon revocation of the consent, cease to process the data as soon as practicable, but not later than 60 days after receiving the request.

(b) A controller shall not:

(1) process personal data beyond what is reasonably necessary and proportionate to the processing purpose;

(2) process sensitive data about a consumer without first obtaining the consumer's consent or, if the controller knows the consumer is a child, without processing the sensitive data in accordance with COPPA;

(3)(A) except as provided in subdivision (B) of this subdivision (3), process a consumer's personal data in a manner that discriminates against individuals or otherwise makes unavailable the equal enjoyment of goods or services on the basis of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry, or national origin;

(B) subdivision (A) of this subdivision (3) shall not apply to:

(i) a private establishment, as that term is used in 42 U.S.C. § 2000a(e) (prohibition against discrimination or segregation in places of public accommodation);

(ii) processing for the purpose of a controller's or processor's self-testing to prevent or mitigate unlawful discrimination; or

(iii) processing for the purpose of diversifying an applicant, participant, or consumer pool.

(4) process a consumer's personal data for the purposes of targeted advertising, of profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, or of selling the consumer's personal data without the consumer's consent if the controller knows that the consumer is at least 13 years of age and not older than 16 years of age; or

(5) discriminate or retaliate against a consumer who exercises a right provided to the consumer under this chapter or refuses to consent to the collection or processing of personal data for a separate product or service, including by:

(A) denying goods or services;

(B) charging different prices or rates for goods or services; or

(C) providing a different level of quality or selection of goods or services to the consumer.

(c) Subsections (a) and (b) of this section shall not be construed to:

(1) require a controller to provide a good or service that requires personal data from a consumer that the controller does not collect or maintain; or

(2) prohibit a controller from offering a different price, rate, level of quality, or selection of goods or services to a consumer, including an offer for no fee or charge, in connection with a consumer's voluntary participation in a financial incentive program, such as a bona fide loyalty, rewards, premium features, discount, or club card program.

(d)(1) A controller shall provide to consumers a reasonably accessible, clear, and meaningful privacy notice that:

(A) lists the categories of personal data, including the categories of sensitive data, that the controller processes;

(B) describes the controller's purposes for processing the personal data;

(C) describes how a consumer may exercise the consumer's rights under this chapter, including how a consumer may appeal a controller's denial of a consumer's request under section 2418 of this title;

(D) lists all categories of personal data, including the categories of sensitive data, that the controller shares with third parties;

(E) describes all categories of third parties with which the controller shares personal data at a level of detail that enables the consumer to understand what type of entity each third party is and, to the extent possible, how each third party may process personal data;

(F) specifies an e-mail address or other online method by which a consumer can contact the controller that the controller actively monitors;

(G) identifies the controller, including any business name under which the controller registered with the Secretary of State and any assumed business name that the controller uses in this State;

(H) provides a clear and conspicuous description of any processing of personal data in which the controller engages for the purposes of targeted advertising, sale of personal data to third parties, or profiling the consumer in furtherance of decisions that produce legal or similarly significant effects concerning the consumer, and a procedure by which the consumer may opt out of this type of processing; and

(I) describes the method or methods the controller has established for a consumer to submit a request under subdivision 2418(b)(1) of this title.

(2) The privacy notice shall adhere to the accessibility and usability guidelines recommended under 42 U.S.C. chapter 126 (the Americans with Disabilities Act) and 29 U.S.C. 794d (section 508 of the Rehabilitation Act of 1973), including ensuring readability for individuals with disabilities across various screen resolutions and devices and employing design practices that facilitate easy comprehension and navigation for all users.

(e) The method or methods under subdivision (d)(1)(I) of this section for submitting a consumer's request to a controller must:

(1) take into account the ways in which consumers normally interact with the controller, the need for security and reliability in communications related to the request, and the controller's ability to authenticate the identity of the consumer that makes the request;

(2) provide a clear and conspicuous link to a website where the consumer or an authorized agent may opt out from a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title or, solely if the controller does not have a capacity needed for linking to a webpage, provide another method the consumer can use to opt out; and

(3) allow a consumer or authorized agent to send a signal to the controller that indicates the consumer's preference to opt out of the sale of personal data or targeted advertising pursuant to subdivision 2418(a)(6) of this title by means of a platform, technology, or mechanism that:

(A) does not unfairly disadvantage another controller;

(B) does not use a default setting but instead requires the consumer or authorized agent to make an affirmative, voluntary, and unambiguous choice to opt out;

(C) is consumer friendly and easy for an average consumer to use;

(D) is as consistent as possible with similar platforms, technologies, or mechanisms required under federal or state laws or regulations; and

(E) enables the controller to reasonably determine whether the consumer has made a legitimate request pursuant to subsection 2418(b) of this title to opt out pursuant to subdivision 2418(a)(6) of this title.

(f) If a consumer or authorized agent uses a method under subdivision (d)(1)(I) of this section to opt out of a controller's processing of the consumer's personal data pursuant to subdivision 2418(a)(6) of this title and the decision conflicts with a consumer's voluntary participation in a bona fide reward, club card, or loyalty program or a program that provides premium features or discounts in return for the consumer's consent to the controller's processing of the consumer's personal data, the controller may either comply with the request to opt out or notify the consumer of the conflict and ask the consumer to affirm that the consumer intends to withdraw from the bona fide reward, club card, or loyalty program or the program that provides premium features or discounts. If the consumer affirms that the consumer intends to withdraw, the controller shall comply with the request to opt out.

§ 2420. DUTIES OF CONTROLLERS TO MINORS

(a)(1) A controller that offers any online service, product, or feature to a consumer whom the controller knows is a minor shall use reasonable care to avoid any heightened risk of harm to minors caused by the online service, product, or feature.

(2) In any action brought pursuant to section 2425 of this title, there is a rebuttable presumption that a controller used reasonable care as required under this section if the controller complied with this section.

(b) Unless a controller has obtained consent in accordance with subsection (c) of this section, a controller that offers any online service, product, or feature to a consumer whom the controller knows is a minor shall not:

(1) process a minor's personal data for the purposes of:

(A) targeted advertising;

(B) the sale of personal data; or

(C) profiling in furtherance of any solely automated decisions that produce legal or similarly significant effects concerning the consumer;

(2) process a minor's personal data for any purpose other than:

(A) the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(B) a processing purpose that is reasonably necessary for, and compatible with, the processing purpose that the controller disclosed at the time the controller collected the minor's personal data; or

(3) process a minor's personal data for longer than is reasonably necessary to provide the online service, product, or feature;

(4) use any system design feature, except for a service or application that is used by and under the direction of an educational entity, to significantly increase, sustain, or extend a minor's use of the online service, product, or feature; or

(5) collect a minor's precise geolocation data unless:

(A) the minor's precise geolocation data is reasonably necessary for the controller to provide the online service, product, or feature;

(B) the controller only collects the minor's precise geolocation data for the time necessary to provide the online service, product, or feature; and

(C) the controller provides to the minor a signal indicating that the controller is collecting the minor's precise geolocation data and makes the signal available to the minor for the entire duration of the collection of the minor's precise geolocation data.

(c) A controller shall not engage in the activities described in subsection (b) of this section unless the controller obtains:

(1) the minor's consent; or

(2) if the minor is a child, the consent of the minor's parent or legal guardian.

(d) A controller that offers any online service, product, or feature to a consumer whom that controller knows is a minor shall not:

(1) employ any dark pattern; or

(2) except as provided in subsection (e) of this section, offer any direct messaging apparatus for use by a minor without providing readily accessible and easy-to-use safeguards to limit the ability of an adult to send unsolicited communications to the minor with whom the adult is not connected.

(e) Subdivision (d)(2) of this section does not apply to an online service, product, or feature of which the predominant or exclusive function is:

(1) e-mail; or

(2) direct messaging consisting of text, photographs, or videos that are sent between devices by electronic means, where messages are:

(A) shared between the sender and the recipient;

(B) only visible to the sender and the recipient; and

(C) not posted publicly.

§ 2421. DUTIES OF PROCESSORS

(a) A processor shall adhere to a controller's instructions and shall assist the controller in meeting the controller's obligations under this chapter. In assisting the controller, the processor must:

(1) enable the controller to respond to requests from consumers pursuant to subsection 2418(b) of this title by means that:

(A) take into account how the processor processes personal data and the information available to the processor; and

(B) use appropriate technical and organizational measures to the extent reasonably practicable; and

(2) adopt administrative, technical, and physical safeguards that are reasonably designed to protect the security and confidentiality of the personal data the processor processes, taking into account how the processor processes the personal data and the information available to the processor.

(b) Processing by a processor must be governed by a contract between the controller and the processor. The contract must:

(1) be valid and binding on both parties;

(2) set forth clear instructions for processing data, the nature and purpose of the processing, the type of data that is subject to processing, and the duration of the processing;

(3) specify the rights and obligations of both parties with respect to the subject matter of the contract;

(4) ensure that each person that processes personal data is subject to a duty of confidentiality with respect to the personal data;

(5) require the processor to delete the personal data or return the personal data to the controller at the controller's direction or at the end of the provision of services, unless a law requires the processor to retain the personal data;

(6) require the processor to make available to the controller, at the controller's request, all information the controller needs to verify that the processor has complied with all obligations the processor has under this chapter;

(7) require the processor to enter into a subcontract with a person the processor engages to assist with processing personal data on the controller's behalf and in the subcontract require the subcontractor to meet the processor's obligations concerning personal data; and

(8)(A) allow the controller, the controller's designee, or a qualified and independent person the processor engages, in accordance with an appropriate and accepted control standard, framework, or procedure, to assess the processor's policies and technical and organizational measures for complying with the processor's obligations under this chapter;

(B) require the processor to cooperate with the assessment; and

(C) at the controller's request, report the results of the assessment to the controller.

(c) This section does not relieve a controller or processor from any liability that accrues under this chapter as a result of the controller's or processor's actions in processing personal data.

(d)(1) For purposes of determining obligations under this chapter, a person is a controller with respect to processing a set of personal data and is subject to an action under section 2425 of this title to punish a violation of this chapter, if the person:

(A) does not adhere to a controller's instructions to process the personal data; or

(B) begins at any point to determine the purposes and means for processing the personal data, alone or in concert with another person.

(2) A determination under this subsection is a fact-based determination that must take account of the context in which a set of personal data is processed.

(3) A processor that adheres to a controller's instructions with respect to a specific processing of personal data remains a processor.

§ 2422. DUTIES OF PROCESSORS TO MINORS

(a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting the controller's obligations under section 2420 of this title, taking into account:

(1) the nature of the processing;

(2) the information available to the processor by appropriate technical and organizational measures; and

(3) whether the assistance is reasonably practicable and necessary to assist the controller in meeting its obligations.

(b) A contract between a controller and a processor must satisfy the requirements in subsection 2421(b) of this title.

(c) Nothing in this section shall be construed to relieve a controller or processor from the liabilities imposed on the controller or processor by virtue of the controller's or processor's role in the processing relationship as described in section 2420 of this title.

(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A person that is not limited in the person's processing of personal data pursuant to a controller's instructions, or that fails to adhere to the instructions, is a controller and not a processor with respect to a specific processing of data. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor. If a processor begins, alone or jointly with others, determining the purposes and means of the processing of personal data, the processor is a controller with respect to the processing and may be subject to an enforcement action under section 2425 of this title.

§ 2423. DE-IDENTIFIED OR PSEUDONYMOUS DATA

(a) A controller in possession of de-identified data shall:

(1) take reasonable measures to ensure that the data cannot be used to re-identify an identified or identifiable individual or be associated with an individual or device that identifies or is linked or reasonably linkable to an individual or household;

(2) publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and

(3) contractually obligate any recipients of the de-identified data to comply with the provisions of this chapter.

(b) This section does not prohibit a controller from attempting to re-identify de-identified data solely for the purpose of testing the controller's methods for de-identifying data.

(c) This chapter shall not be construed to require a controller or processor to:

(1) re-identify de-identified data; or

(2) maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to associate a consumer with personal data in order to authenticate the consumer's request under subsection 2418(b) of this title; or

(3) comply with an authenticated consumer rights request if the controller:

(A) is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;

(B) does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data or associate the personal data with other personal data about the same specific consumer; and

(C) does not sell or otherwise voluntarily disclose the personal data to any third party, except as otherwise permitted in this section.

(d) The rights afforded under subdivisions 2418(a)(1)–(5) of this title shall not apply to pseudonymous data in cases where the controller is able to demonstrate that any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing the information.

(e) A controller that discloses or transfers pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§ 2424. CONSTRUCTION OF DUTIES OF CONTROLLERS AND PROCESSORS

(a) This chapter shall not be construed to restrict a controller's, processor's, or consumer health data controller's ability to:

(1) comply with federal, state, or municipal laws, ordinances, or regulations;

(2) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, municipal, or other governmental authorities;

(3) cooperate with law enforcement agencies concerning conduct or activity that the controller, processor, or consumer health data controller reasonably and in good faith believes may violate federal, state, or municipal laws, ordinances, or regulations;

(4) carry out obligations under a contract under subsection 2421(b) of this title for a federal, State, tribal, or local government entity;

(5) investigate, establish, exercise, prepare for, or defend legal claims;

(6) provide a product or service specifically requested by the consumer to whom the personal data pertains;

(7) perform under a contract to which a consumer is a party, including fulfilling the terms of a written warranty;

(8) take steps at the request of a consumer prior to entering into a contract;

(9) take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or another individual, and where the processing cannot be manifestly based on another legal basis;

(10) prevent, detect, protect against, or respond to a network security or physical security incident, including an intrusion or trespass, medical alert, or fire alarm;

(11) prevent, detect, protect against, or respond to identity theft, fraud, harassment, malicious or deceptive activity, or any criminal activity targeted at or involving the controller or processor or its services, preserve the integrity or security of systems, or investigate, report, or prosecute those responsible for the action;

(12) assist another controller, processor, consumer health data controller, or third party with any of the obligations under this chapter; or

(13) process personal data for reasons of public interest in the area of public health, community health, or population health, but solely to the extent that the processing is:

(A) subject to suitable and specific measures to safeguard the rights of the consumer whose personal data is being processed; and

(B) under the responsibility of a professional subject to confidentiality obligations under federal, state, or local law.

(b) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not restrict a controller's, processor's, or consumer health data controller's ability to collect, use, or retain data for internal use to:

(1) conduct internal research to develop, improve, or repair products, services, or technology;

(2) effectuate a product recall; or

(3) identify and repair technical errors that impair existing or intended functionality.

(c)(1) The obligations imposed on controllers, processors, or consumer health data controllers under this chapter shall not apply where compliance by the controller, processor, or consumer health data controller with this chapter would violate an evidentiary privilege under the laws of this State.

(2) This chapter shall not be construed to prevent a controller, processor, or consumer health data controller from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the State as part of a privileged communication.

(d)(1) A controller, processor, or consumer health data controller that discloses personal data to a processor or third-party controller pursuant to this chapter shall not be deemed to have violated this chapter if the processor or third-party controller that receives and processes the personal data violates this chapter, provided, at the time the disclosing controller, processor, or consumer health data controller disclosed the personal data, the disclosing controller, processor, or consumer health data controller did not have actual knowledge that the receiving processor or third-party controller would violate this chapter.

(2) A third-party controller or processor receiving personal data from a controller, processor, or consumer health data controller in compliance with this chapter is not in violation of this chapter for the transgressions of the controller, processor, or consumer health data controller from which the third-party controller or processor receives the personal data.

(e) This chapter shall not be construed to:

(1) impose any obligation on a controller, processor, or consumer health data controller that adversely affects the rights or freedoms of any person, including the rights of any person:

(A) to freedom of speech or freedom of the press guaranteed in the First Amendment to the U.S. Constitution; or

(B) under 12 V.S.A. § 1615; or

(2) apply to any person's processing of personal data in the course of the person's purely personal or household activities.

(f)(1) Personal data processed by a controller or consumer health data controller pursuant to this section may be processed to the extent that the processing is:

(A) reasonably necessary and proportionate to the purposes listed in this section; and

(B) adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section.

(2)(A) Personal data collected, used, or retained pursuant to subsection (b) of this section shall, where applicable, take into account the nature and purpose or purposes of the collection, use, or retention.

(B) Personal data collected, used, or retained pursuant to subsection (b) of this section shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to the collection, use, or retention of personal data.

(g) If a controller or consumer health data controller processes personal data pursuant to an exemption in this section, the controller or consumer health data controller bears the burden of demonstrating that the processing qualifies for the exemption and complies with the requirements in subsection (f) of this section.

(h) Processing personal data for the purposes expressly identified in this section shall not solely make a legal entity a controller or consumer health data controller with respect to the processing.

§ 2425. ENFORCEMENT; ATTORNEY GENERAL'S POWERS

(a) The Attorney General shall have exclusive authority to enforce violations of this chapter.

(b)(1) The Attorney General may, prior to initiating any action for a violation of any provision of this chapter, issue a notice of violation to the controller or consumer health data controller if the Attorney General determines that a cure is possible.

(2) The Attorney General may, in determining whether to grant a controller, processor, or consumer health data controller the opportunity to cure an alleged violation described in subdivision (1) of this subsection, consider:

(A) the number of violations;

(B) the size and complexity of the controller, processor, or consumer health data controller;

(C) the nature and extent of the controller's, processor's, or consumer health data controller's processing activities;

(D) the substantial likelihood of injury to the public;

(E) the safety of persons or property;

(F) whether the alleged violation was likely caused by human or technical error; and

(G) the sensitivity of the data.

(c) Annually, on or before February 1, the Attorney General shall submit a report to the General Assembly disclosing:

(1) the number of notices of violation the Attorney General has issued;

(2) the nature of each violation;

(3) the number of violations that were cured during the available cure period; and

(4) any other matter the Attorney General deems relevant for the purposes of the report.

(d) This chapter shall not be construed as providing the basis for, or be subject to, a private right of action for violations of this chapter or any other law.

(e) A violation of the requirements of this chapter shall constitute an unfair and deceptive act in commerce in violation of section 2453 of this title and shall be enforced solely by the Attorney General, provided that a consumer private right of action under subsection 2461(b) of this title shall not apply to the violation.

§ 2426. CONFIDENTIALITY OF CONSUMER HEALTH DATA

Except as provided in subsections 2417(a) and (b) of this title and section 2424 of this title, no person shall:

(1) provide any employee or contractor with access to consumer health data unless the employee or contractor is subject to a contractual or statutory duty of confidentiality;

(2) provide any processor with access to consumer health data unless the person and processor comply with section 2421 of this title;

(3) use a geofence to establish a virtual boundary that is within 1,850 feet of any health care facility, mental health facility, or reproductive or sexual health facility for the purpose of identifying, tracking, collecting data from, or sending any notification to a consumer regarding the consumer's consumer health data; or

(4) sell or offer to sell consumer health data without first obtaining the consumer's consent.

Sec. 2. 3 V.S.A. § 5023 is amended to read:

§ 5023. ARTIFICIAL INTELLIGENCE AND DATA PRIVACY ADVISORY COUNCIL

(a)(1) Advisory Council. There is established the Artificial Intelligence and Data Privacy Advisory Council to:

(A) provide advice and counsel to the Director of the Division of Artificial Intelligence ~~with regard to~~ on the Division's responsibilities to review all aspects of artificial intelligence systems developed, employed, or procured in State government.;

(B) ~~The Council,~~ in consultation with the Director of the Division, ~~shall also~~ engage in public outreach and education on artificial intelligence;

(C) provide advice and counsel to the Attorney General in carrying out the Attorney General's enforcement responsibilities under the Vermont Data Privacy Act; and

(D) develop policy recommendations for improving data privacy in Vermont, including recommendations for implementing a private right of action and developing education and outreach on the Vermont Data Privacy Act, which shall be provided to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development by January 15, 2025.

(2) The Advisory Council shall have the authority to establish subcommittees to carry out the purposes of subdivision (1)(D) of this subsection.

(b) Members.

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

(A) the Secretary of Digital Services or designee;

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

(C) the Commissioner of Public Safety or designee;

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

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

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

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

(H) the Commissioner of Health or designee;

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

(J) the Attorney General or designee;

(K) one member representing Vermont small businesses, appointed by the Speaker of the House; and

(L) one member who is an expert in data privacy, appointed by the Committee on Committees.

(2) Chair. Members of the Advisory Council shall elect by majority vote the Chair of the Advisory Council. Members of the Advisory Council shall be appointed on or before August 1, 2022 in order to prepare as they deem necessary for the establishment of the Advisory Council, including the election of the Chair of the Advisory Council, except that the member representing Vermont small businesses and the member who is an expert in data privacy shall be appointed on or before August 1, 2024.

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

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

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

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

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

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

(f) Reimbursement. Members of the Advisory Council who are not employees of the State of Vermont and who are not otherwise compensated or

reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010.

(g) Consultation. ~~The~~ In its advice and counsel to the Director of the Division of Artificial Intelligence, the Advisory Council shall consult with any relevant national bodies on artificial intelligence, including the National Artificial Intelligence Advisory Committee established by the Department of Commerce, and its applicability to Vermont. In its advice and counsel to the Attorney General, the Advisory Council shall consult with enforcement authorities in states with comparable comprehensive data privacy regimes.

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

(i) Limitation. The advice and counsel of the Advisory Council shall not limit the discretionary authority of the Attorney General to enforce the Vermont Data Privacy Act.

Sec. 3. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

As used in this chapter:

(1) "Biometric data" shall have the same meaning as in section 2415 of this title.

(2)(A) "Brokered personal information" means one or more of the following computerized data elements about a consumer, if categorized or organized for dissemination to third parties:

(i) name;

(ii) address;

(iii) date of birth;

(iv) place of birth;

(v) mother's maiden name;

(vi) ~~unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of~~ biometric data;

(vii) name or address of a member of the consumer's immediate family or household;

(viii) Social Security number or other government-issued identification number; or

(ix) other information that, alone or in combination with the other information sold or licensed, would allow a reasonable person to identify the consumer with reasonable certainty.

(B) "Brokered personal information" does not include publicly available information ~~to the extent that it is related to a consumer's business or profession~~ as that term is defined in section 2415 of this title.

~~(2)~~(3) "Business" means a controller, a consumer health data controller, a processor, or a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but does not include the State, a State agency, any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(3)~~(4) "Consumer" means an individual ~~residing in this State~~ who is a resident of the State or an individual who is in the State at the time a data broker collects the individual's data.

(5) "Consumer health data controller" has the same meaning as in section 2415 of this title.

(6) "Controller" has the same meaning as in section 2415 of this title.

~~(4)~~(7)(A) "Data broker" means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(B) Examples of a direct relationship with a business include if the consumer is a past or present:

(i) customer, client, subscriber, user, or registered user of the business's goods or services;

(ii) employee, contractor, or agent of the business;

(iii) investor in the business; or

(iv) donor to the business.

(C) The following activities conducted by a business, and the collection and sale or licensing of brokered personal information incidental to conducting these activities, do not qualify the business as a data broker:

(i) developing or maintaining third-party e-commerce or application platforms;

(ii) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(iii) providing publicly available information related to a consumer's business or profession; or

(iv) providing publicly available information via real-time or near-real-time alert services for health or safety purposes.

(D) The phrase "sells or licenses" does not include:

(i) a one-time or occasional sale of assets of a business as part of a transfer of control of those assets that is not part of the ordinary conduct of the business; ~~or~~

(ii) a sale or license of data that is merely incidental to the business; or

(iii) the disclosure of brokered personal information that a consumer intentionally made available to the general public via a channel of mass media and did not restrict to a specific audience.

~~(5)~~(8)(A) "Data broker security breach" means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) "Data broker security breach" does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker's business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without

valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

~~(6)~~(9) "Data collector" means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

~~(7)~~(10) "Encryption" means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

~~(8)~~(11) "License" means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

~~(9)~~(12) "Login credentials" means a consumer's user name or e-mail address, in combination with a password or an answer to a security question, that together permit access to an online account.

~~(10)~~(13)(A) "Personally identifiable information" means a consumer's first name or first initial and last name in combination with one or more of the following digital data elements, when the data elements are not encrypted, redacted, or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) a Social Security number;

(ii) a driver license or nondriver State identification card number, individual taxpayer identification number, passport number, military identification card number, or other identification number that originates from

a government identification document that is commonly used to verify identity for a commercial transaction;

(iii) a financial account number or credit or debit card number, if the number could be used without additional identifying information, access codes, or passwords;

(iv) a password, personal identification number, or other access code for a financial account;

(v) ~~unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of~~ biometric data;

(vi) genetic information; and

(vii)(I) health records or records of a wellness program or similar program of health promotion or disease prevention;

(II) a health care professional's medical diagnosis or treatment of the consumer; or

(III) a health insurance policy number.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

(14) "Processor" has the same meaning as in section 2415 of this title.

~~(11)~~(15) "Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(12)~~(16) "Redaction" means the rendering of data so that the data are unreadable or are truncated so that ~~no~~ not more than the last four digits of the identification number are accessible as part of the data.

~~(13)~~(17)(A) "Security breach" means unauthorized acquisition of electronic data, or a reasonable belief of an unauthorized acquisition of electronic data, that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information or login credentials maintained by a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information or login credentials by an employee or agent of the data collector for a legitimate purpose of the data

collector, provided that the personally identifiable information or login credentials are not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information or login credentials have been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

* * *

Subchapter 2. ~~Security Breach Notice Act~~ Data Security Breaches

* * *

§ 2436. NOTICE OF DATA BROKER SECURITY BREACH

(a) Short title. This section shall be known as the Data Broker Security Breach Notice Act.

(b) Notice of breach.

(1) Except as otherwise provided in subsection (c) of this section, any data broker shall notify the consumer that there has been a data broker security breach following discovery or notification to the data broker of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection, or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) A data broker shall provide notice of a breach to the Attorney General as follows:

(A)(i) The data broker shall notify the Attorney General of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection (b), after the data broker's discovery of the security breach or when the data broker provides notice to consumers pursuant to this section, whichever is sooner.

(ii) If the date of the breach is unknown at the time notice is sent to the Attorney General, the data broker shall send the Attorney General the date of the breach as soon as it is known.

(iii) Unless otherwise ordered by a court of this State for good cause shown, a notice provided under this subdivision (2)(A) shall not be disclosed to any person other than the authorized agent or representative of the Attorney General, a State's Attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data broker.

(B)(i) When the data broker provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data broker shall notify the Attorney General of the number of Vermont consumers affected, if known to the data broker, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data broker may send to the Attorney General a second copy of the consumer notice, from which is redacted the type of brokered personal information that was subject to the breach, that the Attorney General shall use for any public disclosure of the breach.

(3) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data broker shall document the request contemporaneously in writing and include the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data broker in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation or a national or Homeland Security investigation, or jeopardize public safety or national or Homeland Security interests. The data broker shall provide notice required by this section without

unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(4) The notice to a consumer required in subdivision (1) of this subsection shall be clear and conspicuous. A notice to a consumer of a security breach involving brokered personal information shall include a description of each of the following, if known to the data broker:

(A) the incident in general terms;

(B) the type of brokered personal information that was subject to the security breach;

(C) the general acts of the data broker to protect the brokered personal information from further security breach;

(D) a telephone number, toll-free if available, that the consumer may call for further information and assistance;

(E) advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports; and

(F) the approximate date of the data broker security breach.

(5) A data broker may provide notice of a security breach involving brokered personal information to a consumer by two or more of the following methods:

(A) written notice mailed to the consumer's residence;

(B) electronic notice, for those consumers for whom the data broker has a valid e-mail address, if:

(i) the data broker's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(ii) the notice is consistent with the provisions regarding electronic records and signatures for notices in 15 U.S.C. § 7001;

(C) telephonic notice, provided that telephonic contact is made directly with each affected consumer and not through a prerecorded message; or

(D) notice by publication in a newspaper of statewide circulation in the event the data broker cannot effectuate notice by any other means.

(c) Exception.

(1) Notice of a security breach pursuant to subsection (b) of this section is not required if the data broker establishes that misuse of brokered personal information is not reasonably possible and the data broker provides notice of the determination that the misuse of the brokered personal information is not reasonably possible pursuant to the requirements of this subsection. If the data broker establishes that misuse of the brokered personal information is not reasonably possible, the data broker shall provide notice of its determination that misuse of the brokered personal information is not reasonably possible and a detailed explanation for said determination to the Vermont Attorney General. The data broker may designate its notice and detailed explanation to the Vermont Attorney General as a trade secret if the notice and detailed explanation meet the definition of trade secret contained in 1 V.S.A. § 317(c)(9).

(2) If a data broker established that misuse of brokered personal information was not reasonably possible under subdivision (1) of this subsection and subsequently obtains facts indicating that misuse of the brokered personal information has occurred or is occurring, the data broker shall provide notice of the security breach pursuant to subsection (b) of this section.

(d) Waiver. Any waiver of the provisions of this subchapter is contrary to public policy and is void and unenforceable.

(e) Enforcement.

(1) With respect to a controller or processor other than a controller or processor licensed or registered with the Department of Financial Regulation under title 8 or this title, the Attorney General and State's Attorney shall have sole and full authority to investigate potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter as the Attorney General and State's Attorney have under chapter 63 of this title. The Attorney General may refer the matter to the State's Attorney in an appropriate case. The Superior Courts shall have jurisdiction over any enforcement matter brought by the Attorney General or a State's Attorney under this subsection.

(2) With respect to a controller or processor that is licensed or registered with the Department of Financial Regulation under title 8 or this title, the Department of Financial Regulation shall have the full authority to investigate

potential violations of this chapter and to enforce, prosecute, obtain, and impose remedies for a violation of this chapter or any rules or regulations adopted pursuant to this chapter, as the Department has under title 8 or this title or any other applicable law or regulation.

* * *

Subchapter 5. Data Brokers

§ 2446. DATA BROKERS; ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

(1) register with the Secretary of State;

(2) pay a registration fee of $100.00; and

(3) provide the following information:

(A) the name and primary physical, e-mail, and ~~Internet~~ internet addresses of the data broker;

(B) if the data broker permits a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of certain sales of data:

(i) the method for requesting an opt-out;

(ii) if the opt-out applies to only certain activities or sales, which ones; and

(iii) whether the data broker permits a consumer to authorize a third party to perform the opt-out on the consumer's behalf;

(C) a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;

(D) a statement whether the data broker implements a purchaser credentialing process;

(E) the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;

(F) where the data broker has actual knowledge that it possesses the brokered personal information of minors, a separate statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors; and

(G) any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:

(1) a civil penalty of ~~$50.00~~ $125.00 for each day~~, not to exceed a total of $10,000.00 for each year,~~ it fails to register pursuant to this section;

(2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and

(3) other penalties imposed by law.

(c) A data broker that omits required information from its registration shall file an amendment to include the omitted information within 30 business days following notification of the omission and is liable to the State for a civil penalty of $1,000.00 per day for each day thereafter.

(d) A data broker that files materially incorrect information in its registration:

(1) is liable to the State for a civil penalty of $25,000.00; and

(2) if it fails to correct the false information within 30 business days after discovery or notification of the incorrect information, an additional civil penalty of $1,000.00 per day for each day thereafter that it fails to correct the information.

(e) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

* * *

§ 2448. DATA BROKERS; CREDENTIALING

(a) Credentialing.

(1) A data broker shall maintain reasonable procedures designed to ensure that the brokered personal information it discloses is used for a legitimate and legal purpose.

(2) These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information shall be used for no other purpose.

(3) A data broker shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by the prospective user prior to furnishing the user brokered personal information.

(4) A data broker shall not furnish brokered personal information to any person if it has reasonable grounds for believing that the consumer report will not be used for a legitimate and legal purpose.

(b) Exemption. Nothing in this section applies to:

(1) brokered personal information that is:

(A) regulated as a consumer report pursuant to the Fair Credit Reporting Act, 15 U.S.C. § 1681–1681x, if the data broker is fully complying with the Act; or

(B) regulated pursuant to the Driver's Privacy Protection Act of 1994, 18 U.S.C. § 2721–2725, if the data broker is fully complying with the Act;

(2) a public service company subject to the rules and orders of the Vermont Public Utility Commission regarding data sharing and service quality;

(3) a nonprofit organization that is established to detect and prevent fraudulent acts in connection with insurance; or

(4) a nonprofit organization that is established to provide enrollment data reporting services on behalf of postsecondary schools as that term is defined in 16 V.S.A. § 176.

Sec. 4. EFFECTIVE DATES

(a) This section and Sec. 2 (AI and Data Privacy Advisory Council) shall take effect on July 1, 2024.

(b) Sec. 1 (Vermont Data Privacy Act) and Sec. 3 (Protection of Personal Information) shall take effect on July 1, 2025.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 21, 2024, pages 697 - 743)

Reported favorably by Senator Perchlik 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 Economic Development, Housing and General Affairs.

(Committee vote: 7-0-0)

House Proposal of Amendment

S. 191.

An act relating to New American educational grant opportunities

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:

* * * Vermont Student Assistance Corporation * * *

Sec. 1. 16 V.S.A. § 2846 is amended to read:

§ 2846. ADVANCEMENT GRANTS

(a) The Corporation may establish an advancement grant program for residents pursuing nondegree education and training opportunities who do not meet the definition of student in subdivision 2822(3) of this title~~,~~ and who may not meet the requirements of this subchapter.

(b) Advancement grants may be used at institutions that are not approved postsecondary education institutions.

(c) The Corporation may adopt rules or establish policies, procedures, standards, and forms for advancement grants, including the requirements for applying for and using the grants and the eligibility requirements for the institutions where the grants may be used. Such rules shall be consistent with subsection (d) of this section.

(d) Notwithstanding subsection (a) of this section, applicants shall not be ineligible for the advancement grant solely on account of the applicant's residency status under subdivision 2822(7) of this title if that applicant:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

Sec. 2. INCENTIVE GRANT ELIGIBILITY; RESIDENCY

(a) Notwithstanding any provision of law to the contrary, applicants shall not be ineligible for the Vermont incentive grant program under 16 V.S.A. §§ 2841–2844 solely on account of that person's residency status if the applicant:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

(b) This section shall be repealed on July 1, 2027.

Sec. 3. 16 V.S.A. § 2828 is added to read:

§ 2828. FINANCIAL AID ELIGIBILITY FOR CERTAIN STUDENTS

(a) Notwithstanding any provision of law to the contrary, a resident who is otherwise eligible for a State-funded financial aid program administered by the Corporation shall not be ineligible solely on the basis of such resident's immigration status under federal law.

(b) The Corporation shall establish procedures and forms that enable residents eligible under subsection (a) of this section to apply for, and participate in, all State-funded student financial aid programs administered by the Corporation for which such residents are eligible to the full extent permitted by federal law. The Corporation may collect such information as is necessary to confirm eligibility for participation in programs administered by the Corporation.

(c) The Corporation may adopt rules pursuant to 3 V.S.A. chapter 25 as necessary to carry out the provisions of this section.

(d) The Corporation shall include information regarding the impact of this section and the number of students who receive financial aid pursuant to this section in its biannual report to the General Assembly pursuant to subsection 2835(c) of this title.

* * * Vermont State Colleges Corporation * * *

Sec. 4. 16 V.S.A. § 2185 is amended to read:

§ 2185. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements. Any policies adopted by the Board shall not discriminate against or exclude a person based solely on the person's immigration status, or lack thereof, if such person would otherwise qualify for and meet requirements for Vermont residency for tuition purposes as set forth by the Board and as permitted under federal law.

(b) Any member of the U.S. Armed Forces on active duty who is transferred to Vermont for duty other than for the purpose of education shall,

upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period.

(c) For determination of residency for tuition to the Community College of Vermont, a person who resides in Vermont shall be considered a resident for in-state tuition purposes, beginning at the start of the next semester or academic period after arrival in Vermont, if that person:

(1) qualifies as a refugee pursuant to 8 U.S.C. § 1101(a)(42) (Immigration and Nationality Act definition of refugee);

(2) is granted parole to enter the United States pursuant to 8 U.S.C. § 1182(d)(5) (temporary admission of nonimmigrants for urgent humanitarian reasons); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2009, Pub. L. No. 111-8 (8 U.S.C. § 1101 note), as amended.

* * *

(e) Except as otherwise provided by law, or by consent of the individual identified in the record, information collected pursuant to this section that directly or indirectly identifies applicants or students, including grant, loan, scholarship, or outreach programs, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * * University of Vermont and State Agricultural College * * *

Sec. 5. 16 V.S.A. § 2282a is amended to read:

§ 2282a. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) Enrollment at an institution for higher learning, or presence within the State for the purposes of attending an institution of higher learning, shall not by itself constitute residence for in-state tuition purposes or for the purpose of eligibility for assistance from the Vermont Student Assistance Corporation. The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements. Any policies adopted by the Board of Trustees shall not discriminate against or exclude a person based solely on the person's immigration status, or lack thereof, if such person would otherwise qualify for and meet requirements for Vermont residency for tuition purposes as set forth by the Board and as permitted under federal law.

* * *

(d) Except as otherwise provided by law, or by consent of the individual identified in the record, information collected pursuant to this section that directly or indirectly identifies applicants or students, including grant, loan, scholarship, or outreach programs, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (advancement grants) and 2 (incentive grants) shall take effect on July 1, 2024.

(b) Secs. 3 (financial aid), 4 (Vermont State Colleges Corporation in-state tuition), and 5 (University of Vermont and State Agricultural College in-state tuition) shall take effect on July 1, 2025.

UNFINISHED BUSINESS OF TUESDAY, MAY 7, 2024

Second Reading

Favorable

J.R.S. 44.

Joint resolution declaring the increasing number of drug overdose deaths in Vermont to be a public health emergency.

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

(Committee vote: 5-0-0)

House Proposals of Amendment

S. 98.

An act relating to Green Mountain Care Board authority over prescription drug costs.

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

First: In Sec. 1, Green Mountain Care Board; prescription drug cost regulation program; implementation plan, in subsection (a), by striking out subdivisions (5) and (6) in their entireties and inserting in lieu thereof the following:

(5) the likely return on investment of the most promising program options;

(6) the potential impacts on Vermonters' access to medications; and

(7) the impact of implementing a program to regulate the costs of prescription drugs on other State agencies and on the private sector.

Second: By striking out Sec. 4, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 4. 18 V.S.A. chapter 220 is amended to read:

CHAPTER 220. GREEN MOUNTAIN CARE BOARD

* * *

§ 9374. BOARD MEMBERSHIP; AUTHORITY

* * *

(b)(1) The ~~initial~~ term of each member of the Board, including the Chair, shall be ~~seven years, and the term of the Chair shall be~~ six years ~~thereafter~~.

(2) ~~The term of each member other than the Chair shall be six years, except that of the members first appointed, one each shall serve a term of three years, four years, five years, and six years~~ Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated.

(3) ~~Subject to the nomination and appointment process, a~~ A member may serve more than one term. A member may be reappointed to additional terms subject to the requirements of section 9391 of this title.

* * *

§ 9390. GREEN MOUNTAIN CARE BOARD NOMINATING COMMITTEE CREATED; COMPOSITION

* * *

(f) ~~The Board is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants~~ The Committee shall have the administrative, technical, and legal assistance of the Department of Human Resources.

§ 9391. NOMINATION AND APPOINTMENT PROCESS

(a) ~~Whenever~~ Candidate selection process.

(1) Unless a vacancy is filled by reappointment by the Governor pursuant to subsection (c) of this section, not later than 90 days prior to a known vacancy ~~occurs~~ occurring on the Green Mountain Care Board~~, or when an incumbent does not declare that he or she will be a candidate to succeed himself or herself~~, the Green Mountain Care Board Nominating Committee shall commence its nomination application process. The Committee shall select for consideration ~~by the Committee~~, by majority vote~~,~~ and provided that

a quorum is present, from the applications for membership on the Green Mountain Care Board as many candidates as it deems qualified for the position or positions to be filled. The Committee shall base its determinations on the qualifications set forth in section 9392 of this ~~section~~ title.

(2) A Board member who is resigning from the Board prior to the expiration of the member's term shall notify the Committee Chair, the Governor, and the Department of Human Resources of the member's anticipated resignation date. Once notified, the Committee Chair shall commence the nomination application process as soon as is practicable in light of the anticipated resignation date.

(b) Nomination list. The Committee shall submit to the Governor the names of the ~~persons~~ individuals it deems qualified to be appointed to fill the position or positions and the name of any incumbent member who was not reappointed pursuant to subsection (c) of this section and who ~~declares~~ notifies the Committee Chair, the Governor, and the Department of Human Resources that ~~he or she~~ the incumbent wishes to be ~~a candidate to succeed himself or herself~~ nominated. An incumbent shall not be required to submit an application for nomination and appointment to the Committee under subsection (a) of this section, but the Committee may request that the incumbent update relevant information as necessary.

(c) Reappointment; notification.

(1) Not later than 120 days prior to the end of a Board member's term, the member shall notify the Governor that the member either is seeking to be reappointed by the Governor for another term or that the member does not wish to be reappointed.

(2) If a Board member who is seeking reappointment is not reappointed by the Governor on or before 30 days after notifying the Governor, the member's term shall end on the expiration date of the member's current term, unless the member is nominated as provided in subsection (b) of this section and subsequently appointed, or as otherwise provided by law.

(3) A Board member's reappointment shall be subject to the consent of the Senate.

(d) ~~The~~ Appointment; Senate consent. Unless the Governor reappointed a Board member pursuant to subsection (c) of this section, the Governor shall make an appointment to the Green Mountain Care Board from the list of qualified candidates submitted pursuant to subsection (b) of this section not later than 45 days after receipt of the candidate list. The appointment shall be

subject to the consent of the Senate. The names of candidates submitted and not selected shall remain confidential.

~~(d)~~(e) Confidentiality. All proceedings of the Committee, including the names of candidates considered by the Committee and information about any candidate submitted by any source, shall be confidential.

Sec. 5. EFFECTIVE DATES

(a) Sec. 4 (18 V.S.A. chapter 220; Green Mountain Care Board nomination and appointment process) and this section shall take effect on passage. Notwithstanding any provision of 18 V.S.A. chapter 220, as amended by this act, to the contrary, the Green Mountain Care Board Nominating Committee, in consultation with the Green Mountain Care Board, the Department of Human Resources, and the Governor, may establish alternative timing requirements for applications, appointments, and reappointments to the Board for Board vacancies anticipated to occur or otherwise occurring on or before December 31, 2024 if the timelines established in 18 V.S.A. chapter 220, as amended by this act, would be impractical or impossible to meet.

(b) The remaining sections shall take effect on July 1, 2024.

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

An act relating to Green Mountain Care Board authority over prescription drug costs and the Green Mountain Care Board nomination and appointment process

S. 213.

An act relating to the regulation of wetlands, river corridor development, and dam safety.

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

First: In Sec. 3, Department of Environmental Conservation; River Corridor Base Map; infill mapping; education and outreach, in subsection (a), after "On or before January 1, 2026, the Department of Environmental Conservation" and before "shall amend" by inserting ", in consultation with the Agency of Commerce and Community Development and the regional planning commissions,"

Second: By adding a new section to be Sec. 6a to read as follows:

Sec. 6a. 24 V.S.A. § 2291(25) is amended to read:

(25) To regulate by means of an ordinance or bylaw development in a flood hazard area~~, river corridor protection area,~~ or other hazard area consistent with the requirements of section 4424 of this title and the National

Flood Insurance Program. Such an ordinance or bylaw may regulate accessory dwelling units in flood hazard ~~and fluvial erosion~~ areas. However, such an ordinance or bylaw shall not require the filing of an application or the issuance of a permit or other approval by the municipality for a planting project considered to have a permit by operation of subsection 4424(c) of this title.

Third: By adding two new sections to be Secs. 8a and 8b to read as follows:

Sec. 8a. 24 V.S.A. § 4413(a)(2) is amended to read:

(2) Except for State-owned and -operated institutions and facilities, a municipality may regulate each of the land uses listed in subdivision (1) of this subsection for compliance with the National Flood Insurance Program and for compliance with a municipal ordinance or bylaw regulating development in a flood hazard area ~~or river corridor~~, consistent with the requirements of subdivision 2291(25) and section 4424 of this title. These regulations shall not have the effect of interfering with the intended functional use.

Sec. 8b. 24 V.S.A. § 4414(1)(G) is amended to read:

(G) ~~River corridors and buffers~~ Buffers. In accordance with section 4424 of this title, a municipality may adopt bylaws to protect ~~river corridors and~~ buffers, as ~~those terms are~~ that term is defined in 10 V.S.A. §§ 1422 ~~and 1427~~, in order to protect public safety; prevent and control water pollution; prevent and control stormwater runoff; preserve and protect wetlands and waterways; maintain and protect natural channel, streambank, and floodplain stability; minimize ~~fluvial erosion and~~ damage to property and transportation infrastructure; preserve and protect the habitat of terrestrial and aquatic wildlife; promote open space and aesthetics; and achieve other municipal, regional, or State conservation and development objectives for ~~river corridors and~~ buffers. ~~River corridor and buffer~~ Buffer bylaws may regulate the design and location of development; control the location of buildings; require the provision and maintenance or reestablishment of vegetation, including no net loss of vegetation; require screening of development or use from waters; reserve existing public access to public waters; and impose other requirements authorized by this chapter.

Fourth: In Sec. 15, 10 V.S.A. §§ 918 and 919, in section 918, in subdivision (c)(1), by striking out the last sentence in its entirety.

Fifth: By adding a new section to be Sec. 15a to read as follows:

Sec. 15a. WETLANDS RULEMAKING; ALLOWED USES

As part of the next amendments to the Vermont Wetlands Rules as required under Sec. 15 of this act or otherwise proposed, the Commissioner of

Environmental Conservation shall review whether to authorize the following activities as allowed uses within a wetland:

(1) relocation of utility lines and poles adjacent to roadsides; and

(2) temporary access to wetlands, river, and flood restoration projects that are currently allowed uses under the Rules, provided that the Commissioner shall allow temporary access to wetlands as an allowed use for wetlands, river, and flood restoration projects conducted or initiated prior to January 1, 2025.

Sixth: By adding a new section to be Sec. 15b to read as follows:

Sec. 15b. 10 V.S.A. § 1266a is amended to read:

§ 1266a. DISCHARGES OF PHOSPHORUS

(a) No person directly discharging into the drainage basins of Lake Champlain or Lake Memphremagog shall discharge any waste that contains a phosphorus concentration in excess of 0.80 milligrams per liter on a monthly average basis~~.~~ with the following exceptions:

(1) ~~Discharges~~ discharges of less than 200,000 gallons per day, permitted on or before July 1, 1991~~, shall not be subject to the requirements of this subsection.~~;

(2) ~~Discharges~~ discharges from a municipally owned aerated lagoon type secondary sewage treatment plant in the Lake Memphremagog drainage basin, permitted on or before July 1, 1991 ~~shall not be subject to the requirements of this subsection~~ unless the plant is modified to use a technology other than aerated lagoons; and

(3) discharges of less than 35,000 gallons per day from a municipally owned secondary sewage treatment plant using recirculating sand filters in the Lake Champlain drainage basin, permitted on or before July 1, 2001 unless the plant is modified to use a technology other than recirculating sand filters.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary shall establish effluent phosphorus wasteload allocations or concentration limits within any drainage basin in Vermont, as needed to achieve wasteload allocations in a total maximum daily load document approved by the U.S. Environmental Protection Agency, or as needed to attain compliance with water quality standards adopted by the Secretary pursuant to chapter 47 of this title.

(c) [Repealed.]

Seventh: In Sec. 24, transition; dams, by adding a new subsection to be subsection (f) to read as follows:

(f) On or before January 15, 2025, the Agency of Natural Resources shall complete its analysis of the capital and ongoing operations and maintenance costs of the Green River Dam, as authorized in 2022 Acts and Resolves No. 83, Sec. 46, and shall submit the results of the analysis to the House Committees on Environment and Energy and on Appropriations and the Senate Committees on Natural Resources and Energy and on Appropriations.

Eighth: By striking out Sec. 28 (floodplain management; use value appraisal), and its reader assistance and by inserting a new Sec. 28 and its reader assistance to read as follows:

* * * Report on Waiver of Permit Fees * * *

Sec. 28. REPORT ON WAIVER OF PERMIT FEES

(a)(1) The Secretary of Natural Resources shall produce a report on whether and how to establish criteria for waiving, reducing, or mitigating Agency of Natural Resources' permit fees for persons of low income or other criteria.

(2) The Chair of the Natural Resources Board shall produce a report on whether and how to establish criteria for waiving, reducing, or mitigating Act 250 permit fees for persons of low income or other criteria.

(b) The reports required under subsection (a) of this section shall include:

(1) a recommendation of whether the State should establish criteria or a methodology for waiving, reducing, or mitigating permit fees for persons of low income or other criteria; and

(2) if a report recommends waiver, reduction, or mitigation under subdivision (1) of this section, what the criteria for waiver, reduction, or mitigation should be and whether the fees should be reduced or entirely waived.

(c) On or before December 15, 2024, the Secretary of Natural Resources and the Chair of the Natural Resources Board shall submit to the House Committees on Ways and Means and on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy the reports required under subsection (a) of this section.

Ninth: By striking out Sec. 29, effective dates, and its reader assistance heading in their entireties and inserting in lieu thereof a new Sec. 29 and reader assistance heading to read as follows:

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) This section and Secs. 19 (dam registration report), 20 (dam design standard rules), and 23 (FERC petition) shall take effect on passage.

(b) All other sections shall take effect July 1, 2024, except that:

(1) Secs. 6a, 7, 8, 8a, and 9 (conforming amendments to municipal river corridor planning) shall take effect on January 1, 2028, except that in Sec. 9, 24 V.S.A. § 4424(a)(2)(B)(i) (municipal compliance with the State Flood Hazard Area Standards) shall take effect on January 1, 2026;

(2) in Sec. 18, 10 V.S.A. § 1106 (Dam Safety Revolving Loan Fund) shall take effect on passage;

(3) under Sec. 25 (basin planning), the requirement shall be effective for updated tactical basin plans that commence on or after January 1, 2025; and

(4) in Sec. 26 (expanded polystyrene foam requirements), 10 V.S.A. § 1324 (ANR rulemaking) shall take effect on passage.

NEW BUSINESS

Third Reading

H. 81.

An act relating to fair repair of agricultural equipment.

H. 862.

An act relating to approval of amendments to the charter of the Town of Barre.

H. 869.

An act relating to approval of the merger of Brandon Fire District No. 1 and Brandon Fire District No. 2.

H. 872.

An act relating to miscellaneous updates to the powers of the Vermont Criminal Justice Council and the duties of law enforcement officers.

Second Reading

Favorable with Proposal of Amendment

H. 630.

An act relating to boards of cooperative education services.

Reported favorably with recommendation of proposal of amendment by Senator Gulick for the Committee on Education.

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:

* * * Findings and Intent * * *

Sec. 1. FINDINGS; INTENT

(a) Findings. The General Assembly finds that:

(1) Vermont's school districts are small by national and regional standards, which denies them some of the benefits of scale. As of 2021, Vermont was one of approximately nine states that did not have an established system of cooperative educational service agencies.

(2) Some specialized education services are higher in cost or intensity but lower in incidence. Collaborating to ensure quality education is more regionally available to serve students in the least restrictive environment, with a focus of reintegration into the classroom, may make providing such services more efficient and affordable.

(3) Students should be in the least restrictive setting to reach success. Some students require a higher level of care and access to peers that would not be available in an inclusive setting. Some students who are currently placed in substantially separate programs are not able to access their community, peers, or inclusive activities. Vermont is currently sending many of these students to programs that are geographically far away or out of state. Working cooperatively could prevent these students from being transported such long distances. Staying closer to home will also afford these students greater opportunities for afterschool or community-based activities.

(4) Market concentration means single districts cannot always rely on competitive bidding to reduce costs and improve quality. Districts often all have separate contracts for the same service, with the same vendor or vendors, which is an avoidable duplicative cost.

(5) For services that all districts need, such as professional development and specialized settings for students with extraordinary needs, collaboration

statewide ensures that the highest quality expertise and programming can be shared at scale in ways that benefit all students and districts.

(6) Collaborative management of some functions would yield the same outcome but at a lower price and with fewer demands on administrative time, such that districts can spend proportionally less of every dollar on noninstructional administrative tasks or duplicative services and capabilities.

(7) Examples of functions that can be challenging or less affordable given the small size of Vermont's districts are:

(A) applying for State, federal, and other grants;

(B) supporting staff and educator development, recruitment, and retention;

(C) supporting transformation of operations or implementation of new State initiatives or quality standards;

(D) providing high-quality, evidence- and science-based professional development in a coherent and consistent way;

(E) providing or ensuring access to regionally available specialized settings for students with unique needs or highly specialized needs in the least restrictive environment, with a focus on reintegration and early intervention;

(F) managing prekindergarten programs to ensure equitable access to high-quality prekindergarten programs;

(G) procurement of services to support education, from food service to transportation, given the lack of enough vendors to ensure competitive bidding;

(H) providing skilled facilities planning and management; and

(I) providing appropriate support and instruction for English learners.

(8) Additionally, community schools also facilitate the coordination of comprehensive programs and services that are carefully selected to meet the unique needs of students and families and build on the assets they bring to their schools and communities. Community schools combine challenging and culturally inclusive learning opportunities with the academic and social supports every student needs to reach their potential.

(9) According to the Learning Policy Institute, "establishing community schools" is one of 10 recommended strategies for restarting and rethinking the role of public education in the wake of the COVID-19 pandemic. Community schools serve as resource hubs that provide a broad range of easily accessed, well-coordinated supports and services that help students and families with

increasingly complex needs. These schools, at their core, are about investing in children, through quality teaching; challenging, engaging, and culturally responsive curricula; wrap around supports; safe, just, and equitable school climate; strong ties to family and community; and a clear focus on student achievement and well-being.

(10) Community schools are important centers for building community connection and resilience. When learning extends beyond the walls of the school through active engagement with community partners as with place-based learning, relationships expand and deepen, community strengths are highlighted, and opportunities for building vitality surface through shared learning.

(11) Community schools provide another framework to encourage and support supervisory unions to be creative as they develop learning communities that integrate student supports, expand and enrich learning opportunities, engage families and communities, develop collaborative leadership, and ensure safe, inclusive, and equitable learning environments.

(b) Intent. This act is one of the initial steps in ensuring the opportunity to transform Vermont's educational system. It is the intent of the General Assembly to address the delivery, governance, and financing of Vermont's education system, with the goal of transforming the educational system to ensure high-quality education for all Vermont students, sustainable and transparent use of public resources, and appropriate support and expertise from the Agency of Education.

* * * Boards of Cooperative Education Services * * *

Sec. 2. 16 V.S.A. chapter 10 is added to read:

CHAPTER 10. BOARDS OF COOPERATIVE EDUCATION SERVICES

§ 601. POLICY

It is the policy of the State to allow and encourage supervisory unions to create boards of cooperative education services to provide shared programs and services on a regional and statewide level. Formation of a board of cooperative education services shall be designed to build upon the geographically focused cooperative regions used by Vermont superintendents as of July 1, 2024; maximize the impact of available dollars through collaborative funding; reduce duplication of programs, personnel, and services; and contribute to equalizing educational opportunities for all pupils.

§ 602. DEFINITIONS

As used in this chapter:

(1) "Educator" means any:

(A) individual licensed under chapter 51 of this title, the majority of whose employed time in a public school district, supervisory union, or board of cooperative education services is assigned to furnish to students direct instructional or other educational services, as defined by rule of the Standards Board, or who is otherwise subject to licensing as determined by the Standards Board; or

(B) individual licensed under chapter 51 of this title, the majority of whose employed time in a public school, school district, or supervisory union is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a public school system or public school program.

(2) "Supervisory union" means an administrative, planning, and educational service unit created by the State Board under section 261 of this title that consists of two or more school districts. This term also means a supervisory district.

§ 603. CREATION OF BOARD OF COOPERATIVE EDUCATION SERVICES; ORGANIZATION; SECRETARY APPROVAL

(a) Establishment of boards of cooperative education services. When the boards of two or more supervisory unions vote to explore the advisability of entering into a written agreement to provide shared programs and services, the interested boards shall meet and discuss the terms of any such agreement. At this meeting or a subsequent meeting, the participating boards may enter into a proposed agreement to form an association of supervisory unions to deliver shared programs and services to complement the educational programs of member supervisory unions in a cost-effective manner. An association formed pursuant to this chapter shall be known as a board of cooperative education services (BOCES) and shall be a body politic and corporate with the powers and duties afforded them under this chapter.

(b) Articles of agreement. Agreements to form a BOCES pursuant to this chapter shall take the form of articles of agreement and shall serve as the operating agreement for a BOCES. Agreements shall include a cost-benefit analysis outlining the projected financial savings or enhanced outcomes, or both, that the parties expect to realize through shared services or programs. No agreement or subsequent amendments shall take effect unless approved by the member supervisory union boards and the Secretary of Education. The Secretary shall approve articles of agreement if the Secretary finds that the formation of the proposed BOCES is in the best interests of the State, the students, and the member supervisory unions and aligns with the policy set

forth in section 601 of this title, subject to the limitations of subsection (d) of this section. At a minimum, the articles of agreement shall state:

(1) the names of the participating supervisory unions;

(2) the mission, purpose, and focus of the BOCES;

(3) the programs or services to be offered by the BOCES;

(4) the financial terms and conditions of membership of the BOCES, including any applicable membership fee;

(5) the service fees for member supervisory unions and the service fees for nonmember supervisory unions, as applicable;

(6) the detailed procedure for the preparation and adoption of an annual budget with carryforward provisions;

(7) the method of termination of the BOCES and the withdrawal of member supervisory unions, which shall include the apportionment of assets and liabilities;

(8) the procedure for admitting new members and for amending the articles of agreement;

(9) the powers and duties of the board of directors of the BOCES to operate and manage the association, including:

(A) board meeting attendance requirements;

(B) consequences for failure to attend a board meeting;

(C) a conflict-of-interest policy; and

(D) a policy regarding board member salaries or stipends; and

(10) any other matter not incompatible with law that the member supervisory unions consider necessary to the formation of the BOCES.

(c) Board of directors. A BOCES shall be managed by a board of directors, which shall be composed of one person appointed annually by each member supervisory union board. Appointed persons shall be members of a member supervisory union board or the superintendent or designee of the member supervisory union. Each member of the BOCES board of directors shall be entitled to a vote. No member of the board of directors of a BOCES shall serve as a member of a board of directors or as an officer or employee of any related for-profit or nonprofit organization. The board of directors shall elect a chair from its members and provide for such other officers as it may determine are necessary. The board of directors may also establish subcommittees and create board policies and procedures as it may determine

are necessary. The board of directors shall meet not fewer than four times annually. Each member of the board of directors shall provide updates on the activities of the BOCES on a quarterly basis to the member's appointing supervisory union board at an open board meeting.

(d) Number of BOCESs. There shall be not more than seven BOCESs statewide. Supervisory unions shall not be a member of more than one BOCES but may seek services as a nonmember from other BOCESs.

§ 604. POWERS OF BOARDS OF COOPERATIVE EDUCATION SERVICES

(a) In addition to any other powers granted by law, a BOCES shall have the power to provide educational programs, services, facilities, and professional and other staff that, in its discretion, best serve the needs of its members. A BOCES shall follow all applicable State and federal laws in its provision of services, including Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400–1482.

(b) A BOCES may employ an executive director who shall serve under the general direction of the board and who shall be responsible for the care and supervision of the BOCES. The board shall annually evaluate the executive director's performance and effectiveness in implementing the programs, policies, and goals of the BOCES. The executive director shall not serve as a board member, officer, or employee of any related for-profit or nonprofit organization.

(c) A BOCES shall be a body politic and corporate and shall have standing to sue and be sued to the same extent as a school district. A BOCES may enter into contracts for the purchase of supplies, materials and services and for the purchase or leasing of land, buildings, and equipment as considered necessary by the board of directors. Section 559 of this title shall apply to the procurement of services or items with costs that exceed $40,000.00, as well as high-cost construction contracts, as defined by subsection 559(b) of this title.

(d) The board of directors of a BOCES may apply for State, federal, or private grants, for which a BOCES may be otherwise eligible, to obtain funds necessary to carry out the purpose for which the BOCES is established. Nothing in this chapter is intended to create an entitlement to federal funds distributed by the Agency of Education to local education agencies.

§ 605. FINANCING, BUDGETING, AND ACCOUNTING

(a) Education cooperative fund. A BOCES shall establish and manage a fund to be known as an education cooperative fund. All monies contributed by

the member school districts and all grants or gifts from the federal government, State government, charitable foundations, private corporations, or any other source shall be deposited into the fund.

(b) Treasurer.

(1) A BOCES shall appoint a treasurer who may be a treasurer of a member school district and who shall be sworn in before entering the duties of the office.

(2) The treasurer may, subject to the direction of the board of directors, receive and disburse all money belonging to the board without further appropriation.

(3) The treasurer shall keep financial records of cash receipts and disbursements and shall make those records available to the board of directors upon request.

(4) The board of directors shall ensure that its blanket bond covers a newly appointed treasurer before the treasurer enters upon the duties of the office. In lieu of a blanket bond, a BOCES may choose to provide suitable crime insurance coverage. The board of directors may pay reasonable compensation to the treasurer for services rendered and shall evaluate the treasurer's performance annually.

(c) Financial accounting system. A BOCES shall use the uniform chart of accounts and financial reporting requirements used by supervisory unions as its financial accounting system.

(d) Audit. Annually, a BOCES shall cause an independent audit to be made of its financial statements consistent with generally accepted governmental auditing standards and shall discuss and vote to accept the audit report at an open meeting of the board. The board shall transmit a copy of each audit to the boards of its member supervisory unions.

(e) Annual statement. Annually, a BOCES shall prepare financial statements, including:

(1) a statement of net assets; and

(2) a statement of revenues, expenditures, and changes in net assets.

(f) Budget. A board of cooperative education services shall adopt a budget prior to the beginning of the fiscal year for which the budget is adopted.

(g) Loans. A BOCES may, upon approval of its members, negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal

year for the budget of the BOCES and the amount credited to date to said budget in order to pay current obligations. Such loan shall be liquidated within six months thereafter from monies subsequently credited to said budget. The total principal, interest, and fees to be paid on such loan shall not exceed the total amount of the authorized budget for the same length of time.

§ 606. ANNUAL REPORT; PUBLIC INFORMATION

(a) The board of a BOCES shall prepare an annual report concerning the affairs of the BOCES and have it printed and distributed to the boards of the member supervisory unions. The annual report shall include, at a minimum:

(1) information on the programs and services offered by the BOCES, including information on the cost-effectiveness of such programs and services and progress made towards achieving the objectives and purposes set forth in the articles of agreement; and

(2) audited financial statements and the independent auditor's report.

(b) A BOCES shall maintain an internet website that makes the following information available to the public at no cost:

(1) a list of the members of the board of directors of the BOCES;

(2) copies of approved minutes of open meetings held by the board of the BOCES;

(3) a copy of the articles of agreement and any subsequent amendments; and

(4) a copy of the annual report required under subsection (a) of this section.

§ 607. EMPLOYMENT

(a) A BOCES shall be considered to be a public employer and may employ personnel, including educators, to carry out the purposes and functions of the board. Annually, the board of a BOCES shall conduct an area survey of the salaries of the educators and staff employed by the BOCES's member supervisory unions and school districts.

(b) No person shall be eligible for employment by a BOCES as an educator unless the person is appropriately licensed by the Standards Board for Professional Educators pursuant to chapter 51 of this title.

(c) A person employed by a BOCES as an educator shall be a participant in the Vermont State Teachers' Retirement System pursuant to chapter 55 of this title.

(d) A person who is employed by a BOCES and who is not educator shall be a participant in the Vermont Municipal Employees' Retirement System pursuant to 24 V.S.A. chapter 125.

(e) Educators employed by a BOCES shall be entitled to organize pursuant to chapter 57 of this title.

(f) Employees employed by a BOCES and who are not educators shall be entitled to organize pursuant to 21 V.S.A. chapter 22.

(g) Educators and employees who are employed by a BOCES shall be provided health care benefits pursuant to chapter 61 of this title.

Sec. 3. TRANSITION; REPORT

(a) On or before July 1, 2026, each supervisory union board shall consider and vote on the desirability of establishing a board of cooperative education services pursuant to 16 V.S.A. chapter 10. There shall be not more than seven boards of cooperative education services established statewide. Supervisory union boards that vote to establish a board of cooperative education services shall hold an organizational meeting pursuant to 16 V.S.A. § 603 on or before July 1, 2027.

(b) On or before July 1, 2028, the Secretary of Education shall review the boards of cooperative education services as they exist, or are anticipated to exist, on that date. On or before November 1, 2028, the Secretary shall issue a written report to the General Assembly and the State Board of Education with the following information and recommendations:

(1) the number of boards of cooperative education services in existence on July 1, 2028, including the names of member supervisory unions and services provided;

(2) the number of supervisory unions that are not members of boards of cooperative education services and information on why such supervisory unions have not joined a board of cooperative education services; and

(3) recommendations for expansion of the membership and powers of boards of cooperative education services, including recommendations for whether membership in such boards shall be mandatory.

Sec. 4. BOCES GRANT PROGRAM; APPROPRIATION

(a) There is established the Boards of Cooperative Education Services Start-up Grant Program, to be administered by the Agency of Education, from funds appropriated for this purpose, to award grants to boards of cooperative education services (BOCES) formed pursuant to 16 V.S.A. chapter 10 after July 1, 2024. BOCES shall be eligible for a single $10,000.00 grant after the

Secretary of Education approves the applicant's initial articles of agreement pursuant to 16 V.S.A. § 603(b). Grants may be used for start-up costs and may include reimbursement to member supervisory unions for costs incurred during the exploration and formation of the BOCES and articles of agreement.

(b) Notwithstanding any provision of 16 V.S.A. § 4025 to the contrary, the sum of $70,000.00 is appropriated from the Education Fund to the Agency of Education in fiscal year 2025 to fund the Boards of Cooperative Education Services Start-up Grant Program created in subsection (a) of this section. Unexpended appropriations shall carry forward into the subsequent fiscal year and remain available for use for this purpose.

* * * Conforming Revisions * * *

Sec. 5. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

* * *

(b) Virtual merger. In order to ~~promote the efficient use of financial and human resources~~ maximize the impact of available funding and resources, and to reduce duplication of educational programs, personnel, and services, ~~and~~ whenever legally permissible, supervisory unions are encouraged to reach agreements with other supervisory unions jointly to provide any service or perform any duty under this section pursuant to section 267 of this title, or to form boards of cooperative education services pursuant to chapter 10 of this title. Agreements between supervisory unions are not subject to the waiver requirement of subdivision (a)(8) of this section. Agreements shall include a cost-benefit analysis outlining the projected financial savings or enhanced outcomes, or both, that the parties expect to realize through shared services or programs.

* * *

Sec. 6. 16 V.S.A. § 1691a is amended to read:

§ 1691a. DEFINITIONS

As used in this chapter:

(1) "Administrator" means an individual licensed under this chapter the majority of whose employed time in a public school, school district, ~~or~~ supervisory union, or board of cooperative education services is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a public school system or public school program.

* * *

(10) "Teacher" means an individual licensed under this chapter the majority of whose employed time in a public school district ~~or,~~ supervisory union, or board of cooperative education services is assigned to furnish to students direct instructional or other educational services, as defined by rule of the Standards Board, or who is otherwise subject to licensing as determined by the Standards Board.

Sec. 7. 16 V.S.A. § 1931(20) is amended to read:

(20) "Teacher" ~~shall mean~~ means any licensed teacher, principal, supervisor, superintendent, or any professional licensed by the Vermont Standards Board for Professional Educators who is regularly employed, or otherwise contracted if following retirement, for the full normal working time for ~~his or her~~ the teacher's position in a public day school or school district within the State, or in any school or teacher-training institution located within the State, controlled by the State Board of Education, and supported wholly by the State; or in certain public independent schools designated for such purposes by the Board in accordance with section 1935 of this title; or who is regularly employed by a board of cooperative education services created in accordance with chapter 10 of this title. In all cases of doubt, the Board shall determine whether any person is a teacher as defined in this chapter. It ~~shall~~ does not mean a person who is teaching with an emergency license.

Sec. 8. 24 V.S.A. § 5051(10) is amended to read:

(10) "Employee" means the following persons employed on a regular basis by a school district ~~or,~~ by a supervisory union, or by a board of cooperative education services for ~~no~~ not fewer than 1,040 hours in a year and for ~~no~~ not fewer than 30 hours a week for the school year, as defined in 16 V.S.A. § 1071, or for ~~no~~ not fewer than 1,040 hours in a year and for ~~no~~ not fewer than 24 hours a week year-round; provided, however, that if a person who was employed on a regular basis by a school district as either a special education or transportation employee and who was transferred to and is working in a supervisory union or a board of cooperative education services in the same capacity pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) and if that person is also employed on a regular basis by a school district within the supervisory union, then the person is an "employee" if these criteria are met by the combined hours worked for the supervisory union and school district. The term ~~shall~~ also ~~mean~~ means persons employed on a regular basis by a municipality other than a school district for ~~no~~ not fewer than 1,040 hours in a year and for ~~no~~ not fewer than 24 hours per week, including persons employed

in a library at least one-half of whose operating expenses are met by municipal funding:

* * *

Sec. 9. 16 V.S.A. § 1981 is amended to read:

§ 1981. DEFINITIONS

As used in this chapter unless the context requires otherwise:

* * *

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union or board of cooperative education services, the body comprising representatives designated by each school board within the supervisory union or board of cooperative education services and by the supervisory union board or board of cooperative education services to engage in professional negotiations with a teachers' or administrators' organization.

(9) "Teachers' organization negotiations council" or "administrators' organization negotiations council" means the body comprising representatives designated by each teachers' organization or administrators' organization within a supervisory district ~~or~~, supervisory union, or board of cooperative education services to act as its representative for professional negotiations.

Sec. 10. 21 V.S.A. § 1722 is amended to read:

§ 1722. DEFINITIONS

As used in this chapter:

* * *

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union or board of cooperative education services, the body comprising representatives designated by each school board within the supervisory union or board of cooperative education services and by the supervisory union board or board of cooperative education services to engage in collective bargaining with their school employees' negotiations council.

(19) "School employees' negotiations council" means the body comprising representatives designated by each exclusive bargaining agent within a supervisory district ~~or~~, supervisory union, or board of cooperative education services to engage in collective bargaining with its school board negotiations council.

(20) "Supervisory district" and "supervisory union" ~~shall~~ have the same ~~meaning~~ meanings as in 16 V.S.A. § 11.

(21) "Municipal school employee" means an employee of a supervisory union ~~or~~, school district, or board of cooperative education services who is not otherwise subject to 16 V.S.A. chapter 57 (labor relations for teachers and administrators) and who is not otherwise excluded pursuant to subdivision (12) of this section.

* * *

Sec. 11. 16 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

As used in this chapter:

(1) "Participating employee" means a school employee who is eligible for and has elected to receive health benefit coverage through a school employer.

(2) "School employee":

(A) includes the following individuals:

(i) an individual employed by a school employer as a teacher or administrator as defined in section 1981 of this title;

(ii) a municipal school employee as defined in 21 V.S.A. § 1722;

(iii) an individual employed as a supervisor as defined in 21 V.S.A. § 1502;

(iv) a confidential employee as defined in 21 V.S.A. § 1722;

(v) a certified employee of a school employer; and

(vi) any other permanent employee of a school employer not covered by subdivisions (i)-(v) of this subdivision (2); and

(B) notwithstanding subdivision (A) of this subdivision (2), excludes individuals who serve in the role of superintendent.

(3) "School employer" means a supervisory union or school district as those terms are defined in section 11 of this title, or a board of cooperative education services formed pursuant to chapter 10 of this title.

* * * Community Schools * * *

Sec. 12. 2021 Acts and Resolves No. 67, Sec. 3 is amended to read:

Sec. 3. COMMUNITY SCHOOLS; FUNDING

* * *

(c) Funding administration.

(1) Subject to subdivision (2) of this subsection, the Secretary of Education shall determine, using the Agency of Education's equity lens tool, which eligible recipients shall receive funding and the amount of funding, and the Secretary shall provide the funding on or before September 1 ~~of each of 2021, 2022, and 2023 to recipients~~. The Secretary may deny or reduce ~~second- and third-year~~ funding after the initial year of funding if the Secretary finds that the recipient has made insufficient progress towards developing and implementing community school programs. In determining which eligible recipients shall receive funding, the Secretary shall take into account relative need, based on the extent to which community school program services are needed and the extent to which the eligible recipient seeks to offer them.

(2) In determining which eligible recipients shall receive funding and the amount of funding and to advance the principles for Vermont's trauma-informed system of care under 33 V.S.A. § 3401, the Secretary of Education shall collaborate with the Director of Trauma Prevention and Resilience Development and the Vermont Child and Family Trauma Work Group.

(3) The Agency of Education shall inform all eligible recipients of the availability of funding under this act and, for those eligible recipients most in need of this funding, shall educate these eligible recipients on community school programs and their benefits. The Agency of Education shall also advise all eligible recipients of other sources of funding that may be available to advance the purpose of this act.

(d) Use of funding.

(1) A recipient of funding under this act shall use the funding to:

(A) if a needs and assets assessment has not been conducted within the prior three years that substantially conforms with the requirements in this subdivision, then, in collaboration with the site-based leadership team, conduct a needs and assets assessment that includes:

(i) where available, and where applicable, student demographic, academic achievement, and school climate data, disaggregated by major demographic groups, including race, ethnicity, English language proficiency,

students with individualized education plans, and students eligible for free or reduced-price lunch status;

(ii) access to and need for integrated student supports;

(iii) access to and need for expanded and enriched learning time and opportunities;

(iv) school funding information, including federal, State, local, and private education funding and per-pupil spending, based on actual salaries of personnel assigned to the eligible school;

(v) information on the number, qualifications, and stability of school staff, including the number and percentage of fully certified teachers and rates of teacher turnover; and

(vi) active family and community engagement information, including:

(I) family and community needs based on surveys, information from public meetings, or information gathered by other means;

(II) measures of family and community engagement in the eligible schools, including volunteering in schools, attendance at back-to-school nights, and parent-teacher conferences;

(III) efforts to provide culturally and linguistically relevant communication between schools and families; and

(IV) access to and need for family and community engagement activities;

(B) hire a community school coordinator to, in collaboration with the site-based leadership team, develop and implement community school programs or designate a community school coordinator from existing personnel and, in collaboration with the site-based leadership team, augment work already being performed to develop and implement community school programs; and

(C) if the recipient has not fully implemented positive behavioral integrated supports under 16 V.S.A. § 2902, provide professional development to staff on positive behavioral integrated supports and implement those supports.

(2) A recipient of funding under this act may use the funding to, in collaboration with the site-based leadership team, develop and implement a plan to improve literacy outcomes and objectively assess those outcomes.

(3) If a needs and assets assessment has not been conducted under subdivision (1)(A) of this subsection within the prior three years, the first year of funding shall be used to conduct the needs and assets assessment of the school to determine what is necessary to develop community school programs and an action plan to implement community school programs. During ~~the second and third~~ subsequent years of ~~the~~ funding, the community school coordinator shall, in collaboration with the site-based leadership team, oversee the implementation of community school programs.

(e) Evaluation.

(1) At the end of each year of funding, each recipient shall undergo an evaluation designed by the Agency of Education using its equity lens tool.

(2) On or before each of December 15, ~~2022 and~~ 2024 and 2025, the Agency of Education shall report to the General Assembly and the Governor on the impact of the funding under this act. The report shall be made publicly available on the Agency of Education's website.

(f) Ability to operate as a community school. Any school district or school, regardless of whether it receives funding under this act, may function as a community school as defined in this section.

Sec. 13. COMMUNITY SCHOOLS REPORT

On or before December 15, 2024, the Agency of Education, in consultation with the Department of Mental Health, shall include in its report required pursuant to 2021 Acts and Resolves No. 67, Sec. 3(e)(2) an evaluation of the community schools program created under 2021 Acts and Resolves No. 67 and make recommendations for further legislative action. The report and recommendations shall address, at a minimum, the following questions:

(1) Does the community schools structure support schools in more efficient implementation of the education quality standards contained in 16 V.S.A. § 165?

(2) Does the community schools structure improve access to and efficiency in the provision of mental health services, social support services, and health services?

Sec. 14. COMMUNITY SCHOOLS; APPROPRIATION

(a) Appropriations. Notwithstanding any provision of 16 V.S.A. § 4025 to the contrary, the sum of $1,000,000.00 is appropriated from the Education Fund to the Agency of Education in fiscal year 2025 for the purpose of providing funding to school districts for the community schools program

created under 2021 Acts and Resolves No. 67, Sec. 3, as amended by Sec. 12 of this act.

(b) Agency use of funds. The Agency of Education may set aside:

(1) not more than one percent of the funds appropriated under subsection (a) of this section for informational and technical assistance, such as the availability and use of funding for eligible recipients as defined under 2021 Acts and Resolves No. 67, Sec. 3, as amended by Sec. 12 of this act; and

(2) not more than two percent of the funds appropriated under subsection (a) of this section for the evaluations required under 2021 Acts and Resolves No. 67, Sec. 3, as amended by Sec. 12 of this act.

* * * Effective Date * * *

Sec. 15. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

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

An act relating to improving access to high-quality education through community collaboration

(Committee vote: 3-2-0)

(For House amendments, see House Journal of March 26, 2024, pages 840 - 853)

Reported favorably by Senator Baruth 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 Education.

(Committee vote: 6-0-1)

H. 657.

An act relating to the modernization of Vermont's communications taxes and fees.

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: By striking out Secs. 7–13, communications property tax, and their accompanying reader assistance in their entireties and inserting in lieu thereof new Secs. 7–8 and an accompanying reader assistance to read as follows:

* * * Communications Property Tax; Study and Report * * *

Sec. 7. COMMUNICATIONS PROPERTY TAX; STUDY AND REPORT

(a) The Commissioner of Taxes shall conduct a study concerning the taxation of communications property. The purpose of the study is to develop a recommendation for an updated tax structure that applies to communications property in a fair, reasonable, and nondiscriminatory manner and that reflects modern developments in communications technology and its uses.

(b) As used in this section, generally, "communications property" means tangible personal property used to enable the real-time, two-way, electromagnetic transmission of information, such as audio, video, and data, that is so fitted and attached as to be part of a local, state, national, or international communications network, as well as facilities that are part of a cable television system as defined in 30 V.S.A. § 501(2). The term includes wires, cables, conduit, pipes, antennas, poles, wireless towers, machinery, distribution hubs, cabinets, splitters, switching equipment, routers, servers, power equipment, and any other network equipment.

(c) In conducting the study required by this section, the Commissioner shall seek input from the Secretary of Transportation, the Secretary of Digital Services, the Commissioner of Public Service, communications property owners, the Vermont League of Cities and Towns, and any other persons deemed appropriate by the Commissioner. In addition, the Commissioner shall review the tax treatment of communications property in other jurisdictions to determine an appropriate model for Vermont.

(d) The Commissioner shall make the following recommendations:

(1) for each category of communications property, whether it should be taxed as real property or as business personal property, taking into consideration such factors as the use, life-cycle, or location of each category of network equipment;

(2) whether any exemptions should apply to communications property based on ownership, use, location, public benefit, or any other factor deemed appropriate by the Commissioner;

(3) a method for determining and fixing the valuations of communications property;

(4) the rate or rates at which communications property should be taxed;

(5) a process for handling property valuations and appeals that minimizes the burden on listers and local governments;

(6) a process for obtaining the data necessary to properly value and tax communications property from the property owners or from other State databases, or both, and the time and manner of data submissions, taking into consideration other regulatory uses and State databases;

(7) a process for routinely auditing and enforcing the recommended tax structure;

(8) resources needed to implement the recommended tax structure; and

(9) any other recommendations deemed appropriate by the Commissioner and consistent with the purpose of the section.

(e) On or before January 15, 2025, the Commissioner shall submit the findings and recommendations required by this section in a written report to the Senate Committee on Finance and the House Committees on Ways and Means and on Environment and Energy.

Sec. 8. ONE-TIME APPROPRIATION FROM THE PILOT SPECIAL FUND; VALUATION MODEL

Notwithstanding 32 V.S.A. § 3709(a), the sum of $150,000.00 is appropriated from the PILOT Special Fund to the Division of Property Valuation and Review of the Department of Taxes in fiscal year 2025 for the purpose of creating a property valuation model for communications property.

Second: By striking out Sec.13a, 19 V.S.A. § 26a, and its accompanying reader assistance in their entireties and inserting in lieu thereof a new section to be Sec. 9 and an accompanying reader assistance to read as follows:

* * * Public ROW Rent; Study and Report * * *

Sec. 9. COMMUNICATIONS PROPERTY; RIGHT OF WAY RENT; STUDY AND REPORT

(a) The Secretary of Transportation shall conduct a study concerning access to and use of the public right-of-way (ROW) by communications service providers for the purpose of developing a fair, reasonable, and nondiscriminatory fee structure applicable to communications property in the ROW that is commensurate with the public benefit conferred and shall conduct a cost-benefit analysis with respect to implementation of that fee structure in Vermont.

(b)(1) In order to perform a comprehensive cost-benefit analysis as required by subsection (a) of this section, on or before July 1, 2026, the Secretary of Transportation, in consultation with the Vermont Center for Geographic Information (VCGI), shall develop a ROW GIS database

indicating the location and ownership of communications property and electric and natural gas infrastructure currently in the ROW.

(2) In a form and manner determined by the Secretary, each communications, electric, and natural gas company that has infrastructure in the ROW shall submit an inventory of its infrastructure in GIS format to the Agency of Transportation for inclusion in the ROW GIS database. The Secretary may require such companies to submit additional information to ensure the database is comprehensive and sufficiently detailed to support various regulatory purposes, including property taxation, emergency management, and broadband mapping.

(3) The Secretary may review and incorporate into its ROW GIS database any relevant data collected and maintained by the Public Safety Communications Task Force, the Department of Public Service, the Department of Taxes, and any other State or municipal entity deemed appropriate by the Secretary.

(4) Data collected pursuant to this subsection shall be exempt from public inspection and copying under the Public Records Act.

(c) In conducting the study required by this section, the Secretary shall seek input from the Commissioner of Taxes, the Commissioner of Public Service, the Public Safety Communications Task Force, communications property owners, the Vermont League of Cities and Towns, and any other persons deemed appropriate by the Secretary. In addition, the Secretary shall review the ROW fee structures used in other jurisdictions to determine an appropriate model for Vermont.

(d) As used in this section:

(1) "Communications property" means tangible personal property used to enable the real-time, two-way, electromagnetic transmission of information, such as audio, video, and data, that is so fitted and attached as to be part of a local, state, national, or international communications network, as well as facilities that are part of a cable television system as defined in 30 V.S.A. § 501(2). The term includes wires, cables, conduit, pipes, antennas, poles, wireless towers, machinery, distribution hubs, cabinets, splitters, switching equipment, routers, servers, power equipment, and any other network equipment in the ROW.

(2) "Public right-of-way" or "ROW" means the area on, below, along, across, or above a public roadway that is part of the State highway or municipal roadway system.

(e) Among other things, the Secretary's findings and recommendations shall reflect the following:

(1) the specific types of communications property in the ROW;

(2) a fee structure that is proportionate to the public benefit conferred from access to or use of the ROW, which may include a tiered system that factors in population density or deployment costs, or both;

(3) whether any fee exemptions or waivers, temporary or permanent, should apply to communications property in the ROW based on ownership, use, location, public benefit, or any other factor deemed appropriate by the Secretary;

(4) standards and procedures applicable to data collection pursuant to this section that are consistent with existing databases maintained by the State, including the State Geographic Information System (GIS) and that are consistent with prior inventories or studies, such as the GIS report submitted to the General Assembly pursuant to 1988 Acts and Resolves No. 200, and any system design recommendations contained therein;

(5) standards and procedures for accessing data collected pursuant to this section by State or municipal entities or by the general public, subject to any confidentiality parameters deemed appropriate by the Secretary;

(6) resources needed to implement the fee structure developed pursuant to this section;

(7) potential uses of the State or municipal share of any revenue collected pursuant to the fee structure; and

(8) any other matters deemed necessary or appropriate by the Secretary.

(f) On or before December 15, 2026, the Secretary shall submit the findings and recommendations required by this section in a written report to the Senate Committees on Finance and on Transportation and the House Committees on Ways and Means, on Environment and Energy, and on Transportation.

Third: By striking out Sec. 14, effective dates, in its entirety and inserting in lieu thereof a new section to be Sec. 10 to read as follows:

Sec. 10. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 8 (PILOT Fund appropriation) shall take effect on July 1, 2024.

(2) Secs. 1–6 (VUSF contribution method; 988 funding) shall take effect on July 1, 2025.

(Committee vote: 7-0-0)

(For House amendments, see House Journal of March 28, 2024, pages 1026 - 1040)

Reported favorably by Senator Perchlik 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 Finance.

(Committee vote: 5-0-2)

H. 704.

An act relating to disclosure of compensation in job advertisements.

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 by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495o is added to read:

§ 495o. DISCLOSURE OF COMPENSATION TO PROSPECTIVE EMPLOYEES

(a)(1) An employer shall ensure that any advertisement of a Vermont job opening shall include the compensation or range of compensation for the job opening.

(2) Notwithstanding subdivision (1) of this subsection:

(A) An advertisement for a job opening that is paid on a commission basis, whether in whole or in part, shall disclose that fact and is not required to disclose the compensation or range of compensation pursuant to subdivision (1) of this subsection (a).

(B) An advertisement for a job opening that is paid on a tipped basis shall disclose that fact and the base wage or range of base wages for the job opening.

(b)(1) The provisions of this section and any claim of retaliation under subdivision 495(a)(8) of this subchapter for asserting or exercising any rights

provided pursuant to this section shall only be enforced pursuant to the provisions of 21 V.S.A. § 495b(a)(1).

(2) It shall be a violation of this section and subdivision 495(a)(8) of this subchapter for an employer to refuse to interview, hire, promote, or employ a current or prospective employee for asserting or exercising any rights provided pursuant to this section.

(c) As used in this section:

(1) "Advertisement" means written notice, in any format, of a specific job opening that is made available to potential applicants. "Advertisement" does not include:

(A) general announcements that notify potential applicants that employment opportunities may exist with the employer but do not identify any specific job openings; or

(B) verbal announcements of employment opportunities that are made in person or on the radio, television, or other electronic mediums.

(2) "Base wage" means the hourly wage that an employer pays to a tipped employee and does not include any tips received by the employee. Nothing in this section shall be construed to alter an employer's obligations to comply with section 384 of this title.

(3) "Employer" means an employer, as defined pursuant to section 495d of this subchapter, that employs five or more employees.

(4) "Good faith" means honesty in fact.

(5) "Potential applicants" includes both current employees of the employer and members of the general public.

(6)(A) "Range of base wages" means the minimum and maximum base wages for a job opening that the employer expects in good faith to pay for the advertised job at the time the employer creates the advertisement.

(B) Nothing in this section shall be construed to prevent an employer from hiring an employee for more or less than the range of base wages contained in a job advertisement based on circumstances outside of the employer's control, such as an applicant's qualifications or labor market factors.

(7)(A) "Range of compensation" means the minimum and maximum annual salary or hourly wage for a job opening that the employer expects in good faith to pay for the advertised job at the time the employer creates the advertisement.

(B) Nothing in this section shall be construed to prevent an employer from hiring an employee for more or less than the range of compensation contained in a job advertisement based on circumstances outside of the employer's control, such as an applicant's qualifications or labor market factors.

(8)(A) "Vermont job opening" and "job opening" mean any position of employment that is:

(i) either:

(I) physically located in Vermont; or

(II) a remote position that will predominantly perform work for an office or work location that is physically located in Vermont; and

(ii) a position for which an employer is hiring, including:

(I) positions that are open to internal candidates or external candidates, or both; and

(II) positions into which current employees of the employer can transfer or be promoted.

(B) "Vermont job opening" and "job opening" does not include a position that is physically located outside of Vermont and that performs work that is predominantly for one or more offices or work locations that are physically located outside of Vermont.

Sec. 2. GUIDANCE; OUTREACH

(a) On or before January 1, 2025, the Attorney General's Office shall publish guidance for employers and employees regarding the provisions of 21 V.S.A. § 495o (disclosure of compensation to prospective employees).

(b) The Attorney General's Office shall publish the guidance on its website and shall coordinate with the Vermont Commission on Women and other stakeholders to conduct outreach and education regarding the provisions of 21 V.S.A. § 495o (disclosure of compensation to prospective employees).

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

(Committee vote: 3-1-1)

(For House amendments, see House Journal of March 20, 2024, pages 645 - 646)

H. 887.

An act relating to homestead property tax yields, nonhomestead rates, and policy changes to education finance and taxation.

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

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

* * * Commission on the Future of Public Education * * *

Sec. 1. THE COMMISSION ON THE FUTURE OF PUBLIC EDUCATION; REPORTS

(a) Creation. There is hereby created the Commission on the Future of Public Education in Vermont. The right to education is fundamental for the success of Vermont's children in a rapidly changing society and global marketplace as well as for the State's own economic and social prosperity. The Commission shall study the provision of education in Vermont and make recommendations for a statewide vision for Vermont's public education system to ensure that all students are afforded substantially equal educational opportunities in an efficient, sustainable, and stable education system. The Commission shall also make recommendations for the strategic policy changes necessary to make Vermont's educational vision a reality for all Vermont students.

(b) Membership. The Commission shall be composed of the following members and, to the extent possible, the members shall represent the State's geographic, gender, racial, and ethnic diversity:

(1) the Secretary of Education or designee;

(2) the Chair of the State Board of Education or designee;

(3) the Tax Commissioner or designee;

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

(5) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees;

(6) two representatives from the Vermont School Boards Association (VSBA), appointed by the VSBA Executive Director;

(7) two representatives from the Vermont Principals' Association (VPA), selected by the VPA Executive Director;

(8) three superintendents, appointed by the Executive Director of the Vermont Superintendents Association, two of whom shall be appointed as follows:

(A) one superintendent of a supervisory union that operates a career and technical education center; and

(B) one superintendent of a supervisory union composed of at least three separate school districts;

(9) two representatives from the Vermont National Education Association (VTNEA), appointed by the VTNEA Executive Director;

(10) one representative from the Vermont Association of School Business Officials (VASBO) with experience in school construction projects, appointed by the President of VASBO;

(11) the Chair of the Census-Based Funding Advisory Group, created under 2018 Acts and Resolves No. 173 or designee;

(12) the Executive Director of the Vermont Rural Education Collaborative or designee; and

(13) one representative from the Vermont Independent Schools Association (VISA), appointed by the President of VISA.

(c) Steering group. On or before July 1, 2024, the Speaker of the House shall appoint two members of the Commission, the Committee on Committees shall appoint one member of the Commission, and the Governor shall appoint two members of the Commission, to serve as members of a steering group. No appointing authority shall appoint two members affiliated with the same organization. The steering group shall provide leadership to the Commission and shall work with a consultant to analyze the issues, challenges, and opportunities facing Vermont's public education system, as well as create a formal action plan to drive change and innovation in the public education system. The steering group may form one or more subcommittees of the Commission to address key topics in greater depth.

(d) Collaboration and information review.

(1) The Commission shall seek input from and collaborate with key stakeholders, as directed by the steering group. At a minimum, the Commission shall consult with:

(A) the Department of Mental Health;

(B) the Department of Labor;

(C) the President of the University of Vermont or designee;

(D) the Chancellor of the Vermont State Colleges Corporation or designee;

(E) a representative from the Prekindergarten Education Implementation Committee;

(F) the Office of Racial Equity;

(G) a representative with expertise in the Community Schools model in Vermont; and

(H) the Vermont Youth Council.

(2) The Commission shall also review and take into consideration existing educational laws and policy, including legislative reports the Commission deems relevant to its work and, at a minimum, 2015 Acts and Resolves No. 46, 2018 Acts and Resolves No. 173, 2022 Acts and Resolves No. 127, and 2023 Acts and Resolves No. 76.

(e) Duties of the Commission. The Commission shall study Vermont's public education system and make recommendations to ensure all students are afforded quality educational opportunities in an efficient, sustainable, and equitable education system that will enable students to achieve the highest academic outcomes. The result of the Commission's work shall be a recommendation for a statewide vision for Vermont's public education system, with recommendations for the policy changes necessary to make Vermont's educational vision a reality. In creating and making its recommendations, the Commission shall engage in the following:

(1) Public engagement. The Commission shall conduct not fewer than 10 public meetings to inform the work required under this section. At least half of the public meetings shall be held in a different geographic region of the State. The Commission shall publish a draft of its final recommendations on or before October 1, 2025, solicit public feedback, and incorporate such feedback into its final recommendations. When submitting its final recommendations to the General Assembly, the Commission shall include all public feedback received as an addendum to its final report. The public feedback process shall include:

(A) a minimum 30-day public comment period, during which time the Commission shall accept written comments from the public and stakeholders; and

(B) a public outreach plan that maximizes public engagement and includes notice of the availability of language assistance services when requested.

(2) Policy considerations. In developing its recommendations, the Commission shall consider and prioritize the following topics:

(A) Governance, resources, and administration. The Commission shall study and make recommendations regarding education governance at the State level, including the role of the Agency of Education in the provision of services and support for the education system. Recommendations under this subdivision (A) shall include, at a minimum, the following:

(i) whether changes need to be made to the structure of the Agency of Education, including whether it better serves the recommended education vision of the State as an agency or a department;

(ii) what are the staffing needs of the Agency of Education;

(iii) whether changes need to be made to the composition, role, and function of the State Board of Education to better serve the recommended education vision of the State;

(iv) what roles, functions, or decisions should be a function of local control and what roles, functions, or decisions should be a function of control at the State level; and

(v) the effective integration of career and technical education in the recommended education vision of the State.

(B) Physical size and footprint of the system. The Commission shall study and make recommendations regarding how the unique geographical and socioeconomic needs of different communities should factor into the provision of education in Vermont, taking into account and building upon the recommendations of the State Aid to School Construction Working Group. Recommendations under this subdivision (B) shall include, at a minimum, the following:

(i) an analysis of the current number and location of school buildings, school districts, and supervisory unions and whether additional consolidation is needed to achieve Vermont's vision for education, provided that if there is a recommendation for any amount of consolidation, the recommendation shall include a recommended implementation plan;

(ii) an analysis of the capacity and ability to staff all public schools with a qualified workforce, driven by data on class-size recommendations;

(iii) an analysis of the current town tuition program and whether, and if so, what, changes are necessary to meet Vermont's vision for education, including the legal and financial impact of funding independent schools and other private institutions, including consideration of the following:

(I) the role designation, under 16 V.S.A. § 827, should play in the delivery of public education; and

(II) the financial impact to the Education Fund of public dollars being used in schools located outside Vermont; and

(iv) an analysis of the current use of private therapeutic schools in the provision of special education services and whether, and if so, what, changes are necessary to meet Vermont's special education needs, including the legal and financial impact of funding private therapeutic schools.

(C) The role of public schools. The Commission shall study and make recommendations regarding the role public schools should play in both the provision of education and the social and emotional well-being of students. Recommendations under this subdivision (C) shall include, at a minimum, the following:

(i) how public education in Vermont should be delivered;

(ii) whether Vermont's vision for public education shall include the provision of wraparound supports and collocation of services; and

(iii) what the consequences are for the Commission's recommendations regarding the role of public schools and other service providers, including what the role of public schools means for staffing, funding, and any other affected system, with the goal of most efficiently utilizing State funds and services and maximizing federal funding.

(D) Education fund. The Commission shall explore the efficacy and potential equity gains of changes to the education funding system, including weighted educational opportunity payments as a method to fund public education. The Commission's recommendations shall be intended to result in an education funding system designed to afford substantially equal access to a quality basic education for all Vermont students in accordance with *State v. Brigham*, 166 Vt. 246 (1997). Recommendations under this subdivision (D) shall include, at a minimum, the following:

(i) allowable uses for the Education Fund that shall ensure sustainable and equitable use of State funds;

(ii) the method for setting tax rates to sustain allowable uses of the Education Fund; and

(iii) implementation details for any recommended changes to the education funding system.

(E) Additional considerations. The Commission may consider any other topic, factor, or issue that it deems relevant to its work and recommendations.

(f) Reports and proposed legislation. The Commission shall prepare and submit to the General Assembly the following:

(1) a formal, written work plan, which shall include a communication plan to maximize public engagement, on or before September 15, 2024;

(2) a written report containing its preliminary findings and recommendations, including short-term cost containment considerations for the 2025 legislative session, on or before December 15, 2024;

(3) a written report containing its final findings and recommendations for a statewide vision for Vermont's public education system and the policy changes necessary to make that educational vision a reality on or before December 1, 2025; and

(4) proposed legislative language to advance any recommendations for the education funding system.

(g) Assistance. The Agency of Education shall contract with an independent consultant to provide technical and legal assistance to the Commission for the work required under this section. For the purposes of scheduling meetings and providing administrative assistance, the Commission shall have the assistance of the Agency of Education. The Agency shall also provide the educational and financial data necessary to facilitate the work of the Commission. School boards shall comply with requests from the Agency to assist in data collections.

(h) Meetings.

(1) The Secretary of Education shall call the first meeting of the Commission to occur on or before July 15, 2024.

(2) The Speaker of the House and the President Pro Tempore shall jointly select a Commission chair.

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

(4) Meetings shall be conducted in accordance with Vermont's Open Meeting Law pursuant to 1 V.S.A. chapter 5, subchapter 2.

(5) The Commission shall cease to exist on December 31, 2025.

(i) Compensation and reimbursement. Members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 30 meetings, including subcommittee meetings. These payments shall be made from monies appropriated to the Agency of Education.

Sec. 1a. 2023 Acts and Resolves No. 78, Sec. B.1100 is amended to read:

Sec. B.1100 MISCELLANEOUS FISCAL YEAR 2024 ONE-TIME APPROPRIATIONS

* * *

(r) $200,000.00 General Fund in fiscal year 2024 to the Agency of Education for the work of the School Construction Task Force and the Commission on the Future of Public Education.

* * *

Sec. 2. PROPERTY DOLLAR EQUIVALENT YIELD, INCOME DOLLAR EQUIVALENT YIELD, AND NONHOMESTEAD PROPERTY TAX RATE FOR FISCAL YEAR 2025

For fiscal year 2025 only:

(1) Pursuant to 32 V.S.A. § 5402b(b), the property dollar equivalent yield shall be $10,005.00.

(2) Pursuant to 32 V.S.A. § 5402b(b), the income dollar equivalent yield shall be $10,226.00.

(3) Notwithstanding 32 V.S.A. § 5402(a)(1) and any other provision of law to the contrary, the nonhomestead property tax rate shall be $1.375 per $100.00 of equalized education property value.

Sec. 3. 32 V.S.A. § 9701(7) is amended to read:

(7) "Tangible personal property" means personal property that may be seen, weighed, measured, felt, touched, or in any other manner perceived by the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software regardless of the method in which the prewritten computer software is paid for, delivered, or accessed.

Sec. 4. REPEAL

2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed remotely) is repealed.

Sec. 5. 32 V.S.A. chapter 225, subchapter 4 is added to read:

Subchapter 4. Short-term Rental Impact Surcharge

§ 9301. IMPOSITION; SHORT-TERM RENTAL IMPACT SURCHARGE

(a) An operator shall collect a surcharge of three percent of the rent of each occupancy that is a short-term rental. As used in this subchapter, "short-term rental" means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year. As used in this subchapter, "short-term rental" does not mean an occupancy in a lodging establishment licensed under 18 V.S.A. chapter 85.

(b) The surcharge shall be in addition to any tax assessed under section 9241 of this chapter. The surcharge assessed under this section shall be paid, collected, remitted, and enforced under this chapter in the same manner as the rooms tax assessed under section 9241 of this title.

Sec. 6. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) The Education Fund is established to comprise the following:

(1) all revenue paid to the State from the statewide education tax on nonhomestead and homestead property under 32 V.S.A. chapter 135;

(2) [Repealed.]

(3) revenues from State lotteries under 31 V.S.A. chapter 14 and from any multijurisdictional lottery game authorized under that chapter;

(4) 25 percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225;

(5) one-third of the revenues raised from the purchase and use tax imposed by 32 V.S.A. chapter 219, notwithstanding 19 V.S.A. § 11(1);

(6) revenues raised from the sales and use tax imposed by 32 V.S.A. chapter 233; ~~and~~

(7) Medicaid reimbursement funds pursuant to subsection 2959a(f) of this title;

(8) land use change tax revenue deposited pursuant to 32 V.S.A. § 3757(d);

(9) uniform capacity tax revenue deposited pursuant to 32 V.S.A. § 8701(b)(3);

(10) wind-powered electric generating facilities tax deposited pursuant to 32 V.S.A. § 5402c; and

(11) revenues from the short-term rental surcharge under 32 V.S.A. § 9301.

* * *

Sec. 7. RESERVE FUND ACCOUNT STANDARDS; DISTRICT QUALITY STANDARDS; RULEMAKING

On or before January 1, 2025, the Agency of Education shall initiate rulemaking pursuant to 3 V.S.A. chapter 25 to update the District Quality Standards rules contained in Agency of Education, District Quality Standards (CVR 23-020), to include recommended reserve fund account standards. Prior to initiating rulemaking, the Agency shall consult with local school officials.

Sec. 8. AGENCY OF EDUCATION; EDUCATION FINANCE DATA ANALYST POSITION

(a) One new permanent classified position, to be an education finance data analyst, is established in the Agency of Education in fiscal year 2025 to receive and analyze education finance data to support the field, Secretary, and General Assembly in their respective roles within the education finance system.

(b) It is the intent of the General Assembly that the position created in subsection (a) of this section shall enable the Agency to provide a wider range of accessible and transparent data related to school budgets and education spending, including analysis of trends, to school districts, the General Assembly, and the public at large. It is also the intent of the General Assembly that this position shall enable the Agency to provide robust support to legislative committees and maintain education finance data calculators and models used within the education finance system.

(c) To the extent that funds are available, there is appropriated to the Agency of Education $125,000.00 from the General Fund in fiscal year 2025 to fund the education finance data analyst position established in subsection (a) of this section.

* * * Fiscal Year 2026 * * *

Sec. 9. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(11)(A) Shall prepare and distribute annually a proposed budget for the next school year according to such major categories as may from time to time be prescribed by the Secretary.

* * *

(D) The board shall present the budget to the voters by means of a ballot in the following form:

"Article #1 (School Budget):

Shall the voters of the school district approve the school board to expend $ _____, which is the amount the school board has determined to be necessary for the ensuing fiscal year? ~~It is estimated that this proposed budget, if approved, will result in education spending of $_____ per equalized pupil. This projected spending per equalized pupil is _____ % higher/lower than spending for the current year.~~

The _____ District estimates that this proposed budget, if approved, will result in per pupil education spending of $_____, which is _____% higher/lower than per pupil education spending for the current year."

* * *

Sec. 10. REPEAL

2022 Acts and Resolves No. 127, Sec. 8(c) (suspension of ballot language requirement) is repealed.

Sec. 11. 32 V.S.A. § 5414 is added to read:

§ 5414. CREATION; EDUCATION FUND ADVISORY COMMITTEE

(a) Creation. There is created the Education Fund Advisory Committee to monitor Vermont's education financing system, conduct analyses, and perform the duties under subsection (c) of this section.

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

(1) the Commissioner of Taxes or designee;

(2) the Secretary of Education or designee;

(3) the Chair of the State Board of Education or designee;

(4) two members of the public with expertise in education financing, who shall be appointed by the Speaker of the House;

(5) two members of the public with expertise in education financing, who shall be appointed by the Committee on Committees;

(6) one member of the public with expertise in education financing, who shall be appointed by the Governor;

(7) the President of the Vermont Association of School Business Officials or designee;

(8) one representative from the Vermont School Boards Association (VSBA) with expertise in education financing, selected by the Executive Director of VSBA;

(9) one representative from the Vermont Superintendents Association (VSA) with expertise in education financing, selected by the Executive Director of VSA; and

(10) one representative from the Vermont National Education Association (VTNEA) with expertise in education financing, selected by the Executive Director of VTNEA.

(c) Powers and duties.

(1) Annually, on or before December 15, the Committee shall make recommendations to the General Assembly regarding:

(A) updating the weighting factors using the weighting model and methodology used to arrive at the weights enacted under 2022 Acts and Resolves No. 127, which may include recalibration, recalculation, adding or eliminating weights, or any combination of these actions, as necessary;

(B) changes to, or the addition of new or elimination of existing, categorical aid, as necessary;

(C) changes to income levels eligible for a property tax credit under section 6066 of this title;

(D) means to adjust the revenue sources for the Education Fund;

(E) means to improve equity, transparency, and efficiency in education funding statewide;

(F) the amount of the Education Fund stabilization reserve;

(G) school district use of reserve fund accounts; and

(H) any other topic, factor, or issue the Committee deems relevant to its work and recommendations.

(2) The Committee shall review and recommend updated weights, categorical aid, and changes to the excess spending threshold to the General Assembly not less than every three years, which may include a recommendation not to make changes where appropriate. In reviewing and recommending updated weights, the Committee shall use the weighting model and methodology used to arrive at the weights enacted under 2022 Acts and Resolves No. 127.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Taxes and the Agency of Education.

(e) Meetings.

(1) The Commissioner of Taxes shall call the first meeting of the Committee to occur on or before July 15, 2025.

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

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

(f) Compensation and reimbursement. Members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under section 1010 of this title for up to four meetings per year.

Sec. 12. REPEAL; EDUCATION FUND ADVISORY COMMITTEE

32 V.S.A. § 5414 (Education Fund Advisory Committee) as added by this act is repealed on July 1, 2034.

* * * Common Level of Appraisal; Statewide Adjustments * * *

Sec. 13. STATE OUTREACH; STATEWIDE ADJUSTMENTS

On or before September 1, 2024, the Secretary of Education, in consultation with the Commissioner of Taxes, shall conduct outreach to inform school districts, public education stakeholders, and the general public of the use of statewide adjustments under this act. The outreach shall include an explanation of how statewide adjustments are used to calculate tax rates and how using the statewide adjustment differs from the previous method for calculating tax rates.

Sec. 13a. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

* * *

(13)(A) "Education property tax spending adjustment" means the greater of one or a fraction in which:

(i) the numerator is the district's per pupil education spending plus excess spending for the school year, and

(ii) the denominator is the property dollar equivalent yield for the school year, as defined in subdivision (15) of this section, multiplied by the statewide adjustment.

(B) "Education income tax spending adjustment" means the greater of one or a fraction in which the numerator is the district's per pupil education spending plus excess spending for the school year, and the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.

* * *

(15) "Property dollar equivalent yield" means the amount of per pupil education spending that would result ~~if the~~ in a district having a homestead tax rate ~~were~~ of $1.00 per $100.00 of equalized education property value ~~and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained~~.

(16) "Income dollar equivalent yield" means the amount of per pupil education spending that would result ~~if the~~ in a district having an income percentage in subdivision 6066(a)(2) of this title ~~were~~ of 2.0 percent ~~and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained~~.

(17) "Statewide adjustment" means the ratio of the aggregate education property tax grand list of all municipalities to the aggregate value of the equalized education property tax grand list of all municipalities.

Sec. 14. 32 V.S.A. § 5402 is amended to read:

§ 5402. EDUCATION PROPERTY TAX LIABILITY

(a) A statewide education tax is imposed on all nonhomestead and homestead property at the following rates:

(1) The tax rate for nonhomestead property shall be $1.59 per $100.00 divided by the statewide adjustment.

(2) The tax rate for homestead property shall be $1.00 multiplied by the education property tax spending adjustment for the municipality per $100.00 of equalized education property value as most recently determined under

section 5405 of this title. The homestead property tax rate for each municipality that is a member of a union or unified union school district shall be calculated as required under subsection (e) of this section.

(b) The statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section divided by the number resulting from dividing the municipality's most recent common level of appraisal by the statewide adjustment. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonhomestead rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonhomestead property and without regard to any other tax classification of the property. Statewide education property tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the number resulting from dividing the municipality's most recent common level of appraisal by the statewide adjustment, multiplied by the current grand list value of the property to be taxed. Statewide education property tax bills shall also include language provided by the Commissioner pursuant to subsection 5405(g) of this title.

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonhomestead property; provided, however, that the tax levied under this chapter shall be billed to each taxpayer by the municipality in a manner that clearly indicates the tax is separate from any other tax assessed and collected under chapter 133, including an itemization of the separate taxes due. The bill may be on a single sheet of paper with the statewide education tax and other taxes presented separately and side by side.

(3) If a district has not voted a budget by June 30, an interim homestead education tax shall be imposed at the base rate determined under subdivision (a)(2) of this section, divided by the number resulting from dividing the municipality's most recent common level of appraisal by the statewide adjustment, but without regard to any spending adjustment under subdivision 5401(13) of this title. Within 30 days after a budget is adopted and the deadline for reconsideration has passed, the Commissioner shall determine the municipality's homestead tax rate as required under subdivision (1) of this subsection.

* * *

Sec. 15. 32 V.S.A. § 5402b is amended to read:

§ 5402b. STATEWIDE EDUCATION TAX YIELDS; RECOMMENDATION OF THE COMMISSIONER

(a) Annually, ~~no~~ not later than December 1, the Commissioner of Taxes, after consultation with the Secretary of Education, the Secretary of Administration, and the Joint Fiscal Office, shall calculate and recommend a property dollar equivalent yield, an income dollar equivalent yield, and a nonhomestead property tax rate for the following fiscal year. In making these calculations, the Commissioner shall assume:

(1) the homestead base tax rate in subdivision 5402(a)(2) of this title is $1.00 per $100.00 of equalized education property value;

(2) the applicable percentage in subdivision 6066(a)(2) of this title is 2.0;

(3) the statutory reserves under 16 V.S.A. § 4026 and this section were maintained at five percent; ~~and~~

(4) the percentage change in the average education tax bill applied to nonhomestead property and the percentage change in the average education tax bill of homestead property and the percentage change in the average education tax bill for taxpayers who claim a credit under subsection 6066(a) of this title are equal;

(5) the equalized education grand list is multiplied by the statewide adjustment in calculating the property dollar equivalent yield; and

(6) the nonhomestead rate is divided by the statewide adjustment.

(b) For each fiscal year, the property dollar equivalent yield and the income dollar equivalent yield shall be the same as in the prior fiscal year, unless set otherwise by the General Assembly.

(c) Annually, on or before December 1, the Joint Fiscal Office shall prepare and publish an official, annotated copy of the Education Fund Outlook. The Emergency Board shall review the Outlook at its meetings. As used in this section, "Education Fund Outlook" means the projected revenues and expenses associated with the Education Fund for the following fiscal year, including projections of different categories of educational expenses and costs.

(d) Along with the recommendations made under this section, the Commissioner shall include the range of per pupil spending between all districts in the State for the previous year.

* * * Act 84 Amendments * * *

Sec. 16. 2024 Acts and Resolves No. 84, Sec. 3(c) is amended to read:

(c) Notwithstanding 16 V.S.A. chapter 133, 32 V.S.A. chapter 135, or any other provision of law to the contrary, a school district shall receive a decrease to its homestead property tax rate in fiscal year 2025 equal to $0.01 for every relative percent decrease calculated under subsection (b) of this section divided by the statewide adjustment, rounded to the nearest whole cent. The tax rate decrease shall phase out in the following manner:

(1) A district shall receive a decrease to its homestead property tax rate in fiscal year 2026 equal to 80 percent of the rate decrease it received under subsection (b) of this section.

(2) A district shall receive a decrease to its homestead property tax rate in fiscal year 2027 equal to 60 percent of the rate decrease it received under subsection (b) of this section.

(3) A district shall receive a decrease to its homestead property tax rate in fiscal year 2028 equal to 40 percent of the rate decrease it received under subsection (b) of this section.

(4) A district shall receive a decrease to its homestead property tax rate in fiscal year 2029 equal to 20 percent of the rate decrease it received under subsection (b) of this section.

Sec. 17. 2024 Acts and Resolves No. 84, Sec. 3(g) is added to read:

(g)(1) In the event that a district with an equalized homestead property tax rate that was decreased by this section merges with another district or districts, the combined district shall receive the greatest decrease under the section available to any of the merged districts.

(2) In the event that a district withdraws from a district with an equalized homestead property tax rate that was decreased by this section, the withdrawing district shall not receive any decrease under this section and the remaining district shall continue to have the same decrease in its equalized homestead property tax rate. If a district is instead dissolved, there shall be no decreased equalized homestead property tax rate for the resulting districts.

* * * Excess Education Spending * * *

Sec. 18. 32 V.S.A. § 5401(12) is amended to read:

(12) "Excess spending" means:

(A) The ~~per-equalized-pupil~~ per pupil spending amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any

amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b).

(B) In excess of ~~121~~ 116 percent of the statewide average district per pupil education spending ~~per equalized pupil~~ increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date. As used in this subdivision, "increased by inflation" means increasing the statewide average district per pupil education spending ~~per equalized pupil~~ for fiscal year ~~2015~~ 2025 by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services, from fiscal year ~~2015~~ 2025 through the fiscal year for which the amount is being determined.

Sec. 19. REPEAL

2022 Acts and Resolves No. 127, Sec. 8(a) (suspension of laws) is repealed.

Sec. 20. 16 V.S.A. § 4001(6)(B) is amended to read:

(B) For all bonds approved by voters prior to July 1, 2024, voter-approved bond payments toward principal and interest shall not be included in "education spending" for purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12)~~, "education spending" shall not include:~~

~~(i) Spending during the budget year for:~~

~~(I) approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt, provided the district shall not be reimbursed or otherwise receive State construction aid for the approved school capital construction; or~~

~~(II) spending on eligible school capital project costs pursuant to the State Board of Education's Rule 6134 for a project that received preliminary approval under section 3448 of this title.~~

~~(ii) For a project that received final approval for State construction aid under chapter 123 of this title:~~

~~(I) spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt; or~~

~~(II) payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving State aid for the project.~~

~~(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the State Board of Education, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.~~

~~(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.~~

~~(v) Spending attributable to the district's share of special education spending that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any student in the fiscal year occurring two years prior.~~

~~(vi) A budget deficit in a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed.~~

~~(vii) For a district that pays tuition for all of its resident students and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district's most recent average daily membership and for whom the district will pay tuition in the subsequent year multiplied by the district's average rate of tuition paid in that year.~~

~~(viii) Tuition paid by a district that does not operate a school and pays tuition for all resident students in kindergarten through grade 12, except in a district in which the electorate has authorized payment of an amount higher than the statutory rate pursuant to subsection 823(b) or 824(c) of this title.~~

~~(ix) The assessment paid by the employer of teachers who become members of the State Teachers' Retirement System of Vermont on or after July 1, 2015, pursuant to section 1944d of this title.~~

~~(x) School district costs associated with dual enrollment and early college programs.~~

~~(xi) Costs incurred by a school district or supervisory union when sampling drinking water outlets, implementing lead remediation, or retesting drinking water outlets as required under 18 V.S.A. chapter 24A~~.

* * * Property Tax Credit Claims * * *

Sec. 21. PROPERTY TAX CREDIT; ASSET DECLARATION; REPORT

On or before December 15, 2024, the Commissioner shall recommend administrative and policy improvements for property tax credit claims, including the use of an asset declaration. The report shall be submitted to the House Committee on Ways and Means and the Senate Committee on Finance.

* * * Act 127 Conforming Amendments * * *

Sec. 22. 16 V.S.A. § 4016 is amended to read:

§ 4016. REIMBURSEMENT FOR TRANSPORTATION EXPENDITURES

(a) A school district or supervisory union that incurs allowable transportation expenditures shall receive a transportation reimbursement grant each year. The grant shall be equal to 50 percent of allowable transportation expenditures; provided, however, that in any year the total amount of grants under this subsection shall not exceed the total amount of adjusted base year transportation grant expenditures. The total amount of base year transportation grant expenditures shall be $10,000,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and services. If in any year the total amount of the grants under this subsection exceed the adjusted base year transportation grant expenditures, the amount of each grant awarded shall be reduced proportionately. Transportation grants paid under this section shall be paid from the Education Fund and shall be added to ~~adjusted~~ education spending payment receipts paid under section 4011 of this title.

* * *

(c) A district or supervisory union may apply and the Secretary may pay for extraordinary transportation expenditures incurred due to geographic or other conditions such as the need to transport students out of the school district to attend another school because the district does not maintain a public school. The State Board shall define extraordinary transportation expenditures by rule. The total amount of base year extraordinary transportation grant expenditures shall be $250,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and services. Extraordinary transportation expenditures shall not be paid out of the funds appropriated under subsection (b) of this section for other transportation expenditures. Grants paid under this section shall be paid from the Education

Fund and shall be added to ~~adjusted~~ education spending payment receipts paid under section 4011 of this title.

Sec. 23. 16 V.S.A. § 4026 is amended to read:

§ 4026. EDUCATION FUND BUDGET STABILIZATION RESERVE; CREATION AND PURPOSE

(a) It is the purpose of this section to reduce the effects of annual variations in State revenues upon the Education Fund budget of the State by reserving certain surpluses in Education Fund revenues that may accrue for the purpose of offsetting deficits.

* * *

(e) The enactment of this chapter and other provisions of the Equal Educational Opportunity Act of which it is a part have been premised upon estimates of balances of revenues to be raised and expenditures to be made under the act for such purposes as ~~adjusted~~ education spending payments, categorical State support grants, provisions for property tax income sensitivity, payments in lieu of taxes, current use value appraisals, tax stabilization agreements, the stabilization reserve established by this section, and for other purposes. If the stabilization reserve established under this section should in any fiscal year be less than 5.0 percent of the prior fiscal year's appropriations from the Education Fund, as defined in subsection (b) of this section, the Joint Fiscal Committee shall review the information provided pursuant to 32 V.S.A. § 5402b and provide the General Assembly its recommendations for change necessary to restore the stabilization reserve to the statutory level provided in subsection (b) of this section.

Sec. 24. 16 V.S.A. § 4028 is amended to read:

§ 4028. FUND PAYMENTS TO SCHOOL DISTRICTS

(a) On or before September 10, December 10, and April 30 of each school year, one-third of the ~~adjusted~~ education spending payment under section 4011 of this title shall become due to school districts, except that districts that have not adopted a budget by 30 days before the date of payment under this subsection shall receive one-quarter of the base education amount and upon adoption of a budget shall receive additional amounts due under this subsection.

* * *

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 1 (Commission on the Future of Public Education);

(2) Sec. 2 (property tax rates and yields);

(3) Sec. 13 (State outreach; statewide adjustments); and

(4) Sec. 17 (Act 84 application to district mergers, withdrawals, and dissolutions).

(b) Secs. 13a–16 (CLA effect on tax rates and statewide adjustment) and 19 (repeal of excess spending suspension) shall take effect July 1, 2025.

(c) Sec. 9 (16 V.S.A. § 563; powers of school boards; form of vote) shall take effect July 1, 2024, provided, however, that 16 V.S.A. § 563(11)(D) shall not apply to ballots used for fiscal year 2025 budgets.

(d) Sec. 5 (32 V.S.A. chapter 225, subchapter 4) shall take effect August 1, 2024.

(e) All other sections shall take effect on July 1, 2024.

(Committee vote: 5-0-1)

(For House amendments, see House Journal of April 23, 2024, pages 1278 - 1306)

Reported favorably by Senator Baruth 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 Finance.

(Committee vote: 5-1-1)

Amendments to proposal of amendment of the Committee on Finance to H. 887 to be offered by Senators Kitchel and Perchlik

Senators Kitchel and Perchlik moves to amend the proposal of amendment of the Committee on Finance as follows

First: By striking out Sec. 8, Agency of Education; education finance data analyst position, in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. AGENCY OF EDUCATION; EDUCATION FINANCE DATA ANALYST POSITION; INTENT

It is the intent of the General Assembly to create a position within the Agency of Education that will enable the Agency to provide a wider range of accessible and transparent data related to school budgets and education spending, including analysis of trends, to school districts, the General Assembly, and the public at large. It is also the intent of the General Assembly that the position shall provide robust support to legislative committees and maintain education finance data calculators and models used within the education finance system.

Second: By adding a reader assistance heading and one new section to be Sec. 24a to read as follows:

* * * Overpayment of Education Taxes * * *

Sec. 24a. COMPENSATION FOR OVERPAYMENT

(a) Notwithstanding any provision of law to the contrary, the sum of $29,224.00 shall be transferred from the Education Fund to the Town of Canaan in fiscal year 2025 to compensate the homestead taxpayers of the Town of Canaan for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Canaan.

(b) Notwithstanding any provision of law to the contrary, the sum of $5,924.00 shall be transferred from the Education Fund to the Town of Bloomfield in fiscal year 2025 to compensate the homestead taxpayers of the Town of Bloomfield for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Bloomfield.

(c) Notwithstanding any provision of law to the contrary, the sum of $2,575.00 shall be transferred from the Education Fund to the Town of Brunswick in fiscal year 2025 to compensate the homestead taxpayers of the Town of Brunswick for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Brunswick.

(d) Notwithstanding any provision of law to the contrary, the sum of $6,145.00 shall be transferred from the Education Fund to the Town of East Haven in fiscal year 2025 to compensate the homestead taxpayers of the Town

of East Haven for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of East Haven.

(e) Notwithstanding any provision of law to the contrary, the sum of $2,046.00 shall be transferred from the Education Fund to the Town of Granby in fiscal year 2025 to compensate the homestead taxpayers of the Town of Granby for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Granby.

(f) Notwithstanding any provision of law to the contrary, the sum of $10,034.00 shall be transferred from the Education Fund to the Town of Guildhall in fiscal year 2025 to compensate the homestead taxpayers of the Town of Guildhall for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Guildhall.

(g) Notwithstanding any provision of law to the contrary, the sum of $20,536.00 shall be transferred from the Education Fund to the Town of Kirby in fiscal year 2025 to compensate the homestead taxpayers of the Town of Kirby for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Kirby.

(h) Notwithstanding any provision of law to the contrary, the sum of $2,402.00 shall be transferred from the Education Fund to the Town of Lemington in fiscal year 2025 to compensate the homestead taxpayers of the Town of Lemington for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Lemington.

(i) Notwithstanding any provision of law to the contrary, the sum of $11,464.00 shall be transferred from the Education Fund to the Town of Maidstone in fiscal year 2025 to compensate the homestead taxpayers of the Town of Maidstone for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Maidstone.

(j) Notwithstanding any provision of law to the contrary, the sum of $4,349.00 shall be transferred from the Education Fund to the Town of Norton in fiscal year 2025 to compensate the homestead taxpayers of the Town of Norton for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Norton.

(k) Notwithstanding any provision of law to the contrary, the sum of $2,657.00 shall be transferred from the Education Fund to the Town of Victory in fiscal year 2025 to compensate the homestead taxpayers of the Town of Victory for an overpayment of education taxes in fiscal year 2024 due to erroneous accounting of certain students for the purposes of calculating average daily membership. The transfer under this subsection shall be made directly to the Town of Victory.

Proposal of amendment to H. 887 to be offered by Senators Cummings, Bray, Brock, Chittenden and MacDonald

Senators Cummings, Bray, Brock, Chittenden and MacDonald move that the Senate propose to the House to amend the bill as recommended by the Committee on Finance with the following proposals of the amendment thereto:

First: By striking Sec. 1, the Commission on the Future of Public Education; reports, and its reader assistance heading in their entireties and inserting in lieu thereof a new reader assistance heading and Sec. 1 to read as follows:

* * * Education Finance Study Committee * * *

Sec. 1. EDUCATION FINANCE STUDY COMMITTEE

(a) Creation. There is created the Education Finance Study Committee to study and recommend changes to move towards a more sustainable and affordable education system while maintaining a system that ensures substantially equal educational opportunities for all Vermont students that allows them to achieve academic excellence.

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

(1) the Secretary of Education or designee;

(2) the Commissioner of Taxes or designee;

(3) one member of the House Committee on Education and one member of House the Committee on Ways and Means, who shall be appointed by the

Speaker of the House, giving as much consideration as possible to balancing representation from across different political parties; and

(4) one member of the Senate Committee on Education and one member of the Senate Committee on Finance, who shall be appointed by the Committee on Committees giving as much consideration as possible to balancing representation from across different political parties.

(c) Powers and duties. The Study Committee shall study the potential cost containment efficacy and potential equity gains of changes to the education funding system to drive change, cost containment, operational efficiencies, and innovation in the public education system. The Study Committee's recommendations shall be intended to result in an affordable educational funding system designed to ensure substantially equal access to educational opportunities for all Vermont students, in accordance with *Brigham v. State*, 166 Vt. 246 (1997), and lead to measurable, high student performance outcomes. The Study Committee's work under this subsection shall include an investigation into the factors that contribute to the current costs associated with Vermont's education system, with the Study Committee's final recommendations representing efforts to contain and reduce costs without sacrificing student outcomes. To achieve this objective, the Study Committee shall make recommendations, at a minimum, regarding the following:

(1) class and facility size requirements, including recommendations regarding staff-to-student ratios that are in alignment with national best practices and lead to schools staffed by a qualified workforce;

(2) whether, and if so, what, alternative funding models would create a more affordable, sustainable, and equitable education finance system in Vermont, including the consideration of a statutory, formal base amount of per pupil education spending and whether school districts should be allowed to spend above the base amount;

(3) whether encouraging or mandating further school district and facility consolidation should be encouraged or mandated, taking into account the unique geographical and socioeconomic needs of different communities, the role the current town tuition program plays in the provision of education and its impacts on education spending and equity, and a transition plan to achieve any recommendations pursuant to this subdivision;

(4) recommendations for consolidating supervisory unions and the provision of administrative services, including the provision of professional development, long-range planning, and business services, and a transition plan to achieve any such recommendations;

(5) adjustments to the excess spending threshold, including recommendations that target specific types of spending;

(6) the implementation of education spending caps on different services, including administrative and support services and categorical aid;

(7) what roles, functions, or decisions should be a function of local control and what roles, functions, or decisions should be a function of control at the State level, both within the education system as a whole as well as more specifically within the education finance system;

(8) how to strengthen the understanding and connection between school budget votes and property tax bills;

(9) adjustments to the property tax credit thresholds to better match need to the benefit; and

(10) a system for ongoing monitoring of the Education Fund and Vermont's education finance system, to include consideration of a standing Education Fund advisory committee.

(d) Collaboration. The Study Committee shall seek input from and collaborate with key stakeholders, including, at a minimum, the following:

(1) the Vermont School Boards Association;

(2) the Vermont Principals' Association;

(3) the Vermont Superintendents Association;

(4) the Vermont National Education Association;

(5) the Vermont Association of School Business Officials;

(6) the Vermont Independent Schools Association; and

(7) any other local, regional, or national organization with expertise in public school governance or financing, including other state or local governments.

(e) Assistance.

(1) The Study Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Operations, Joint Fiscal Office, and Office of Legislative Counsel.

(2) The Joint Fiscal Office may retain the services of one or more independent third parties to provide facilitation and technical assistance to the Study Committee.

(f) Proposed legislation. On or before December 15, 2024, the Study Committee shall submit its findings and final recommendations in the form of proposed legislation to the General Assembly.

(g) Meetings.

(1) The Secretary of Education shall call the first meeting of the Study Committee to occur on or before July 15, 2024.

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

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

(4) The Study Committee shall cease to exist on December 31, 2024.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Study Committee serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 15 meetings. These payments shall be made from monies appropriated to the General Assembly.

Second: In Sec. 1a., 2023 Acts and Resolves No. 78, Sec. B.1100, following "the School Construction Task Force", by inserting ", the Education Finance Study Committee,"

Third: By adding a new section to be Sec. 1b to read as follows:

Sec. 1b. COORDINATION OF FUNDING FOR STUDY COMMITTEES AND COMMISSIONS

The Agency of Education shall transfer funds to the Joint Fiscal Office as necessary to meet the financial obligations of the Education Finance Study Committee created pursuant to Sec. 1 of this act.

Fourth: By adding a new reader assistance heading and section to be Sec. 1c. to read as follows:

* * * Commission on the Future of Public Education * * *

Sec. 1c. THE COMMISSION ON THE FUTURE OF PUBLIC EDUCATION; REPORTS

(a) Creation. There is hereby created the Commission on the Future of Public Education in Vermont. The right to education is fundamental for the success of Vermont's children in a rapidly changing society and global marketplace as well as for the State's own economic and social prosperity. The Commission shall study the provision of education in Vermont and make

recommendations for a statewide vision for Vermont's public education system to ensure that all students are afforded substantially equal educational opportunities in an efficient, sustainable, and stable education system. The Commission shall also make recommendations for the strategic policy changes necessary to make Vermont's educational vision a reality for all Vermont students.

(b) Membership. The Commission shall be composed of the following members and, to the extent possible, the members shall represent the State's geographic, gender, racial, and ethnic diversity:

(1) the Secretary of Education or designee;

(2) the Chair of the State Board of Education or designee;

(3) the Tax Commissioner or designee;

(4) one current member of the House of Representatives, appointed by the Speaker of the House;

(5) one current member of the Senate, appointed by the Committee on Committees;

(6) one representative from the Vermont School Boards Association (VSBA), appointed by the VSBA Executive Director;

(7) one representative from the Vermont Principals' Association (VPA), appointed by the VPA Executive Director;

(8) one superintendent, appointed by the Executive Director of the Vermont Superintendents Association;

(9) one representative from the Vermont National Education Association (VTNEA), appointed by the VTNEA Executive Director;

(10) one representative from the Vermont Association of School Business Officials (VASBO) with experience in school construction projects, appointed by the President of VASBO;

(11) the Chair of the Census-Based Funding Advisory Group, created under 2018 Acts and Resolves No. 173;

(12) the Executive Director of the Vermont Rural Education Collaborative; and

(13) one representative from the Vermont Independent Schools Association (VISA), appointed by the President of VISA.

(c) Steering group. On or before July 1, 2025, the Speaker of the House shall appoint two members of the Commission, the Committee on Committees shall appoint one member of the Commission, and the Governor shall appoint two members of the Commission to serve as members of a steering group. No appointing authority shall appoint two members affiliated with the same organization. The steering group shall provide leadership to the Commission and shall work with a consultant or consultants to analyze the issues, challenges, and opportunities facing Vermont's public education system, as well as develop and propose a work plan to formalize the process through which the Commission shall seek to achieve its final recommendations. The formal work plan shall be approved by a majority of the Commission members. The steering group may form one or more subcommittees of the Commission to address key topics in greater depth.

(d) Collaboration and information review.

(1) The Commission shall seek input from and collaborate with key stakeholders, as directed by the steering group. At a minimum, the Commission shall consult with:

(A) the Department of Mental Health;

(B) the Department of Labor;

(C) the President of the University of Vermont or designee;

(D) the Chancellor of the Vermont State Colleges Corporation or designee;

(E) a representative from the Prekindergarten Education Implementation Committee;

(F) the Office of Racial Equity;

(G) a representative with expertise in the Community Schools model in Vermont; and

(H) the Vermont Youth Council.

(2) The Commission shall also review and take into consideration existing educational laws and policy, including legislative reports the Commission deems relevant to its work and, at a minimum, 2015 Acts and Resolves No. 46, 2018 Acts and Resolves No. 173, 2022 Acts and Resolves No. 127, and 2023 Acts and Resolves No. 76.

(e) Duties of the Commission. The Commission shall study Vermont's public education system and make recommendations to ensure all students are afforded quality educational opportunities in an efficient, sustainable, and

equitable education system that will enable students to achieve the highest academic outcomes. The result of the Commission's work shall be a recommendation for a statewide vision for Vermont's public education system, with recommendations for the policy changes necessary to make Vermont's educational vision a reality. In creating and making its recommendations, the Commission shall engage in the following:

(1) Public engagement. The Commission shall conduct not fewer than 14 public meetings to inform the work required under this section. At least one meeting of the Commission as a whole or a subcommittee of the Commission shall be held in each county. The Commission shall publish a draft of its final recommendations on or before October 1, 2026, solicit public feedback, and incorporate such feedback into its final recommendations. When submitting its final recommendations to the General Assembly, the Commission shall include all public feedback received as an addendum to its final report. The public feedback process shall include:

(A) a minimum 30-day public comment period, during which time the Commission shall accept written comments from the public and stakeholders; and

(B) a public outreach plan that maximizes public engagement and includes notice of the availability of language assistance services when requested.

(2) Policy considerations. In developing its recommendations, the Commission shall consider and prioritize the following topics:

(A) Governance, resources, and administration. The Commission shall study and make recommendations regarding education governance at the State level, including the role of the Agency of Education in the provision of services and support for the education system. Recommendations under this subdivision (A) shall include, at a minimum, the following:

(i) whether changes need to be made to the structure of the Agency of Education, including whether it better serves the recommended education vision of the State as an agency or a department;

(ii) what are the staffing needs of the Agency of Education;

(iii) whether changes need to be made to the composition, role, and function of the State Board of Education to better serve the recommended education vision of the State;

(iv) what roles, functions, or decisions should be a function of local control and what roles, functions, or decisions should be a function of control at the State level; and

(v) the effective integration of career and technical education in the recommended education vision of the State.

(B) Physical size and footprint of the education system. The Commission shall study and make recommendations regarding how the unique geographical and socioeconomic needs of different communities should factor into the provision of education in Vermont, taking into account and building upon the recommendations of the State Aid to School Construction Working Group. Recommendations under this subdivision (B) shall include, at a minimum, the following:

(i) an analysis of the current number and location of school buildings, school districts, and supervisory unions and whether additional consolidation is needed to achieve Vermont's vision for education, provided that if there is a recommendation for any amount of consolidation, the recommendation shall include a recommended implementation plan;

(ii) an analysis of the capacity and ability to staff all public schools with a qualified workforce, driven by data on class-size recommendations;

(iii) analysis of whether, and if so, how, collaboration with Vermont's postsecondary schools may support the development and retention of a qualified educator workforce;

(iv) an analysis of the current town tuition program and whether, and if so, what, changes are necessary to meet Vermont's vision for education, including the legal and financial impact of funding independent schools and other private institutions, including consideration of the following:

(I) the role designation, under 16 V.S.A. § 827, should play in the delivery of public education; and

(II) the financial impact to the Education Fund of public dollars being used in schools located outside Vermont; and

(v) an analysis of the current use of private therapeutic schools in the provision of special education services and whether, and if so, what, changes are necessary to meet Vermont's special education needs, including the legal and financial impact of funding private therapeutic schools.

(C) The role of public schools. The Commission shall study and make recommendations regarding the role public schools should play in both the provision of education and the social and emotional well-being of students. Recommendations under this subdivision (C) shall include, at a minimum, the following:

(i) how public education in Vermont should be delivered;

(ii) whether Vermont's vision for public education shall include the provision of wraparound supports and collocation of services;

(iii) whether, and if so, how, collaboration with Vermont's postsecondary schools may support and strengthen the delivery of public education; and

(iv) what the consequences are for the Commission's recommendations regarding the role of public schools and other service providers, including what the role of public schools means for staffing, funding, and any other affected system, with the goal of most efficiently utilizing State funds and services and maximizing federal funding.

(D) Education fund. The Commission shall explore the efficacy and potential equity gains of changes to the education funding system, including weighted educational opportunity payments as a method to fund public education. The Commission's recommendations shall be intended to result in an education funding system designed to afford substantially equal access to a quality basic education for all Vermont students in accordance with *State v. Brigham*, 166 Vt. 246 (1997). Recommendations under this subdivision (D) shall include, at a minimum, the following:

(i) allowable uses for the Education Fund that shall ensure sustainable and equitable use of State funds;

(ii) the method for setting tax rates to sustain allowable uses of the Education Fund; and

(iii) implementation details for any recommended changes to the education funding system.

(E) Additional considerations. The Commission may consider any other topic, factor, or issue that it deems relevant to its work and recommendations.

(f) Reports and proposed legislation. The Commission shall prepare and submit to the General Assembly the following:

(1) a formal, written work plan, which shall include a communication plan to maximize public engagement, on or before September 15, 2025;

(2) a written report containing its preliminary findings and recommendations, including short-term cost containment considerations for the 2026 legislative session, on or before December 15, 2025;

(3) a written report containing its final findings and recommendations for a statewide vision for Vermont's public education system and the policy changes necessary to make that educational vision a reality on or before December 1, 2026; and

(4) proposed legislative language to advance any recommendations for the education funding system on or before December 15, 2026.

(g) Assistance. The Agency of Education shall contract with one or more independent consultants or facilitators to provide technical and legal assistance to the Commission for the work required under this section. For the purposes of scheduling meetings and providing administrative assistance, the Commission shall have the assistance of the Agency of Education. The Agency shall also provide the educational and financial data necessary to facilitate the work of the Commission. School districts shall comply with requests from the Agency to assist in data collections.

(h) Meetings.

(1) The Secretary of Education shall call the first meeting of the Commission to occur on or before July 15, 2025.

(2) The Speaker of the House and the President Pro Tempore shall jointly select a Commission chair.

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

(4) Meetings shall be conducted in accordance with Vermont's Open Meeting Law pursuant to 1 V.S.A. chapter 5, subchapter 2.

(5) The Commission shall cease to exist on December 31, 2026.

(i) Compensation and reimbursement. Members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 30 meetings, including subcommittee meetings. These payments shall be made from monies appropriated to the Agency of Education.

Fifth: In Sec. 25, effective dates, by striking out "(Commission on the Future of Public Education)" and inserting in lieu thereof "(Education Finance Study Committee)"

Proposal of amendment to H. 887 to be offered by Senator Watson

Senator Watson moves that the Senate propose to the House to amend the bill as recommended by the Committee on Finance with further proposal of amendment by adding a reader assistance heading and two new sections to be Secs. 24a and 24b to read as follows:

* * * Tuitioned Students and Determination of Weighted Long-Term Membership * * *

Sec. 24a. 16 V.S.A. § 4010 is amended to read:

§ 4010. DETERMINATION OF WEIGHTED LONG-TERM MEMBERSHIP AND PER PUPIL EDUCATION SPENDING

(a) Definitions. As used in this section:

(1) "EL pupils" means pupils described under section 4013 of this title.

(2) "FPL" means the Federal Poverty Level.

(3) "Weighting categories" means the categories listed under subsection (b) of this section.

(b) Determination of average daily membership and weighting categories. On or before the first day of December during each school year, the Secretary shall determine the average daily membership, as defined in subdivision 4001(1) of this title, of each school district for the current school year and shall perform the following tasks.

(1)(A) Using average daily membership, list for each school district the number of:

~~(A)~~(i) pupils in prekindergarten;

~~(B)~~(ii) pupils in kindergarten through grade five;

~~(C)~~(iii) pupils in grades six through eight; and

~~(D)~~(iv) pupils in grades nine through 12~~;~~.

(B) Using average daily membership, but excluding students for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period, list for each school district the number of:

~~(E)~~(i) pupils whose families are at or below 185 percent of FPL, using the highest number of pupils in the district:

~~(i)~~(I) that meet this definition under the universal income declaration form; or

~~(ii)~~(II) who are directly certified for free and reduced-priced meals; and

~~(F)~~(ii) EL pupils.

(2)(A) Identify all school districts that have low population density, measured by the number of persons per square mile residing within the land

area of the geographic boundaries of the district as of July 1 of the year of determination, equaling:

(i) fewer than 36 persons per square mile;

(ii) 36 or more persons per square mile but fewer than 55 persons per square mile; or

(iii) 55 or more persons per square mile but fewer than 100 persons per square mile.

(B) Population density data shall be based on the best available U.S. Census data as provided to the Agency of Education by the Vermont Center for Geographic Information.

(C) Using average daily membership, but excluding students for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period, list for each school district that has low population density the number of pupils in each of subdivisions (A)(i)–(iii) of this subdivision (2).

(3)(A) Identify all school districts that have one or more small schools, which are schools that have an average two-year enrollment of:

(i) fewer than 100 pupils; or

(ii) 100 or more pupils but fewer than 250 pupils.

(B) As used in subdivision (A) of this subdivision (3), "average two-year enrollment" means the average enrollment of the two most recently completed school years, and "enrollment" means the number of pupils who are enrolled in a school operated by the district on October 1. A pupil shall be counted as one whether the pupil is enrolled as a full-time or part-time student.

(C) Using average two-year enrollment, list for each school district that has a small school the number of pupils in each of subdivisions (A)(i)–(ii) of this subdivision (3).

(c) Reporting on weighting categories to the Agency of Education. Each school district shall annually report to the Agency of Education by a date established by the Agency the information needed in order for the Agency to compute the weighting categories under subsection (b) of this section for that district. In order to fulfill this obligation, a school district that pays public tuition on behalf of a resident student (sending district) to a public school in another school district, an approved independent school, or an out-of-state school (each a receiving school) may request the receiving school to collect this information on the sending district's resident student, and if requested, the

receiving school shall provide this information to the sending district in a timely manner.

(d) Determination of weighted long-term membership. For each weighting category except the small schools weighting category under subdivision (b)(3) of this section, the Secretary shall compute the weighting count by using the long-term membership, as defined in subdivision 4001(7) of this title, or the long-term membership excluding tuitioned students, as defined in subdivision 4001(16) of this title, as specified in that category.

(1) The Secretary shall first apply grade level weights. Each pupil included in long-term membership shall count as one, multiplied by the following amounts:

(A) prekindergarten—negative 0.54;

(B) grades six through eight—0.36; and

(C) grades nine through 12—0.39.

(2) The Secretary shall next apply a weight for pupils whose family is at or below 185 percent of FPL. Each pupil included in long-term membership excluding tuitioned students whose family is at or below 185 percent of FPL shall receive an additional weighting amount of 1.03.

(3) The Secretary shall next apply a weight for EL pupils. Each EL pupil included in long-term membership excluding tuitioned students shall receive an additional weighting amount of 2.49.

(4) The Secretary shall then apply a weight for pupils living in low population density school districts. Each pupil included in long-term membership excluding tuitioned students residing in a low population density school district, measured by the number of persons per square mile residing within the land area of the geographic boundaries of the district as of July 1 of the year of determination, shall receive an additional weighting amount of:

(A) 0.15, where the number of persons per square mile is fewer than 36 persons;

(B) 0.12, where the number of persons per square mile is 36 or more but fewer than 55 persons; or

(C) 0.07, where the number of persons per square mile is 55 or more but fewer than 100.

(5) The Secretary shall lastly apply a weight for pupils who attend a small school. If the number of persons per square mile residing within the land area of the geographic boundaries of a school district as of July 1 of the

year of determination is 55 or fewer, then, for each pupil listed under subdivision (b)(3)(C) of this section (pupils who attend small schools):

(A) where the school has fewer than 100 pupils in average two-year enrollment, the school district shall receive an additional weighting amount of 0.21 for each pupil included in the small school's average two-year enrollment; or

(B) where the small school has 100 or more but fewer than 250 pupils, the school district shall receive an additional weighting amount of 0.07 for each pupil included in the small school's average two-year enrollment.

(6) A school district's weighted long-term membership shall equal long-term membership plus the cumulation of the weights assigned by the Secretary under this subsection.

(e) Hold harmless. A district's weighted long-term membership shall in no case be less than 96 and one-half percent of its actual weighted long-term membership the previous year prior to making any adjustment under this subsection.

(f) Determination of per pupil education spending. As soon as reasonably possible after a school district budget is approved by voters, the Secretary shall determine the per pupil education spending for the next fiscal year for the school district. Per pupil education spending shall equal a school district's education spending divided by its weighted long-term membership.

(g) Guidelines. The Secretary shall develop guidelines to enable clear and consistent identification of pupils to be counted under this section.

(h) Updates to weights. On or before January 1, 2027 and on or before January 1 of every fifth year thereafter, the Agency of Education and the Joint Fiscal Office shall calculate, based on their consensus view, updates to the weights to account for cost changes underlying those weights and shall issue a written report on their work to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance. The General Assembly shall update the weights under this section and transportation reimbursement under section 4016 of this title not less than every five years and the implementation date for the updated weights and transportation reimbursement shall be delayed by a year in order to provide school districts with time to prepare their budgets. Updates to the weights may include recalibration, recalculation, adding or eliminating weights, or any combination of these actions.

Sec. 24b. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

* * *

(16) "Long-term membership excluding tuitioned students" of a school district in any school year means the:

(A) average of the district's average daily membership, excluding both the full-time equivalent enrollment of State-placed students and students for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period, over two school years, the latter of which is the current school year, plus

(B) full-time equivalent enrollment of State-placed students for the most recent of two years.

NOTICE CALENDAR

Second Reading

Favorable

H. 279.

An act relating to the Uniform Trust Decanting Act.

Reported favorably by Senator Sears for the Committee on Judiciary.

The Committee on Judiciary recommends that the bill ought to pass in concurrence.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 19, 2024, pages 544 - 563)

Reported favorably by Senator Chittenden for the Committee on Finance.

The Committee on Finance recommends that the bill ought to pass in concurrence.

(Committee vote: 7-0-0)

H. 503.

An act relating to approval of amendments to the charter of the Town of St. Johnsbury.

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

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-0)

(For House amendments, see House Journal of May 3, 2024, pages 1667-1687)

H. 881.

An act relating to approval of an amendment to the charter of the City of Burlington.

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

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-0)

(No House amendments)

H. 885.

An act relating to approval of an amendment to the charter of the Town of Berlin.

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

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-0)

(No House amendments)

H. 886.

An act relating to approval of amendments to the charter of the City of South Burlington.

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

The Committee on Government Operations recommends that the bill ought to pass in concurrence.

(Committee vote: 6-0-0)

(No House amendments)

Favorable with Proposal of Amendment

H. 55.

An act relating to miscellaneous unemployment insurance amendments.

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 by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Unemployment Insurance * * *

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS; DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(2) If an individual's unemployment is directly caused by a major disaster declared by the President of the United States pursuant to 42 U.S.C.

§ 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the natural disaster up to a maximum amount of ~~four~~ 10 weeks.

* * *

Sec. 2. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION; OVERPAYMENTS; WAIVER

* * *

(e) In addition to the foregoing, when ~~it is found by~~ the Commissioner finds that a person intentionally misrepresented or failed to disclose a material fact with respect to ~~his or her~~ the person's claim for benefits ~~and in the event the person is not prosecuted~~, the Commissioner may prosecute the person under section 1368 of this title ~~and penalty provided in section 1373 of this title is not imposed, the person shall be disqualified and shall not be entitled to receive benefits to which he or she would otherwise be entitled after the determination for such number of weeks not exceeding 26 as the Commissioner shall deem just. The notice of determination shall also specify the period of disqualification imposed hereunder~~.

(f)(1) Notwithstanding any provision of subsection (a), (b), or (d) of this section to the contrary, the Commissioner may waive up to the full amount of any overpayment that is not a result of the person's intentional misrepresentation of or failure to disclose a material fact if:

(A) the overpayment occurs through no fault of the person; and

(B) recovery of the overpayment would be against equity and good conscience.

(2) A person may request a waiver of an overpayment at any time after receiving notice of a determination pursuant to subsection (a) or (b) of this section.

(3) Upon making a determination that an overpayment occurred pursuant to subsection (a) or (b) of this section, the Commissioner shall, to the extent possible and in consideration of the information available to the Department, determine whether waiver of the amount of overpaid benefits is appropriate.

(4) The Commissioner shall provide notice of the right to request a waiver of an overpayment with each determination that an overpayment has occurred. The notice shall include clear instructions regarding the circumstances under which a waiver may be granted and how a person may apply for a waiver.

(5) If the Commissioner denies an application for a waiver, the Commissioner shall provide written notice of:

(A) the denial with enough information to ensure that the person can understand the reason for the denial; and

(B) the person's right to appeal the determination pursuant to subsection (h) of this section.

(6)(A) A person whose request to waive an overpayment pursuant to this subsection has been denied pursuant to subdivision (5) of this subsection (f) and whose rights to appeal the denial pursuant to subsection (h) have been exhausted shall be permitted to submit an additional request to waive the overpayment if the person can demonstrate a material change in the person's circumstances such that recovery of the overpayment would be against equity and good conscience.

(B) The Commissioner may dismiss a request to waive an overpayment that is submitted pursuant to this subdivision (6) if the Commissioner finds that there is no material change in the person's circumstances such that recovery of the overpayment would be against equity and good conscience. The Commissioner's determination pursuant to this subdivision (6) shall be final and shall not be subject to appeal.

(7) In the event that an overpayment is waived on appeal, the Commissioner shall, as soon as practicable, refund any amounts collected or withheld in relation to the overpayment pursuant to the provisions of this section.

(g) The provisions of subsection (f) of this section shall, to the extent permitted by federal law, apply to overpayments made in relation to any federal unemployment insurance benefits or similar federal benefits.

(h) Interested parties shall have the right to appeal from any determination under this section and the same procedure shall be followed as provided for in subsection 1348(a) and section 1349 of this title.

(i) The Commissioner shall not attempt to recover an overpayment or withhold any amounts of unemployment insurance benefits from a person:

(1) until after the Commissioner has made a final determination regarding whether an overpayment of benefits to the person occurred and the person's right to appeal the determination has been exhausted; or

(2) if the person filed an application for a waiver, until after the Commissioner has made an initial determination regarding the application.

(j)(1) The Commissioner shall provide any person who received an overpayment of benefits and is not currently receiving benefits pursuant to this chapter with the option of entering into a plan to repay the amount of the overpayment. The plan shall provide for reasonable weekly, biweekly, or monthly payments in an amount that permits the person to continue to afford the person's ordinary living expenses.

(2) The Commissioner shall permit a person to request a modification to a repayment plan created pursuant to this subsection if the person's ability to afford ordinary living expenses changes.

Sec. 3. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION; OVERPAYMENTS; WAIVER

* * *

(d) In any case in which under this section a person is liable to repay any amount to the Commissioner for the Fund, the Commissioner may withhold~~, in whole or in part, any~~ future benefits payable to ~~such~~ the person, in amounts equal to not more than 50 percent of the person's weekly benefit amount, and credit ~~such~~ the withheld benefits against the amount due from ~~such~~ the person until it is repaid in full, less any penalties assessed under subsection (c) of this section.

* * *

Sec. 4. WAIVER OF UI OVERPAYMENT; RULEMAKING

On or before November 1, 2024, the Employment Security Board shall commence rulemaking and file proposed rule amendments pursuant to 3 V.S.A. § 838 as necessary to implement the provisions of Sec. 2 of this act, amending 21 V.S.A. § 1347.

Sec. 5. 21 V.S.A. § 1368 is amended to read:

§ 1368. FALSE STATEMENTS TO INCREASE PAYMENTS

(a) A person ~~shall not willfully and~~ who intentionally ~~make~~ makes a false statement or representation to obtain ~~or,~~ increase, or initiate any benefit or other payment under this chapter, ~~either for himself, herself,~~ whether for

themselves or any other person, shall, after notice and an opportunity for a hearing, be:

(1) liable to repay the amount of overpaid benefits and any applicable penalty imposed pursuant to section 1347 of this chapter;

(2) assessed a further administrative penalty of up to $5,000.00; and

(3) ineligible to receive benefits pursuant to this chapter for a period of up to five years from the date on which the false statement or representation was discovered.

(b) Interested parties shall have the right to appeal from any determination under this section and the same procedure shall be followed as provided for in subsection 1348(a) and section 1349 of this chapter.

(c) The Commissioner may collect an unpaid administrative penalty by filing a civil action in the Superior Court.

* * * Unemployment Insurance Technical Corrections * * *

Sec. 6. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

As used in this chapter:

* * *

(3) "Contributions" means the money payments to the State Unemployment Compensation Trust Fund required by this chapter.

* * *

(25) ~~"Son," "daughter," and "child" include~~ "Child" includes 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.

* * *

Sec. 7. 21 V.S.A. § 1321(d) is amended to read:

(d) Financing benefits paid to employees of State. In lieu of contributions required of employers subject to this chapter, the State of Vermont, including State hospitals but excluding any State institution of higher education, shall pay to the Commissioner, for the Unemployment Compensation Trust Fund, an amount equal to the amount of benefits paid, including the full amount of extended benefits paid, attributable to service by individuals in the employ of the State. At the end of each calendar quarter, or at the end of any other period

as determined by the Commissioner, the Commissioner shall bill the State for the amount of benefits paid during ~~such~~ the quarter or other prescribed period that is attributable to service in the employ of the State. Subdivisions (c)(3)(C) through (3)(F), inclusive, and subdivisions (c)(5) and (6) of this section as they apply to nonprofit organizations shall also apply to the State of Vermont, except that the State shall be liable for all benefits paid, including the full amount of extended benefits paid, attributable to service in the employ of the State.

Sec. 8. 21 V.S.A. § 1361 is amended to read:

§ 1361. MANAGEMENT OF FUNDS UPON DISCONTINUANCE OF UNEMPLOYMENT TRUST FUND

The provisions of sections 1358–1360 of this ~~title~~ subchapter to the extent that they relate to the federal Unemployment Trust Fund, shall be operative only ~~so long as such~~ if the federal Unemployment Trust Fund continues to exist and ~~so long as~~ the U.S. Secretary of the Treasury continues to maintain for this State a separate book account of all Funds deposited ~~therein~~ in the federal Unemployment Trust Fund by this State for benefit purposes, together with this State's proportionate share of the earnings of ~~such~~ the Unemployment Trust Fund, from which only the Commissioner of Labor is permitted to make withdrawals. If and when ~~such Unemployment Trust Fund shall~~ federal law no longer ~~be required by the laws of the United States~~ requires the federal Unemployment Trust Fund to be maintained ~~as aforesaid~~ as a condition of approval of this chapter as provided in Title III of the Social Security Act, then all monies, properties, or securities ~~therein~~ in the federal Unemployment Trust Fund, belonging to the Unemployment Compensation Trust Fund of this State, shall be transferred to the treasurer of the Unemployment Compensation Trust Fund, who shall hold, invest, transfer, sell, deposit, and release ~~such~~ the monies, properties, or securities in a manner approved by the Commissioner and appropriate for trust funds, subject to all claims for benefits under this chapter.

Sec. 9. 21 V.S.A. § 1362 is amended to read:

§ 1362. UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

~~There is hereby created the~~ The Unemployment Compensation Administration Fund is created to consist of all monies received by the State or by the Commissioner for the administration of this chapter. ~~This special fund~~ The Unemployment Compensation Administration Fund shall be a special fund managed pursuant to 32 V.S.A. chapter 7, subchapter 5. The Unemployment Compensation Administration Fund shall be handled through

the State Treasurer as other State monies are handled, but it shall be expended solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of ~~such~~ this chapter and its balance shall not lapse at any time but shall remain continuously available to the Commissioner for expenditures consistent ~~herewith~~ with the provisions of this section. All federal monies allotted or apportioned to the State by the Secretary of Labor, or other agency, for the administration of this chapter shall be paid into the Unemployment Compensation Administration Fund and are hereby appropriated to ~~such~~ the Unemployment Compensation Administration Fund.

Sec. 10. 21 V.S.A. § 1365 is amended to read:

§ 1365. CONTINGENT FUND

(a) There is ~~hereby~~ created a special fund to be known as the Contingent Fund. All interest, fines, and penalties collected under the provisions of ~~the unemployment compensation law after April 1, 1947~~ this chapter, together with any voluntary contributions tendered as a contribution to ~~this~~ the Contingent Fund, shall be paid into ~~this~~ the Contingent Fund. ~~Such~~ The monies shall not be expended or available for expenditures in any manner ~~which~~ that would permit their substitution for, or a corresponding reduction in, federal funds ~~which~~ that would in the absence of ~~such~~ the monies be available to finance expenditures for the administration of the unemployment compensation law.

(b) ~~But nothing~~ Nothing in this chapter shall prevent ~~such~~ the monies from being used as a revolving fund to cover expenditures, necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of ~~such~~ the expenditures against ~~such~~ the funds when received.

(c) The monies in ~~this~~ the Contingent Fund shall be used by the Commissioner for the payment of costs of administration ~~which~~ that are found not to have been properly and validly chargeable against federal grants, or other funds, received for or in the Unemployment Compensation Administration Fund ~~on or after January 1, 1947~~. No expenditure of the Contingent Fund shall be made unless and until the Commissioner finds that no other funds are available or can properly be used to finance ~~such~~ the expenditures.

(d) The State Treasurer shall co-sign all expenditures from ~~this~~ the Contingent Fund authorized by the Commissioner.

(e) The monies in ~~this~~ the Contingent Fund are ~~hereby specifically made~~ available to replace, within a reasonable time, any monies received by this State pursuant to ~~section 302 of the federal Social Security Act, as amended, which~~ 42 U.S.C. § 502 that because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in excess of, those necessary for the proper administration of the unemployment compensation law.

(f) The monies in ~~this~~ the Contingent Fund shall be continuously available to the Commissioner for expenditure in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund except as ~~herein~~ provided pursuant to this section.

(g) ~~Provided, however, that on~~ On December 31 of each year, all monies in excess of $10,000.00 in ~~this~~ the Contingent Fund shall be transferred to the Unemployment Compensation Trust Fund. On or before March 31 of each year, an audit of ~~this~~ the Contingent Fund ~~will~~ shall be completed and a report of that audit ~~will~~ shall be made public.

(h) In the event that a refund of interest, a fine, or a penalty is found necessary, and ~~such~~ the interest, fine, or penalty has been deposited in the Contingent Fund, ~~such~~ the refund shall be made from the Contingent Fund.

* * * Workers' Compensation * * *

Sec. 11. 2023 Acts and Resolves No. 76, Sec. 38 is amended to read:

Sec. 38. ADOPTION OF RULES

The Commissioner of Labor shall, on or before July 1, 2024, adopt rules as necessary to implement the provisions of Secs. 29, 30, 31, 32, 33, 34, ~~35,~~ 36, and 37~~, and 38~~ of this act.

Sec. 12. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

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.

* * *

(I)(i) In the case of police officers, rescue or ambulance workers, ~~or~~ firefighters, or State employees, as that term is defined pursuant to subdivision

(iii)(VI) of this subdivision (11)(I), post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, ~~or~~ firefighter, or State employee who is diagnosed with post-traumatic stress disorder within three years ~~of~~ following the last active date of employment as a police officer, rescue or ambulance worker, ~~or~~ firefighter, or State employee shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) "Classified employee" means an employee in the classified service, as defined pursuant to 3 V.S.A. § 311.

(II) "Firefighter" means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

~~(II)~~(III) "Mental health professional" means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed to provide mental health care services and for whom diagnoses of mental conditions are within ~~his or her~~ the person's scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

~~(III)~~(IV) "Police officer" means a law enforcement officer who has been certified by the Vermont Criminal Justice Council pursuant to 20 V.S.A. chapter 151.

~~(IV)~~(V) "Rescue or ambulance worker" means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

(VI) "State employees" means:

(aa) facility employees of the Department of Corrections;

(bb) employees of the Department of Corrections who provide direct security or treatment services to offenders under supervision in the community;

(cc) classified employees of State-operated therapeutic community residences or inpatient psychiatric hospital units;

(dd) classified employees of public safety answering points;

(ee) classified employees of the Family Services Division of the Department for Children and Families;

(ff) classified employees of the Vermont Veterans' Home;

(gg) classified employees of the Department of State's Attorneys and Sheriffs, State's Attorneys, and employees of the Department of State's Attorneys and Sheriffs who are assigned to a State's Attorney's field office; and

(hh) classified employees in the Criminal Division of the Attorney General's Office.

* * *

Sec. 13. SURVEY OF FIRE DEPARTMENTS; REPORT

(a) The Executive Director of the Division of Fire Safety shall conduct an annual survey of Vermont municipal fire departments and private volunteer fire departments during calendar years 2025, 2027, and 2029 regarding the following information, to the extent such information is available to the departments:

(1) the number of firefighters in the department;

(2) the number of firefighters in the department who use tobacco products; and

(3) for each firefighter in the department, the firefighter's:

(A) age;

(B) gender;

(C) position or rank in the department;

(D) if a professional firefighter, the date of hire, and if a volunteer firefighter, the date on which service in the department began;

(E) the period of employment or service with the department;

(F) if the firefighter's employment or service with the department terminated during the previous 24 months, the date on which the employment or service terminated;

(G) if a professional firefighter, the annual salary or hourly wage paid by the department;

(H) if a volunteer firefighter, the annual salary or hourly wage paid by the volunteer firefighter's regular employment; and

(I) the number of fires responded to during the previous 24 months.

(b)(1) Except as provided pursuant to subsection (c) of this section, all information obtained as part of the surveys conducted pursuant to subsection (a) of this section shall be kept confidential and shall be exempt from public inspection and copying under the Public Records Act.

(2) The reports prepared pursuant to subsection (c) of this section shall present the results of the surveys conducted pursuant to subsection (a) of this section in an aggregated and anonymized manner and shall not include personally identifying information for any firefighter.

(c) On or before December 15 of 2025, 2027, and 2029, the Executive Director shall report to the Commissioner of Financial Regulation, the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development regarding the results of the survey.

Sec. 14. FIREFIGHTERS' WORKERS' COMPENSATION CLAIMS FOR CANCER; ANNUAL REPORT

(a) The Commissioner of Financial Regulation shall, on or before February 1 of 2026, 2028, and 2030, report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development regarding:

(1) the number of workers' compensation claims for cancer that were submitted by Vermont firefighters in the previous 24 months;

(2) the number and percentage of those claims that were approved;

(3) the types of cancer for which the claims were submitted; and

(4) national trends with respect to workers' compensation claims for cancer submitted by firefighters during the previous 24 months, including, to the extent that information is available, the number of claims filed, the rate of claim approval, and, to the extent information is available, the types of cancer for which claims were submitted.

(b) All workers' compensation insurers doing business in Vermont shall report to the Commissioner of Financial Regulation, in a time and manner specified by the Commissioner:

(1) the number of workers' compensation claims for cancer that were received by the insurer from Vermont firefighters;

(2) the number of those claims that were approved; and

(3) the types of cancer for which the claims were submitted.

(c) The February 1, 2030 report required pursuant to subsection (a) of this section shall, in addition to setting forth the information required pursuant to subsection (a):

(1) aggregate and summarize the data required pursuant to subsection (a) for the preceding six years;

(2) compare the incidence of cancer among firefighters in Vermont to the incidence of cancer among firefighters nationally; and

(3) include a recommendation regarding any legislative action needed to better address the occurrence of cancer among firefighters in Vermont.

Sec. 15. DIVISION OF FIRE SAFETY; FIRE DEPARTMENTS; SUBSIDY FOR ANNUAL CANCER SCREENING

(a) The Division of Fire Safety shall subsidize the cost of providing cancer screening to Vermont professional and volunteer firefighters, as well as all enrollees in the Vermont Fire Academy Firefighter I program, during fiscal year 2025 to the extent that funds are appropriated for that purpose.

(b)(1) Cancer screening subsidized pursuant to this section shall consist of:

(A) a multi-cancer early detection blood test;

(B) an ultrasound of vital organs, including abdominal aorta, thyroid, liver, gallbladder, spleen, bladder, kidney, testicles for males, and exterior pelvis for females; and

(C) any additional screening that the Executive Director determines to be appropriate.

(2) The Executive Director shall determine the specific types of screening tests to subsidize pursuant to the provision of this section in consultation with appropriate licensed medical professionals.

(c) The Executive Director may utilize the funds appropriated pursuant to subsection (a) of this section to:

(1) provide grants to fire departments to subsidize the cost of cancer screening; or

(2) contract directly with one or more entities to provide cancer screening to fire departments at a discounted rate; or

(3) both.

* * * Unpaid Medical Leave * * *

Sec. 16. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

* * *

(3) "Family leave" means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs 15 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) the serious ~~illness~~ health condition of the employee; or

(B) the serious ~~illness~~ health condition of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse.

(4) "Health care provider" means a licensed health care provider or a health care provider as defined pursuant to 29 C.F.R. § 825.125.

(5) "Parental leave" means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

* * *

~~(5)~~(6) "Serious ~~illness~~ health condition" means:

(A) an accident, illness, injury, disease, or physical or mental condition that:

~~(A)~~(i) poses imminent danger of death;

~~(B)~~(ii) requires inpatient care in a hospital, hospice, or residential medical care facility; or

~~(C)~~(iii) requires continuing ~~in-home care under the direction of~~ treatment by a ~~physician~~ health care provider; or

(B) rehabilitation from an accident, illness, injury, disease, or physical or mental condition described in subdivision (A) of this subdivision (6), including treatment for substance use disorder.

Sec. 17. 21 V.S.A. § 472 is amended to read:

§ 472. LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks:

* * *

(2) for family leave, for the serious ~~illness~~ health condition of the employee or the employee's child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse.

* * *

(e)(1) An employee shall give reasonable written notice of intent to take leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of a serious ~~illness~~ health condition of the employee or a member of the employee's family, an employer may require certification from a ~~physician~~ health care provider to verify the condition and the amount and necessity for the leave requested.

(4) An employee may return from leave earlier than estimated upon approval of the employer.

(5) An employee shall provide reasonable notice to the employer of ~~his or her~~ the need to extend leave to the extent provided by this ~~chapter~~ subchapter.

* * *

(h) Except for serious ~~illness~~ health condition of the employee, an employee who does not return to employment with the employer who provided the leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments for accrued sick leave or vacation leave.

* * * Baby Bonds Trust Program * * *

Sec. 18. 3 V.S.A. chapter 20 is added to read:

CHAPTER 20. VERMONT BABY BOND TRUST

§ 601. DEFINITIONS

As used in this chapter:

(1) "Designated beneficiary" means an individual born on or after July 1, 2024 who was eligible at birth for coverage in the Dr. Dynasaur program established in accordance with Title XIX (Medicaid) and Title XXI (SCHIP) of the Social Security Act or for coverage available pursuant to 33 V.S.A. chapter 19, subchapter 9.

(2) "Eligible expenditure" means an expenditure associated with any of the following, each as prescribed by the Treasurer:

(A) education of a designated beneficiary;

(B) purchase of a dwelling unit or real property in Vermont by a designated beneficiary;

(C) investment in a business in Vermont by a designated beneficiary; or

(D) investment or rollover in a qualified retirement account, Section 529 account, or Section 529A account established for the benefit of a designated beneficiary.

(3) "Trust" means the Vermont Baby Bond Trust established by this chapter.

§ 602. VERMONT BABY BOND TRUST; ESTABLISHMENT

(a) There is established the Vermont Baby Bond Trust, to be administered by the Office of the State Treasurer. The Trust shall constitute an instrumentality of the State and shall perform essential governmental functions as provided in this chapter. The Trust shall receive and hold until disbursed in accordance with section 607 of this title all payments, deposits, and contributions intended for the Trust; as well as gifts, bequests, and endowments; federal, State, and local grants; any other funds from any public or private source; and all earnings on these funds.

(b)(1) The amounts on deposit in the Trust shall not constitute property of the State, and the Trust shall not be construed to be a department, institution, or agency of the State. Amounts on deposit in the Trust shall not be commingled with State funds, and the State shall have no claim to or against, or interest in, the amounts on deposit in the Trust.

(2) Any contract entered into by, or any obligation of, the Trust shall not constitute a debt or obligation of the State, and the State shall have no obligation to any designated beneficiary or any other person on account of the Trust.

(3) All amounts obligated to be paid from the Trust shall be limited to the amounts available for that obligation on deposit in the Trust, and the availability of amounts for a class of designated beneficiaries does not constitute an assurance that amounts will be available to the same degree, or at all, to another class of designated beneficiaries. The amounts on deposit in the Trust shall only be disbursed in accordance with the provisions of section 607 of this title.

(4) The Trust shall continue in existence until it no longer holds any deposits or has any obligations and its existence is terminated by law. Upon termination, any unclaimed assets shall return to the State and shall be governed by the provisions of 27 V.S.A chapter 18.

(c) The Treasurer shall be responsible for receiving, maintaining, administering, investing, and disbursing amounts from the Trust. The Trust shall not receive deposits in any form other than cash.

§ 603. TREASURER'S TRUST AUTHORITY

The Treasurer, on behalf of the Trust and for purposes of the Trust, may:

(1) receive and invest monies in the Trust in any instruments, obligations, securities, or property in accordance with section 604 of this title;

(2) enter into one or more contractual agreements, including contracts for legal, actuarial, accounting, custodial, advisory, management, administrative, advertising, marketing, or consulting services, for the Trust and pay for such services from the assets of the Trust;

(3) procure insurance in connection with the Trust's property, assets, activities, or deposits and pay for such insurance from the assets of the Trust;

(4) apply for, accept, and expend gifts, grants, and donations from public or private sources to enable the Trust to carry out its objectives;

(5) adopt rules pursuant to 3 V.S.A. chapter 25;

(6) sue and be sued;

(7) establish one or more funds within the Trust and expend reasonable amounts from the funds for internal costs of administration; and

(8) take any other action necessary to carry out the purposes of this chapter.

§ 604. INVESTMENT OF FUNDS IN THE TRUST

The Treasurer shall invest the amounts on deposit in the Trust in a manner reasonable and appropriate to achieve the objectives of the Trust, exercising

the discretion and care of a prudent person in similar circumstances with similar objectives. The Treasurer shall give due consideration to the rate of return, risk, term or maturity, and liquidity of any investment; diversification of the total portfolio of investments within the Trust; projected disbursements and expenditures; and the expected payments, deposits, contributions, and gifts to be received. The Treasurer shall not invest directly in obligations of the State or any political subdivision of the State or in any investment or other fund administered by the Treasurer. The assets of the Trust shall be continuously invested and reinvested in a manner consistent with the objectives of the Trust until disbursed for eligible expenditures or expended on expenses incurred by the operations of the Trust.

§ 605. EXEMPTION FROM TAXATION

The property of the Trust and the earnings on the Trust shall be exempt from all taxation by the State or any political subdivision of the State.

§ 606. MONIES INVESTED IN TRUST NOT CONSIDERED ASSETS OR INCOME

(a) Notwithstanding any provision of law to the contrary, and to the extent permitted by federal law, no sum of money invested in the Trust shall be considered to be an asset or income for purposes of determining an individual's eligibility for assistance under any program administered by the Agency of Human Services.

(b) Notwithstanding any provision of law to the contrary, no sum of money invested in the Trust shall be considered to be an asset for purposes of determining an individual's eligibility for need-based institutional aid grants offered to an individual by a public postsecondary school located in Vermont.

§ 607. ACCOUNTING FOR DESIGNATED BENEFICIARY; CLAIMS REQUIREMENTS

(a) The Treasurer shall establish in the Trust an accounting for each designated beneficiary in the amount of $3,200.00. Each accounting shall include the initial amount of $3,200.00, plus the designated beneficiary's pro rata share of total net earnings from investments of sums held in the Trust.

(b) A designated beneficiary shall become eligible to receive the total sum of the accounting under subsection (a) of this section upon the designated beneficiary's 18th birthday and completion of a financial coaching requirement as prescribed by the Treasurer. The sum shall only be used for eligible expenditures.

(c) The Treasurer shall create a financial coaching program and materials designed to educate designated beneficiaries and others about the permissible use of funds available under this chapter.

(d) A designated beneficiary, or the designated beneficiary's authorized representative in the case of a designated beneficiary unable to make a claim due to disability, may submit a claim for accounting until the designated beneficiary's 30th birthday, provided the designated beneficiary is a resident of the State at the time of the claim. If a designated beneficiary dies before submitting a valid claim or fails to submit a valid claim before the designated beneficiary's 30th birthday, the designated beneficiary's accounting shall be credited back to the assets of the Trust.

(e) The Treasurer shall adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this section, including prescribing the process for submitting a valid claim for accounting.

§ 608. DATA SHARING

In carrying out the purposes of this chapter, the Treasurer may enter into an intergovernmental agreement or memorandum of understanding with any agency or instrumentality of the State requiring disclosure to execute the purposes of this chapter to receive outreach, technical assistance, enforcement, and compliance services; collection or dissemination of information pertinent to the Trust, including protected health information and personal identification information, subject to such obligations of confidentiality as may be agreed to or required by law; or other services or assistance.

§ 609. IMPLEMENTATION; PILOT PROGRAM

The Treasurer's duty to implement this chapter is contingent upon publication by the Treasurer of an official statement that the Treasurer has received donations designated for purposes of implementation or administration of the Trust in an amount sufficient to operate a pilot program. Upon publication, the Treasurer shall commence a pilot program implementing the Trust pursuant to the provisions of this chapter. The pilot program shall be used to evaluate the impact, effectiveness, and operational necessities of a permanent program consistent with this chapter.

Sec. 19. VERMONT BABY BOND TRUST; HOUSING OPPORTUNITIES; REPORT

(a) The Office of the State Treasurer, in consultation with interested stakeholders, shall evaluate the following issues and options under the Vermont Baby Bond Trust program established in 3 V.S.A. chapter 20:

(1) increasing housing opportunities in Vermont through investment of Trust funds, including:

(A) how the Treasurer may, consistent with the Treasurer's fiduciary obligations and subject to the provisions of 32 V.S.A. chapter 7, subchapter 2, invest the funds to advance housing opportunities in Vermont;

(B) the amount of funds that could be invested in this manner; and

(C) the anticipated impact of these investments on housing in Vermont;

(2) potential funding sources for the program;

(3) creating eligibility conditions for, and safeguards to protect, a beneficiary's investment in a business in Vermont;

(4) additional mechanisms to encourage beneficiaries to stay in Vermont, including:

(A) incentives to encourage beneficiaries to expend funds on education at in-State institutions; and

(B) the feasibility of limiting expenditures on education to in-State institutions while permitting waivers to access out-of-State institutions based on program availability and capacity;

(5) modifications to the financial coaching element of the program, including:

(A) ensuring a parent or caretaker of a beneficiary is made aware of the program at or around the time of the beneficiary's birth and offered a financial coaching program substantially similar to that offered beneficiaries;

(B) providing additional financial coaching opportunities for beneficiaries who delay withdrawing funds after meeting eligibility conditions;

(C) utilizing an advisory board to assist in developing the financial coaching element; and

(D) measures to expand financial coaching to all children living in Vermont;

(6) measures for achieving inflationary adjustment of the statutorily mandated accounting;

(7) whether additional needs-based programs administered by the State may be impacted by a beneficiary's entitlement to funds in the Trust;

(8) the feasibility of altering the program to permit unclaimed funds to roll over into a beneficiary's retirement account, including mechanisms for

creating an account on behalf of a beneficiary and ensuring funds in the account are not accessible until the beneficiary reaches retirement age; and

(9) any other issues relating to the Vermont Baby Bond Trust investments that the Treasurer identifies as warranting study.

(b) On or before January 15, 2025, the Office of the State Treasurer shall submit a written report to the General Assembly with its findings and any recommendations for legislative action.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

(a) This section and Sec. 11 (workers' compensation rulemaking technical corrections) shall take effect on passage.

(b) Sec. 3 (amending 21 V.S.A. § 1347(d)) shall take effect upon the earlier of July 1, 2026 or the implementation of the Department of Labor's updated unemployment insurance information technology system.

(c) The remaining sections shall take effect on July 1, 2024.

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

An act relating to miscellaneous unemployment insurance, workers' compensation, and employment practices amendments and to establishing the Vermont Baby Bond Trust

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 21, 2024, pages 517 - 529)

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

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs, with further recommendation of proposal of amendment as follows:

By striking out Sec. 20, effective dates, and its reader assistance heading in their entireties and inserting in lieu thereof two new sections and their reader assistance headings to read as follows:

* * * Extension of Vermont Employment Growth Incentive Program * * *

Sec. 20. 2016 Acts and Resolves No. 157, Sec. H.12, as amended by 2022 Acts and Resolves No. 164, Sec. 5 and 2023 Acts and Resolves No. 72, Sec. 39, is further amended to read:

Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD INCENTIVES

Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after ~~January 1, 2025~~ January 1, 2027.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Sec. 11 (workers' compensation rulemaking technical corrections) shall take effect on passage.

(b) Sec. 3 (amending 21 V.S.A. § 1347(d)) shall take effect upon the earlier of July 1, 2026 or the implementation of the Department of Labor's updated unemployment insurance information technology system.

(c) The remaining sections shall take effect on July 1, 2024.

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

An act relating to miscellaneous unemployment insurance, workers' compensation, and employment practices amendments, to establishing the Vermont Baby Bond Trust, and to the Vermont Employment Growth Incentive

(Committee vote: 7-0-0)

H. 233.

An act relating to licensure and regulation of pharmacy benefit managers.

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, 18 V.S.A. chapter 77, in section 3613, by striking out subdivision (b)(3) in its entirety and inserting in lieu thereof a new subdivision (b)(3) to read as follows:

(3)(A) In order to protect and promote patients' and consumers' interests in accordance with the Office's duties under chapter 229 of this title, the Office of the Health Care Advocate shall have the right to receive and

review in full, including any exhibits, attachments, appendices, or other supplementary materials, all of the following:

(i) the preliminary report of any examination conducted by or on behalf of the Commissioner under this section;

(ii) the pharmacy benefit manager's submissions or rebuttals to the report, if any;

(iii) the final examination report adopted by the Commissioner; and

(iv) the Commissioner's order adopting the final examination report.

(B) The Office of the Health Care Advocate shall not further disclose any confidential or proprietary information provided to the Office pursuant to this subdivision. Information provided to the Office pursuant to this subdivision (3) shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action.

(Committee vote: 3-2-0)

(For House amendments, see House Journal of March 19, 2024, pages 589 - 606)

Reported favorably by Senator Cummings for the Committee on Finance.

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)

H. 585.

An act relating to amending the pension system for sheriffs and certain deputy sheriffs.

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 by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Pension System for Sheriff and Deputy Sheriffs * * *

Sec. 1. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

* * *

(11) "Member" means any employee included in the membership of the Retirement System under section 457 of this title.

* * *

(F) "Group G member" means:

(i) the following employees who are first employed in the positions listed in this subdivision (F)(i) on or after July 1, 2023, or who are members of the System as of June 30, 2022 and make an irrevocable election to prospectively join Group G on or before June 30, 2023, pursuant to the terms set by the Board: facility employees of the Department of Corrections, ~~as~~ Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, ~~as~~ employees of a facility for justice-involved youth, ~~or as~~ and employees of the Vermont ~~State~~ Psychiatric Care Hospital ~~employees~~ or ~~as employees of~~ its successor in interest, who provide direct patient care; and

(ii) the following employees who are first employed in the positions listed in this subdivision (F)(ii) or first included in the membership of the System on or after January 1, 2025, or who are members of the System as of December 31, 2024 and make an irrevocable election to join Group G on or before December 31, 2024, pursuant to the terms set by the Board:

(I) all sheriffs; and

(II) deputy sheriffs who:

(aa) are employed by county sheriff's departments that participate in the Vermont Employees' Retirement System;

(bb) have attained Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council;

(cc) are required to perform law enforcement duties as the primary function of their employment; and

(dd) are not full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports as defined in 24 V.S.A. § 290(b) and eligible for Group C pursuant to 3 V.S.A. § 455(9)(B).

* * *

(13) "Normal retirement date" means:

* * *

(E) with respect to a Group G member:

(i) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont ~~State~~ Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who were first included in the membership of the System on or before June 30, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 62 years of age and following completion of five years of creditable service;

(II) completion of 30 years of creditable service; or

(III) 55 years of age and following completion of 20 years of creditable service; ~~or~~

(ii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, as employees of a facility for justice-involved youth, or employees of the Vermont ~~State~~ Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who were first included in the membership of the System on or after July 1, 2008, who were employed as of June 30, 2022, and who made an irrevocable election to prospectively join Group G on or before July 1, 2023, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 65 years of age and following completion of five years of creditable service;

(II) attainment of 87 points reflecting a combination of the age of the member and number of years of service; or

(III) 55 years of age and following completion of 20 years of creditable service; ~~or~~

(iii) for facility employees of the Department of Corrections, Department of Corrections employees who provide direct security and treatment services to offenders under supervision in the community, employees of a facility for justice-involved youth, or employees of the Vermont ~~State~~ Psychiatric Care Hospital or its predecessor or successor in interest, who provide direct patient care, who first become a Group G member on or after July 1, 2023, the first day of the calendar month next following the earlier of:

(I) attainment of 55 years of age and following completion of 20 years of creditable service; or

(II) 65 years of age and following completion of five years of creditable service~~.~~;

(iv) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who were first included in the membership of the System on or before June 30, 2008, who were employed as of December 31, 2024, and who made an irrevocable election to prospectively join Group G on or before January 1, 2025, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 62 years of age and following completion of five years of creditable service;

(II) completion of 30 years of creditable service; or

(III) 55 years of age and following completion of 20 years of creditable service;

(v) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who were first included in the membership of the System on or after July 1, 2008, who were employed as of December 31, 2024, and who made an irrevocable election to prospectively join Group G on or before January 1, 2025, pursuant to the terms set by the Board, the first day of the calendar month next following the earlier of:

(I) 65 years of age and following completion of five years of creditable service;

(II) attainment of 87 points reflecting a combination of the age of the member and number of years of service; or

(III) 55 years of age and following completion of 20 years of creditable service; or

(vi) for all sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision (11)(F)(ii) of this subsection (a), who first become a Group G member after January 1, 2025, the first day of the calendar month next following the earlier of:

(I) attainment of 55 years of age and following completion of 20 years of creditable service; or

(II) 65 years of age and following completion of five years of creditable service.

* * *

Sec. 2. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

* * *

(b) Normal retirement allowance.

* * *

(6)(A) Upon normal retirement pursuant to subdivisions 455(a)(13)(E)(i) ~~and~~, (iii), (iv), and (vi) of this chapter, a Group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 50 percent of average final compensation.

(B) Upon normal retirement pursuant to ~~subdivision~~ subdivisions 455(a)(13)(E)(ii) and (v) of this chapter, a Group G member shall receive a normal retirement allowance equal to two and one-half of a percent of the member's average final compensation times years of membership service in Group G. The maximum retirement allowance shall be 60 percent of average final compensation.

* * *

(d) Early retirement allowance.

* * *

(4)(A) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or before June 30, 2008, and who elected to transfer into Group G ~~on July 1, 2023~~ pursuant to the terms set by the Board, shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) one-half of one percent for each month equal to the difference

between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

(B) Upon early retirement, a Group G member who was previously a Group F member first included in the membership of the System on or after July 1, 2008, and who elected to transfer into Group G ~~on July 1, 2023~~ pursuant to the terms set by the Board, shall receive an early retirement allowance that shall be equal to the normal retirement allowance reduced by the lesser of (i) five-ninths of one percent for each month equal to the difference between the 240 months and the member's months of creditable service, or (ii) an amount that shall be the actuarial equivalent of the normal retirement allowance computed under subsection (b) of this section.

* * *

Sec. 3. 3 V.S.A. § 489 is amended to read:

§ 489. BENEFITS

Persons who become members of the Vermont State Retirement System under this subchapter and on behalf of whom contributions are paid as provided in this subchapter shall be entitled to benefits under the Vermont State Retirement System as though they were employees of the State of Vermont. These employees shall be considered "Group F members" as defined in subdivision 455(a)(11)(E) of this title, except that:

(1) elected municipal employees shall not be subject to mandatory retirement requirements; and

(2) sheriffs and those deputy sheriffs who meet the requirements pursuant to subdivision 455(a)(11)(F)(ii) of this chapter shall be considered members of Group G.

Sec. 4. ONE-TIME IRREVOCABLE ELECTION FOR SHERIFFS AND CERTAIN DEPUTY SHERIFFS

(a) Subject to the restrictions set forth in subdivision (c)(1) of this section, on or before September 1, 2024, the Department of State's Attorneys and Sheriffs, in consultation with the Department of Human Resources and the Office of the State Treasurer, shall establish a list of positions newly eligible for Group G of the Vermont State Employees' Retirement System, which shall be limited to the following:

(1) all sheriffs; and

(2) deputy sheriffs who:

(A) are employed by county sheriff's departments that participate in the Vermont State Employees' Retirement System;

(B) have a Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council;

(C) are required to perform law enforcement duties as the primary function of their employment; and

(D) are not full-time deputy sheriffs compensated by the State of Vermont whose primary function is transports as defined in 24 V.S.A. § 290(b) and eligible for Group C pursuant to 3 V.S.A. § 455(9)(B).

(b) In establishing any new deputy sheriff position on and after January 1, 2025, the Department of State's Attorneys and Sheriffs, in consultation with sheriff's departments, shall identify that position as eligible for either Group C membership or Group G membership pursuant to the criteria as set forth in subsection (a) of this section.

(c)(1) A sheriff or deputy sheriff who qualifies for Group G membership pursuant to this act and that has a current Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council shall have a one-time option to transfer to Group G on or before December 1, 2024. Sheriffs and deputy sheriffs without a current Level II or Level III law enforcement officer certification from the Vermont Criminal Justice Council shall not be eligible to transfer to Group G. For a sheriff or deputy sheriff who qualifies for Group G membership who is first employed on or after December 1, 2024 but before January 1, 2025, election to join Group G under this subsection shall be made as soon as possible but shall be within 30 days from the employee's date of hire.

(2) Election to join the Group G plan under this subsection shall be irrevocable.

(d) The effective date of participation in a new group plan for those employees covered under this section and who elect to transfer to Group G shall be January 1, 2025. All past service accrued through the date of transfer shall be calculated based upon the plan in which it was accrued, with all provisions and penalties, if applicable, applied.

(e) The Department of State's Attorneys and Sheriffs shall notify the Office of the State Treasurer of changes in a deputy sheriff's eligibility for Group G within 30 days of the change in eligibility, pursuant to 3 V.S.A. § 455(11)(F)(ii)(II).

(f) Nothing in this section shall be read to extend postretirement health or other insurance benefits to Group G deputy sheriffs who work for county sheriff's departments.

* * * Sheriff Compensation * * *

Sec. 5. LEGISLATIVE INTENT; SHERIFF COMPENSATION

It is the intent of the General Assembly that a sheriff's compensation shall correlate with the sheriff's level of law enforcement officer certification to properly reflect a sheriff's capability to perform the various duties required to effectively and efficiently manage a law enforcement agency that is the office of sheriff.

Sec. 6. 32 V.S.A. § 1182 is amended to read:

§ 1182. SHERIFFS

(a) The sheriffs of all counties except Chittenden shall be entitled to receive salaries in the amount of ~~$94,085.00~~ $104,010.00 as of ~~July 3, 2022~~ July 14, 2024 and ~~$97,754.00~~ $109,627.00 as of ~~July 2, 2023~~ July 13, 2025. The Sheriff of Chittenden County shall be entitled to an annual salary in the amount of ~~$99,566.00~~ $110,070.00 as of ~~July 3, 2022~~ July 14, 2024 and ~~$103,449.00~~ $116,014.00 as of ~~July 2, 2023~~ July 13, 2025.

(b) Compensation under subsection (a) of this section shall be reduced by 10 percent for any sheriff who has Level II but not obtained Level III law enforcement officer certification under 20 V.S.A. § 2358.

(c) Compensation under subsection (a) of this section shall be reduced by 20 percent for any sheriff who has Level I not obtained Level II law enforcement officer certification under 20 V.S.A. § 2358.

(d) Compensation under subsection (a) of this section shall be reduced by 30 percent for any sheriff who does not possess a law enforcement officer certification under 20 V.S.A. § 2358.

* * * State's Attorneys' Offices Operations Report * * *

Sec. 7. STATE'S ATTORNEYS' OFFICES OPERATIONS REPORT

On or before January 15, 2025, the Department of State's Attorney and Sheriffs shall report to the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations with:

(1) an analysis of current funding sources and procedures for compensating State's Attorneys as well as maintaining State's Attorneys' offices' operations, including existing or needed procedures for reducing compensation for State's

Attorneys who have their attorney license temporarily suspended or terminated;

(2) an analysis State's Attorneys' duties and the average proportions of time spent on duties requiring an attorney license versus duties not requiring an attorney license; and

(3) recommendations for levels of compensation reduction for State's Attorneys who have their attorney license temporarily suspended or terminated so that the compensation better reflects the individual's capability to perform the various duties required to effectively and efficiently manage a law office that is the office of State's Attorney.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-1-0)

(For House amendments, see House Journal of March 26, 2024, pages 833 - 840)

Reported favorably by Senator Chittenden for the Committee on Finance.

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

(Committee vote: 7-0-0)

H. 622.

An act relating to emergency medical services.

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

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

In Sec. 3, 33 V.S.A. § 1901m, subsection (b), following "equal to the," by striking out "Medicare basic life support rate" and inserting in lieu thereof applicable Medicare rate

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 22, 2024, pages 763 - 772)

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

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health and Welfare, with further recommendation of proposal of amendment as follows:

In Sec. 6, EMS Advisory Committee statewide EMS system design, as follows:

First: In subsection (b), following "statewide EMS system", by inserting before the comma that aligns with the purpose expressed in 18 V.S.A. § 901, optimizes patient care, and incorporates nationally recognized best practices

Second: By designating the existing subsection (c) as subdivision (c)(1) and by adding a subdivision (c)(2) to read as follows:

(2) The EMS Advisory Committee and the Department of Health shall coordinate with the Public Safety Communications Task Force and the County and Regional Governance Study Committee to ensure appropriate coordination and alignment of the groups' recommendations and system designs.

(Committee vote: 6-0-0)

An act relating to emergency medical services.

Reported favorably by Senator Chittenden for the Committee on Finance.

The Committee on Finance recommends that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committees on Health and Welfare and Government Operations.

(Committee vote: 7-0-0)

H. 780.

An act relating to judicial nominations and appointments.

Reported favorably with recommendation of proposal of amendment by Senator Norris 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. LEGISLATIVE INTENT

It is the intent of the General Assembly that if the Executive Director of Racial Equity designates another person to serve on the Judicial Nominating Board pursuant to 4 V.S.A. § 601(b)(1)(E), the person designated shall be an

employee of the Agency of Administration who has experience with diversity, equity, and inclusion issues.

Sec. 2. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

(a) The Judicial Nominating Board is created for the nomination of Supreme Court Justices, Superior judges, magistrates, and the Chair and members of the Public Utility Commission.

(b)(1) The Board shall consist of ~~11~~ 12 members who shall be selected as follows:

~~(1)~~(A) The Governor shall appoint two members ~~who are not attorneys,~~ one of whom may be an attorney at law.

~~(2)~~(B) The Senate shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

~~(3)~~(C) The House shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

~~(4)~~(D) Attorneys at law admitted to practice before the Supreme Court of Vermont, and residing in the State, shall elect three of their number as members of the Board. The Supreme Court shall regulate the manner of their nomination and election.

(E) The Executive Director of Racial Equity, or designee.

~~(5)~~(2) The members of the Board shall serve for terms of two years. All appointments or elections shall be between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. A House vacancy that occurs when the General Assembly is adjourned shall be filled by the Speaker of the House and a Senate vacancy that occurs when the General Assembly is adjourned shall be filled by the Senate Committee on Committees. Members shall serve until their successors are elected or appointed. Members shall serve ~~no~~ not more than three consecutive terms in any capacity.

~~(6)~~(3) The members shall elect their own chair, who will serve for a term of two years.

* * *

Sec. 3. 4 V.S.A. § 602 is amended to read:

§ 602. DUTIES; JUSTICES, JUDGES, MAGISTRATES, AND THE CHAIR OF THE PUBLIC UTILITY COMMISSION

(a)(1) Prior to submitting to the Governor the names of candidates for Justices of the Supreme Court, Superior Court judges, magistrates, and the Chair of the Public Utility Commission, the Judicial Nominating Board shall submit to the Court Administrator a list of all candidates, and ~~he or she~~ the Court Administrator shall disclose to the Board information solely about professional disciplinary action taken or pending concerning any candidate.

(2) From the list of candidates, the Judicial Nominating Board shall select by three-fourths majority vote, provided that a quorum is present, well-qualified candidates for the position to be filled.

(b) Whenever a vacancy occurs in the office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair of the Public Utility Commission, or when an incumbent does not declare that ~~he or she~~ the incumbent will be a candidate to succeed ~~himself or herself~~ themselves, the Board shall submit to the Governor the names of as many persons as it deems well qualified to be appointed to the office.

(c)(1) A candidate for judge or Justice shall be a Vermont resident and an experienced lawyer who has practiced law ~~in Vermont~~ for a minimum of ~~ten~~ 10 years, with at least five years in Vermont immediately preceding ~~his or her~~ the candidate's application to the Board. The Board may make exceptions to the ~~five-year~~ requirement ~~for absences from practice~~ that the candidate's five years of practice in Vermont be contiguous and immediately preceding the candidate's application for reasons including family, military, academic, or medical leave.

(2) A candidate for magistrate shall be a Vermont resident and an experienced lawyer who has practiced law in Vermont for at least five years immediately preceding ~~his or her~~ the candidate's application to the Board. The Board may make exceptions to the requirement that the candidate's five years of practice in Vermont be contiguous and immediately preceding the candidate's application for reasons including family, military, academic, or medical leave.

(3) A candidate for Chair of the Public Utility Commission shall not be required to be an attorney; however, if the candidate is admitted to practice law in Vermont, the Judicial Nominating Board shall submit the candidate's name to the Court Administrator, and ~~he or she~~ the Court Administrator shall disclose to the Board information solely about professional disciplinary action

taken or pending concerning the candidate. If a candidate is not admitted to practice law in Vermont~~,~~ but practices a profession requiring licensure, certification, or other professional regulation by the State, the Judicial Nominating Board shall submit the candidate's name to the State professional regulatory entity and that entity shall disclose to the Board any professional disciplinary action taken or pending concerning the candidate.

(d) A candidate shall possess the following attributes:

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

(2) Legal knowledge and ability. A candidate shall possess a high degree of knowledge of established legal principles and procedures and have demonstrated a high degree of ability to interpret and apply the law to specific factual situations.

(3) Judicial temperament. A candidate shall possess an appropriate judicial temperament.

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

(5) Communication capability. A candidate shall possess demonstrated oral and written capacities, with reasonable accommodations, required by the position.

(6) Financial integrity. A candidate shall possess demonstrated financial probity.

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

(8) Administrative capabilities. A candidate shall demonstrate management and organizational skills or experience required by the position.

(9) Courtroom experience. For Superior Court, a candidate shall have sufficient trial or other comparable experience that ensures knowledge of the Vermont Rules of Evidence and courtroom procedure. For the Environmental Division of the Superior Court, a candidate shall have experience in environmental and zoning law.

(10) Other. A candidate shall possess other attributes the Board deems relevant as identified through its rules.

(e) The Board shall consider the extent to which a candidate would contribute to a Judicial branch that has diverse backgrounds and a broad range of lived experience.

Sec. 4. 4 V.S.A. § 603 is amended to read:

§ 603. APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES, PUBLIC UTILITY COMMISSION CHAIR, AND MEMBERS

Whenever the Governor appoints a Supreme Court Justice, a Superior Judge, a magistrate, the Chair of the Public Utility Commission, or a member of the Public Utility Commission, ~~he or she~~ the Governor shall select from the list of names of ~~qualified~~ well-qualified persons submitted by the Judicial Nominating Board pursuant to law. The names of candidates submitted and not selected shall remain confidential.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 27, 2024, pages 317 - 321)

Reported favorably by Senator Sears 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 Judiciary.

(Committee vote: 7-0-0)

H. 867.

An act relating to miscellaneous amendments to the laws governing alcoholic beverages and the Board of Liquor and Lottery.

Reported favorably with recommendation of proposal of amendment by Senator Brock 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:

* * * Special Venue Serving Permit; Retail Establishments * * *

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in this title:

* * *

(38) "Special venue serving permit" means a permit granted by the Division of Liquor Control permitting an art gallery, ~~bookstore~~ retail establishment, public library, or museum to conduct an event at which malt or vinous beverages, or both, are served by the glass to the public. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; ~~"bookstore" means a fixed establishment whose primary purpose is to offer books for sale;~~ "public library" has the same meaning as in 22 V.S.A. § 101; and "museum" has the same meaning as in 27 V.S.A. § 1151. As used in this section, "retail establishment" does not include a Vermont agency liquor store or a cannabis establishment as that term is defined in section 861 of this title.

* * *

Sec. 2. 7 V.S.A. § 254 is amended to read:

§ 254. SPECIAL VENUE SERVING PERMITS

(a) The Division of Liquor Control may grant an art gallery, ~~bookstore~~ retail establishment, public library, or museum a special venue serving permit if the applicant has:

* * *

(c) A permit holder shall be subject to the provisions of this title and the rules of the Board regarding the service of alcoholic beverages. A permit holder shall be authorized to serve, but not sell, alcoholic beverages for not more than six hours and solely for consumption on the permitted premises.

* * *

(e) An art gallery, retail establishment, public library, or museum may be issued not more than 12 special venue serving permits in a calendar year.

(f) As used in this section, "retail establishment" does not include a Vermont agency liquor store or a cannabis establishment as that term is defined in section 861 of this title.

* * * 2026 Sunset of Special Venue Serving Permits for Retail Establishments * * *

Sec. 3. 7 V.S.A. § 254 is amended to read:

§ 254. SPECIAL VENUE SERVING PERMITS

(a) The Division of Liquor Control may grant an art gallery, ~~retail establishment,~~ public library, or museum a special venue serving permit if the applicant has:

* * *

(e) An art gallery, ~~retail establishment,~~ public library, or museum may be issued not more than 12 special venue serving permits in a calendar year.

~~(f) As used in this section, "retail establishment" does not include a Vermont agency liquor store or a cannabis establishment as that term is defined in section 861 of this title.~~

Sec. 4. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in this title:

* * *

(38) "Special venue serving permit" means a permit granted by the Division of Liquor Control permitting an art gallery, ~~retail establishment,~~ public library, or museum to conduct an event at which malt or vinous beverages, or both, are served by the glass to the public. As used in this section, "art gallery" means a fixed establishment whose primary purpose is to exhibit or offer for sale works of art; "public library" has the same meaning as in 22 V.S.A. § 101; and "museum" has the same meaning as in 27 V.S.A. § 1151. ~~As used in this section, "retail establishment" does not include a Vermont agency liquor store or a cannabis establishment as that term is defined in section 861 of this title.~~

* * *

* * * Sampling Event Permits * * *

Sec. 5. 7 V.S.A. § 253 is amended to read:

§ 253. SAMPLING EVENT PERMITS

* * *

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

* * *

* * * Special Event Permits * * *

Sec. 6. 7 V.S.A. § 252 is amended to read:

§ 252. SPECIAL EVENT PERMITS

* * *

(c) A licensed manufacturer or rectifier may be issued not more than ~~10~~ 20 special event permits for the same physical location in a calendar year.

* * * Liquor and Lottery Annual Report * * *

Sec. 7. 31 V.S.A. § 657 is amended to read:

§ 657. REPORT OF THE ~~BOARD~~ DEPARTMENT

The ~~Board~~ Department of Liquor and Lottery shall make an annual report to the Governor and to the General Assembly on or before the 10th day of ~~January~~ March in each year. The report shall include an account of the Board's actions and the receipts derived under the provisions of this chapter, the practical effects of the application of the proceeds of the Lottery, and any recommendation for legislation that the Board deems advisable.

* * * Extension of Liquor Liability Insurance Requirement * * *

Sec. 8. 2023 Acts and Resolves No. 17, Sec. 4 is amended to read:

Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 1 and 3 shall take effect on July 1, 2023.

(b) Sec. 2 shall take effect on July 1, ~~2024~~ 2026.

* * * Retail Master License Report * * *

Sec. 9. RETAIL MASTER LICENSE; REPORT

(a) On or before December 15, 2024, the Commissioner of Liquor and Lottery shall report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Government Operations and Military Affairs regarding the creation of a retail master license that can be granted to a person that acts as the parent corporation for licensed retail dealers or manufacturers that have merged and permits the license holder to provide unified payroll and administrative services for the licensed retail dealers or manufacturers. The report shall include a proposal for legislation to create the license and an appropriate license fee.

* * * Tobacco Retail Audit * * *

Sec. 10. TOBACCO RETAIL AUDIT; INTENT; REPORT

(a) It is the intent of the General Assembly that comprehensive data should be developed regarding the placement of beverage alcohol products in retail establishments to inform future public policy decisions by the General Assembly.

(b)(1) On or before January 15, 2025, the Department of Liquor and Lottery shall report to the House Committees on Government Operations and Military Affairs and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare regarding the results of the 2024 Tobacco Retail Audit.

(2) The report shall include detailed findings regarding the physical placement of beverage alcohol products within licensed retail establishments.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and Sec. 5 shall take effect on passage.

(b) Secs. 3 and 4 shall take effect on July 1, 2026.

(c) All other sections shall take effect on July 1, 2024.

(Committee vote: 4-1-0)

(For House amendments, see House Journal of March 19, 2024, pages 606 - 607)

Reported favorably by Senator Brock for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 7-0-0)

H. 873.

An act relating to financing the testing for and remediation of the presence of polychlorinated biphenyls (PCBs) in schools.

Reported favorably with recommendation of proposal of amendment by Senator Gulick for the Committee on Education.

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. PCB TESTING AND REMEDIATION IN SCHOOLS

(a) If a school is required to test for the presence of polychlorinated biphenyls (PCBs) pursuant to 2021 Acts and Resolves No. 74, Sec. E.709.1, the Agency of Natural Resources (ANR) shall conduct the testing or pay for testing conducted by the school.

(b) It is the intent of the General Assembly that ANR shall seek to hold the manufacturers of PCBs liable under 10 V.S.A. § 6615 for the cost of PCB investigation, remediation, environmental assessment, planning, management, or removal in schools. Prior to any judgment or settlement under which PCB manufacturers pay for PCB investigation, remediation, environmental assessment, planning, management, or removal in schools, it is the intent of the General Assembly, as signified by 2023 Acts and Resolves No. 78, Sec. C.112, that the State of Vermont shall pay for the costs of investigation, remediation, environmental assessment, planning, management, or removal of PCBs at any school where testing under 2021 Acts and Resolves No. 74, Sec. E.709.1 exceeded the State school action levels. When a judgment or settlement is reached under which PCB manufacturers pay for PCB investigation, remediation, environmental assessment, planning, management, or removal in schools, any funds received under the judgment or settlement related to PCBs in schools shall first be used to reimburse the State for the costs related to investigation, remediation, environmental assessment, planning, management, or removal of PCBs at schools that exceeded the State school action levels. Any reimbursed monies shall be deposited into the Fund from which the money was expended.

(c)(1) Beginning on July 1, 2024 and every month thereafter, the Secretary of Natural Resources shall report to the Secretary of Administration, the Joint Fiscal Committee, and the Emergency Board the following information regarding the funds appropriated to the Agency of Education and the Agency of Natural Resources in 2023 Acts and Resolves No. 78, Sec. C.112 and subsequent appropriations for investigation, remediation, environmental assessment, planning, management, or removal of PCBs at schools that test at levels exceeding the State school action levels:

(A) the amount of the funds that remain at the Agency of Education for grants to schools and the amount of funds that remain under other sources for investigation, remediation, environmental assessment, planning, management, or removal of PCBs at those schools;

(B) whether the funds appropriated to the Agency of Education for investigation, remediation, environmental assessment, planning, management, or removal of PCBs in schools are sufficient to fully fund grants to complete

investigation, remediation, environmental assessment, planning, management, or removal of PCBs at those schools that test at levels exceeding the State school action levels but that have not received a grant; and

(C) when the Secretary of Natural Resources estimates the funds appropriated to the Agency of Education for investigation, remediation, environmental assessment, planning, management, or removal of PCBs in schools will be insufficient to award grants to the remaining schools that will be required to complete investigation, remediation, environmental assessment, planning, management, or removal of PCBs.

(2) The Secretary of Natural Resources shall submit each report required by this subsection to the House Committees on Education and on Appropriations and the Senate Committees on Education and on Appropriations. When the General Assembly is not in session, the Secretary of Natural Resources shall also submit the report to the Joint Fiscal Committee and the Emergency Board.

(3) If the Secretary of Natural Resources fails to submit a report required by this subsection to the Secretary of Administration, the Joint Fiscal Committee, or the Emergency Board, a school shall not be required to initiate testing for PCBs until 15 days after the Secretary of Natural Resources has submitted a required report to the Secretary of Administration, the Joint Fiscal Committee, or the Emergency Board.

(d)(1) If the Secretary of Natural Resources reports under subsection (c) of this section that there is $4,000,000.00 or less of funds remaining at the Agency of Education for the investigation, remediation, environmental assessment, planning, management, or removal of PCBs, ANR shall not initiate testing or payment for initial testing for PCBs at a school under subsection (a) of this section, and a school shall not be required to initiate testing for PCBs until such time as the General Assembly enacts a comprehensive plan for funding PCB investigation, remediation, environmental assessment, planning, management, or removal of PCBs in schools or as provided in subdivision (2) of this subsection.

(2) If initial testing of a school for PCBs is paused under subdivision (1) of this subsection when the General Assembly is not in session, the Emergency Board is authorized to transfer $2,000,000.00 from the Environmental Contingency Fund to the Agency of Education for the purpose of providing grants to schools for the investigation, remediation, environmental assessment, planning, management, or removal of PCBs. Upon transfer under this subdivision, ANR is authorized to restart initial testing or payment for initial testing for PCBs at schools.

(e) If a school tested positive for the presence of PCBs in excess of the State school action levels and the State lacks sufficient funds for the investigation, remediation, environmental assessment, planning, management, or removal of PCBs in the school, the Secretary of Natural Resources shall submit to the House Committees on Education and on Appropriations and the Senate Committees on Education and on Appropriations the amount of funds that the General Assembly should appropriate to the Agency of Natural Resources to sufficiently fund investigation, remediation, environmental assessment, planning, management, or removal of PCBs in the school. As part of the submission to the General Assembly, the Secretary shall recommend the source of the necessary funds, provided that the Secretary shall first consider all other sources of funding before recommending the Education Fund as a source of the necessary funds.

(f) Notwithstanding subsection (b) of this section and the intent of the General Assembly to pay for the investigation, remediation, environmental assessment, planning, management, or removal of PCBs in schools, the State of Vermont shall not pay for the costs of investigation, remediation, environmental assessment, planning, management, or removal of PCBs in schools when the investigation, remediation, environmental assessment, planning, management, or removal was not in response to indoor air testing required pursuant to 2021 Acts and Resolves No. 74, Sec. E.709.1 but was part of a planned renovation or construction project at a school under which the PCBs would be remediated or removed as part of the project. This subsection shall not apply to the $16,000,000.00 reserved for the Burlington School District under 2023 Acts and Resolves No. 78, Sec. C.112.

Sec. 2. 2021 Acts and Resolves No. 74, Sec. E.709.1, as amended by 2022 Acts and Resolves No. 166, Sec. 8 and 2023 Acts and Resolves No. 78, Sec. C.111, is further amended to read:

Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND; POLYCHLORINATED BIPHENYLS (PCBs) TESTING IN SCHOOLS

(a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in Sec. D.101(a) of this act to the Environmental Contingency Fund, the Department of Environmental Conservation, in consultation with the Department of Health and the Agency of Education, shall use up to $4,500,000 to complete air indoor quality testing for Polychlorinated Biphenyls (PCBs) in public schools and approved and recognized independent schools that were constructed or renovated before 1980. ~~All schools subject to this subsection shall test for PCBs on or before July 1, 2027.~~

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 26, 2024, pages 881 - 882)

H. 875.

An act relating to the State Ethics Commission and the State Code of Ethics.

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 by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Candidate Financial Disclosure Requirements * * *

Sec. 1. 17 V.S.A. § 2414 is amended to read:

§ 2414. CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM

(a) Each candidate for State office, county office, State Senator, or State Representative shall file with the officer with whom consent of candidate forms are filed, along with ~~his or her~~ the candidate's consent, a disclosure form ~~prepared~~ created and maintained by the State Ethics Commission that contains the following information in regard to the previous ~~calendar year~~ 12 months:

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

(A) ~~employment,~~ including the candidate's employer or business name and address; and~~,~~

(B) if self-employed, a description of the nature of the self-employment ~~without needing to disclose any individual clients~~, including the names of any clients whose principal business activities are regulated by or that have a contract with any municipal or State office, department, or agency,

provided that this information is known to the candidate or the candidate's domestic partner and that the disclosed information is not confidential information; ~~and~~

~~(B) investments, described generally as "investment income."~~

(2) ~~Any~~ any board, commission, or other entity that is regulated by law ~~or that, receives funding from the State~~ on which the candidate served and the candidate's position on that entity~~.~~;

(3)(A) ~~Any~~ any company of which the candidate or ~~his or her~~ the candidate's spouse or domestic partner, or the candidate together with ~~his or her~~ the candidate's spouse or domestic partner, owned more than 10 percent~~.~~; and

(B) the details of any loan made to or by any applicable company in subdivision (A) of this subdivision (3) that is not a commercially reasonable loan made in the ordinary course of business, including any borrower and lender;

(4) any company of which the candidate or the candidate's spouse or domestic partner, or the candidate together with the candidate's spouse or domestic partner, had an ownership or controlling interest in any amount, and in the previous 12 months the company had business before or with any municipal or State office, agency, or department;

(5) ~~Any~~ any lease or contract with the State held or entered into by:

(A) the candidate or ~~his or her~~ the candidate's spouse or domestic partner; or

(B) a company of which the candidate or ~~his or her~~ the candidate's spouse or domestic partner, or the candidate together with ~~his or her~~ the candidate's spouse or domestic partner, owned more than 10 percent;

(6) a generalized description, but not amount, to the best of the candidate's knowledge, of the following investments held by a candidate or the candidate's spouse or domestic partner:

(A) individual stock holdings valued at $25,000.00 or more, which a candidate exercises control over or has the ability to exercise control over, which shall be listed individually;

(B) interests in investment funds valued at $25,000.00 or more that a candidate or the candidate's spouse or domestic partner has the ability to exercise control over, which shall be listed individually;

(C) interests in virtual currencies, as defined in 8 V.S.A. § 2500, valued at $25,000.00 or more, which shall be listed individually;

(D) interests in trusts valued at $25,000.00 or more, which shall be listed individually;

(E) municipal or State bonds issued in the State of Vermont of any value, which shall be listed individually; and

(F) the details of any loan made to the candidate or the candidate's spouse that is not a commercially reasonable loan made in the ordinary course of business; and

(7) the full name of the candidate's spouse or domestic partner.

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

(c) In addition, each candidate for State office shall attach to the disclosure form described in subsection (a) of this section a copy of ~~his or her~~ the candidate's most recent U.S. Individual Income Tax Return Form 1040; provided, however, that the candidate may redact from that form the following information:

(1) the candidate's Social Security number and that of ~~his or her~~ the candidate's spouse, if applicable;

(2) the names of any dependent and the dependent's Social Security number; ~~and~~

(3) the signature of the candidate and that of ~~his or her~~ the candidate's spouse, if applicable;

(4) the candidate's street address; and

(5) any identifying information and signature of a paid preparer.

(d)(1) A senatorial district clerk or representative district clerk who receives a disclosure form under this section shall forward a copy of the disclosure to the Secretary of State within three business days ~~of~~ after receiving it.

(2)(A) The Secretary of State shall post a copy of any disclosure forms and tax returns ~~he or she~~ the Secretary receives under this section on ~~his or her~~ the Secretary's official State website. The forms shall remain posted on the Secretary's website until the date of the filing deadline for petition and consent

forms for major party candidates for the statewide primary in the following election cycle.

* * *

(e) As used in this section:

(1) "Commercially reasonable loan made in the ordinary course of business" means a loan made:

(A) in the usual manner on any recognized market;

(B) at the price current in any recognized market at the time of making the loan; or

(C) otherwise in conformity with reasonable commercial practices among lenders typically dealing in the type of loan made.

(2) "Confidential information" means information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

(3) "County office" means the office of assistant judge of the Superior Court, high bailiff, judge of Probate, sheriff, or State's Attorney.

(4) "Domestic partner" means an individual with whom the candidate has an enduring domestic relationship of a spousal nature, ~~as long as~~ provided the candidate and the domestic partner:

* * *

~~(2)~~(5) "Lobbyist" and "lobbying firm" ~~shall~~ have the same meanings as in 2 V.S.A. § 261.

(6) "Investment fund" means a widely held investment fund that is publicly traded or available and has assets that are widely diversified. Investment funds include a mutual fund, regulated investment company, common trust fund maintained by a bank or similar financial institution, pension or deferred compensation plan, and any other pooled investment fund.

(7) "Widely diversified" means a fund that does not have a stated policy of concentrating its investments in any industry, business, or single country other than the United States or bonds of a single state within the United States.

* * * In-Office Financial Disclosure Requirements * * *

Sec. 2. 3 V.S.A. § 1201 is amended to read:

§ 1201. DEFINITIONS

As used in this chapter:

(1) "Candidate" and "candidate's committee" have the same meanings as in 17 V.S.A. § 2901.

(2) "Commission" means the State Ethics Commission established under subchapter 3 of this chapter.

(3) "Commercially reasonable loan made in the ordinary course of business" means a loan made:

(A) in the usual manner on any recognized market;

(B) at the price current in any recognized market at the time of making the loan; or

(C) otherwise in conformity with reasonable commercial practices among lenders typically dealing in the type of loan made.

(4) "Confidential information" means information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

(5) "Conflict of interest" means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant's immediate family, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant's public body, or that is in conflict with the proper discharge of the public servant's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(6) "County officer" means an individual holding the office of high bailiff, sheriff, or State's Attorney.

~~(4)~~(7) "Domestic partner" means an individual in an enduring domestic relationship of a spousal nature with the Executive officer or the public servant, provided the individual and Executive officer or public servant:

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

(B) are at least 18 years of age;

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

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

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

~~(5)~~(8) "Executive officer" means:

(A) a State officer; or

(B) a deputy under ~~the Office of the Governor~~ a State officer, including an agency secretary or deputy ~~or~~, and a department commissioner or deputy.

~~(6)~~(9) "Governmental conduct regulated by law" means conduct by an individual in regard to the operation of State government that is restricted or prohibited by law and includes:

(A) bribery pursuant to 13 V.S.A. § 1102;

(B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

(C) taking illegal fees pursuant to 13 V.S.A. § 3010;

(D) false claims against government pursuant to 13 V.S.A. § 3016;

(E) owning or being financially interested in an entity subject to a department's supervision pursuant to section 204 of this title;

(F) failing to devote time to duties of office pursuant to section 205 of this title;

(G) engaging in retaliatory action due to a State employee's involvement in a protected activity pursuant to chapter 27, subchapter 4A of this title;

(H) a former legislator or former Executive officer serving as a lobbyist pursuant to 2 V.S.A. § 266(b); ~~and~~

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title; and

(J) creating or permitting to persist any unlawful employment practice pursuant to 21 V.S.A. § 495.

~~(7)~~(10) "Immediate family" means an individual's spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

(11) "Investment fund" means a widely held investment fund, that is publicly traded or available and has assets that are widely diversified. Investment funds include a mutual fund, regulated investment company, common trust fund maintained by a bank or similar financial institution, pension or deferred compensation plan, and any other pooled investment fund.

~~(8)~~(12) "Lobbyist" and "lobbying firm" have the same meanings as in 2 V.S.A. § 261.

~~(9)~~(13) "Person" means any individual, group, business entity, association, or organization.

~~(10)~~(14) "Political committee" and "political party" have the same meanings as in 17 V.S.A. § 2901.

(15) "Public servant" means an individual elected or appointed to serve as a State officer, an individual elected or appointed to serve as a member of the General Assembly, a State employee, an individual appointed to serve on a State board or commission, or an individual who in any other way is authorized to act or speak on behalf of the State.

~~(11)~~(16) "State officer" means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.

(17) "Unethical conduct" means any conduct of a public servant in violation of the Code of Ethics, as provided for in this chapter.

(18) "Widely diversified" means a fund that does not have a stated policy of concentrating its investments in any industry, business, or single country other than the United States or bonds of a single state within the United States.

Sec. 2a. REPEAL

24 V.S.A. § 314 (Sheriffs; annual disclosure) is repealed.

Sec. 3. 3 V.S.A. § 1202 is amended to read:

§ 1202. STATE CODE OF ETHICS; APPLICABILITY

(a) Unless excluded under this section, the Code of Ethics applies to all ~~individuals elected or appointed to serve as officers of the State, all individuals elected or appointed to serve as members of the General Assembly, all State employees, all individuals appointed to serve on State boards and commissions, and individuals who in any other way are authorized to act or speak on behalf of the State. This code refers to them all as~~ public servants.

* * *

Sec. 4. 3 V.S.A. § 1203 is amended to read:

§ 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST

(a) Conflict of interest; appearance of conflict of interest.

(1) In the public servant's official capacity, the public servant shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(2) Except as otherwise provided in subsections (b) and (c) of this section, when confronted with a conflict of interest, a public servant shall recuse themselves from the matter and not take further action.

(3) ~~As used in this section, "conflict of interest" means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant's immediate family or household, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant's public body, or that is in conflict with the proper discharge of the public servant's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.~~ [Repealed.]

* * *

Sec. 5. 3 V.S.A. § 1211 is amended to read:

§ 1211. EXECUTIVE OFFICERS; ANNUAL DISCLOSURE

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

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

(A) ~~employment, including~~ the officer's employer or business name and address; and~~,~~

(B) if self-employed, a description of the nature of the self-employment ~~without needing to disclose any individual clients~~, including the names of any clients whose principal business activities are regulated by or that have a contract with any municipal or State office, department, or agency, provided that this information is known to the candidate or the candidate's domestic partner and that the disclosed information is not confidential information; ~~and~~

~~(B) investments, described generally as "investment income."~~

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

(3)(A) ~~Any~~ any company of which the officer or ~~his or her~~ the officer's spouse or domestic partner, or the officer together with ~~his or her~~ the officer's spouse or domestic partner, owned more than 10 percent~~.~~; and

(B) the details of any loan made to any applicable company in subdivision (A) of this subdivision (3) that is not a commercially reasonable loan made in the ordinary course of business, including any borrower and lender;

(4) any company of which the officer or the officer's spouse or domestic partner, or the officer together with the officer's spouse or domestic partner, had an ownership or controlling interest in any amount, and the company had business before or with any municipal or State office, agency, or department;

(5) ~~Any~~ any lease or contract with the State held or entered into by:

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

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

(6) a generalized description, but not amount, to the best of the candidate's knowledge, of the following investments held by a candidate or the candidate's spouse or domestic partner:

(A) individual stock holdings valued at $25,000.00 or more, which a candidate exercises control over or has the ability to exercise control over, which shall be listed individually;

(B) interests in investment funds valued at $25,000.00 or more that a candidate or the candidate's spouse or domestic partner has the ability to exercise control over, which shall be listed individually;

(C) interests in virtual currencies, as defined in 8 V.S.A. § 2500, valued at $25,000 or more, which shall be listed individually;

(D) interests in trusts valued at $25,000.00 or more, which shall be listed individually;

(E) municipal or State bonds issued in the State of Vermont of any value, which shall be listed individually; and

(F) the details of any loan made to the candidate or the candidate's spouse that is not a commercially reasonable loan made in the ordinary course of business; and

(7) the full name of the candidate's spouse or domestic partner.

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

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

(2) Each Executive officer and county officer shall sign ~~his or her~~ the officer's disclosure form in order to certify it in accordance with this subsection.

(d)(1) ~~An~~ Each Executive officer and county officer shall file ~~his or her~~ the officer's disclosure on or before January 15 of each year or, if ~~he or she~~ the officer is appointed after January 15, within 10 days after that appointment.

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

(e) [Repealed.]

* * * Delinquent Disclosures for Candidates for State Office, County Office, State Senator, and State Representative * * *

Sec. 6. 17 V.S.A. § 2415 is added to read:

§ 2415. FAILURE TO FILE; PENALTIES

(a) If any disclosure required of a candidate for State office, county office, State Senator, or State Representative by section 2414 of this title is not filed in the time and manner set forth in sections 2356, 2361, and 2402 of this title, the candidate for State office, county office, State Senator, or State Representative shall be addressed as follows:

(1) The State Ethics Commission, after notification by the Office of the Secretary of State of the names of delinquent filers, shall issue a notice of delinquency to the candidate for State office, county office, State Senator, or State Representative for any disclosure required of a candidate for State office, county office, State Senator, or State Representative by section 2414 of this

title that is not filed in the time and manner set forth in sections 2356, 2361, and 2402 of this title.

(2) Following notice of delinquency sent by the State Ethics Commission to the candidate for State office, county office, State Senator, or State Representative, the candidate shall have five working days from the date of the issuance of the notice to cure the delinquency.

(3) Beginning six working days from the date of notice, the delinquent candidate for State office, county office, State Senator, or State Representative shall pay a $10.00 penalty for each day thereafter that the disclosure remains delinquent; provided, however, that in no event shall the amount of any penalty imposed under this subdivision exceed $1,000.00.

(4) Notwithstanding subdivision (3) of this subsection (a), the State Ethics Commission may reduce or waive any penalty imposed under this section if the candidate for State office, county office, State Senator, or State Representative demonstrates good cause, as determined by the State Ethics Commission and in the sole discretion of the State Ethics Commission.

(b) The Commission shall send a notice of delinquency to the e-mail address provided by the candidate for State office, county office, State Senator, or State Representative in the candidate's consent of candidate form.

(c) The State Ethics Commission may avail itself of remedies available under the Vermont Setoff Debt Collection Act, as set forth in 32 V.S.A. chapter 151, subchapter 12, to collect any unpaid penalty.

(d)(1) A candidate for State office, county office, State Senator, or State Representative who files a disclosure with intent to defraud, falsify, conceal, or cover up by any trick, scheme, or device a material fact, or, with intent to defraud, make any false, fictitious, or fraudulent claim or representation as to a material fact, or, with intent to defraud, make or use any writing or document knowing the same to contain any false, fictitious, or fraudulent claim or entry as to a material fact shall be considered to have made a false claim for the purposes of 13 V.S.A. § 3016.

(2) Pursuant to 3 V.S.A. § 1223 and section 2904a of this title, complaints regarding any candidate for State office, county office, State Senator, or State Representative who fails to properly file a disclosure required under this subchapter may be filed with the State Ethics Commission. The Executive Director of the State Ethics Commission shall refer complaints to the Attorney General or to the State's Attorney of jurisdiction for investigation, as appropriate.

* * * Expansion of State Ethics Commission's Powers * * *

Sec. 7. 3 V.S.A. § 1221(a) is amended to read:

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

Sec. 8. 3 V.S.A. § 1222 is redesignated to read:

§ 1222. COMMISSION MEMBER ~~DUTIES AND~~ PROHIBITED CONDUCT

Sec. 9. 3 V.S.A. § 1223 is amended to read:

§ 1223. PROCEDURE FOR ~~HANDLING~~ ACCEPTING AND REFERRING COMPLAINTS

* * *

(b) Preliminary review by Executive Director. The Executive Director shall conduct a preliminary review of complaints made to the Commission in order to take action as set forth in this subsection and section 1223a of this title, which shall include referring complaints to all relevant entities, including the Commission itself.

* * *

(5) Municipal Code of Ethics. If the complaint alleges a violation of the Municipal Code of Ethics, the Executive Director shall refer the complaint to the designated ethics liaison of the appropriate municipality.

~~(5)~~(6) Closures. The Executive Director shall close any complaint that ~~he or she~~ the Executive Director does not refer as set forth in subdivisions (1)–~~(4)~~(5) of this subsection.

(c) Consultation on unethical conduct. If the Executive Director refers a complaint under subsection (b) of this section, the Executive Director shall signify any likely unethical conduct described in the complaint. Any entity receiving a referred complaint, except those in subdivision (b)(5) of this section, shall consult with the Commission regarding the application of the State Code of Ethics to facts presented in the complaint. The consultation

shall be in writing and occur within 60 days after an entity receives a referred complaint and prior to the entity making a determination on the complaint, meaning either closing a complaint without further investigation or issuing findings following an investigation.

(d) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential, except as provided for in section 1231 of this title.

Sec. 10. 3 V.S.A. § 1227 is added to read:

§ 1227. INVESTIGATIONS

(a) Power to investigate. The Commission, through its Executive Director, may investigate public servants for alleged unethical conduct. The Commission may investigate alleged unethical conduct after receiving a complaint pursuant to section 1223 of this title. The Commission may also investigate suspected unethical conduct without receiving any complaint.

(b) Initiation of investigation by Commission vote. The Executive Director shall only initiate an investigation upon an affirmative vote to proceed with the investigation of unethical conduct by a majority of current members of the Commission who have not recused themselves.

(c) Statute of limitations. The Commission shall only initiate an investigation relating to unethical conduct that last occurred within the prior two years.

(d) Outside legal counsel and investigators. The Executive Director may appoint legal counsel, who shall be an attorney admitted to practice in this State, and investigators to assist with investigations, hearings, and issuance of warnings, reprimands, and recommended actions.

(e) Notice. The Executive Director shall notify the complainant and public servant, in writing, of any complaint being investigated.

(f) Complainant participation. A complainant shall have the right to be heard in an investigation resulting from the complaint.

(g) Timeline of investigation. An investigation shall conclude within six months after either the date of the complaint received or, in the event no complaint was received, the date of the investigation's initiation by the Executive Director.

(h) Burden of proof. For a hearing to be warranted subsequent to an investigation, the Executive Director shall find that there is a reasonable basis to believe that the public servant's conduct constitutes an unethical violation.

(i) Determination after investigation.

(1) Upon investigating the alleged unethical conduct, if the Executive Director determines that an evidentiary hearing is warranted, the Executive Director shall notify the Commission. If a majority of current members of the Commission who have not recused themselves vote in concurrence with the Executive Director's determination that an evidentiary hearing is warranted, the Executive Director shall prepare an investigation report specifying the public servant's alleged unethical conduct, a copy of which shall be served upon the public servant and any complainant, together with the notice of hearing set forth in section 1228 of this title.

(2) Upon investigating the alleged unethical conduct, if the Executive Director determines that an evidentiary hearing is not warranted, the Executive Director shall notify the Commission, the public servant, and any complainant, in writing, of the result of the investigation and the termination of proceedings.

Sec. 11. 3 V.S.A. § 1228 is added to read:

§ 1228. HEARINGS BEFORE THE COMMISSION

(a) Power to hold hearings. The Commission may meet and hold hearings for the purpose of gathering evidence and testimony if found warranted pursuant to section 1227 of this title and to make determinations.

(b) All Commission hearings shall be considered meetings of the Commission as described in subsection 1221(e) of this title, and shall be conducted in accordance with 1 V.S.A. § 310 et seq.

(c) Time of hearing. The Chair of the Commission shall set a time for the hearing as soon as convenient following the Director's determination that an evidentiary hearing is warranted, subject to the discovery needs of the public servant and any complainant as established in any prehearing or discovery conference or in any orders regulating discovery and depositions, or both, but not earlier than 30 days after service of the charge upon the public servant. The public servant or a complainant may file motions to extend the time of the hearing for good cause, which may be granted by the Chair.

(d) Notice of hearing. The Chair shall give the public servant and any complainant reasonable notice of a hearing, which shall include:

(1) A statement of the time, place, and nature of the hearing.

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(3) A reference to the particular sections of the statutes and rules involved.

(4) A short and plain statement of the matters at issue. If the Commission is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application by either the public servant or any complainant, a more definite and detailed statement shall be furnished.

(5) A reference and copy of any rules adopted by the Commission regarding the hearing's procedures, rules of evidence, and other aspects of the hearing.

(e) Rights of public servants and complainants. Opportunity shall be given to the public servant and any complainant to be heard at the hearing, present evidence, respond to evidence, and argue on all issues related to the alleged unethical misconduct.

(f) Executive session. In addition to the provisions of 1 V.S.A. § 313(a), the Commission may enter executive session if the Commission deems it appropriate in order to protect the confidentiality of an individual or any other protected information pertaining to any identifiable person that is otherwise confidential under State or federal law.

Sec. 12. 3 V.S.A. § 1229 is added to read:

§ 1229. WARNINGS; REPRIMANDS; RECOMMENDED ACTIONS; AGREEMENTS

(a) Power to issue warnings, reprimands, and recommended actions. The Commission may issue warnings, reprimands, and recommended actions, not inconsistent with the Vermont Constitution and laws of the State, including facilitated mediation, additional training and education, referrals to counseling and wellness support, or other remedial actions.

(b) Factors in determination.

(1) Circumstances of unethical conduct. In this determining, the Commission shall consider the degree of unethical conduct, the timeline over which the unethical conduct occurred and whether the conduct was repeated, and the privacy, rights, and responsibilities of the parties.

(2) Determination based on evidence. The Commission shall render its determination on the allegation on the basis of the evidence in the record before it, regardless of whether the Commission makes its determination on the investigation report of the Executive Director pursuant to section 1227 of this title alone, on evidence and testimony presented in the hearing pursuant to section 1228 of this title, or on its own findings.

(3) Burden of proof. The Commission shall only issue a warning, reprimand, or recommended action if it finds that, by a preponderance of the evidence, the public servant committed unethical conduct.

(c) Determination after hearing.

(1) If a majority of current members of the Commission who have not recused themselves find that the public servant committed unethical conduct as specified in the investigation report the Executive Director pursuant to section 1227 of this title alone, the Commission shall then, in writing or stated in the record, issue a warning, reprimand, or recommended action.

(2) If the Commission does not find that the public servant committed unethical conduct, the Commission shall issue a statement that the allegations were not proved.

(3) When a determination or order is approved for issue by the Commission, the decision or order may be signed by the Chair on behalf of the Commission.

(d) Timeline for determination. The Commission shall make its determination within 30 days after concluding the Commission's last hearing under this section and notify the public servant and any complainant of the Committee's determination. This timeline may be extended by the Commission for good cause or pursuant to an agreement made between the Commission and the public servant.

(e) Referral of unethical conduct. Notwithstanding subsection 1223(c) of this title, the Commission shall notify the Attorney General or the State's Attorney of jurisdiction of any alleged violations of governmental conduct regulated by law or the relevant federal agency of any alleged violations of federal law, if discovered in the course of the Commission's investigations.

(f) Power to enter into resolution agreements.

(1) Notwithstanding any provisions of this chapter to the contrary, the Commission may, by a majority vote of its current members who have not recused themselves, enter into a resolution agreement with a public servant who is the subject of a complaint or investigation.

(2) A resolution agreement shall:

(A) include an agreed course of remedial action to be taken by the public servant;

(B) be in writing; and

(C) be executed by both the public servant and Executive Director.

(3) A resolution agreement may be entered into at any point in time before or during Commission proceedings. Any procedural deadlines described in this chapter or rules adopted pursuant to this chapter shall be paused at the time of execution of the resolution agreement. The Executive Director shall verify compliance with the resolution agreement within three months following execution of the agreement, and if the Executive Director is not satisfied that compliance has been achieved, the Commission may resume its initial proceedings.

(4) The Commission shall create a summary of any resolution agreement. A summary of any resolution agreement shall be a public record subject to public inspection and copying under the Public Records Act. A resolution agreement shall be exempt from public inspection and copying under the Public Records Act and shall be considered confidential.

Sec. 13. 3 V.S.A. § 1230 is added to read:

§ 1230. PROCEDURE; RULEMAKING

(a) Procedure. Unless otherwise controlled by statute or rules adopted by the Commission, the Vermont Rules of Civil Procedure and the Vermont Rules of Evidence shall apply in the Commission's investigations and hearings.

(b) Rulemaking. The Commission shall adopt rules pursuant to 3 V.S.A. chapter 25 regarding procedural and evidentiary aspects of the Commission's investigations and hearings.

(c) Waiver of rules. To prevent unnecessary hardship, delay, or injustice, or for other good cause, a vote of two-thirds of the Commission's members present and voting may waive the application of a rule upon such conditions as the Chair may require, unless precluded by rule or by statute.

(d) Subpoenas and oaths. The Commission, the Executive Director, and the Commission's legal counsel and investigators shall have the power to issue subpoenas and administer oaths in connection with any investigation or hearing, including compelling the provision of materials or the attendance of witnesses at any investigation or hearing. The Commission, the Executive Director, and the Commissioner's legal counsel shall seek voluntary compliance prior to issuing a subpoena, except in cases where there is reasonable suspicion that materials will not be produced in a timely manner. The Commission, the Executive Director, and the Commission's legal counsel and investigators may take or cause depositions to be taken as needed in any investigation or hearing.

Sec. 14. 3 V.S.A. § 1231 is added to read:

§ 1231. RECORDS; CONFIDENTIALITY

(a) Intent. It is the intent of this section both to protect the reputation of public servants from public disclosure of frivolous complaints against them and to fulfill the public's right to know any unethical conduct committed by a public servant that results in issued warnings, reprimands, or recommended actions.

(b) Public records. Except as where otherwise provided in this chapter, public records relating to the Commission's handling of complaints, alleged unethical conduct, investigations, proceedings, and executed resolution agreements are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except those public records required or permitted to be released under this chapter. Records subject to public inspection and copying under the Public Records Act shall include:

(1) investigation reports relating to alleged unethical conduct determined to warrant a hearing pursuant to section 1227 of this title, but not any undisclosed records gathered or created in the course of an investigation;

(2) at the request of the public servant or the public servant's designated representative, investigation reports relating to alleged unethical conduct determined to not warrant a hearing pursuant to section 1227 of this title, but not any undisclosed records gathered or created in the course of an investigation;

(3) evidence produced in the open and public portions of Commission hearings;

(4) any warnings, reprimands, and recommendations issued by the Commission;

(5) any summaries of executed resolution agreements; and

(6) any records, as determined by the Commission, that support a warning, reprimand, recommendation, or summary of an executed resolution agreement, including consultations created pursuant to subsection 1223(c) of this title and investigation reports in accordance with subdivisions (1) and (2) of this subsection.

(c) Court orders. Nothing in this section shall prohibit the disclosure of any information regarding alleged unethical conduct pursuant to an order from a court of competent jurisdiction, or to a State or federal law enforcement agency in the course of its investigation, provided the agency agrees to

maintain the confidentiality of the information as provided in subsection (b) of this section.

* * * State Ethics Commission Membership * * *

Sec. 15. 3 V.S.A. § 1221(b) is amended to read:

(b) Membership.

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

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

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

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

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

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

(F) one member, who shall be a former municipal officer, appointed by the Speaker of the House; and

(G) one member, who shall be a former municipal officer, appointed by the Senate Committee on Committees.

* * *

* * * State Ethics Commission Staffing * * *

Sec. 16. 3 V.S.A. § 1221(c) is amended to read:

(c) Executive Director.

(1) The Commission shall be staffed by an Executive Director who shall be appointed by and serve at the pleasure of the Commission ~~and who shall be a part-time exempt State employee~~.

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

Sec. 17. [Deleted.]

* * * Citation Correction * * *

Sec. 18. 3 V.S.A. § 1221(e) is amended to read:

(e) Meetings. Meetings of the Commission:

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

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

(3) shall be conducted in accordance with ~~1 V.S.A. § 172~~ 1 V.S.A. § 310 et seq.

* * * Ethics Data Collection * * *

Sec. 19. 3 V.S.A. § 1226 is amended to read:

§ 1226. ETHICS DATA COLLECTION; COMMISSION REPORTS

(a) Annually, on or before November 15, the following entities shall report to the State Ethics Commission aggregate data on ethics complaints not submitted to the Commission, with the complaints separated by topic, and the disposition of those complaints, including any prosecution, enforcement action, or dismissal:

(1) the office of the Attorney General and State's Attorneys' offices, of alleged violations of governmental conduct regulated by law and associated crimes and including campaign finance requirements;

(2) the Department of Human Resources, of complaints alleging conduct that violates the ethical provisions of the Department of Human Resources Personnel Policy and Procedure Manual or of the State Code of Ethics;

(3) the Senate Ethics Panel, of alleged unethical conduct committed by State Senators;

(4) the House Ethics Panel, of alleged unethical conduct committed by State Representatives;

(5) the Judicial Conduct Board, of alleged unethical conduct committed by a judicial officer;

(6) the Professional Responsibility Board, of alleged unethical conduct committed by an attorney employed by the State; and

(7) the Office of the State Court Administrator, of complaints alleging conduct that violates the ethical provisions of the Judicial Branch Personnel

Policy or of the State Code of Ethics, including for attorneys employed by the State.

(b) Annually, on or before January 15, the State Ethics Commission shall report to the General Assembly regarding the following issues:

(1) Complaints.

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

(B) The number and a summary of the complaints data received by the Commission pursuant to subsection (a) of this section.

* * *

* * * Repeal of Redundant Municipal Ethics Law * * *

Sec. 20. REPEAL

24 V.S.A. § 1984 (conflict of interest prohibition) is repealed.

Sec. 21. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(20) ~~To establish a conflict-of-interest policy to apply to all elected and appointed officials of the town, city, or incorporated village or ethical conduct policies to apply to all elected and appointed officials and employees of the municipality, or both.~~ [Repealed.]

* * *

* * * Creation of Municipal Code of Ethics * * *

Sec. 22. 24 V.S.A. chapter 60 is added to read:

CHAPTER 60. MUNICIPAL CODE OF ETHICS

§ 1991. DEFINITIONS

As used in this chapter:

(1) "Advisory body" means a public body that does not have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters.

(2) "Candidate" and "candidate's committee" have the same meanings as in 17 V.S.A. § 2901.

(3) "Commission" means the State Ethics Commission established under 3 V.S.A. chapter 31, subchapter 3.

(4) "Confidential information" means information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

(5) "Conflict of interest" means a direct or indirect interest of a municipal officer or such an interest, known to the officer, of a member of the officer's immediate family or household, or of a business associate, in the outcome of a particular matter pending before the officer or the officer's public body, or that is in conflict with the proper discharge of the officer's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(6) "Department head" means any authority in charge of an agency, department, or office of a municipality.

(7) "Designated complaint recipient" means:

(A) a department head or employee specifically designated or assigned to receive a complaint that constitutes protected activity, as set forth in section 1997 of this title;

(B) a board or commission of the State or a municipality;

(C) the Vermont State Auditor;

(D) a State or federal agency that oversees the activities of an agency, department, or office of the State or a municipality;

(E) a law enforcement officer as defined in 20 V.S.A. § 2358;

(F) a federal or State court, grand jury, petit jury, law enforcement agency, or prosecutorial office;

(G) the legislative body of the municipality, the General Assembly or the U.S. Congress; or

(H) an officer or employee of an entity listed in this subdivision (7) when acting within the scope of the officer's or employee's duties.

(8) "Domestic partner" means an individual in an enduring domestic relationship of a spousal nature with the municipal officer, provided the individual and municipal officer:

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

(B) are at least 18 years of age;

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

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

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

(9) "Illegal order" means a directive to violate, or to assist in violating, a federal, State, or local law.

(10) "Immediate family" means an individual's spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

(11) "Legislative body" means the selectboard in the case of a town, the mayor, alderpersons, and city council members in the case of a city, the president and trustees in the case of an incorporated village, the members of the prudential committee in the case of a fire district, and the supervisor in the case of an unorganized town or gore.

(12) "Municipal officer" or "officer" means:

(A) any member of a legislative body of a municipality;

(B) any member of a quasi-judicial body of a municipality; or

(C) any individual who holds the position of, or exercises the function of, any of the following positions in or on behalf of any municipality:

(i) advisory budget committee member;

(ii) auditor;

(iii) building inspector;

(iv) cemetery commissioner;

(v) chief administrative officer;

(vi) clerk;

(vii) collector of delinquent taxes;

(viii) department heads;

(ix) first constable;

(x) lister or assessor;

(xi) mayor;

(xii) moderator;

(xiii) planning commission member;

(xiv) road commissioner;

(xv) town or city manager;

(xvi) treasurer;

(xvii) village or town trustee;

(xviii) trustee of public funds; or

(xix) water commissioner.

(13) "Municipality" has the same meaning as in 1 V.S.A. § 126 but does not include town school districts or incorporated school districts.

(14) "Protected employee" means an individual employed on a permanent or limited status basis by a municipality.

(15) "Public body" has the same meaning as in 1 V.S.A. § 310.

(16) "Retaliatory action" includes any adverse performance or disciplinary action, including discharge, suspension, reprimand, demotion, denial of promotion, imposition of a performance warning period, or involuntary transfer or reassignment; that is given in retaliation for the protected employee's involvement in a protected activity, as set forth in section 1997 of this title.

§ 1992. CONFLICTS OF INTEREST

(a) Duty to avoid conflicts of interest. In the municipal officer's official capacity, the officer shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(b) Recusal.

(1) If a municipal officer is confronted with a conflict of interest or the appearance of one, the officer shall immediately recuse themselves from the matter, except as otherwise provided in subdivisions (2) and (5) of this

subsection, and not take further action on the matter or participate in any way or act to influence a decision regarding the matter. After recusal, an officer may still take action on the matter if the officer is a party, as defined by section 1201 of this title, in a contested hearing or litigation and acts only in the officer's capacity as a member of the public. The officer shall make a public statement explaining the officer's recusal.

(2)(A) Notwithstanding subdivision (1) of this subsection (b), an officer may continue to act in a matter involving the officer's conflict of interest or appearance of a conflict of interest if the officer first:

(i) determines there is good cause for the officer to proceed, meaning:

(I) the conflict is amorphous, intangible, or otherwise speculative;

(II) the officer cannot legally or practically delegate the matter; or

(III) the action to be taken by the officer is purely ministerial and does not involve substantive decision-making; and

(ii) the officer submits a written nonrecusal statement to the legislative body of the municipality regarding the nature of the conflict that shall:

(I) include a description of the matter requiring action;

(II) include a description of the nature of the potential conflict or actual conflict of interest;

(III) include an explanation of why good cause exists so that the municipal officer can take action in the matter fairly, objectively, and in the public interest;

(IV) be written in plain language and with sufficient detail so that the matter may be understood by the public; and

(V) be signed by the municipal officer.

(B) Notwithstanding subsection (A) of this subdivision (2), a municipal officer that would benefit from any contract entered into by the municipality and the officer, the officer's immediate family, or an associated business of the officer or the officer's immediate family, and whose official duties include execution of that contract, shall recuse themselves from any decision-making process involved in the awarding of that contract.

(C) Notwithstanding subsection (A) of this subdivision (2), a municipal officer shall not continue to act in a matter involving the officer's conflict of interest or appearance of a conflict of interest if authority granted to another official or public body elsewhere under law is exercised to preclude the municipal officer from continuing to act in the matter.

(3) If an officer's conflict of interest or the appearance of a conflict of interest concerns an official act or actions that take place outside a public meeting, the officer's nonrecusal statement shall be filed with the clerk of the municipality and be available to the public for the duration of the officer's service plus a minimum of five years.

(4) If an officer's conflict of interest is related to an official municipal act or actions considered at a public meeting, the officer's nonrecusal statement shall be filed as part of the minutes of the meeting of the public body in which the municipal officer serves.

(5) If, at a meeting of a public body, an officer becomes aware of a conflict of interest or the appearance of a conflict of interest for the officer and the officer determines there is good cause to proceed, the officer may proceed with the matter after announcing and fully stating the conflict on the record. The officer shall submit a written nonrecusal statement pursuant to subdivision (2) of this subsection within five business days after the meeting. The meeting minutes shall be subsequently amended to reflect the submitted written nonrecusal statement.

(c) Authority to inquire about conflicts of interest. If a municipal officer is a member of a public body, the other members of that body shall have the authority to inquire of the officer about any possible conflict of interest or any appearance of a conflict of interest and to recommend that the member recuse themselves from the matter.

(d) Confidential information. Nothing in this section shall require a municipal officer to disclose confidential information or information that is otherwise privileged under law.

§ 1993. PROHIBITED CONDUCT

(a) Directing unethical conduct. A municipal officer shall not direct any individual to act in a manner that would:

(1) benefit a municipal officer in a manner related to the officer's conflict of interest;

(2) create a conflict of interest or the appearance of a conflict of interest for the officer or for the directed individual; or

(3) otherwise violate the Municipal Code of Ethics as described in this chapter.

(b) Preferential treatment. A municipal officer shall act impartially and not unduly favor or prejudice any person in the course of conducting official business. An officer shall not give, or represent an ability to give, undue preference or special treatment to any person because of the person's wealth, position, or status or because of a person's personal relationship with the officer, unless otherwise permitted or required by State or federal law.

(c) Misuse of position. A municipal officer shall not use the officer's official position for the personal or financial gain of the officer, a member of the officer's immediate family or household, or the officer's business associate.

(d) Misuse of information. A municipal officer shall not use nonpublic or confidential information acquired during the course of official business for personal or financial gain of the officer or for the personal or financial gain of a member of the officer's immediate family or household or of an officer's business associate.

(e) Misuse of government resources. A municipal officer shall not make use of a town's, city's, or village's materials, funds, property, personnel, facilities, or equipment, or permit another person to do so, for any purpose other than for official business unless the use is expressly permitted or required by State law; ordinance; or a written agency, departmental, or institutional policy or rule. An officer shall not engage in or direct another person to engage in work other than the performance of official duties during working hours, except as permitted or required by law or a written agency, departmental, or institutional policy or rule.

(f) Gifts.

(1) No person shall offer or give to a municipal officer or candidate, or the officer's or candidate's immediate family, anything of value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the municipal officer or candidate would be, or had been, influenced thereby.

(2) A municipal officer or candidate shall not solicit or accept anything of value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the municipal officer or candidate would be or had been influenced thereby.

(3) Nothing in subdivision (1) or (2) of this subsection shall be construed to apply to any campaign contribution that is lawfully made to a candidate or candidate's committee pursuant to 17 V.S.A. chapter 61 or to permit any activity otherwise prohibited by 13 V.S.A. chapter 21.

(g) Unauthorized commitments. A municipal officer shall not make unauthorized commitments or promises of any kind purporting to bind the municipality unless otherwise permitted by law.

(h) Benefit from contracts. A municipal officer shall not benefit from any contract entered into by the municipality and the officer, the officer's immediate family, or an associated business of the officer or the officer's immediate family, unless:

(1) the benefit is not greater than that of other individuals generally affected by the contract;

(2) the contract is a contract for employment with the municipality;

(3) the contract was awarded through an open and public process of competitive bidding; or

(4) the total value of the contract is less than $2,000.00.

§ 1994. GUIDANCE AND ADVISORY OPINIONS

(a) Guidance.

(1) The Executive Director of the State Ethics Commission may provide guidance only to a municipal officer and only with respect to the officer's duties regarding any provision of this chapter or regarding any other issue related to governmental ethics.

(2) The Executive Director may consult with members of the State Ethics Commission and the municipality in preparing this guidance.

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

(b) Advisory opinions.

(1) On the written request of any municipal officer, the Executive Director may issue an advisory opinion to that officer that provides general advice or interpretation with respect to the officer's duties regarding any provision of this chapter or regarding any other issue related to governmental ethics.

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

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

(4) The Executive Director shall post on the Commission's website any advisory opinions that the Executive Director issues. Personally identifiable information is exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the municipal officer who is the subject of the advisory opinion authorizes the publication of the personally identifiable information.

§ 1995. ETHICS TRAINING

(a) Initial ethics training. Within 120 days after the election or appointment of a member of a legislative body or a quasi-judicial body, or a chief administrative officer, mayor, town or city manager, that individual shall complete ethics training, as approved by the State Ethics Commission. A municipality shall make a reasonable effort to provide training to all other municipal officers. The officer, the officer's employer, or another individual designated by the municipality shall document the officer's completed ethics training.

(b) Continuing ethics training. Upon completing initial ethics training, a municipal officer shall complete additional ethics training, as determined by the State Ethics Commission, every three years.

(c) Approval of training. Ethics trainings shall at minimum reflect the contents of the Municipal Ethics Code and be approved by the State Ethics Commission. Approval of ethics trainings shall not be unreasonably withheld. Ethics trainings shall be conducted by the State Ethics Commission, the municipality, or a third party approved in advance by the State Ethics Commission. The State Ethics Commission may approve trainings that are in person, online, and synchronous or asynchronous. The State Ethics Commission shall require ethics training to be designed in a manner as to achieve improved competency in the subject matter rather than rely on fixed hours of training as a measure of completed training.

(d) Training provided by the Commission.

(1) The State Ethics Commission shall develop and make available to municipalities ethics training required of municipal officers by subsections (a) and (b) of this section.

(2) The Commission shall develop and make available to municipalities trainings regarding how to investigate and resolve complaints that allege violations of the Municipal Code of Ethics.

(e) State Ethics Commission liaisons. Each municipality, acting through its legislative body, shall designate an employee as its liaison to the State Ethics Commission. If a municipality does not have any employees, the legislative body shall designate one of its members as its liaison to the State Ethics Commission. The municipality shall notify the Commission in writing of any newly designated liaison within 30 days after such change. The Commission shall disseminate information to the designated liaisons and conduct educational seminars for designated liaisons on a regular basis on a schedule to be determined by the Commission, in consultation with the municipality. The Commission shall report any ethics training conducted by the Commission and completed by an officer to the liaison of that officer's municipality.

§ 1996. DUTIES OF MUNICIPALITIES

Each municipality shall:

(1) Ensure that the following are posted on the town's, city's, or village's website or, if no such website exists, ensure that a copy of each is received by all municipal officers and is made available to the public upon request:

(A) the Municipal Code of Ethics;

(B) procedures for the investigation and enforcement of complaints that allege a municipal officer has violated the Municipal Code of Ethics, as required by section 1997 of this title; and

(C) any supplemental or additional ordinances, rules, and personnel policies regarding ethics adopted by a municipality.

(2) Maintain a record of municipal officers who have received ethics training pursuant to section 1995 of this title.

(3) Designate a municipal officer or body to receive complaints alleging violations of the Municipal Code of Ethics.

(4) Maintain a record of received complaints and the disposition of each complaint made against a municipal officer for the duration of the municipal officer's service plus a minimum of five years.

(5) Upon request of the State Ethics Commission, promptly provide the State Ethics Commission with a summary of complaints received by the municipality and the outcome of each complaint, but excluding any personally identifiable information.

§ 1997. ENFORCEMENT AND REMEDIES

Each municipality shall adopt, by ordinance, rule, or personnel policy, procedures for the investigation of complaints that allege a municipal officer has violated the Municipal Code of Ethics and the enforcement in instances of substantiated complaints, including methods of enforcement and available remedies.

§ 1998. WHISTLEBLOWER PROTECTION

(a) Protected activity.

(1) An agency, department, appointing authority, official, or employee of a municipality shall not engage in retaliatory action against a protected employee because the protected employee refuses to comply with an illegal order or engages in any of the following:

(A) providing to a designated complaint recipient a good faith report or good faith testimony that alleges an entity of a municipality, employee or official of a municipality, or a person providing services to a municipality under contract has engaged in a violation of law or in waste, fraud, abuse of authority, or a threat to the health of employees, the public, or persons under the care of a municipality; or

(B) assisting or participating in a proceeding to enforce the provisions of this section.

(2) No agency, department, appointing authority, official, or employee of a municipality shall attempt to restrict or interfere with, in any manner, a protected employee's ability to engage in any of the protected activity described in subdivision (1) of this subsection.

(3) No agency, department, appointing authority, or manager of a municipality shall require any protected employee to discuss or disclose the employee's testimony, or intended testimony, prior to the employee's appearance to testify before the General Assembly if the employee is not testifying on behalf of an entity of the municipality.

(4) No protected employee may divulge information that is confidential under State or federal law. An act by which a protected employee divulges such information shall not be considered protected activity under this subsection.

(5) In order to establish a claim of retaliation based upon the refusal to follow an illegal order, a protected employee shall assert at the time of the refusal the employee's good faith and reasonable belief that the order is illegal.

(b) Communications with legislative bodies of municipalities and the General Assembly.

(1) No entity of a municipality may prohibit a protected employee from engaging in discussion with a member of a legislative body or the General Assembly or from testifying before a committee of a municipality or a committee of the General Assembly; provided, however, that a protected employee may not divulge confidential information, and an employee shall be clear that the employee is not speaking on behalf of an entity of a municipality.

(2) No protected employee shall be subject to discipline, discharge, discrimination, or other adverse employment action as a result of the employee providing information to a member of a legislative body, a legislator, or a committee of a municipality or a committee of the General Assembly; provided, however, that the protected employee does not divulge confidential information and that the employee is clear that the employee is not speaking on behalf of any entity of the municipality. The protections set forth in this section shall not apply to statements that constitute hate speech or threats of violence against a person.

(3) In the event that an appearance before a committee of a municipality or committee of the General Assembly will cause a protected employee to miss work, the employee shall request to be absent from work and shall provide as much notice as is reasonably possible. The request shall be granted unless there is good cause to deny the request. If a request is denied, the decision and reasons for the denial shall be in writing and shall be provided to the protected employee in advance of the scheduled appearance. The protections set forth in this subsection (b) are subject to the efficient operation of municipal government, which shall prevail in any instance of conflict.

(c) Enforcement and preemption.

(1) Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of a protected employee under other federal, State, or local law, or under any collective bargaining agreement or employment contract, except the limitation on multiple actions as set forth in this subsection.

(2) A protected employee who files a claim of retaliation for protected activity with the Vermont Labor Relations Board or through binding arbitration under a grievance procedure or similar process available to the employee may not bring such a claim in Superior Court.

(3) A protected employee who files a claim under this section in Superior Court may not bring a claim of retaliation for protected activity under a grievance procedure or similar process available to the employee.

(d) Remedies. A protected employee who brings a claim in Superior Court may be awarded the following remedies:

(1) reinstatement of the employee to the same position, seniority, and work location held prior to the retaliatory action;

(2) back pay, lost wages, benefits, and other remuneration;

(3) in the event of a showing of a willful, intentional, and egregious violation of this section, an amount up to the amount of back pay in addition to the actual back pay;

(4) other compensatory damages;

(5) interest on back pay;

(6) appropriate injunctive relief; and

(7) reasonable costs and attorney's fees.

(e) Posting. Every agency, department, and office of a municipality shall post and display notices of protected employee protection under this section in a prominent and accessible location in the workplace.

(f) Limitations of actions. An action alleging a violation of this section brought under a grievance procedure or similar process shall be brought within the period allowed by that process or procedure. An action brought in Superior Court shall be brought within 180 days following the date of the alleged retaliatory action.

§ 1999. MUNICIPAL CHARTERS; SUPPLEMENTAL ETHICS POLICIES

(a) To the extent any provisions of this chapter conflict with the provisions of any municipal charter listed in Title 24 Appendix, the provisions of this chapter shall prevail.

(b) A municipality may adopt additional ordinances, rules, and personnel policies regarding ethics, provided that these are not in conflict with the provisions of this chapter.

* * * Initial Ethics Training for In-Office Municipal Officers * * *

Sec. 23. INITIAL ETHICS TRAINING FOR IN-OFFICE MUNICIPAL OFFICERS

On or before September 30, 2025, all municipal officers shall complete ethics training, which may be in person or online, as approved by the State

Ethics Commission, unless they have otherwise completed ethics training pursuant to 24 V.S.A § 1995 (ethics training). The State Ethics Commission shall require ethics training to be designed in a manner as to achieve improved competency in the subject matter rather than rely on fixed hours of training as a measure of completed training. The officer, the officer's employer, or another individual designated by the municipality shall document the officer's completed ethics training.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 13 (adding 3 V.S.A. § 1230) shall take effect on July 1, 2025, Secs. 7 (amending 3 V.S.A. § 1221(a)), 8 (amending 3 V.S.A. § 1222), 9 (amending 3 V.S.A. § 1223), 10 (adding 3 V.S.A. § 1227), 11 (adding 3 V.S.A. § 1228), 12 (adding 3 V.S.A. § 1229), and 14 (adding 3 V.S.A. § 1231) shall take effect on September 1, 2025, and Sec. 1 (amending 17 V.S.A. § 2414) shall take effect on January 1, 2026.

(Committee vote: 5-1-0)

(For House amendments, see House Journal of March 29, 2024, pages 1050 - 1054)

Reported favorably by Senator Perchlik 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 Government Operations.

(Committee vote: 7-0-0)

Report of Committee of Conference

H. 868.

An act relating to the fiscal year 2025 Transportation Program and miscellaneous changes to laws related to transportation.

To the Senate and House of Representatives:

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

H. 868 An act relating to the fiscal year 2025 Transportation Program and miscellaneous changes to laws related to transportation.

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

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

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) Adoption. The Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2025 budget (revised February 15, 2024), as amended by this act, is adopted to the extent federal, State, and local funds are available.

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

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

(2) "Candidate project" means a project approved by the General Assembly that is not anticipated to have significant expenditures for preliminary engineering or right-of-way expenditures, or both, during the budget year and funding for construction is not anticipated within a predictable time frame.

(3) "Development and evaluation (D&E) project" means a project approved by the General Assembly that is anticipated to have preliminary engineering expenditures or right-of-way expenditures, or both, during the budget year and that the Agency is committed to delivering to construction on a timeline driven by priority and available funding.

(4) "Electric vehicle supply equipment (EVSE)" and "electric vehicle supply equipment available to the public" have the same meanings as in 30 V.S.A. § 201.

(5) "Front-of-book project" means a project approved by the General Assembly that is anticipated to have construction expenditures during the budget year or the following three years, or both, with expected expenditures shown over four years.

(6) "Mileage-based user fee" or "MBUF" means a fee for vehicle use of the public road system with distance, stated in miles, as the measure of use.

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

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

(9) The table heading "As Proposed" means the Proposed Transportation Program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; the terms "change" or "changes" in the text refer to the project- and program-specific amendments,

the aggregate sum of which equals the net "Change" in the applicable table heading; and "State" in any tables amending authorizations indicates that the source of funds is State monies in the Transportation Fund, unless otherwise specified.

* * * Summary of Transportation Investments * * *

Sec. 2. FISCAL YEAR 2025 TRANSPORTATION INVESTMENTS INTENDED TO REDUCE TRANSPORTATION-RELATED GREENHOUSE GAS EMISSIONS, REDUCE FOSSIL FUEL USE, AND SAVE VERMONT HOUSEHOLDS MONEY

This act includes the State's fiscal year 2025 transportation investments intended to reduce transportation-related greenhouse gas emissions, reduce fossil fuel use, and save Vermont households money in furtherance of the policies articulated in 19 V.S.A. § 10b and the goals of the Comprehensive Energy Plan and the Vermont Climate Action Plan and to satisfy the Executive and Legislative Branches' commitments to the Paris Agreement climate goals. In fiscal year 2025, these efforts will include the following:

(1) Park and Ride Program. This act provides for a fiscal year expenditure of $1,464,833.00, which will fund one construction project to create a new park-and-ride facility; the design and construction of improvements to one existing park-and-ride facility; funding for a municipal park-and-ride grant program; and paving projects for existing park-and-ride facilities. This year's Park and Ride Program will create 60 new State-owned spaces. Specific additions and improvements include:

(A) Manchester—construction of 50 new spaces; and

(B) Sharon—design and construction of 10 new spaces.

(2) Bike and Pedestrian Facilities Program. This act provides for a fiscal year expenditure, including local match, of $11,648,752.00, which will fund 28 bike and pedestrian construction projects; 21 bike and pedestrian design, right-of-way, or design and right-of way projects for construction in future fiscal years; and eight scoping studies. The construction projects include the creation, improvement, or rehabilitation of walkways, sidewalks, shared-use paths, bike paths, and cycling lanes. Projects are funded in Arlington, Bennington, Bethel, Brattleboro, Burke, Burlington, Castleton, Chester, Enosburg Falls, Fair Haven, Fairfax, Hartford, Hyde Park, Jericho, Manchester, Middlebury, Montpelier, Moretown, Newport City, Northfield, Pawlet, Richford, Royalton, Rutland City, Rutland Town, Shaftsbury, Shelburne, Sheldon, South Burlington, Springfield, St. Albans City, St. Albans

Town, Sunderland, Swanton, Tunbridge, Vergennes, Wallingford, Waterbury, and West Rutland. This act also provides funding for:

(A) some of Local Motion's operation costs to run the bike ferry on the Colchester Causeway, which is part of the Island Line Trail;

(B) a small-scale municipal bicycle and pedestrian grant program for projects to be selected during the fiscal year;

(C) projects funded through the Safe Routes to School Program; and

(D) community grants along the Lamoille Valley Rail Trail (LVRT).

(3) Transportation Alternatives Program. This act provides for a fiscal year expenditure of $5,416,614.00, including local funds, which will fund 28 transportation alternatives construction projects; 28 transportation alternatives design, right-of-way, or design and right-of-way projects; and three studies, including scoping, historic preservation, and connectivity. Of these 59 projects, 21 involve environmental mitigation related to clean water or stormwater concerns, or both clean water and stormwater concerns, and 38 involve bicycle and pedestrian facilities. Projects are funded in Athens, Barre City, Brandon, Bridgewater, Bristol, Burke, Burlington, Cambridge, Castleton, Colchester, Derby, Enosburg Falls, Fair Haven, Fairfax, Franklin, Hartford, Hinesburg, Hyde Park, Jericho, Londonderry, Lyndon, Mendon, Middlebury, Montgomery, Newark, Newfane, Proctor, Richford, Richmond, Rockingham, Rutland City, Sharon, Shelburne, South Burlington, Springfield, St. Albans Town, Swanton, Tinmouth, Vergennes, Wardsboro, Warren, Weston, Williston, Wilmington, and Winooski.

(4) Public Transit Program. This act provides for a fiscal year expenditure of $56,170,225.00 for public transit uses throughout the State. Included in the authorization are:

(A) Go! Vermont, with an authorization of $405,000.00. This authorization supports transportation demand management (TDM) strategies, including the State's Trip Planner and commuter services, to promote the use of carpools and vanpools.

(B) Mobility and Transportation Innovations (MTI) Grant Program, with an authorization of $3,500,000.00, which includes $3,000,000.00 in federal Carbon Reduction Funds. This authorization continues to support projects that improve both mobility and access to services for transit-dependent Vermonters, reduce the use of single-occupancy vehicles, and reduce greenhouse gas emissions.

(5) Rail Program. This act provides for a fiscal year expenditure of $48,746,831.00, including local funds, for intercity passenger rail service,

including funding for the Ethan Allen Express and Vermonter Amtrak services, and rail infrastructure that supports freight rail as well. Moving freight by rail instead of trucks lowers greenhouse gas emissions by up to 75 percent, on average.

(6) Transformation of the State Vehicle Fleet.

(A) This act authorizes $1,100,000.00 of federal Carbon Reduction funds in the Environmental Policy and Sustainability program in fiscal year 2025 for the Agency of Transportation's Central Garage for fleet electrification.

(B) The Department of Buildings and General Services, which manages the State Vehicle Fleet, currently has 14 plug-in hybrid electric vehicles and 15 battery electric vehicles in the State Vehicle Fleet. In fiscal year 2025, the Commissioner of Buildings and General Services will continue to purchase and lease vehicles for State use in accordance with 29 V.S.A. § 903(g), which requires, to the maximum extent practicable, that the Commissioner purchase or lease hybrid or plug-in electric vehicles (PEVs), as defined in 23 V.S.A. § 4(85), with not less than 75 percent of the vehicles purchased or leased being hybrid or PEVs.

(7) Electric vehicle supply equipment (EVSE).

(A) This act provides for a fiscal year expenditure of $4,833,828.00 to increase the presence of EVSE in Vermont in accordance with the State's federally approved National Electric Vehicle Infrastructure (NEVI) Plan, which will lead to the installation of Direct Current Fast Charging (DC/FC) along designated alternative fuel corridors.

(B) This act also authorizes $1,700,000.00 to be distributed to the Agency of Commerce and Community Development in fiscal year 2025 for grants to increase Vermonters' access to level 1 and 2 EVSE charging ports at workplaces or multiunit dwellings, or both.

(8) Vehicle incentive programs and expansion of the PEV market. Incentive Program for New PEVs, MileageSmart, Replace Your Ride, and Electrify Your Fleet. It is estimated that prior appropriations of approximately the following amounts will be available for the State's vehicle incentive programs in fiscal year 2025:

(A) $2,600,000.00 for the Incentive Program for New PEVs;

(B) $200,000.00 for MileageSmart; and

(C) $900,000.00 for the Replace Your Ride Program.

(9) Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Formula Program. This act provides for a fiscal year expenditure of $3,871,435.00 under the PROTECT Formula Program. This year's PROTECT Formula Program funds will support increased resiliency at three bridge sites (Coventry, Wilmington, and Shaftsbury) in alignment with the VTrans Resilience Improvement Plan.

* * * Heating Systems in Agency of Transportation Buildings * * *

Sec. 3. 19 V.S.A. § 45 is added to read:

§ 45. HEATING SYSTEMS

(a) In accordance with the renewable energy goals set forth in the State Comprehensive Energy Plan, the Agency of Transportation shall strive to meet not less than 35 percent of its thermal energy needs from non-fossil fuel sources by 2025 and 45 percent by 2035.

(1) In order to meet these goals, the Agency will need to use more renewable fuels, such as local wood fuels, to heat its buildings and continue to increase its use of electricity that is generated from renewable sources.

(2) When building new Agency facilities or replacing heating equipment that has reached the end of its useful lifespan, the Agency shall prioritize switching to high-efficiency, advanced heating systems.

(b) On or before October 1 every other year, the Agency shall report to the Department of Buildings and General Services the percentage of the Agency's thermal energy usage during each of the previous two fiscal years that came from fossil fuels and from non-fossil fuels. The Agency shall report its non-fossil fuel percentage by fuel source and shall identify each type and amount of wood fuel used.

* * * Public Transit; Carbon Reduction Program;
Environmental Policy and Sustainability Program; Central Garage;
Electric Vehicle Supply Equipment (EVSE) * * *

Sec. 4. PUBLIC TRANSIT; CARBON REDUCTION PROGRAM; ENVIRONMENTAL POLICY AND SUSTAINABILITY PROGRAM; CENTRAL GARAGE; ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE)

(a) Public Transit.

(1) Within the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for Public Transit, authorized spending is amended as follows:

FY25	As Proposed	As Amended	Change
Person. Svcs.	4,612,631	4,612,631	0
Operat. Exp.	119,894	119,894	0
Grants	51,907,700	50,807,700	-1,100,000
Total	56,640,225	55,540,225	-1,100,000
Sources of funds			
State	9,807,525	9,807,525	0
Federal	46,692,700	45,592,700	-1,100,000
Interdept.	140,000	140,000	0
Total	56,640,225	55,540,225	-1,100,000

(2) The amendment set forth in subdivision (1) of this subsection shall be reflected in a $1,100,000.00 reduction of Carbon Reduction Funding for the Capital-CRF CRFP (24) (for Capital Support for E-Vehicles), from $4,000,000.00 to $2,900,000.00.

(b) Environmental Policy and Sustainability Program.

(1) Within the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for the Environmental Policy and Sustainability Program, authorized spending is amended as follows:

FY25	As Proposed	As Amended	Change
Person. Svcs.	6,953,362	6,953,362	0
Operat. Exp.	76,411	1,176,411	1,100,000
Grants	1,480,000	1,480,000	0
Total	8,509,773	9,609,773	1,100,000
Sources of funds			
State	531,909	531,909	0
Federal	6,800,327	7,900,327	1,100,000
Local	1,177,537	1,177,537	0
Total	8,509,773	9,609,773	1,100,000

(2) Of the funds authorized by this subsection, the Environmental Policy and Sustainability Program, in consultation with Central Garage, shall spend $1,100,000.00 for electrification of the Central Garage fleet.

(c) Central Garage. Within the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for the Central Garage, authorized spending is amended as follows:

FY25	As Proposed	As Amended	Change
Person. Svcs.	5,480,920	5,480,920	0
Operat. Exp.	19,170,315	18,070,315	-1,100,000
Total	24,651,235	23,551,235	-1,100,000
Sources of funds			
Int. Svc.	24,651,235	23,551,235	-1,100,000
Total	24,651,235	23,551,235	-1,100,000

(d) Electric vehicle supply equipment (EVSE). Notwithstanding of 19 V.S.A. § 11a or any other provision of law to the contrary, the Agency shall distribute $1,700,000.00 in one-time Transportation Fund monies to the Agency of Commerce and Community Development for the purpose of providing grants to increase Vermonters' access to level 1 and 2 EVSE charging ports at workplaces or multiunit dwellings, or both, as those terms are defined in 2022 Acts and Resolves No. 185, Sec. E.903.

* * * Highway Maintenance * * *

Sec. 5. HIGHWAY MAINTENANCE

Within the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for Maintenance, authorized spending is amended as follows:

FY25	As Proposed	As Amended	Change
Person. Svcs.	42,757,951	42,757,951	0
Operat. Exp.	65,840,546	63,680,546	-2,160,000
Total	108,598,497	106,438,497	-2,160,000
Sources of funds			
State	107,566,483	105,406,483	-2,160,000
Federal	932,014	932,014	0
Inter Unit	100,000	100,000	0
Total	108,598,497	106,438,497	-2,160,000

* * * Maintenance Program; Central Garage; Restoration of Appropriations * * *

Sec. 6. MAINTENANCE PROGRAM; CENTRAL GARAGE; RESTORATION OF APPROPRIATIONS

Restoring the fiscal year 2025 Maintenance Program and Central Garage appropriations and authorizations to the levels included in the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program shall be the top fiscal priorities of the Agency.

(1) If there are unexpended State fiscal year 2024 appropriations of Transportation Fund monies, then, at the close of State fiscal year 2024, an amount up to $3,260,000.00 of any unencumbered Transportation Fund monies appropriated in 2023 Acts and Resolves No. 78, Secs. B.900–B.922, which would otherwise be authorized to carry forward, is reappropriated for the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program, with up to $2,160,000.00 directed to Maintenance and up to $1,100,000.00 directed to the Central Garage, 30 days after the Agency sends written notification of the request for the unencumbered Transportation Fund monies to be reappropriated to the Joint Transportation Oversight Committee, provided that the Joint Transportation Oversight Committee does not send written objection to the Agency.

(2) If the Agency utilizes available federal monies in lieu of one-time Transportation Fund monies for Green Mountain Transit pursuant to Sec. 9(c) of this act, then the one-time Transportation Fund monies authorized for expenditure pursuant to Sec. 9(b) of this act that are not required for public transit may instead go towards restoring the Maintenance and Central Garage appropriations.

(3) If any unencumbered Transportation Fund monies are reappropriated pursuant to subdivision (1) of this subsection or made available pursuant to subdivision (2) of this subsection, then, within the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for Maintenance, authorized spending is further amended to increase operating expenses by not more than $2,160,000.00 in Transportation Fund monies and, within the Agency's Proposed Fiscal Year 2025 Transportation Program for the Central Garage, authorized spending is further amended to increase operating expenses by not more than $1,100,000.00 in Transportation Fund monies.

(4) Notwithstanding subdivisions (1)–(3) of this subsection, the Agency may request further amendments to the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for Maintenance and the Central Garage through the State fiscal year 2025 budget adjustment act.

* * * Town Highway Aid * * *

Sec. 7. TOWN HIGHWAY AID MONIES

Within the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for Town Highway Aid, and notwithstanding the provisions of 19 V.S.A. § 306(a), authorized spending is amended as follows:

FY25	As Proposed	As Amended	Change
Grants	28,672,753	29,532,753	860,000
Total	28,672,753	29,532,753	860,000
Sources of funds			
State	28,672,753	29,532,753	860,000
Total	28,672,753	29,532,753	860,000

* * * Town Highway Structures * * *

Sec. 8. TOWN HIGHWAY STRUCTURES MONIES

(a) Within the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program for Town Highway Structures, authorized spending is amended as follows:

FY25	As Proposed	As Amended	Change
Grants	7,416,000	8,016,000	600,000
Total	7,416,000	8,016,000	600,000
Sources of funds			
State	7,416,000	8,016,000	600,000
Total	7,416,000	8,016,000	600,000

(b) In State fiscal year 2025, the Agency shall approve qualifying projects with a total estimated State share cost that is at least $600,000.00 more than the minimum set forth in 19 V.S.A. § 306(e)(2).

* * * One-Time Public Transit Monies * * *

Sec. 9. ONE-TIME PUBLIC TRANSIT MONIES; GREEN MOUNTAIN TRANSIT; FARE COLLECTION, EVALUATION, AND REORGANIZATION; REPORT

(a) Project addition. The following project is added to the Agency of Transportation's Proposed Fiscal Year 2025 Transportation Program: Increased One-Time Monies for Public Transit for Fiscal Year 2025.

(b) Authorization. Spending authority for Increased One-Time Monies for Public Transit for Fiscal Year 2025 is authorized as follows:

FY25	As Proposed	As Amended	Change
Other	0	630,000	630,000
Total	0	630,000	630,000
Sources of funds			
State	0	630,000	630,000
Total	0	630,000	630,000

(c) Federal monies. The Agency shall utilize available federal monies in lieu of the authorization in subsection (b) of this section to the greatest extent practicable, provided that there is no negative impact on any local public transit providers.

(d) Implementation. The Agency shall distribute the authorization in subsection (b) of this section to Green Mountain Transit as one-time bridge funding for fiscal year 2025 while Green Mountain Transit stabilizes its finances, adjusts its service levels, and transitions to a sustainable funding model.

(e) Conditions; report. As a condition of receiving the grant funding, Green Mountain Transit shall do all of the following:

(1) begin collecting fares for urban and commuter transit service not later than June 1, 2024;

(2) in coordination with the Agency of Transportation, Special Service Transportation Agency, Rural Community Transportation, and Tri-Valley Transit, evaluate alternative options for delivering cost-effective urban fixed-route transit service, rural transit service, commuter service, and any other specialized services currently provided, and prepare a proposed implementation plan, including a three-year cost and revenue plan, for recommended service transitions; and

(3) submit to the House and Senate Committees on Transportation an interim report on or before November 15, 2024 and a final report on or before February 1, 2025, detailing the findings, recommendations, and implementation plan as described in subdivision (2) of this subsection.

* * * eBike Incentives; Public Transit Programs; Authorization * * *

Sec. 10. ONE-TIME EBIKE INCENTIVE PROGRAM MONIES

(a) The definitions in 19 V.S.A. § 2901 shall apply to this section.

(b) In fiscal year 2025, the Agency is authorized to spend up to $70,000.00 in one-time Transportation Fund monies to provide incentives under the eBike Incentive Program established pursuant to 2021 Acts and Resolves No. 55, Sec. 28, as amended by 2022 Acts and Resolves No. 184, Sec. 23.

* * * Agency of Transportation Duties; Bonding * * *

Sec. 11. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The Agency shall, except where otherwise specifically provided by law:

* * *

(9) Require any contractor or contractors employed in any project of the Agency for construction of a transportation improvement to file an additional surety bond to the Secretary and the Secretary's successor in office, for the benefit of labor, materialmen, and others, executed by a surety company authorized to transact business in this State~~,~~. The surety bond shall be in such sum as the Agency shall direct, conditioned for the payment, settlement, liquidation, and discharge of the claims of all creditors for material, merchandise, labor, rent, hire of vehicles, power shovels, rollers, concrete mixers, tools, and other appliances, professional services, premiums, and other services used or employed in carrying out the terms of the contract between the contractor and the State and further conditioned for the following accruing during the term of performance of the contract: the payment of taxes, both State and municipal, and contributions to the Vermont Commissioner of Labor~~, accruing during the term of performance of the contract. However~~, provided, however, in order to obtain the benefit of the security, the claimant shall file with the Secretary a sworn statement of the claimant's claim, within 90 days after the final acceptance of the project by the State or within 90 days from the time the taxes or contributions to the Vermont Commissioner of Labor are due and payable, and, within one year after the filing of the claim, shall bring a petition in the Superior Court in the name of the Secretary, with notice and summons to the principal, surety, and the Secretary, to enforce the claim or intervene in a petition already filed. The Secretary may, if the Secretary determines that it is in the best interests of the State, accept other good and sufficient surety in lieu of a bond and, in cases involving contracts for $100,000.00 or less, may waive the requirement of a surety bond.

* * *

* * * Delays; Transportation Program Statute;
Increased Estimated Costs; Technical Corrections * * *

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

§ 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM; ADVANCEMENTS, CANCELLATIONS, AND DELAYS

(a) Proposed Transportation Program. The Agency of Transportation shall annually present to the General Assembly for adoption a multiyear Transportation Program covering the same number of years as the Statewide Transportation Improvement Program (STIP), consisting of the recommended budget for all Agency activities for the ensuing fiscal year and projected spending levels for all Agency activities for the following fiscal years. The Program shall include a description and year-by-year breakdown of recommended and projected funding of all projects proposed to be funded within the time period of the STIP and, in addition, a description of all projects that are not recommended for funding in the first fiscal year of the proposed Program but that are scheduled for construction during the time period covered by the STIP. The Program shall be consistent with the planning process established by 1988 Acts and Resolves No. 200, as codified in 3 V.S.A. chapter 67 and 24 V.S.A. chapter 117, the statements of policy set forth in sections 10b–10f of this title, and the long-range systems plan, corridor studies, and project priorities developed through the capital planning process under section 10i of this title.

(b) Projected spending. Projected spending in future fiscal years shall be based on revenue estimates as follows:

* * *

(c) Systemwide performance measures. The Program proposed by the Agency shall include systemwide performance measures developed by the Agency to describe the condition of the Vermont transportation network. The Program shall discuss the background and utility of the performance measures, track the performance measures over time, and, where appropriate, recommend the setting of targets for the performance measures.

(d) [Repealed.]

(e) Prior expenditures and appropriations carried forward.

* * *

(f) Adopted Transportation Program. Each year following ~~enactment~~ adoption of a Transportation Program under this section, the Agency shall prepare and make available to the public the Transportation Program ~~established~~ adopted by the General Assembly. The resulting document shall be entered in the permanent records of the Agency ~~and of the Board,~~ and shall constitute the State's official Transportation Program.

(g) Project updates. The Agency's annual proposed Transportation Program shall include project updates referencing this section and listing the following:

(1) all proposed projects in the Program that would be new to the State Transportation Program ~~if adopted~~;

(2) all projects for which total estimated costs have increased by more than ~~$8,000,000.00~~ $5,000,000.00 from the estimate in the adopted Transportation Program for the prior fiscal year or by more than ~~100~~ 75 percent from the estimate in the ~~prior fiscal year's approved~~ adopted Transportation Program for the prior fiscal year; ~~and~~

(3) all projects for which the total estimated costs have, for the first time, increased by more than $10,000,000.00 from the Preliminary Plan estimate or by more than 100 percent from the Preliminary Plan estimate; and

(4) all projects funded for construction in the prior fiscal year's ~~approved~~ adopted Transportation Program that are no longer funded in the proposed Transportation Program submitted to the General Assembly, the projected costs for such projects in the prior fiscal year's ~~approved~~ adopted Transportation Program, and the total costs incurred over the life of each such project.

(h) ~~Should~~ Project delays; emergency and safety issues; additional funding; cancellations.

(1) If capital projects in the Transportation Program ~~be~~ are delayed because of unanticipated problems with permitting, right-of-way acquisition, construction, local concern, or availability of federal or State funds, the Secretary is authorized to advance other projects in the ~~approved~~ adopted Transportation Program for the current fiscal year.

(2) The Secretary is further authorized to undertake projects to resolve emergency or safety issues that are not included in the adopted Transportation Program for the current fiscal year. Upon authorizing a project to resolve an emergency or safety issue, the Secretary shall give prompt notice of the decision and action taken to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session~~,~~ and ~~when the General Assembly is not in session,~~ to the Joint Transportation Oversight Committee, the Joint Fiscal Office, and the Joint Fiscal Committee when the General Assembly is not in session. ~~Should an approved~~

(3) If a project in the ~~current~~ adopted Transportation Program ~~require~~ for the current fiscal year requires additional funding to maintain the ~~approved~~

schedule in the adopted Transportation Program for the current fiscal year, the Agency is authorized to allocate the necessary resources. However, the Secretary shall not delay or suspend work on ~~approved~~ projects in the adopted Transportation Program for the current fiscal year to reallocate funding for other projects except when other funding options are not available. In such case, the Secretary shall notify the Joint Transportation Oversight Committee, the Joint Fiscal Office, and the Joint Fiscal Committee when the General Assembly is not in session and the House and Senate Committees on Transportation and the Joint Fiscal Office when the General Assembly is in session. With respect to projects in the approved Transportation Program, the Secretary shall notify~~, in the district affected,~~ the regional planning commission for the district where the affected project is located, the municipality where the affected project is located, the legislators for the district where the affected project is located, the House and Senate Committees on Transportation, and the Joint Fiscal Office of any change that likely will affect the fiscal year in which the project is planned to go to construction.

(4) No project shall be canceled without the approval of the General Assembly, except that the Agency may cancel a municipal project upon the request or concurrence of the municipality, provided that notice of the cancellation is included in the Agency's annual proposed Transportation Program.

(i) Economic development proposals. For the purpose of enabling the State, without delay, to take advantage of economic development proposals that increase jobs for Vermonters, a transportation project certified by the Governor as essential to the economic infrastructure of the State economy, or a local economy, may, if approval is required by law, be approved for construction by a committee comprising the Joint Fiscal Committee meeting with the ~~Chairs~~ chairs of the ~~Transportation~~ House and Senate Committees on Transportation or their designees without explicit project authorization through an ~~enacted~~ adopted Transportation Program~~, in the event that such authorization is otherwise required by law~~.

(j) Plan for advancing projects. The Agency of Transportation, in coordination with the Agency of Natural Resources and the Division for Historic Preservation, shall prepare and implement a plan for advancing ~~approved~~ projects contained in the ~~approved~~ adopted Transportation Program for the current fiscal year. The plan shall include the assignment of a project manager from the Agency of Transportation for each project. The Agency of Transportation, the Agency of Natural Resources, and the Division for Historic Preservation shall set forth provisions for expediting the permitting process and establishing a means for evaluating each project during concept design

planning if more than one agency is involved to determine whether it should be advanced or deleted from the Program.

(k) ~~For purposes of~~ Definition. As used in subsection (h) of this section, "emergency or safety issues" ~~shall mean~~ means:

(1) serious damage to a transportation facility caused by a natural disaster over a wide area, such as a flood, hurricane, earthquake, severe storm, or landslide; ~~or~~

(2) catastrophic or imminent catastrophic failure of a transportation facility from any cause; ~~or~~

(3) any condition identified by the Secretary as hazardous to the traveling public; or

(4) any condition evidenced by fatalities or a high incidence of crashes.

(l) Numerical grading system; priority rating. The Agency shall develop a numerical grading system to assign a priority rating to all Program Development Paving, Program Development Roadway, Program Development Safety and Traffic Operations, Program Development State and Interstate Bridge, Town Highway Bridge, and Bridge Maintenance projects. The rating system shall consist of two separate, additive components as follows:

(1) One component shall be limited to asset management- and performance-based factors that are objective and quantifiable and shall consider~~, without limitation,~~ the following:

* * *

(2) The second component of the priority rating system shall consider~~, without limitation,~~ the following factors:

* * *

(m) Inclusion of priority rating. The annual proposed Transportation Program shall include an individual priority rating pursuant to subsection (l) of this section for each highway paving, roadway, safety and traffic operations, and bridge project in the ~~program~~ Program along with a description of the system and methodology used to assign the ratings.

(n) Development and evaluation projects; delays. The Agency's annual proposed Transportation Program shall include a project-by-project description in each program of all proposed spending of funds for the development and evaluation of projects. ~~In the approved annual Transportation Program, these~~ These funds shall be reserved to the identified projects subject to the discretion of the Secretary to reallocate funds to other projects within the program when

it is determined that the scheduled expenditure of the identified funds will be delayed due to permitting, local decision making, the availability of federal or State funds, or other unanticipated problems.

(o) Year of first inclusion. For projects initially ~~approved by the General Assembly for inclusion in the State~~ included in a Transportation Program adopted after January 1, 2006, the Agency's proposed Transportation Program prepared pursuant to subsection (a) of this section and the ~~official~~ adopted Transportation Program prepared pursuant to subsection (f) of this section shall include the year in which ~~such~~ the projects were first ~~approved by the General Assembly~~ included in an adopted Transportation Program.

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

* * *

Sec. 13. PLAN FOR REPORTING DELAYS; REPORT

The Agency of Transportation shall file a written report containing a plan for how to provide sufficient notice when projects in the adopted Transportation Program are delayed to the House and Senate Committees on Transportation not later than December 15, 2024.

* * * Appropriation Calculations * * *

* * * Central Garage Fund * * *

Sec. 14. 19 V.S.A. § 13(c) is amended to read:

(c)(1) For the purpose specified in subsection (b) of this section, the following amount, at a minimum, shall be transferred from the Transportation Fund to the Central Garage Fund:

(A) ~~in fiscal year 2021, $1,355,358.00; and~~

~~(B) in subsequent fiscal years, at a minimum,~~ the amount ~~specified in subdivision (A) of this subdivision (1) as adjusted annually by increasing~~ transferred for the previous fiscal ~~year's amount by the percentage increase in the~~ year increased by the percentage change in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) ~~during the two most recently closed State fiscal years~~ if the percentage change is positive; or

(B) the amount transferred for the previous fiscal year if the percentage change is zero or negative.

* * *

(3) For purposes of subdivision (1) of this subsection, the percentage change in the CPI-U is calculated by determining the increase or decrease, to the nearest one-tenth of a percent, in the CPI-U for the month ending on June 30 in the calendar year one year prior to the first day of the fiscal year for which the transfer will be made compared to the CPI-U for the month ending on June 30 in the calendar year two years prior to the first day of the fiscal year for which the transfer will be made.

* * * Town Highway Aid * * *

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

(a) General State aid to town highways.

(1) An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall increase over the previous fiscal year's appropriation by the same percentage change as the following, whichever is less, or shall remain at the previous fiscal year's appropriation if either of the following are negative or zero:

(A) the ~~year-over-year increase in the two most recently closed fiscal years in~~ percentage change of the Agency's total appropriations funded by Transportation Fund revenues, excluding appropriations for town highways under this subsection (a), for the most recently closed fiscal year as compared to the fiscal year immediately preceding the most recently closed fiscal year; or

(B) the percentage ~~increase~~ change in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) ~~during the same period in subdivision (1)(A) of this subsection~~.

(2) ~~If the year-over-year change in appropriations specified in either subdivision (1)(A) or (B) of this subsection is negative, then the appropriation to town highways under this subsection shall be equal to the previous fiscal year's appropriation~~ For purposes of subdivision (1)(B) of this subsection, the percentage change in the CPI-U is calculated by determining the increase or decrease, to the nearest one-tenth of a percent, in the CPI-U for the month ending on June 30 in the calendar year one year prior to the first day of the fiscal year for which the appropriation will be made compared to the CPI-U for the month ending on June 30 in the calendar year two years prior to the first day of the fiscal year for which the appropriation will be made.

* * *

* * * Right-of-Way Permits; Fees * * *

Sec. 16. 19 V.S.A. § 1112 is amended to read:

§ 1112. DEFINITIONS; FEES

(a) As used in this section:

(1) "Major commercial development" means a commercial development for which the Agency requires the applicant to submit a traffic impact study in support of its application under section 1111 of this ~~title~~ chapter.

(2) "Minor commercial development" means a commercial development for which the Agency does not require the applicant to submit a traffic impact study in support of its application under section 1111 of this ~~title~~ chapter.

* * *

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

* * *

(3) minor commercial development: $250.00

* * *

(c) Notwithstanding subdivision (b)(3) of this section, the Secretary may waive the collection of the fee for a permit issued pursuant to section 1111 of this chapter for a minor commercial development if the Governor has declared a state of emergency under 20 V.S.A. chapter 1 and the Secretary has determined that the permit applicant is facing hardship, provided that the permit is applied for during the declared state of emergency or within the six months following the conclusion of the declared state of emergency.

* * * Vehicle Incentive Programs * * *

* * * Replace Your Ride Program * * *

Sec. 17. 19 V.S.A. § 2904(d)(2)(B) is amended to read:

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

(i) An "older low-efficiency vehicle":

* * *

(VI) passed the annual inspection required under 23 V.S.A. § 1222 within the prior ~~year~~ 18 months.

* * *

Sec. 18. 19 V.S.A. § 2904a is added to read:

§ 2904a. REPLACE YOUR RIDE PROGRAM FLEXIBILITY; EMERGENCIES

Notwithstanding subdivisions 2904(d)(2)(A) and (d)(2)(B)(i)(IV)–(VI) of this chapter, the Agency of Transportation is authorized to waive or modify the eligibility requirements for the Replace Your Ride Program under subdivisions (d)(2)(B)(i)(IV)–(VI) that pertain to the removal of an eligible vehicle as required under subdivision 2904(d)(2)(A) of this chapter provided that:

(1) the Governor has declared a state of emergency under 20 V.S.A. chapter 1 and, due to the event or events underlying the state of emergency, motor vehicles registered in Vermont have been damaged or totaled;

(2) the waived or modified eligibility requirements are prominently posted on any websites maintained by or at the direction of the Agency for purposes of providing information on the vehicle incentive programs;

(3) the waived or modified eligibility requirements are only applicable:

(A) upon a showing that the applicant for an incentive under the Replace Your Ride Program was a registered owner of a motor vehicle that was damaged or totaled due to the event or events underlying the state of emergency at the time of the event or events underlying the state of emergency; and

(B) for six months after the conclusion of the state of emergency; and

(4) the waiver or modification of eligibility requirements and resulting impact are addressed in the annual reporting required under section 2905 of this chapter.

* * * Electrify Your Fleet Program * * *

Sec. 19. 2023 Acts and Resolves No. 62, Sec. 21 is amended to read:

Sec. 21. ELECTRIFY YOUR FLEET PROGRAM; AUTHORIZATION

* * *

(d) Program structure. The Electrify Your Fleet Program shall reduce the greenhouse gas emissions of persons operating a motor vehicle fleet in Vermont by structuring purchase and lease incentive payments on a first-come, first-served basis to replace vehicles other than a plug-in electric vehicle (PEV) cycled out of a motor vehicle fleet or avoid the purchase of vehicles other than a PEV for a motor vehicle fleet. Specifically, the Electrify Your Fleet Program shall:

* * *

(2) provide ~~$2,500.00~~ purchase and lease incentives up to 25 percent of the purchase price, but not to exceed $2,500.00, for:

* * *

(C) electric bicycles and electric cargo bicycles with a base MSRP of ~~$6,000.00~~ $10,000.00 or less;

(D) adaptive electric cycles with any base MSRP;

(E) electric motorcycles with a base MSRP of $30,000.00 or less; ~~and~~

(F) electric snowmobiles with a base MSRP of $20,000.00 or less; and

(G) electric all-terrain vehicles (ATVs), as defined in 23 V.S.A. § 3501 and including electric utility terrain vehicles (UTVs), with a base MSRP of $50,000.00 or less;

* * *

* * * eBike Incentives; Eligibility * * *

Sec. 20. 2023 Acts and Resolves No. 62, Sec. 22 is amended to read:

Sec. 22. MODIFICATIONS TO EBIKE INCENTIVE PROGRAM; REPORT

* * *

(d) Reporting. The Agency of Transportation shall address incentives for electric bicycles, electric cargo bicycles, and adaptive electric cycles provided pursuant to this section in the ~~January 31, 2024~~ annual report required under 19 V.S.A. § 2905, as added by Sec. 19 of this act, including:

(1) the demographics of who received an incentive under the eBike Incentive Program;

(2) a breakdown of where vouchers were redeemed;

(3) a breakdown, by manufacturer and type, of electric bicycles, electric cargo bicycles, and adaptive electric cycles incentivized;

(4) a detailed summary of information provided in the self-certification forms and a description of the Agency's post-voucher sampling audits and audit findings, together with any recommendations to improve program design and cost-effectively direct funding to recipients who need it most; and

(5) a detailed summary of information collected through participant surveys.

* * * Annual Reporting * * *

Sec. 21. 19 V.S.A. § 2905 is amended to read:

§ 2905. ANNUAL REPORTING; VEHICLE INCENTIVE PROGRAMS

(a) The Agency shall annually evaluate the programs established under sections 2902–2904 of this chapter to gauge effectiveness and shall submit a written report on the effectiveness of the programs and the State's marketing and outreach efforts related to the programs to the House and Senate Committees on Transportation, the House Committee on Environment and Energy, and the Senate Committee on ~~Finance~~ Natural Resources and Energy on or before the 31st day of January in each year following a year that an incentive was provided through one of the programs.

(b) The report shall also include:

(1) any intended modifications to program guidelines for the upcoming fiscal year along with an explanation for the reasoning behind the modifications and how the modifications will yield greater uptake of PEVs and other means of transportation that will reduce greenhouse gas emissions; ~~and~~

(2) any recommendations on statutory modifications to the programs, including to income and vehicle eligibility, along with an explanation for the reasoning behind the statutory modification recommendations and how the modifications will yield greater uptake of PEVs and other means of transportation that will reduce greenhouse gas emissions; and

(3) any recommendations for how to better conduct outreach and marketing to ensure the greatest possible uptake of incentives under the programs.

(c) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an incentive is provided through one of the programs unless the General Assembly takes specific action to repeal the report requirement.

* * * Authority to Transfer Monies in State Fiscal Year 2025 * * *

Sec. 22. TRANSFER OF MONIES BETWEEN VEHICLE INCENTIVE PROGRAMS IN STATE FISCAL YEAR 2025

(a) Notwithstanding 32 V.S.A. § 706 and any appropriations or authorizations of monies for vehicle incentive programs created under 19 V.S.A. §§ 2902–2904, in State fiscal year 2025 the Secretary of Transportation may transfer up to 50 percent of any remaining monies for a vehicle incentive program created under 19 V.S.A. §§ 2902–2904 to any other

vehicle incentive program created under 19 V.S.A. §§ 2902–2904 that has less than $500,000.00 available for distribution as a vehicle incentive.

(b) Any transfers made pursuant to subsection (a) of this section shall be reported to the Joint Transportation Oversight Committee and the Joint Fiscal Office within 30 days after the transfer.

* * * Electric Vehicle Supply Equipment (EVSE) * * *

Sec. 23. 19 V.S.A. chapter 29 is amended to read:

CHAPTER 29. VEHICLE INCENTIVE PROGRAMS; ELECTRIC VEHICLE SUPPLY EQUIPMENT

§ 2901. DEFINITIONS

As used in this chapter:

* * *

(4) "Electric vehicle supply equipment (EVSE)" and "electric vehicle supply equipment available to the public" have the same meanings as in 30 V.S.A. § 201.

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

* * *

§ 2906. ELECTRIC VEHICLE SUPPLY EQUIPMENT GOALS

It shall be the goal of the State to have, as practicable, level 3 EVSE charging ports available to the public:

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

(2) within 25 driving miles of another level 3 EVSE charging port available to the public along a State highway, as defined in subdivision 1(20) of this title; and

(3) co-located with or within a safe and both walkable and rollable distance of publicly accessible amenities such as restrooms, restaurants, and convenience stores to provide a safe, consistent, and convenient experience for the traveling public along the State highway system.

§ 2907. ANNUAL REPORTING; ELECTRIC VEHICLE SUPPLY EQUIPMENT

(a) Notwithstanding 2 V.S.A. § 20(d), the Agency of Transportation shall:

(1) file a report, with a map, on the State's efforts to meet its federally required Electric Vehicle Infrastructure Deployment Plan, as updated, and the goals set forth in section 2906 of this chapter with the House and Senate Committees on Transportation not later than January 15 each year until the Deployment Plan is met; and

(2) file a report on the current operability of EVSE available to the public and deployed through the assistance of Agency funding with the House and Senate Committees on Transportation not later than January 15 each year.

(b) The reports required under subsection (a) of this section can be combined when filing with the House and Senate Committees on Transportation and shall prominently be posted on the Agency of Transportation's website.

Sec. 24. REPEAL OF CURRENT EVSE MAP REPORT AND EXISTING GOALS

2021 Acts and Resolves No. 55, Sec. 30, as amended by 2022 Acts and Resolves No. 184, Sec. 4 (EVSE network in Vermont goals; report of annual map) is repealed.

Sec. 25. EVSE PLAN; REPORT

The Agency of Transportation, in consultation with the Agencies of Agriculture, Food and Markets and of Commerce and Community Development, shall prepare a written plan, which may incorporate other plans that have been prepared to secure federal funding under the National Electric Vehicle Infrastructure Formula Program, for how to fund and maintain the EVSE necessary for Vermont to meet that portion of the goals of the Comprehensive Energy Plan and the Vermont Climate Action Plan. The written plan shall be filed with the House and Senate Committees on Transportation not later than January 15, 2025.

Sec. 26. REGULATION OF EVSE; RECOMMENDATIONS; REPORT

On or before March 1, 2025, the Agency of Transportation, in consultation with the Agencies of Agriculture, Food and Markets and of Commerce and Community Development; the Department of Public Service; the Public Utility Commission; the Office of the Attorney General, Consumer Protection Division; Drive Electric Vermont; and EVSE industry participants, shall

provide testimony to the House and Senate Committees on Transportation, and to other legislative committees upon request, regarding:

(1) what regulations, if any, should be placed on EVSE that is available to the public, both for EVSE that is owned and operated by an electric distribution utility and for EVSE that is not owned and operated by an electric distribution utility;

(2) how best to ensure that consumers are being charged accurately for the electricity they receive;

(3) how best to ensure that vendors are properly charging consumers for the electricity they receive and disclosing any additional costs that may apply; and

(4) any recommendations for legislative action to address State regulation of EVSE.

* * * Beneficial Electrification Report * * *

Sec. 27. ELECTRIC DISTRIBUTION UTILITIES; EVSE-RELATED SERVICE UPGRADES; REPORT

In the report due not later than January 15, 2025, pursuant to 2021 Acts and Resolves No. 55, Sec. 33, the Public Utility Commission shall include a reporting of service upgrade practices related to the installation of electric vehicle supply equipment (EVSE) across all electric distribution utilities, including a comparison of EVSE-related service upgrade practices, a description of the frequency and typical costs of EVSE-related service upgrades, and rate-payer impact.

* * * Expansion of Public Transit Service * * *

* * * Mobility Services Guide; Car Share * * *

Sec. 28. MOBILITY SERVICES GUIDE; ORAL UPDATE

(a) The Agency of Transportation, in consultation with existing nonprofit mobility services organizations incorporated in the State of Vermont for the purpose of providing Vermonters with transportation alternatives to personal vehicle ownership, such as through carsharing, and other nonprofit organizations working to achieve the goals of the Comprehensive Energy Plan, the Vermont Climate Action Plan, and the Agency of Transportation's community engagement plan for environmental justice, shall develop a web-page-based guide to outline the different mobility service models that could be considered for deployment in Vermont.

(b) At a minimum, the web-page-based guide required under subsection (a) of this section shall include the following:

(1) definitions of program types or options, such as car sharing, mobility for all, micro-transit, bike sharing, and other types of programs that meet the goals identified in subsection (a) of this section;

(2) information related to existing initiatives, including developmental and pilot programs, that meet any of the program types or options defined pursuant to subdivision (1) of this subsection and information related to any pertinent studies or reports, whether completed or ongoing, related to the program types or options defined pursuant to subdivision (1) of this subsection;

(3) details of other existing programs that may provide a foundation for or complement a new program in a manner that is not duplicative or competitive; and

(4) for each possible program type or option defined pursuant subdivision (1) of this subsection, additional details outlining:

(A) the range of start-up, capital, facilities, and ongoing operating and maintenance costs;

(B) the service area characteristics;

(C) the revenue capture options;

(D) technical assistance resources; and

(E) existing or potential funding resources.

(c) The Agency of Transportation shall make itself available to provide an oral update and demonstration of the web-page-based guide required under subsection (a) of this section to the House and Senate Committees on Transportation not later than February 15, 2025.

* * * Mobility and Transportation Innovations (MTI) Grant Program * * *

Sec. 29. 19 V.S.A. § 10n is added to read:

§ 10n. MOBILITY AND TRANSPORTATION INNOVATIONS (MTI) GRANT PROGRAM

(a) The Mobility and Transportation Innovations (MTI) Grant Program is created within the Public Transit Section of the Agency. The MTI Grant Program shall support innovative transportation demand management programs and transit initiatives that improve mobility and access to services for transit-dependent Vermonters, reduce the use of single-occupancy vehicles,

reduce greenhouse gas emissions, and complement existing mobility investments.

(b) Grant awards of not more than $100,000.00 per recipient for capital or operational costs, or both, may be used to create new or expand existing programs for one or more of the following: matching funds for other grant awards, program delivery costs, or the extension of existing programs.

(c) Funding under the MTI Grant Program shall not be used to supplant existing State funding for the same project or program.

(d) In each year in which funding for grants is available:

(1) The Agency shall establish an application period of at least four months.

(2) The Agency shall provide direct assistance to entities requiring technical assistance or prereview of a draft application during the application period.

(3) Grant awards shall be distributed not later than November 30 in each year in which they are offered.

* * * Vermont Rail Plan; Amtrak * * *

Sec. 30. DEVELOPMENT OF NEW VERMONT RAIL PLAN; BICYCLE STORAGE; REPORT

(a) As the Agency of Transportation develops the new Vermont Rail Plan, it shall consider and address the following:

(1) adding additional daily service on the Vermonter for some or all of the service area; and

(2) expanding service on the Valley Flyer to provide increased service on the Vermonter route.

(b) The Agency of Transportation shall consult with Amtrak and the State-Amtrak Intercity Passenger Rail Committee (SAIPRC) on passenger education of and sufficient capacity for bicycle storage on Amtrak trains on the Vermonter and Ethan Allen Express routes.

(c) The Agency of Transportation shall provide an oral update on the development of the Vermont Rail Plan in general and the requirements of subsection (a) of this section specifically and the consultation efforts required under subsection (b) of this section to the House and Senate Committees on Transportation not later than February 15, 2025.

* * * Replacement for the Vermont State Design Standards * * *

Sec. 31. REPLACEMENT FOR THE VERMONT STATE DESIGN STANDARDS

(a) In preparing the replacement for the Vermont State Design Standards, the Agency of Transportation shall do all of the following:

(1) Release a draft of the replacement to the Vermont State Design Standards and related documents not later than January 1, 2026.

(2) Conduct not fewer than four public hearings across the State concerning the replacement to the Vermont State Design Standards and related documents.

(3) Provide a publicly available responsiveness summary detailing the public participation activities conducted in developing the final draft of the replacement for the Vermont State Design Standards and related documents, as applicable; a description of the matters on which members of the public or stakeholders, or both, were consulted; a summary of the views of the participating members of the public and stakeholders; and significant comments, criticisms, and suggestions received by the Agency and the Agency's specific responses, including an explanation of any modifications made in response.

(4) In alignment with the Vermont Transportation Equity Framework, consult directly, through a series of large-group, specialty focus groups and one-on-one meetings, with key stakeholders in order to achieve stakeholder engagement and afford a voice in the development of the replacement for the Vermont State Design Standards and related documents. At a minimum, stakeholders shall include the House and Senate Committees on Transportation, the Federal Highway Administration (FHWA), the Vermont Agency of Commerce and Community Development (ACCD), the Vermont Agency of Natural Resources (ANR), the Vermont Department of Health (VDH), the Vermont Department of Public Service (DPS), the Vermont League of Cities and Towns (VLCT), Vermont's regional planning commissions (RPCs), the Vermont chapter of the American Association of Retired Persons (AARP), Transportation for Vermonters (T4VT), Local Motion, the Sierra Club, Conservation Law Foundation, the Vermont Natural Resources Council, the Vermont Truck and Bus Association, the Vermont Public Transportation Association (VPTA), the American Council of Engineering Companies (ACEC), the Association of General Contractors (AGC), and other stakeholders.

(b) The Agency shall provide oral updates on its progress preparing the replacement to the Vermont State Design Standards, including the process required under subsection (a) of this section, to the House and Senate Committees on Transportation not later than February 15, 2025 and February 15, 2026.

* * * Complete Streets; Traffic Calming Measures; Designated Centers * * *

Sec. 32. 19 V.S.A. §§ 2402 and 2403 are amended to read:

§ 2402. STATE POLICY

(a) Agency of Transportation funded, designed, or funded and designed projects shall seek to increase and encourage more pedestrian, bicycle, and public transit trips, with the State goal to promote intermodal access to the maximum extent feasible, which will help the State meet the transportation-related recommendations outlined in the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b and the recommendations of the Vermont Climate Action Plan (CAP) issued under 10 V.S.A. § 592.

(b) Except in the case of projects or project components involving unpaved highways, for all transportation projects and project phases managed by the Agency or a municipality, including planning, development, construction, or maintenance, it is the policy of this State for the Agency and municipalities, as applicable, to incorporate complete streets principles that:

(1) serve individuals of all ages and abilities, including vulnerable users as defined in 23 V.S.A. § 4(81);

(2) follow state-of-the-practice design guidance; ~~and~~

(3) are sensitive to the surrounding community, including current and planned buildings, parks, and trails and current and expected transportation needs; and

(4) when desired by the municipality or specifically identified in the regional plan, implement street design for purposes of calming and slowing traffic in State-designated centers under 24 V.S.A. chapter 76A.

§ 2403. PROJECTS NOT INCORPORATING COMPLETE STREETS PRINCIPLES

(a) State projects. A State-managed project shall incorporate complete streets principles unless the project manager makes a written determination, supported by documentation, that one or more of the following circumstances exist:

* * *

(2) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors including land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The Agency shall consult local and regional plans, as appropriate, in assessing these and any other relevant factors. If the project manager bases the written determination required under this subsection in whole or in part on this subdivision then the project manager shall provide a supplemental written determination with specific details on costs, needs, and probable uses, as applicable. The supplemental written determination shall also address any design elements that were desired by the municipality or specifically identified in the regional plan pursuant to subdivision 2402(b)(4) of this chapter but were not incorporated.

* * *

(b) Municipal projects. A municipally managed project shall incorporate complete streets principles unless the municipality managing the project makes a written determination, supported by documentation, that one or more of the following circumstances exist:

* * *

(2) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors such as land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The municipality shall consult local and regional plans, as appropriate, in assessing these and any other relevant factors. If the municipality managing the project bases the written determination required under this subsection in whole or in part on this subdivision then the project manager shall provide a supplemental written determination with specific details on costs, needs, and probable uses, as applicable. The supplemental written determination shall also address any design elements that were desired by the municipality or specifically identified in the regional plan pursuant to subdivision 2402(b)(4) of this chapter but were not incorporated.

* * *

* * * Sustainability of Vermont's Transportation System; Emissions Reductions * * *

Sec. 33. ANALYSIS AND REPORT ON SUSTAINABILITY OPTIONS; TRANSPORTATION EMISSIONS REDUCTIONS

(a) Findings of fact. The General Assembly finds:

(1) A majority of the Vermont Climate Council (VCC) voted to recommend participation in the Transportation & Climate Initiative Program (TCI-P), a regional cap-and-invest program, as a lead policy and regulatory approach to reduce emissions from the transportation sector in the Vermont Climate Action Plan (CAP), adopted in December 2021.

(2) Shortly before adoption of the CAP in December 2021, participating in TCI-P became unviable and the VCC agreed to include in the CAP that the VCC would continue work on an alternative recommendation to reduce emissions from the transportation sector in Vermont and pursue participating in TCI-P if it again became viable.

(3) An addendum to the CAP, supported by a majority of the VCC, stated that: "The only currently known policy options for which there is strong evidence from other states, provinces[,] and countries of the ability to confidently deliver the scale and pace of emissions reductions that are required of the transportation sector by the [Global Warming Solutions Act (GWSA)] are one or a combination of: a) a cap and invest/cap and reduce policy covering transportation fuels and/or b) a performance standard/performance-based regulatory approach covering transportation fuels. Importantly, based on research associated with their potential implementation, these approaches can also be designed in a cost-effective and equitable manner."

(4) The development of the State's Carbon Reduction Strategy (CRS), which is required by the Federal Highway Administration (FHWA) pursuant to the federal Infrastructure Investment and Jobs Act (IIJA) for states to access federal monies under the Carbon Reduction Program and required by the General Assembly pursuant to 2023 Acts and Resolves No. 62, Sec. 31, and the accompanying planning and public engagement process provided the Cross Section Mitigation Subcommittee of the VCC a timely opportunity to undertake additional analysis required for a potential preferred recommendation or recommendations to fill the gap in reductions of transportation emissions.

(5) The CRS, which was filed with the FHWA in November 2023, models that the State may meet its 2025 reduction requirement in the transportation sector, but that, even with additional investments for programmatic, policy, and regulatory options, the modeling shows a gap between projected "business as usual" emissions in the transportation sector and the portion of GWSA emission reduction requirements for 2030 and 2050 that are attributable to the transportation sector.

(6) The CRS reaffirms that, without adoption of additional polices, the portion of GWSA emission reduction requirements for 2030 and 2050 that are

attributable to the transportation sector will not be met and states that: "Of the additional programs, a cap-and-invest and/or Clean Transportation Standard program are likely the two most promising options to close the gap in projected emissions vs. required emissions levels for the transportation sector. . . ."

(7) There remains a need for further, more detailed analysis of policy options.

(b) Written analysis. The Agency of Natural Resources, specifically the Climate Action Office, and the Agency of Transportation, in consultation with the State Treasurer; the Departments of Finance and Management, of Motor Vehicles, and of Taxes; and the VCC, including those councilors appointed by the General Assembly to provide expertise in energy and data analysis, expertise and professional experience in the design and implementation of programs to reduce greenhouse gas emissions, and representation of a statewide environmental organization as outlined in the adopted January 12, 2024 Transportation Addendum to the Climate Action Plan, shall prepare a written analysis of policy and investment scenarios to reduce emissions in the transportation sector in Vermont and meet the greenhouse gas reduction requirements of 10 V.S.A. § 578, as amended by Sec. 3 of the Global Warming Solutions Act (2020 Acts and Resolves No. 153).

(c) Scenario development. At a minimum, the written analysis required under subsection (b) of this section shall address the pros, cons, costs, and benefits of the following:

(1) Vermont participating in regional or cap-and-invest program, such as the Western Climate Initiative (WCI) and the New York Cap-and-Invest program;

(2) Vermont adopting a clean transportation fuel standard, which would be a performance standard or performance-based regulatory approach covering transportation fuels; and

(3) Vermont implementing other potential revenue-raising, carbon-pollution reduction strategies.

(d) Emission reduction scenarios; administration. The written analysis shall include an estimate of the amount of emissions reduction to be generated from a minimum of four scenarios, to include a business-as-usual, low-, medium-, and high-greenhouse gas emissions reduction, analyzed under subsection (c) of this section and a summary of how each proposal analyzed under subsection (c) of this section would be administered.

(e) Revenue and cost estimate; timeline. The written analysis completed pursuant to subsections (b)–(d) of this section shall be provided to the State Treasurer to review cost and revenue projections for each scenario. The State Treasurer shall make a written recommendation to the General Assembly regarding any viable approaches.

(f) Public access; committees; due date.

(1) The Climate Action Office shall maintain a publicly accessible website with information related to the development of the written analysis required under subsection (b) of this section.

(2) The Agencies of Natural Resources and of Transportation, in consultation with the State Treasurer, shall file a status update on the development of the written analysis required under subsection (b) of this section with the House and Senate Committees on Transportation, the House Committees on Environment and Energy and on Ways and Means, and the Senate Committees on Finance and on Natural Resources and Energy not later than November 15, 2024.

(3) The Agencies of Natural Resources and of Transportation, in consultation with the State Treasurer, shall file the written analysis required under subsection (b) of this section and the State Treasurer's written recommendation to the General Assembly regarding any viable approaches required under subsection (e) of this section with the House and Senate Committees on Transportation, the House Committees on Environment and Energy and on Ways and Means, and the Senate Committees on Finance and on Natural Resources and Energy not later than February 15, 2025.

(g) Use of consultant. The Agencies of Natural Resources and of Transportation shall retain a consultant that is an expert in comprehensive transportation policy with a core focus on emission reductions and economic modeling to undertake the analysis and to provide the State Treasurer with any additional information needed to inform the State Treasurer's recommendations regarding any viable approaches required under subsections (b)–(e) of this section.

(h) Costs.

(1) If the costs of the consultant required under subsection (g) of this section are eligible expenditures under the U.S. Environmental Protection Agency's (EPA) Climate Pollution Reduction Grants (CPRG) program, then that shall be the source of funding to cover the costs of the consultant required under subsection (g) of this section.

(2) The State Treasurer may use funds appropriated in State fiscal year 2025 to complete the work required under subsection (e) of this section, including administrative costs and third-party consultation.

* * * Better Connections Grant Program * * *

Sec. 34. 19 V.S.A. § 319 is added to read:

§ 319. BETTER CONNECTIONS GRANT PROGRAM

(a) The Better Connections Grant Program is created and shall be administered and staffed by the Policy, Planning and Research Bureau of the Agency in collaboration with the Agency of Commerce and Community Development and the Agency of Natural Resources.

(b) The Program shall be funded through appropriations to the Agency for policy, planning, and research.

(c) The Program shall provide planning grants to aid municipalities to coordinate municipal land use decisions with transportation investments that build community resilience to:

(1) provide a safe, multimodal, and resilient transportation system that supports the Vermont economy;

(2) support downtown and village economic development and revitalization efforts; and

(3) lead directly to project implementation demonstrated by municipal capacity and readiness to implement.

* * * Transportation Funding Study * * *

Sec. 35. TRANSPORTATION FUNDING STUDY; CONSULTANT; REPORT

(a) The General Assembly finds:

(1) Vermont's transportation system is crucial to every resident, student, worker, visitor, and business located in Vermont; serves as the backbone of the economy; and is a critical component of Vermont's economic competitiveness.

(2) The State must continue to pursue an equitable transportation network in which communities have improved access to all modes of transportation, enhancing access to jobs, housing, and other services.

(3) In order to keep up with the maintenance, repair, and construction necessary to maintain the State's transportation infrastructure, additional State revenue needs to be raised in order to meet the nonfederal match for all federal

monies for which Vermont is eligible and that is awarded to Vermont through competitive federal grants.

(4) Several public transit funding studies have been presented to the General Assembly, in 2015, 2021, and 2024, that highlight growing labor costs, changed ridership habits, a reduction in federal monies intended to minimize person-to-person contact during the COVID-19 pandemic, increased service needs, and an anticipated funding cliff just to maintain current levels of service and operation in State fiscal year 2026.

(5) Vermont will continue to contend with transportation funding shortfalls due to decreased motor fuel tax revenue, on both gasoline and diesel, due to increasing vehicle fuel efficiency and the continued adoption of plug-in electric vehicles.

(6) The Agency of Transportation is studying and seeking federal competitive grant funding to implement, possibly as early as July 1, 2025, a mileage-based user fee (MBUF) as a way to supplant lost motor fuel tax revenue from Vermonters who own a battery electric vehicle that is charged at home.

(7) While motor fuels represent a significant source of funding for the Transportation Fund, they are only one component of the State's overall transportation funding.

(8) In addition to an MBUF, the State must identify new and innovative funding and policy options needed to adequately maintain Vermont's transportation system and support future growth.

(b) The Agency of Transportation shall invest not more than $100,000.00 to contract with an independent third-party consultant with expertise in transportation funding and finance.

(c) The consultant shall consider and evaluate issues related to transportation funding in order to identify mechanisms to sufficiently fund transportation projects and operations through appropriations by the General Assembly. Specifically, the consultant shall:

(1) evaluate current transportation funding in Vermont, taking into account the viability of existing revenue sources and funding distributions;

(2) consider future trends that will impact the multimodal transportation system, including inflation, safety needs, racial equity, electric vehicles, and climate change;

(3) consider new and innovative funding options and alternative solutions employed by other states;

(4) consider how an MBUF can, along with other new and traditional funding mechanisms, provide sustainable transportation funding; and

(5) provide a report of transportation revenue projection scenarios through 2030, including new sources.

(d) The Agency shall send to the House and Senate Committees on Transportation, the House Committee on Ways and Means, and the Senate Committee on Finance:

(1) on or before December 15, 2024, a written update of work performed and, if available, a draft of the final report; and

(2) on or before January 15, 2025, the final written report and recommendations required by this section.

* * * Electric and Plug-In Hybrid Vehicles; EV Infrastructure Fee * * *

Sec. 36. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

(a) The annual registration fee for a pleasure car, as defined in subdivision 4(28) of this title, ~~and~~ including a pleasure car that is a plug-in electric vehicle, as defined in subdivision 4(85) of this title, shall be $89.00, and the biennial fee shall be $163.00.

(b) In addition to the registration fee set forth in subsection (a) of this section, there shall be an annual electric vehicle (EV) infrastructure fee for a pleasure car that is a battery electric vehicle, as defined in subdivision 4(85)(A) of this title, equal to the amount of the annual fee collected in subsection (a) of this section, or a biennial EV infrastructure fee equal to two times the annual fee collected in subsection (a) of this section.

(c) In addition to the registration fee set forth in subsection (a) of this section, there shall be an annual EV infrastructure fee for a pleasure car that is a plug-in hybrid electric vehicle, as defined in subdivision 4(85)(B) of this title, equal to one-half the amount of the annual fee collected in subsection (a) of this section, or a biennial EV infrastructure fee equal to the annual fee collected in subsection (a) of this section.

(d) The annual and biennial EV infrastructure fees collected in subsections (b) and (c) of this section shall be allocated to the Transportation Fund for programs administered by the Agency of Commerce and Community Development to increase Vermonters' access to level 1 and 2 electric vehicle supply equipment (EVSE) charging ports at workplaces or multiunit dwellings, or both.

Sec. 37. EV INFRASTRUCTURE FEE; ELECTRIC VEHICLES

The Department of Motor Vehicles shall implement a public outreach campaign regarding EV infrastructure fees for battery electric vehicles and plug-in electric hybrid vehicles not later than October 1, 2024. The campaign shall disseminate information on the Department's web page and through other outreach methods.

Sec. 38. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

* * *

(b) ~~In addition to the registration fee set forth in subsection (a) of this section, there shall be an annual electric vehicle (EV) infrastructure fee for a pleasure car that is a battery electric vehicle, as defined in subdivision 4(85)(A) of this title, equal to the amount of the annual fee collected in subsection (a) of this section, or a biennial EV infrastructure fee equal to two times the annual fee collected in subsection (a) of this section.~~ [Repealed.]

* * *

(d) The annual and biennial EV infrastructure fees collected in ~~subsections (b) and~~ subsection (c) of this section shall be allocated to the Transportation Fund for programs administered by the Agency of Commerce and Community Development to increase Vermonters' access to level 1 and 2 electric vehicle supply equipment (EVSE) charging ports at workplaces or multiunit dwellings, or both.

Sec. 39. PROPOSED FISCAL YEAR 2026 TRANSPORTATION PROGRAM; EVSE CHARGING PORTS PROJECT

The Agency of Transportation's Proposed Fiscal Year 2026 Transportation Program shall include a project that provides the estimated fiscal year 2026 revenue from the EV infrastructure fee to the Agency of Commerce and Community Development for the purpose of providing grants to increase Vermonters' access to level 1 and 2 EVSE charging ports at workplaces or multiunit dwellings, or both.

* * * Central Garage; Authority to Purchase Real Property * * *

Sec. 40. CENTRAL GARAGE; REAL PROPERTY; FACILITY DESIGN; AUTHORITY

(a)(1) Pursuant to 19 V.S.A. § 26(b), the Secretary of Transportation is authorized to use up to $2,000,000.00 in Central Garage Fund reserve funds for the purpose of purchasing real property of approximately 23.5 acres on the

Paine Turnpike in Berlin, adjacent to State-owned property, on which to site a new Central Garage.

(2) If the Secretary identifies real property other than the Berlin site described in subdivision (1) of this subsection on which the Secretary wishes to site a new Central Garage, the Secretary is authorized to use up to $2,000,000.00 in Central Garage Fund reserve funds to purchase the property, but only after obtaining the specific prior approval of the Joint Transportation Oversight Committee to purchase the identified property.

(b) Notwithstanding 19 V.S.A. § 13(a), the Secretary may use Central Garage Fund reserve funds for design services necessary to construct a new Central Garage on the Berlin site described in subdivision (a)(1) of this section or, following the Joint Transportation Oversight Committee's approval as set forth in subdivision (a)(2) of this section, on another site; provided, however, that the Secretary shall collaborate with the municipality in which the new Central Garage is to be located regarding the design and construction of the facility.

* * * Railroad Leases * * *

Sec. 41. 5 V.S.A. § 3405 is amended to read:

§ 3405. LEASE FOR CONTINUED OPERATION

(a) The Secretary, as agent for the State, ~~with the approval of the Governor and the General Assembly or, if the General Assembly is not in session, approval of a special committee consisting of the Joint Fiscal Committee and the Chairs of the House and Senate Committees on Transportation,~~ is authorized to lease or otherwise arrange for the continued operation of all or any State-owned railroad property to any responsible person, provided that approval for the operation, if necessary, is granted by the federal Surface Transportation Board under 49 C.F.R. Part 1150 (certificate to construct, acquire, or operate railroad lines). The transaction shall be subject to any further terms and conditions as in the opinion of the Secretary are necessary and appropriate to accomplish the purpose of this chapter.

(b) To preserve continuity of service on State-owned railroads, the Secretary may enter into a short-term lease or operating agreement, for a term not to exceed six months, with a responsible railroad operator. ~~Within 10 days of entering into any lease or agreement, the Secretary shall report the details of the transaction to the members of the House and Senate Committees on Transportation.~~

(c) The Secretary shall notify the House and Senate Committees on Transportation or, if the General Assembly is not in session, the Joint

Transportation Oversight Committee when there are 12 months remaining on the operating lease for any State-owned railroad, and when there are 12 months remaining on a lease extension for the operating lease for any State-owned railroad.

* * * Traffic Control Devices; Adoption of MUTCD Revisions * * *

Sec. 42. 23 V.S.A. § 1025 is amended to read:

§ 1025. STANDARDS

(a) The U.S. Department of Transportation Federal Highway Administration's Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) ~~for streets and highways,~~ as amended, shall be the standards for all traffic control signs, signals, and markings within the State. Revisions to the MUTCD shall be adopted according to the implementation or compliance dates established in federal rules.

(b) ~~The latest revision of the MUTCD shall be adopted upon its effective date except in the case of~~ To the extent consistent with federal law, projects beyond a preliminary state of design that are anticipated to be constructed within two years of the otherwise applicable effective date~~; such projects~~ may be constructed according to the MUTCD standards applicable at the design stage.

(c) Existing signs, signals, and markings shall be valid until such time as they are replaced or reconstructed. When new traffic control devices are erected or placed or existing traffic control devices are replaced or repaired, the equipment, design, method of installation, placement, or repair shall conform with the MUTCD.

~~(b)~~(d) The standards of the MUTCD shall apply for both State and local authorities as to traffic control devices under their respective jurisdiction.

~~(c)~~(e) Traffic and control signals at intersections with exclusive pedestrian walk cycles shall be of sufficient duration to allow a pedestrian to leave the curb and travel across the roadway before opposing vehicles receive a green light. Determination of the length of the signal shall take into account the circumstances of persons with ambulatory disabilities.

* * * MileageSmart; Income Eligibility * * *

Sec. 43. 19 V.S.A. § 2903 is amended to read:

§ 2903. MILEAGESMART

(a) Creation; administration.

(1) There is created a used high fuel efficiency vehicle incentive program, which shall be administered by the Agency of Transportation and known as MileageSmart.

(2) Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of MileageSmart.

(b) Program structure. MileageSmart shall structure high fuel efficiency purchase incentive payments by income to help all Vermonters benefit from more efficient driving and reduced greenhouse gas emissions, including Vermont's most vulnerable. Specifically, MileageSmart shall:

(1) apply to purchases of used high fuel-efficient motor vehicles, which for purposes of this program shall be pleasure cars with a combined city/highway fuel efficiency of at least 40 miles per gallon or miles-per-gallon equivalent as rated by the Environmental Protection Agency when the vehicle was new; and

(2) provide not more than one point-of-sale voucher worth up to $5,000.00 to an individual who is a member of a household with an adjusted gross income that is at or below 80 percent of the State median income; provided, however, that the Agency of Transportation may reduce the income eligibility threshold based on available funding or applicant volume, or both, in order to prioritize vouchers for households with lower income.

(c) EV infrastructure fees. For the first year that a plug-in electric vehicle, as defined in 23 V.S.A. § 4(85), purchased through MileageSmart is subject to the EV infrastructure fee pursuant to 23 V.S.A. § 361(b) or (c), the amount of the fee shall be an eligible expense under MileageSmart; provided, however, that this expense eligibility shall expire at such time as a mileage-based user fee for pleasure cars that are battery electric vehicles, as defined in 23 V.S.A. § 4(85)(A), takes effect in Vermont.

~~(c)~~(d) Administrative costs. Up to 15 percent of any appropriations for MileageSmart may be used for any costs associated with administering and promoting MileageSmart.

~~(d)~~(e) Outreach and marketing. The Agency, in consultation with any retained contractors, shall ensure that there is sufficient outreach and marketing, including the use of translation and interpretation services, of MileageSmart so that Vermonters who are eligible for an incentive can easily learn how to secure as many different incentives as are available, and such costs shall be considered administrative costs for purposes of subsection ~~(c)~~(d) of this section.

* * * Effective Dates * * *

Sec. 44. EFFECTIVE DATES

(a) This section and Secs. 9(e) (conditions for Green Mountain Transit one-time monies), 22 (transfer of monies between vehicle incentive programs in FY 2025), 40 (Central Garage; purchase of real property), and 41 (railroad leases; 5 V.S.A. § 3405) shall take effect on passage.

(b) Sec. 36 (EV infrastructure fee; 23 V.S.A. § 361) shall take effect on January 1, 2025.

(c) Sec. 38 (amendments to EV infrastructure fee; 23 V.S.A. § 361) shall take effect on the effective date of a mileage-based user fee for pleasure cars that are battery electric vehicles, as defined in 23 V.S.A. § 4(85)(A).

(d) All other sections shall take effect on July 1, 2024.

ANDREW J. PERCHLIK
THOMAS I. CHITTENDEN
RUSSELL H. INGALLS
Committee on the part of the Senate

SARA E COFFEY
CHARLES "BUTCH" H. SHAW
TIMOTHY R. CORCORAN
Committee on the part of the House

H. 883.

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

(For text of the Report of the Committee of Conference see Addendum to Senate Calendar for May 8, 2024)

ORDERED TO LIE

S. 94.

An act relating to the City of Barre tax increment financing district.

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.

Julie Hulburd of Colchester - Member, Cannabis Control Board - Sen. Vyhovsky for the Committee on Government Operations. (4/10/2024)

Robin Lunge of Berlin - Member, Green Mountain Care Board - Sen. Hardy for the Committee on Health and Welfare. (5/9/2024)

Rob Ciappenelli of Warren - Public Member, Board of Medical Practice - Sen. Hardy for the Committee on Health and Welfare. (5/9/2024)

David Coddaire, MD of Morrisville - M.D. Member, Board of Medical Practice - Sen. Hardy for the Committee on Health and Welfare. (5/9/2024)

Evan Eyler of Montpelier - M.D. Member, Board of Medical Practice - Sen. Weeks for the Committee on Health and Welfare. (5/9/2024)

Rick Hildebrandt of Clarendon - M.D. Member, Board of Medical Practice - Sen. Weeks for the Committee on Health and Welfare. (5/9/2024)

Dawn Philibert of South Burlington - Public Member, Board of Medical Practice - Sen. Lyons for the Committee on Health and Welfare. (5/9/2024)

Judith Scott of St. George - Public Member, Board of Medical Practice - Sen. Gulick for the Committee on Health and Welfare. (5/9/2024)

Robert Tortolani of Brattleboro - M.D. Member, Board of Medical Practice - Sen. Williams for the Committee on Health and Welfare. (5/9/2024)

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 #3199: $1,000,000.00 from the U.S. Department of Energy through Vermont Energy Efficiency Coop to the Vermont Military Department. Funds will be used for facility upgrades in the Westminster and Berlin Armories to help study the effects of thermal energy storage on heating and cooling loads in electrified facilities.

The grant requires a 20% state match of $250,000.00 which will be funded through an appropriation of existing capital funds.

[Received April 18, 2024]

JFO #3200: $1,105,839.00 to the Department of Public Safety, VT Emergency Management from the Federal Emergency Management Agency. Funds for the repair and replacement of facilities affected during the severe storm and flooding event in Addison County from August 3-5, 2023.

[Received April 29, 2024]

JFO #3201: $1,594,420.00 to the Vermont Public Service Department from the U.S. Department of Energy. The funds are for the creation of the Municipal Energy Resilience Revolving Fund (MERF) designated by the Vermont Legislature in Act 172 of 2022 to support state and local energy efficiency projects.

[Received April 29, 2024]

JFO #3202: $3,296,092.00 to the Vermont Agency of Human Services, Department of Children and Families from the Federal Emergency Management Agency. Funds to provide services for families impacted by the July 2023 flood event.

[Received April 29, 2024]

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day. House Committee bills must be voted out of Committee by Friday, March 15, 2024 and introduced the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 22, 2024**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations "Big Bill", Transportation Spending Bill, Capital Construction Bill, Pay Bill, and Miscellaneous Tax Bill).