

# House Calendar

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Tuesday, February 24, 2026

50th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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## TABLE OF CONTENTS

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Page No.

### ACTION CALENDAR

**Action Postponed Until Tuesday, February 24, 2026**

#### Committee Bill for Second Reading

- H. 907** Legislative review of reporting requirements  
Rep. Nugent for Government Operations and Military Affairs ..... 578

#### New Business

##### Favorable with Amendment

- H. 205** Agreements not to compete  
Rep. Duke for Commerce and Economic Development ..... 578
- H. 639** Genetic data privacy  
Rep. Olson for Commerce and Economic Development ..... 583

##### Favorable

- H. 694** Approval of amendments to the charter of the Town of Bennington concerning the Town Manager  
Rep. Pinsonault for Government Operations and Military Affairs ..... 593

### NOTICE CALENDAR

##### Favorable with Amendment

- H. 566** Sealing post-charge court diversion records upon successful completion  
Rep. Oliver for Judiciary ..... 593  
Rep. Masland for Ways and Means ..... 598
- H. 632** Miscellaneous environmental amendments  
Rep. Hoyt for Environment ..... 598  
Rep. Kimbell for Ways and Means ..... 618
- H. 635** Eliminating Department of Corrections supervisory fees  
Rep. Sweeney for Corrections and Institutions ..... 618  
Rep. Waszazak for Ways and Means ..... 618

**H. 775** Creating tools for housing production  
Rep. Charlton for General and Housing ..... 619

**H. 778** Dam safety  
Rep. Chapin for Environment ..... 626

**Favorable**

**H. 558** The Medicaid school-based services program  
Rep. Berbeco for Health Care ..... 629

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Action Postponed Until Tuesday, February 24, 2026**

**Committee Bill for Second Reading**

**H. 907**

An act relating to legislative review of reporting requirements

**(Rep. Nugent of South Burlington** will speak for the Committee on Government Operations and Military Affairs.)

**New Business**

**Favorable with Amendment**

**H. 205**

An act relating to agreements not to compete

**Rep. Duke of Burlington**, for the Committee on Commerce and Economic Development, recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Sec. 2. 21 V.S.A. § 495q is added to read:

§ 495q. AGREEMENTS NOT TO COMPETE; PROHIBITION;

EXCEPTIONS; NOTICE; EMPLOYEE RIGHTS

(a) Legislative intent. It is the intent of the General Assembly to discourage the use of agreements not to compete except in rare circumstances in which the agreement is the result of a bargained-for exchange that furthers legitimate commercial interests. Agreements not to compete between an employer and a nonexempt employee, per the Fair Labor Standards Act, 29 U.S.C. §§ 201–219, are presumptively coercive and a restraint on trade.

(b) Definitions. As used in this section:

(1)(A) “Agreement not to compete” means an agreement between an employer and an employee that restricts the employee after separating from employment from performing:

(i) work for another employer for a specified period of time;

(ii) work in a specified geographical area; or

(iii) work for another employer in a capacity similar to the employee's work for the employee's former employer that is party to the agreement.

(B) "Agreement not to compete" does not include:

(i) an agreement that prohibits the disclosure of trade secrets as defined in 9 V.S.A. § 4601 or a nondisclosure agreement that protects confidential business information that does not constitute a trade secret;

(ii) a nonsolicitation agreement between an employer and an employee, provided that the limitations set forth in the agreement are reasonable in time, geographical area, and the scope of activity to be restrained; or

(iii) contracts with teachers pursuant to 16 V.S.A. § 1752(a).

(2) "Health care provider" means a person licensed, certified, or authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

(3) "Health care service" means any treatment or procedure delivered by a health care provider to maintain an individual's physical or mental health or to diagnose or treat an individual's physical or mental condition, including services ordered by a health care provider, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(4)(A) "Nonsolicitation agreement" means an agreement of not more than one year in duration between an employer and employee pursuant to which the employee agrees not to:

(i) solicit or recruit the employer's employees; or

(ii) solicit business with customers or clients of the employer that were customers or clients while the employee was employed by the employer.

(B) Notwithstanding subdivision (A) of this subdivision (b)(4), it shall not be a violation of a nonsolicitation agreement for a separating health care provider to provide notice of the provider's change of employment to individuals to whom the separating provider provided direct health care service. The notice shall include:

(i) that the health care provider is continuing to practice the provider's profession;

(ii) the health care provider's new professional contact information; and

(iii) the individual's right to choose a provider.

(5) "Severance agreement" means an agreement between an employer and employee pursuant to which the employee voluntarily agrees to leave employment with the employer for a sum of money or other consideration, including nonqualified deferred compensation plans.

(6) "Total annual compensation" includes salary, commissions, nondiscretionary bonuses, contributions to retirement plans, and other nondiscretionary compensation earned during a calendar year. Total annual compensation does not include board, lodging, payments for medical insurance, payments for life insurance, or the cost of other similar benefits.

(c) Prohibition. An agreement not to compete, including an agreement not to compete contained within a contract, is void and unenforceable.

(d) Exceptions. Nothing in this section shall be construed to prohibit an individual from entering into an agreement not to compete in relation to:

(1) the sale of all or substantially all of the individual's ownership interest in:

(A) a business or its operating assets; or

(B) a subsidiary or division of a business or the operating assets of a subsidiary or division of a business;

(2) the dissolution of a partnership in which the individual is a partner or the dissociation of the individual from a partnership;

(3) the dissolution of a limited liability company in which the individual is a member or the termination of an individual's interest in a limited liability company;

(4) a severance agreement, provided that the limitations set forth in the agreement are reasonable in:

(A) time, provided further that the limitation on time cannot exceed the number of weeks or months of pay, however appropriately calculated, that the employer offers to the employee in consideration to sign the agreement;

(B) geographical area; and

(C) the scope of activity to be restrained;

(5) an agreement permitted under rules approved by the Securities and Exchange Commission; or

(6) an agreement with an exempt employee, per the Fair Labor Standards Act, that meets each of the following criteria:

(A) the agreement is individually negotiated between the employer and the employee;

(B) the employee earns at least 300 percent of the State minimum wage in total annual compensation;

(C) the agreement is necessary to protect a significant business interest of the employer, other than an interest in preventing ordinary competition, where the employee's subsequent employment would inherently result in a material risk to the employer's business; and

(D) the limitations set forth in the agreement are reasonable in time, geographical area, and scope as set forth in subdivision (4) of this subsection (d) and are no broader than required to protect the employer's legitimate interests.

(e) Health care providers. Notwithstanding subdivision (d) of this section, any contract or agreement that creates or establishes the terms of a partnership, employment, or any other form of professional relationship with a health care provider regarding the provider's provision of health care services in this State shall be void, unenforceable, and against public policy if the contract or agreement:

(1) includes any restriction of the right of such health care provider to provide health care services in any geographical area for any period of time after the termination of such partnership, employment, or professional relationship, with respect to such restriction;

(2) makes the agreement subject to the laws of another state; or

(3) requires any litigation arising out of the agreement to be conducted in another state.

(f) Notice and opportunity to review.

(1) An employer requiring a prospective employee to sign an agreement not to compete that is in accordance with subdivision (d)(6) of this section shall:

(A) Provide the prospective employee with the proposed agreement at the time the offer of employment to the prospective employee is made.

(B) Not rescind the offer of employment to the prospective employee any earlier than three business days after the prospective employee receives the agreement not to compete. The employer may rescind the offer within three business days if the employer discovers information about the prospective employee that supports rescission of the offer.

(2) An employer requiring a current employee to sign an agreement not to compete that is in accordance with subdivision (d)(6) of this section shall provide the employee with the proposed agreement and give the employee at least three business days to consider the agreement not to compete before signing it.

(g) Collective bargaining. Nothing in this section shall be construed to limit, alter, or modify the terms, conditions, or provisions of a collective bargaining agreement entered into between an employer and a labor organization representing employees.

(h) Employee rights. The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this section.

(i) Posting. An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business.

(j) Effective date. The provisions of this section shall apply to all agreements not to compete entered into on or after July 1, 2026.

Sec. 3. 21 V.S.A. § 495r is added to read:

§ 495r. STAY-OR-PAY PROVISIONS; RESTRICTIONS; EXCEPTIONS;

NOTICE; EMPLOYEE RIGHTS

(a) As used in this section, "stay-or-pay provision" means an agreement between an employer and an employee that requires the employee to pay the employer upon the employee's separation from employment. Stay-or-pay provisions take a variety of forms, including training repayment provisions, educational repayment contracts, quit fees, damages clauses, sign-on bonuses, relocation expenses, and other types of cash payments tied to a mandatory stay period.

(b) It shall be an unlawful employment practice for an employer to require an employee to pay the employer, pursuant to a stay-or-pay provision, following an employee's separation from employment.

(c) Notwithstanding subsection (b) of this section, a stay-or-pay provision shall not be an unlawful employment practice if:

(1) the employee voluntarily agrees to the provision in exchange for a benefit;

(2) the repayment amount is reasonable and does not exceed the cost to the employer of the benefit received by the employee;

(3) the repayment amount is specific and provided to the employee before the employee agrees to the provision;

(4) the length of the stay period associated with the provision is reasonable based upon a number of factors, including:

(A) the cost of the benefit bestowed;

(B) the value of the benefit to the employee; and

(C) whether the repayment amount decreases over the course of the stay period; and

(5) the provision only requires repayment if:

(A) the employee voluntarily separates from employment;

(B) the employee is separated from employment during the first six months of the employee's probationary period; or

(C) the employee is terminated for cause.

(d) Nothing in this section shall be construed to limit, alter, or modify the terms, conditions, or provisions of a collective bargaining agreement entered into between an employer and a labor organization representing employees.

(e) An employer shall not retaliate against an employee who exercises or attempts to exercise the rights provided under this section, including opting not to enter into a stay-or-pay provision. The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this section.

(f) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business.

(g) The provisions of this section shall apply to all stay-or-pay agreements entered into on or after July 1, 2026.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2026.

**(Committee Vote: 10-1-0)**

### **H. 639**

An act relating to genetic data privacy

**Rep. Olson of Starksboro**, for the Committee on Commerce and Economic Development, recommends that the bill be amended 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. DATA PRIVACY

Subchapter 1. Genetic Information Privacy

§ 2421a. SHORT TITLE AND DEFINITIONS

(a) This subchapter shall be known, and may be cited, as the “Genetic Information Privacy Act.”

(b) As used in this subchapter:

(1) “Affirmative authorization” means an action that demonstrates an intentional decision by a consumer.

(2) “Biological sample” means any material part of the human, discharge therefrom, or derivative thereof, such as tissue, blood, urine, or saliva, known to contain deoxyribonucleic acid (DNA).

(3)(A) “Biometric data” means data generated from the technological processing of a consumer’s unique biological, physical, or physiological characteristics that allow or confirm the unique identification of the consumer, including:

(i) iris or retina scans;

(ii) fingerprints;

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

(iv) vein patterns;

(v) voice prints or vocal biomarkers; 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 consumer.

(4) “Consumer” means an individual who is a Vermont resident.

(5) “Dark pattern” means a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision making, or choice.

(6) “Direct-to-consumer genetic testing company” means an entity that:

(A) sells, markets, interprets, or otherwise offers consumer-initiated genetic testing products or services directly to consumers;

(B) analyzes genetic data obtained from a consumer, except to the extent that the analysis is performed by a person licensed in the healing arts for diagnosis or treatment of a medical condition; or

(C) collects, uses, maintains, or discloses genetic data that is:

(i) collected or derived from a direct-to-consumer genetic testing product or service; or

(ii) directly provided by a consumer.

(7) “Disclose,” “disclosing,” or “disclosure” means to solicit, sell, assign, transfer, give, provide, or trade, whether or not for valuable consideration.

(8) “Express consent” means a consumer’s affirmative authorization to grant permission in response to a clear, meaningful, and prominent notice regarding the collection, use, maintenance, or disclosure of genetic data for a specific purpose. Express consent cannot be inferred from inaction. Agreement obtained through the use of dark patterns does not constitute express consent.

(9)(A) “Genetic data” means any data, regardless of its format, that results from the analysis of a biological sample from a consumer, or from another element enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from the analysis of the biological sample, and any information extrapolated, derived, or inferred therefrom.

(B) “Genetic data” does not include deidentified data. For purposes of this subdivision (B), “deidentified data” means data that cannot be used to infer information about, or otherwise be linked to, a particular individual, provided that the business that possesses the information:

(i) takes reasonable measures to ensure that the information cannot be associated with a consumer or household;

(ii) publicly commits to maintain and use the information only in deidentified form and not to attempt to reidentify the information, except that the business may periodically attempt to reidentify the information solely for the purpose of determining whether its deidentification processes satisfy the

requirements of this subdivision (B), on the express condition that the business does not use or disclose any information reidentified in this process and destroys the reidentified information upon completion of that periodic assessment; and

(iii) contractually obligates any recipients of the information to take reasonable measures to ensure that the information cannot be associated with a consumer or household and to commit to maintaining and using the information only in deidentified form and not to reidentify the information.

(C) “Genetic data” does not include data or a biological sample to the extent that data or a biological sample is collected, used, maintained, and disclosed:

(i) exclusively for scientific research conducted by an investigator with an institution that holds an assurance with the U.S. Department of Health and Human Services pursuant to 45 C.F.R. Part 46; or

(ii) in compliance with all applicable federal and State laws and regulations for the protection of human subjects in research, including the:

(I) Common Rule, 45 C.F.R. Part 46;

(II) U.S. Food and Drug Administration regulations pursuant to 21 C.F.R. Parts 50 and 56; and

(III) Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

(10) “Genetic testing” means any laboratory test of a biological sample from a consumer for the purpose of determining information concerning genetic material contained within the biological sample, or any information extrapolated, derived, or inferred therefrom.

(11) “Person” means an individual, partnership, corporation, association, business, business trust, or legal representative of an organization.

(12)(A) “Publicly available information” means information that is made available through federal, state, or local government records or to the general public from widely distributed media.

(B) “Publicly available information” does not include:

(i) biometric data collected by a business about a consumer without the consumer’s knowledge;

(ii) information that is collated and combined to create a consumer profile that is made available to a user of a publicly available website either in exchange for payment or free of charge;

(iii) information that is made available for sale;

(iv) an inference that is generated from the information described in subdivision (ii) or (iii) of this subdivision (12)(B);

(v) any obscene visual depiction, as defined in 18 U.S.C. § 1460;

(vi) personal data that is created through the combination of personal data with publicly available information;

(vii) genetic data, unless otherwise made publicly available by the consumer to whom the information pertains;

(viii) information provided by a consumer on a website or online service made available to all members of the public, for free or for a fee, where the consumer has maintained a reasonable expectation of privacy in the information, such as by restricting the information to a specific audience; or

(ix) intimate images, authentic or computer generated, known to be nonconsensual.

(13) “Service provider” means a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is involved in the collection, transportation, or analysis of the consumer’s biological sample or extracted genetic material:

(A) on behalf of a direct-to-consumer genetic testing company;

(B) on behalf of any other company that collects, uses, maintains, or discloses genetic data collected or derived from a direct-to-consumer genetic testing product or service; or

(C) that is directly provided by a consumer.

#### § 2421b. REQUIREMENTS

(a) Privacy terms and consent. To safeguard the privacy, confidentiality, security, and integrity of a consumer’s genetic data, a direct-to-consumer genetic testing company shall:

(1) provide clear and complete information regarding the company’s policies and procedures for the collection, use, maintenance, and disclosure, as applicable, of genetic data by making available to a consumer all of the following:

(A) a summary of its privacy practices, written in plain language, that includes information about the company’s collection, use, maintenance, and disclosure, as applicable, of genetic data;

(B) a prominent and easily accessible privacy notice that includes, at a minimum, complete information about the company's data collection, consent, use, access, disclosure, maintenance, transfer, security, and retention and deletion practices; and

(C) a notice that the consumer's deidentified genetic or phenotypic information may be shared with or disclosed to third parties for research purposes in accordance with 45 C.F.R. Part 46; and

(2) obtain a consumer's express consent for the collection, use, and disclosure of the consumer's genetic data, including, at a minimum, separate and express consent for each of the following:

(A) the use of the genetic data collected through the genetic testing product or service offered to the consumer, including:

(i) who has access to genetic data;

(ii) how genetic data may be shared; and

(iii) the specific purposes for which the data will be collected, used, and disclosed;

(B) the storage of a consumer's biological sample after the initial testing requested by the consumer has been fulfilled;

(C) each use of genetic data or the biological sample beyond the primary purpose of the genetic testing or service;

(D) each transfer or disclosure of the consumer's genetic data or biological sample to a third party other than a service provider, including the name of the third party to which the consumer's genetic data or biological sample will be transferred or disclosed and the intended purpose of said transfer, except that a company shall not require a consumer to expressly consent to the actions in this subdivision (D) in order to receive the services ordered from the company by the consumer; and

(E) the marketing or facilitation of marketing to a consumer based on the consumer's genetic data or the marketing or facilitation of marketing by a third party based upon the consumer having ordered, purchased, received, or used a genetic testing product or service.

(b) Marketing exception.

(1) Subdivision (a)(2)(E) of this section does not require a direct-to-consumer genetic testing company to obtain a consumer's express consent to market to the consumer on the company's own website or mobile application based upon the consumer having ordered, purchased, received, or used a

genetic testing product or service from that company if the content of the advertisement does not depend upon any information specific to that consumer. Nothing in this subdivision alters, limits, or negates the requirements of any other antidiscrimination law or targeted advertising law.

(2) Any advertisement of a third-party product or service presented to a consumer pursuant to subdivision (1) of this subsection or subdivision (a)(2)(E) of this section shall be prominently labeled as advertising content and be accompanied by the name of any third party that has contributed to the placement of the advertising. If applicable, the advertisement also shall clearly indicate that the advertised product or service, and any associated claims, have not been vetted or endorsed by the direct-to-consumer genetic testing company.

(c) Revoking consent.

(1) A direct-to-consumer genetic testing company that is subject to the requirements in subdivision (a)(2) of this section shall provide effective mechanisms for a consumer to withdraw consent provided pursuant to this subchapter that is at least as easy as the mechanism by which the consumer provided the consent, at least one of which utilizes the primary medium through which the company communicates with consumers.

(2) If a consumer revokes consent pursuant to subdivision (1) of this subsection, the direct-to-consumer genetic testing company shall:

(A) honor the consumer's consent revocation as soon as practicable, but not later than 30 days after the individual revokes consent; and

(B) if the revocation is related to the storage or use of a consumer's biological sample, destroy the consumer's biological sample not later than 30 days after receipt of the revocation of consent.

(d) Data security and access.

(1) A direct-to-consumer genetic testing company shall:

(A) implement and maintain reasonable security procedures and practices to protect a consumer's genetic data against unauthorized access, destruction, use, modification, or disclosure;

(B) develop procedures and practices to enable a consumer to easily:

(i) access the consumer's genetic data;

(ii) delete the consumer's account and genetic data, except for genetic data that is required to be retained by the company to comply with applicable legal and regulatory requirements; and

(iii) request to have and have the consumer's biological sample destroyed; and

(C) upon a request from a consumer to delete the consumer's genetic data or to destroy the consumer's biological sample pursuant to subdivision (B)(ii) or (iii) of this subdivision (d)(1), notify any third party, including service providers, that have received the consumer's data or sample from the company to delete the consumer's data or destroy the consumer's sample not later than 30 days after the consumer makes the request.

(2) Genetic data and biological samples of consumers shall not be stored within the territorial boundaries of any country currently sanctioned in any way by the U.S. Office of Foreign Assets Control or designated as a foreign adversary under 15 C.F.R. § 7.4(a).

(3) Genetic data or biometric data of consumers shall only be transferred or stored outside the United States with the express consent of the consumer.

(e) Contracts.

(1) A contract between a direct-to-consumer genetic testing company and a service provider shall prohibit the service provider from:

(A) retaining, using, or disclosing the biological sample, genetic data, or any information regarding the identity of the consumer, including whether that consumer has solicited or received genetic testing, for a commercial purpose other than providing the services specified in the contract with the business; and

(B) associating or combining the biological sample, genetic data, or any information regarding the identity of the consumer, including whether that consumer has solicited or received genetic testing, with information the service provider has received from or on behalf of another person or persons, or has collected from its own interaction with consumers or as required by law.

(2) Upon the termination of a contract between a direct-to-consumer genetic testing company and a service provider, the service provider shall:

(A) immediately destroy all genetic data the service provider retained during the contractual period with the testing company pursuant to subdivision (1)(A) of this subsection (e); and

(B) not disclose, transfer, or sell genetic data to a third party before it destroys the genetic data pursuant to subdivision (A) of this subdivision (2).

(f) Discrimination. A person or public entity shall not discriminate against a consumer because the consumer exercised any of the consumer's rights under this subchapter by:

(1) denying goods, services, or benefits to the consumer;

(2) charging different prices or rates for goods or services, including through the use of discounts or other incentives, or imposing penalties;

(3) providing a different level or quality of goods, services, or benefits to the consumer;

(4) suggesting that the consumer will receive a different price or rate for goods, services, or benefits, or a different level or quality of goods, services, or benefits; and

(5) considering the consumer's exercise of rights under this subchapter as a basis for suspicion of criminal wrongdoing or unlawful conduct.

(g) Nondisclosure and warrant requirement. Notwithstanding any other provision in this section, a direct-to-consumer genetic testing company shall not disclose:

(1) a consumer's genetic data to any entity that is responsible for administering or making decisions regarding health insurance, life insurance, long-term care insurance, disability insurance, or employment, or to any entity that provides advice to an entity that is responsible for performing those functions; or

(2) any information about a consumer to a government entity, including the consumer's genetic data or name:

(A) without a search warrant issued by a court on a finding of probable cause; or

(B) unless the consumer whose information is sought provides express consent to the disclosure upon being notified by the direct-to-consumer genetic testing company.

#### § 2421c. ENFORCEMENT

(a) A direct-to-consumer genetic testing company or service provider that violates this subchapter or rules adopted pursuant to this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General shall have the same authority under this subchapter to make rules, conduct civil investigations, bring civil actions, and

enter into assurances of discontinuance against any person as provided under chapter 63 of this title.

§ 2421d. APPLICABILITY

(a) The provisions of this subchapter shall not reduce a direct-to-consumer genetic testing company's duties, obligations, requirements, or standards under any applicable State and federal laws for the protection of privacy and security.

(b) In the event of a conflict between the provisions of this subchapter and any other law, the provisions of the law that afford the greatest protection for the right of privacy for consumers shall control.

(c) This subchapter shall not apply to any of the following:

(1) protected health information that is collected, maintained, used, or disclosed by a covered entity or business associate governed by the privacy, security, and breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164, established pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and the Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5;

(2) a covered entity governed by the privacy, security, and breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164, established pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, to the extent that the provider or covered entity maintains, uses, and discloses genetic information in the same manner as medical information or protected health information, as described in subdivision (1) of this subsection;

(3) a business associate of a covered entity governed by the privacy, security, and data breach notification rules issued by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164, established pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, to the extent that the business associate maintains, uses, and discloses genetic information in the same manner as medical information or protected health information, as described in subdivision (1) of this subsection;

(4) scientific research or educational activities conducted by a public or private nonprofit postsecondary educational institution that holds an assurance

with the U.S. Department of Health and Human Services pursuant to 45 C.F.R. Part 46, to the extent that the scientific research and educational activities conducted by that institution comply with all applicable federal and State laws and regulations for the protection of human subjects in research, including the Common Rule pursuant to 45 C.F.R. Part 46, U.S. Food and Drug Administration regulations pursuant to 21 C.F.R. Parts 50 and 56, and the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g;

(5) tests conducted exclusively to diagnose whether an individual has a specific disease, to the extent that all persons involved in the conduct of the test maintain, use, and disclose genetic information in the same manner as medical information or protected health information, as described in subdivision (1) of this subsection; and

(6) genetic data used or maintained by an employer, or disclosed by an employee to an employer, to the extent that the use, maintenance, or disclosure of that data is necessary to comply with a local, State, or federal workplace health and safety ordinance, law, or regulation.

(d) Nothing in this subchapter shall be construed to affect access to publicly available information.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2026.

**(Committee Vote: 10-1-0)**

**Favorable**

**H. 694**

An act relating to approval of amendments to the charter of the Town of Bennington concerning the Town Manager

**Rep. Pinsonault of Dorset**, for the Committee on Government Operations and Military Affairs, recommends that the bill ought to pass.

**(Committee Vote: 10-0-1)**

## NOTICE CALENDAR

**Favorable with Amendment**

**H. 566**

An act relating to sealing post-charge court diversion records upon successful completion

**Rep. Oliver of Sheldon**, for the Committee on Judiciary, recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROGRAM

\* \* \*

(f) Records; deletion and ~~expungement~~ sealing.

\* \* \*

(5) Post-charge diversion records ~~expungement~~ sealing. Within 30 days after the two-year anniversary of a successful completion of post-charge diversion, the court shall provide notice to all parties of record of the court's intention to order the ~~expungement~~ sealing of all court files and records, law enforcement records, fingerprints, and photographs other than entries in the court diversion program's centralized filing system applicable to the proceeding. However, the court shall not order ~~expungement~~ sealing if the participant does not satisfy each of subdivisions (A)–(C) of this subdivision. The court shall give the State's Attorney an opportunity for a hearing to contest the ~~expungement~~ sealing of the records. The court shall ~~expunge~~ seal the records if it finds:

(A) two years have elapsed since the successful completion of the juvenile post-charge diversion program by the participant;

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; and

(C) the participant does not owe restitution related to the case.

~~(6) Expungement of sealed records. The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case. [Repealed.]~~

(7) Post-charge diversion case index.

(A) The court and the Office of the Attorney General shall keep a special index of post-charge diversion cases that have been ~~expunged~~ sealed pursuant to this section together with the ~~expungement~~ sealing order. The index shall list only the name of the person convicted of the offense, the

person's date of birth, the docket number, date of case closure, the court of jurisdiction, and the offense that was the subject of the expungement sealing.

(B) The special index and related documents specified in subdivision (A) of this subdivision (7) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement sealing order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing subdivisions (5)–(9) of this subsection (f).

~~(8) Effect of expungement sealing. Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred; all index references thereto shall be deleted; and the participant, the court, law enforcement officers and departments, prosecutors, the referring entity, and the diversion program shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency, entity, or official named therein Procedures for sealing, the effect of sealing, and access to sealed records shall be as provided in 13 V.S.A. § 7607.~~

(9) Expungement Sealing applicability. The process of automatically expunging sealing records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002 2026. ~~Any person who completed diversion prior to July 1, 2002 must apply to the court to have the person's records expunged.~~ Expungement Sealing shall occur if the requirements of subdivisions (5)–(8) of this subsection (f) are met.

\* \* \*

Sec. 2. 3 V.S.A. § 164 is amended to read:

#### § 164. ADULT COURT DIVERSION PROGRAM

##### (a) Purpose.

(1) The Attorney General shall develop and administer an adult court diversion program, for both pre-charge and post-charge referrals, available in all counties.

(2) The program shall be designed to provide a restorative option for persons alleged to have caused harm in violation of a criminal statute or who have been charged with violating a criminal statute as well as for victims or those acting on a victim's behalf who have been allegedly harmed by the person referred to the program. The diversion program can accept referrals to the program as follows:

(A) Pre-charge by law enforcement or prosecutors pursuant to a policy adopted in accordance with subdivisions ~~(e)(1)-(2)~~ (c)(1) and (2) of this section.

(B) Post-charge by prosecutors for persons charged with a first or a second misdemeanor or a first nonviolent felony, or other offenses as the prosecutor deems appropriate, pursuant to subdivision (c)(3) of this section.

(C) Post-charge by prosecutors of persons who have been charged with an offense and who have substance abuse or mental health treatment needs regardless of the person's prior criminal history record, except a person charged with a felony offense that is a crime listed in 13 V.S.A. § 5301(7) shall not be eligible under this section. Persons who have attained 18 years of age who are subject to a petition in the Family Division pursuant to 33 V.S.A. chapter 52 or 52A shall also be eligible under this section. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system.

\* \* \*

(f) Records; deletion and ~~expungement~~ sealing.

\* \* \*

(5) Post-charge diversion records ~~expungement~~ sealing. Within 30 days after the two-year anniversary of a successful completion of adult post-charge diversion, the court shall provide notice to all parties of record of the court's intention to order the ~~expungement~~ sealing of all court files and records, law enforcement records, fingerprints, and photographs other than entries in the adult court diversion program's centralized filing system applicable to the proceeding. However, the court shall not order ~~expungement~~ sealing if the participant does not satisfy each of subdivisions (A)-(C) of this subdivision. The court shall give the State's Attorney an opportunity for a hearing to contest the ~~expungement~~ sealing of the records. The court shall ~~expunge~~ seal the records if it finds:

(A) two years have elapsed since the successful completion of the adult post-charge diversion program by the participant;

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; and

(C) the participant does not owe restitution related to the case.

~~(6) Expungement of sealed records. The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case. [Repealed.]~~

(7) Post-charge diversion case index.

(A) The court and the Office of the Attorney General shall keep a special index of post-charge diversion cases that have been expunged sealed pursuant to this section together with the expungement sealing order. The index shall list only the name of the person convicted of the offense, the person's date of birth, the docket number, date of case closure, location of programming, and the criminal offense that was the subject of the expungement sealing.

(B) The special index and related documents specified in subdivision (A) of this subdivision (7) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement sealing order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing subdivisions (5)–(9) of this subsection (f).

~~(8) Effect of expungement sealing. Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred; all index references thereto shall be deleted; and the participant, the court, law enforcement officers and departments, prosecutors, the referring entity, and the diversion program shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency, entity, or official named~~

~~therein~~ Procedures for sealing, the effect of sealing, and access to sealed records shall be as provided in 13 V.S.A. § 7607.

(9) ~~Expungement~~ Sealing applicability. The process of automatically ~~expunging~~ sealing records as provided in this section shall only apply to those persons who completed diversion on or after July 1, ~~2002~~ 2026. ~~Any person who completed diversion prior to July 1, 2002 must apply to the court to have the person's records expunged.~~ Expungement Sealing shall occur if the requirements of this subsection are met.

\* \* \*

Sec. 3. BURLINGTON COMMUNITY JUSTICE CENTER; ADULT  
DIVERSION PILOT; CRIMINAL MUNICIPAL ORDINANCE  
VIOLATIONS

Notwithstanding the limitation in 3 V.S.A. § 164(a)(2) relating to restorative options for persons alleged to have caused harm in violation of a criminal statute or who have been charged with violating a criminal statute, the referral of criminal municipal ordinance violations to the Burlington Community Justice Center is authorized under 3 V.S.A. § 164 from January 1, 2026, until July 1, 2027.

Sec. 4. EFFECTIVE DATES

- (a) This section and Sec. 3 shall take effect on passage.
- (b) Secs. 1 and 2 shall take effect on July 1, 2026.

**(Committee Vote: 10-0-1)**

**Rep. Masland of Thetford**, for the Committee on Ways and Means, recommends that the bill ought to pass when amended as recommended by the Committee on Judiciary.

**(Committee Vote: 11-0-0)**

**H. 632**

An act relating to miscellaneous environmental amendments

**Rep. Hoyt of Hartford**, for the Committee on Environment, recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Battery Extended Producer Responsibility \* \* \*

Sec. 1. 2024 Acts and Resolves No. 152, Sec. 3 is amended to read:

Sec. 3. ANR BATTERY ASSESSMENT

(a) On or before July 1, 2026, ~~the Secretary of Natural Resources 2027, the~~ stewardship organization formed pursuant to 10 V.S.A. chapter 168 shall complete an assessment of the opportunities, challenges, and feasibility of establishing mandatory end-of-life management programs for the following battery types:

- (1) batteries used in hybrid and electric vehicles;
- (2) battery energy storage systems; and
- (3) batteries that are not easily removable from the products they power.

(b) The assessment required by this section shall include:

(1) a summary of the work and progress other states have made in establishing end-of-life management programs for the three battery types listed under subsection (a) of this section; and

(2) policy recommendations on whether mandatory end-of-life management programs are necessary for the battery types listed under subsection (a) of this section.

(c) The assessment required by this section shall be provided to the Secretary of Natural Resources, the House Committee on Environment and Energy, and the Senate Committee on Natural Resources and Energy.

\* \* \* Fuel Storage Tanks \* \* \*

Sec. 2. 10 V.S.A. § 1927(d) is amended to read:

(d) No person shall deliver a regulated substance to a category one tank that is ~~visibly~~ designated by the Agency as not having a valid permit or not meeting standards adopted by the Secretary ~~related to corrosion protection, spill prevention, leak detection, financial responsibility, or overfill protection that may result in the tank releasing a regulated substance into the environment.~~

\* \* \* Healthy Homes Initiative \* \* \*

Sec. 3. 2024 Acts and Resolves No. 78, Sec. B.1103 is amended to read:

Sec. B.1103 CLIMATE AND ENVIRONMENT – FISCAL YEAR 2024

ONE-TIME APPROPRIATIONS

\* \* \*

(j)(1) In fiscal year 2024, the amount of \$6,100,000 American Rescue Plan Act (ARPA) – Coronavirus State Fiscal Recovery Funds is appropriated to the

Department of Environmental Conservation for the Healthy Homes Initiative. Funds shall be used to make repairs or improvements to drinking water, wastewater, or stormwater systems for Vermonters who have low to moderate income or who live in manufactured housing communities, or both.

(2) All information submitted to or compiled by the Department of Environmental Conservation related to the issuance of individual funding awards under the Healthy Homes Initiative shall be considered confidential unless the person providing the information designates that it is not confidential. This shall include all personal information of applicants that request or receive funding. Notwithstanding 1 V.S.A. § 214, this subdivision shall take effect on passage and shall apply retroactively to July 1, 2023.

\* \* \*

\* \* \* Flood Safety \* \* \*

Sec. 4. 2024 Act and Resolves No. 121, Sec. 3 is amended to read:

Sec. 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION;  
RIVER CORRIDOR BASE MAP; INFILL MAPPING;  
EDUCATION AND OUTREACH

(a) On or before January 1, ~~2026~~ 2027, the Department of Environmental Conservation, in consultation with the Agency of Commerce and Community Development and the regional planning commissions, shall amend by procedure the statewide River Corridor Base Map to identify areas suitable for development that are located within existing settlements and that will not cause or contribute to increases in fluvial erosion hazards.

(b) Beginning on January 1, 2025, and ending on January 1, ~~2027~~ 2028, the Department of Environmental Conservation shall conduct an education and outreach program to consult with and collect input from municipalities, environmental justice focus populations, the Environmental Justice Advisory Council, businesses, property owners, farmers, and other members of the public regarding how State permitting of development in mapped river corridors will be implemented, including potential restrictions on the use of land within mapped river corridors. The Department shall develop educational materials for the public as part of its charge under this section. The Department shall collect input from the public regarding the permitting of development in mapped river corridors as proposed by this act. On or before January 15, ~~2027~~, and annually thereafter until permitting of development in mapped river corridors begins under 10 V.S.A. § 754, the Department shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Environment and ~~Energy~~, and the Environmental Justice

Advisory Council a report that shall include:

(1) a summary of the public input it received regarding State permitting of development in mapped river corridors during the public education and outreach required under this section;

(2) recommendations, based on the public input collected, for changes to the requirements for State permitting of development in mapped river corridors;

(3) an analysis and summary of State permitting of development in mapped river corridors on environmental justice populations; and

(4) a summary of the Department's progress in adopting the rules required under 10 V.S.A. § 754 for the regulation of development in mapped river corridors.

Sec. 5. 10 V.S.A. § 754 is amended to read:

§ 754. MAPPED RIVER CORRIDOR RULES

(a) Rulemaking authority.

(1) On or before ~~July 1, 2027~~ July 15, 2028, the Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish requirements for issuing and enforcing permits for:

(A) all development within a mapped river corridor in the State; and

(B) ~~for~~ development exempt from municipal regulation in flood hazard areas.

(2) The Secretary shall not adopt rules under this subsection that regulate agricultural activities without the consent of the Secretary of Agriculture, Food and Markets, provided that the Secretary of Agriculture, Food and Markets shall not withhold consent under this subdivision when lack of such consent would result in the State's noncompliance with the National Flood Insurance Program.

(3) The Secretary shall seek the guidance of the Federal Emergency Management Agency in developing and drafting the rules required by this section in order to ensure that the rules are sufficient to meet eligibility requirements for the National Flood Insurance Program.

\* \* \*

(e) Permit requirement. Beginning on ~~January 1, 2028~~ July 1, 2029, a person shall not commence or conduct development exempt from municipal regulation in a flood hazard area or commence or conduct any development in

a mapped river corridor without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (f) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title.

\* \* \*

Sec. 6. 2024 Acts and Resolves 121, Sec. 10 is amended to read:

Sec. 10. STUDY COMMITTEE ON STATE ADMINISTRATION OF  
THE NATIONAL FLOOD INSURANCE PROGRAM

\* \* \*

(e) Report. On or before August 15, ~~2025~~ 2026, the Study Committee shall submit a written report to the General Assembly with its findings and any recommendations for legislative action. Any recommendation for legislative action shall be as draft legislation.

\* \* \*

Sec. 7. 2024 Acts and Resolves 121, Sec. 11(a) is amended to read:

(a) The Secretary of Natural Resources shall initiate rulemaking, including pre-rulemaking, for the rules required in Sec. 5 of this act, 10 V.S.A. § 754 (river corridor development), not later than July 1, 2025. The rules shall be adopted on or before July ~~1, 2027~~ 15, 2028.

\* \* \* Clean Water Service Providers \* \* \*

Sec. 8. 10 V.S.A. § 922 is amended to read:

§ 922. WATER QUALITY IMPLEMENTATION PLANNING AND  
TARGETS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall include in the implementation plan for the water a strategy for returning the water to compliance with the Vermont Water Quality Standards. With respect to a water that is impaired due to sources outside the State or if there is insufficient data or no data available to quantify reductions required by this subchapter, the Secretary shall not be required to implement the requirements of this subchapter; however, the Secretary shall provide an alternate strategy for attaining water quality standards in the implementation plan for the water. For waters determined to be subject to this subchapter, the Secretary shall include the following in an implementation plan:

\* \* \*

(c) When implementing the requirements of this section, the Secretary shall ~~follow the type 3 notice process established in section 7714 of this title~~ provide notice to the public and a comment period of not less than 30 days.

Sec. 9. 10 V.S.A. § 923 is amended to read:

§ 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN  
WATER PROJECTS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating pollution reduction values associated with a clean water project in that water. When establishing a pollutant reduction value, the Secretary shall consider pollution reduction values established in the TMDL; pollution reduction values established by other jurisdictions; pollution reduction values recommended by organizations that develop pollutant reduction values for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Pollution reduction values established by the Secretary shall be the exclusive method for determining the pollutant reduction value of a clean water project.

\* \* \*

(c)(1) If a person is proposing a clean water project for which no pollution reduction value or design life exists for a listed water, the Secretary shall publish a timeline, not to exceed one year, to establish a pollution reduction value or design life for that clean water project within 60 days following a request from the person proposing the clean water project. A pollution reduction value or design life established under this subdivision shall be based on a review of pollution reduction values established in the TMDL; pollution reduction values or design lives established by other jurisdictions; pollution reduction values or design lives recommended by organizations that develop pollutant reduction values or design lives for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; actual data documenting the design life of a clean water project; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Any estimate timeline or pollution reduction value or design life developed under this subsection by the Secretary shall be posted on the Agency of Natural Resources' website.

(2) Upon the request of a clean water service provider, the Secretary shall evaluate a proposed clean water project and issue a determination as to

whether the proposed clean water project is eligible to receive funding as a part of a Water Quality Restoration Formula Grant awarded by the State pursuant to section 925 of this title.

\* \* \*

(f)(1) When implementing the requirements of subsections (a) and (b) of this section, the Secretary shall ~~follow the type 3 notice process established in section 7714 of this title~~ provide notice to the public and a comment period of not less than 30 days.

(2) When implementing the requirements of subsection (c) of this section, the Secretary shall ~~follow the type 4 notice process in section 7715 of this title~~ provide notice to the public and a comment period of not less than 30 days.

\* \* \* Concentrated Animal Feeding Operations \* \* \*

Sec. 10. 6 V.S.A. § 4851(a) is amended to read:

(a) No person shall, without a Large Farm Operation permit from the Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or ~~cow/calf~~ cow and calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity. The Secretary of Agriculture, Food and Markets, in consultation with the Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts prior to approval of a permit under this subsection. If, upon review of a large farm application for a permit under this subsection, the Secretary of Agriculture, Food and Markets determines that the farm may be discharging to waters of the State, the Secretary of Agriculture, Food and Markets shall promptly refer the potential discharge to the Secretary of Natural Resources for response in accordance with the federal Clean Water Act regarding concentrated animal feeding operations. The Secretary of Natural Resources shall direct a large farm to obtain a National Pollutant Discharge Elimination System permit under 10 V.S.A. § 1263 if required by federal regulations for concentrated animal feeding operations or by the VPDES CAFO Rules. If the farm is not required to obtain a CAFO permit and is not in violation of federal regulations for

Concentrated Animal Feeding Operations, the Secretary of Natural Resources shall promptly notify the Secretary of Agriculture, Food and Markets.

Sec. 11. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

(a) Any person who intends to discharge waste into the waters of the State or who intends to discharge into an injection well or who intends to discharge into any publicly owned treatment works any waste that interferes with, passes through without treatment, or is otherwise incompatible with that works or would have a substantial adverse effect on that works or on water quality, or is required to apply for a CAFO permit, shall make application to the Secretary for a discharge permit. Application shall be made on a form prescribed by the Secretary. An applicant shall pay an application fee in accordance with 3 V.S.A. § 2822.

\* \* \*

(g) Any person who owns or operates a concentrated animal feeding operation that requires a permit under the federal National Pollutant Discharge Elimination System permit regulations or the VPDES CAFO Rules shall submit an application to the Secretary for a discharge permit and pay the required fees specified in 3 V.S.A. § 2822. Not later than ~~December 15, 2025~~ September 1, 2027, the Secretary shall amend and issue the CAFO General Permit and Notice of Intent. Not later than July 1, 2026, the Secretary shall issue a CAFO application and an individual CAFO permit. The Secretary may request any additional information from a farm as necessary to process a permit and administer the CAFO program. The Secretary may direct a farm to apply for an individual or general permit in accordance with the procedural requirements of subsection (b) of this section.

(h) A large CAFO shall not be required to have a CAFO permit unless one of the following conditions ~~are~~ is met:

- (1) wastes are discharged into waters via a point source;
- (2) wastes are discharged directly into waters that originate outside or pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation; or
- (3) a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a LFO has occurred that was not in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as determined by the Secretary.

(i) The Secretary shall require nutrient management plans for all CAFOs and shall include ~~the plans approved by the Secretary~~ in the permits for public comment in accordance with the process set forth in chapter 170 of this title. The Secretary may amend a permit in accordance with chapter 170 of this title or revoke a permit in accordance with 3 V.S.A. § 814.

(j) Once a CAFO is covered under a CAFO permit, the farm shall be covered for the five-year duration of the permit. ~~A farm covered by a CAFO permit shall renew the permit be renewed~~ in accordance with its terms, unless the farm wants to opt out and can demonstrate it is not discharging and shall accordingly comply with the federal CWA and the Vermont CAFO rules.

Sec. 12. 10 V.S.A. § 1351 is amended to read:

#### § 1351. DEFINITIONS

As used in this subchapter:

\* \* \*

(2)(A) “Animal feeding operation” or “AFO” means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

(i) animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(ii) crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility.

~~(B) Two or more individual farms qualifying as an AFO that are under common ownership and that adjoin each other or use a common area or system for the disposal of waste shall be considered to be a single AFO if the combined number of livestock or domestic fowl on the combined farm qualifies the combined farm as a large CAFO as defined in subdivision (5) of this section or as a medium CAFO as defined in subdivision (8) of this section~~  
Two or more AFOs under common ownership are considered to be a single AFO for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes.

(3) “Concentrated animal feeding operation” or “CAFO” means an AFO that is defined as a large CAFO, a medium CAFO, or a small CAFO.

\* \* \*

(5) “Large concentrated animal feeding operation” or “~~Large large~~ CAFO” means an AFO that houses 700 or more mature dairy animals, whether milked or dry, 1,000 or more cattle or cow ~~or~~ and calf pairs, 1,000 or more veal calves, 2,500 or more swine weighing over 55 pounds, 10,000 or more swine weighing 55 pounds or less, 500 or more horses, 10,000 or more sheep or lambs, 55,000 or more turkeys, 30,000 or more laying hens or broilers with a liquid manure handling system, 82,000 or more laying hens without a liquid manure handling system, 125,000 or more chickens other than laying hens without a liquid manure handling system, 5,000 or more ducks with a liquid manure handling system, or 30,000 or more ducks without a liquid manure handling system.

(6) “Large farm operation” or “LFO” ~~has the same meaning as in 6 V.S.A. chapter 215~~ means an AFO that stables or confines as many as or more than the numbers of animals specified in any of the following categories:

(A) 700 mature dairy cows, whether milked or dry;

(B) 1,000 veal calves;

(C) 1,000 cattle other than mature dairy cows or veal calves (includes heifers, steers, bulls, and cow and calf pairs);

(D) 2,500 swine each weighing 55 pounds or more;

(E) 10,000 swine each weighing less than 55 pounds;

(F) 500 horses;

(G) 10,000 sheep or lambs;

(H) 55,000 turkeys;

(I) 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;

(J) 125,000 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system;

(K) 82,000 laying hens, if the AFO uses other than a liquid manure handling system;

(L) 30,000 ducks, if the AFO uses other than a liquid manure handling system; or

(M) 5,000 ducks, if the AFO uses a liquid manure handling system.

\* \* \*

(8) “Medium concentrated animal feeding operation” or “medium CAFO” means an AFO that is defined as an AFO by the VPDES CAFO Rules adopted by the Secretary, including an AFO that:

(A) houses 200 to 699 mature dairy animals, whether milked or dry, 300 to 999 cattle or cow ~~or~~ and calf pairs, 300 to 999 veal calves, 750 to 2,499 swine weighing over 55 pounds, 3,000 to 9,999 swine weighing 55 pounds or less, 150 to 499 horses, 3,000 to 9,999 sheep or lambs, 16,500 to 54,999 turkeys, 9,000 to 29,999 laying hens or broilers with a liquid manure handling system, 25,000 to 81,999 laying hens without a liquid manure handling system, 37,500 to 124,999 chickens other than laying hens without a liquid manure handling system, 1,500 to 4,999 ducks with a liquid manure handling system, or 10,000 to 29,999 ducks without a liquid manure handling system; and

(B) either of the following conditions are met:

(i) wastes are discharged into waters through a man-made ditch, flushing system, or other similar man-made device; or

(ii) wastes are discharged directly into waters that originate outside of or pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(9) “Medium farm operation” or “MFO” ~~has the same meaning as medium farm operation in 6 V.S.A. chapter 215 and rules adopted under the chapter~~ means any AFO with the following type and number of animals: 200 to 699 mature dairy cows, whether milked or dry; 300 to 999 veal calves; 300 to 999 cattle other than mature dairy cows or veal calves (includes heifers, steers, bulls, and cow and calf pairs); 750 to 2,499 swine each weighing 55 pounds or more; 3,000 to 9,999 swine each weighing less than 55 pounds; 150 to 499 horses; 3,000 to 9,999 sheep or lambs; 16,500 to 54,999 turkeys; 9,000 to 29,999 laying hens or broilers, if the AFO uses a liquid manure handling system; 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a liquid manure handling system; 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure handling system; 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling system; or 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system.

(10) “Point source” means any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

(11) “Process wastewater” means water directly or indirectly used in the operation of an AFO or CAFO for any or all of the following: spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other AFO or CAFO facilities; direct contact swimming, washing, or spray cooling of animals; or dust control. Process wastewater also includes any water that comes into contact with any raw materials, products, or byproducts, including manure, litter, feed, milk, eggs, or bedding.

(12) “Production area” means that part of an AFO or CAFO that includes the animal confinement area, the manure storage area, the raw materials storage area, and the waste containment areas. The animal confinement area includes open lots, housed lots, feedlots, confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards, barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area includes lagoons, runoff ponds, storage sheds, stockpiles, under house or pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage area includes feed silos, silage bunkers, and bedding materials. The waste containment area includes settling basins, and areas within berms and diversions that separate uncontaminated ~~storm water~~ stormwater. Also included in the definition of production area is any egg washing or egg processing facility and any area used in the storage, handling, treatment, or disposal of mortalities.

(13) “Secretary” means the Secretary of Natural Resources.

(14) “Small animal feeding operation” or “SFO” means an AFO that is not a large CAFO or a medium CAFO.

(15) “Small concentrated animal feeding operation” or “small CAFO” means a small AFO designated as a small CAFO by the Secretary upon determining that the AFO is a significant contributor of pollutants to waters of the State and is defined as a CAFO by the regulations adopted under the federal Clean Water Act.

(16) “Waters of the United States” ~~shall have~~ has the same meaning as defined by the federal Clean Water Act.

Sec. 13. 10 V.S.A. § 1352 is amended to read:

#### § 1352. POWERS OF THE SECRETARY

The Secretary has the authority to exercise all of the following:

(1) Implement the federal Clean Water Act to administer a Vermont pollutant discharge elimination system (VPDES) CAFO program that is at least as stringent as the federal Clean Water Act and enabling rules.

(2) Make, adopt, revise, and amend rules as necessary to administer a VPDES CAFO program that is at least as stringent as the federal Clean Water Act and enabling rules.

(3) Make, adopt, revise, and amend procedures, guidelines, inspection checklists, and other documents as necessary for the administration of the VPDES CAFO program.

(4) Designate any AFO that meets the definition of a CAFO under the federal Clean Water Act regulations or under the VPDES CAFO Rule as a CAFO, in the Secretary's sole discretion.

(5) Establish technical standards and require a CAFO to comply with technical standards that are consistent with current U.S. Department of Agriculture nutrient management standards, vegetative buffers, and any other CAFO requirements that comply with the federal Clean Water Act and enabling rules, such as 40 C.F.R. § 412.4 and 40 C.F.R. § 123.36.

(6) Require any AFO to obtain a CAFO permit under this chapter upon a determination that the AFO is discharging to waters of the State.

~~(6)~~(7) Designate any small AFO as a CAFO if after an on-site inspection, the Secretary determines that the small AFO is discharging into water and is a significant contributor of pollutants to waters of the State. The Secretary shall consider the following factors:

(A) the size of the AFO and the amount of wastes reaching waters;

(B) the location of the AFO relative to waters;

(C) the means of conveyance of animal wastes and process waste waters wastewaters into waters;

(D) the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes, manure, and process wastewaters into waters; and

(E) other relevant factors.

~~(7)~~(8) Access private or public property to inspect AFOs and CAFOs, take photos and samples, and review and copy AFO and CAFO land management records, including nutrient management plans, as may be necessary to carry out the provisions of this subchapter.

~~(8)~~(9) Solicit and receive federal funds to implement the CAFO program.

~~(9)~~(10) Cooperate fully with the federal government or other agencies in the operation of any joint federal-state programs concerning the regulation of agricultural pollution.

~~(10)~~(11) Appoint assistants or contract with persons with applicable expertise, subject to applicable laws and State policies, to perform or assist in the performance of the duties and functions of the Secretary under this chapter.

Sec. 14. 10 V.S.A. § 1353 is amended to read:

§ 1353. CAFO PERMIT REQUIREMENTS AND EXEMPTIONS

(a) The discharge of manure, litter, or process wastewater to waters of the State from a permitted CAFO as a result of the application of that manure, litter, or process wastewater by the CAFO to land areas under its control is a discharge from that CAFO subject to VPDES permit requirements, except where it is an agricultural stormwater discharge as provided under the federal Clean Water Act. For purposes of this subsection, where the manure, litter, or process wastewater has been applied in accordance with the federal regulations under the Clean Water Act, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of a CAFO is an agricultural stormwater discharge. For unpermitted ~~Large~~ large CAFOs, a precipitation-related discharge of manure, litter, or process wastewater from land areas under the control of the CAFO shall be considered an exempt agricultural stormwater discharge only where the manure, litter, or process wastewater has been land applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater, as specified in the federal CAFO regulations and as determined by the Secretary.

\* \* \*

Sec. 15. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

\* \* \*

(3) 10 V.S.A. chapters 47 and 56, relating to water pollution control, water quality standards, public water supply, and lakes in crisis;

\* \* \*

(d) Upon the request of the Secretary of Agriculture, Food and Markets, the Secretary may take action under this chapter to enforce the agricultural water quality requirements of, rules adopted under, and permits and certifications issued under 6 V.S.A. chapter 215. The Secretary of Natural Resources and the Secretary of Agriculture, Food and Markets shall ~~enter into a memorandum of understanding to implement this subsection~~ execute a document that outlines the process for implementing this subsection.

\* \* \* Dam Removal; Public Good \* \* \*

Sec. 16. 10 V.S.A. § 1086 is amended to read:

§ 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

(a)(1) “Public good” means the greatest benefit of the people of the State. In determining whether the public good is served, the Department shall give due consideration to public safety and, among other things, the effect the proposed project will have on:

(1)(A) the quantity, kind, and extent of cultivated agricultural land that may be rendered unfit for use by or enhanced by the project, including both the immediate and long-range agricultural land use impacts;

(2)(B) scenic and recreational values;

(3)(C) fish and wildlife;

(4)(D) forests and forest programs;

(5) [Repealed.]

(6)(E) the existing uses of the waters by the public for boating, fishing, swimming, and other recreational uses;

(7)(F) the creation of any hazard to navigation, fishing, swimming, or other public uses;

(8)(G) the need for cutting clean and removal of all timber or tree growth from all or part of the flowage area;

(9)(H) the creation of any public benefits;

(10)(I) attainment of the Vermont water quality standards;

(11)(J) any applicable State, regional, or municipal plans;

(12)(K) municipal grand lists and revenues; and

(13)(L) in the case of the proposed removal of a dam that formerly related to or was incident to the generation of electric energy, but that was not

subject to a memorandum of understanding dated prior to January 1, 2006 relating to its removal, the potential for and value of future power production.

(2) Prior to determining whether the public good is served under this section for an application under section 1082 of this title to raise, lower, remodel, reconstruct, repair, or otherwise alter a dam, the Department shall notify the project applicant when removal of the dam may be a more appropriate alternative. After notification by the Department, the applicant shall be allowed to revise the project application to request dam removal.

(b) If the Department finds that the project proposed under section 1082 of this title will serve the public good and, in case of any waters designated by the Secretary as outstanding resource waters, will preserve or enhance the values and activities sought to be protected by designation, the agency shall issue its order approving the application. The order shall include conditions for attainment of water quality standards, as determined by the Agency of Natural Resources, and such other conditions as the Department considers necessary to protect any element of the public good listed in subsection (a) of this section. Otherwise, it shall issue its order disapproving the application.

(c) The Department shall provide the applicant and interested persons with copies of its order.

(d) In the case of a proposed removal of a dam that is under the jurisdiction of the Department and that formerly related to or was incident to the generation of electric energy but that was not subject to a memorandum of understanding dated before January 1, 2006 relating to its removal, the Department shall consult with the Department of Public Service regarding the potential for and value of future power production at the site.

\* \* \* Emergency Rule \* \* \*

Sec. 17. 3 V.S.A. § 844 is amended to read:

#### § 844. EMERGENCY RULES

(a) Where an agency believes that there exists an imminent peril to public health, safety, or welfare, it may adopt an emergency rule. The rule may be adopted without having been prefiled or filed in proposed or final proposed form, and may be adopted after whatever notice and hearing the agency finds to be practicable under the circumstances. The agency shall make reasonable efforts to ensure that emergency rules are known to persons who may be affected by them.

\* \* \*

(g) In the alternative to the grounds specified in subsection (a) of this section, an agency may adopt emergency amendments to existing rules using the process set forth in this section if each of the subdivisions (1)–(5) of this subsection applies. On a majority vote of the entire Committee, the Legislative Committee on Administrative Rules may object to the emergency amendments on the basis that one or more of these subdivisions do not apply or under subdivision (e)(1)(A), (B), or (C) of this section, or both.

(1) The existing rules implement a program controlled by federal statute or rule or by a multistate entity.

(2) The controlling federal statute or rule has been amended to require a change in the program, or the multistate entity has made a change in the program that is to be implemented in all of the participating states.

(3) The controlling federal statute or rule or the multistate entity requires implementation of the change within 120 days or less.

(4) The adopting authority finds each of the following in writing:

(A) The agency cannot by the date required for implementation complete the final adoption of amended rules using the process set forth in sections ~~837 through 843~~ 837–843 of this title.

(B) Failure to amend the rules by the date required for implementation would cause significant harm to the public health, safety, or welfare or significant financial loss to the State.

(5) On the date the emergency rule amendments are adopted pursuant to this subsection, the adopting authority prefiles a corresponding permanent rule pursuant to section 837 of this title.

(h) In addition to the grounds for emergency rulemaking under subsections (a) and (g) of this section, an agency may adopt an emergency rule under this section if an amendment to a federal statute, rule, or policy will materially conflict with or threaten the ability of the agency to implement a statutory or regulatory program required under Vermont law. On a majority vote of the entire Committee, the Legislative Committee on Administrative Rules may object to proposed emergency rules for adoption under this subsection on the basis that the provisions of this subsection do not apply.

## Sec. 18. SUNSET OF AGENCY EMERGENCY RULEMAKING

### AUTHORITY

3 V.S.A. § 844(h) (emergency rulemaking in response to federal action) is repealed on July 1, 2028.

\* \* \* Waste Motor Vehicle Tires \* \* \*

Sec. 19. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING  
REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition.

(1) Every person shall be responsible for proper disposal of ~~his or her~~ the person's own solid waste. A person shall not throw, dump, deposit, or cause or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing in or on lands or waters of the State outside a solid waste management facility certified by the Agency of Natural Resources.

\* \* \*

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than \$800.00.

(1) This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, a solid waste management district attorney, an environmental enforcement officer employed by the Agency of Natural Resources, a designee of the legislative body of the municipality, or any duly authorized law enforcement officer.

(2) If the throwing, placing, or depositing was done from a snowmobile, vessel, or motor vehicle, except a motor bus, there shall be a rebuttable presumption that the throwing, placing, or depositing was done by the operator of the snowmobile, vessel, or motor vehicle.

(3) Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

(c) Roadside cleanup. A person found in violation of this section may be assigned to spend up to 80 hours collecting trash or litter from a specified segment of roadside or from a specified area of public property.

(d) Waste tire disposal. A person shall not transfer possession of a waste tire to an unlicensed solid waste hauler for disposal. Violation of this subsection shall be a violation of subsection (a) of this section.

(e) Revocation of hunting, fishing, or trapping license. The Commissioner of Fish and Wildlife shall revoke the privilege of a person found in violation of this section from holding a hunting, fishing, or trapping license for a period of one year from the date of the conviction, if the person fails to pay the penalty set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Fish and Wildlife of the entry of judgment.

(f) [Repealed.]

(g) Amendment of complaint. A person authorized to enforce this section may amend or dismiss a complaint issued by that person by marking the complaint and returning it to the Judicial Bureau. At the hearing, a person authorized to enforce this section may amend or dismiss a complaint issued by that person, subject to the approval of the hearing judge.

(h) [Repealed.]

(i) Applicability. Enforcement actions taken under this section shall in no way preclude the Agency of Natural Resources, the Attorney General, or an appropriate State prosecutor from initiating other or further enforcement actions under the civil, administrative, or criminal enforcement provisions of 10 V.S.A. chapter 23, 47, 159, 201, or 211. To the extent that enforcement under this section is by an environmental enforcement officer employed by the Agency of Natural Resources, enforcement under this section shall preclude other enforcement by the Agency for the same offence.

(j) Definitions. As used in this section:

(1) “Motor vehicle” ~~shall have~~ has the same meaning as in 23 V.S.A. § 4(21).

(2) “Snowmobile” ~~shall have~~ has the same meaning as in 23 V.S.A. § 3801.

(3) “Vessel” means motor boats, boats, kayaks, canoes, sailboats, and all other types of watercraft.

(4) “Waste tire” means a motor vehicle tire that has been removed from a motor vehicle and is no longer suitable for its original purpose because of wear, tear, damage, defect, or other reason.

(5) “Waters” ~~shall have~~ has the same meaning as in 10 V.S.A. § 1251(13).

Sec. 20. AGENCY OF NATURAL RESOURCES; WASTE MOTOR  
VEHICLE TIRE STAKEHOLDER PROCESS AND REPORT

The Agency of Natural Resources shall convene a stakeholder process on the management of waste motor vehicle tires and an approach to managing legacy waste motor vehicle tire piles and recycling or reuse options for those waste motor vehicle tires. The members of the stakeholder group shall include representatives from solid waste management entities, motor vehicle tire manufacturers, motor vehicle tire retailers, and automobile dealers. The Agency shall summarize the approaches taken in other jurisdictions for the management of waste motor vehicle tires and the recommendations of the stakeholder process in a report to the General Assembly. The Agency shall report to the House Committee on the Environment and Senate Committee on Natural Resources and Energy on or before January 15, 2027.

\* \* \* Emissions Repair Program \* \* \*

Sec. 21. 2021 Acts and Resolves No. 55, Sec. 25 is amended to read:

Sec. 25. EMISSIONS REPAIR PROGRAM

(a) Program creation. The Department of Environmental Conservation, in consultation with the Agency of Transportation, shall establish and administer an emissions repair program that shall:

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

(2) provide point-of-repair vouchers and base eligibility for vouchers on ~~the same criteria used for income qualification for the Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families~~ a Vermont registered vehicle owner's Vermont income tax status or adjusted gross income of the most recent Vermont income tax return, adjusted for the number of dependents claimed, as follows:

(A) a Vermont resident not required to file a Vermont income tax return because the resident is not required to file a federal income tax return qualifies for up to the maximum voucher amount of \$2,500.00;

(B) a Vermont resident with an adjusted gross income at or below 185 percent of the federal poverty level as determined by the U.S. Census Bureau qualifies for up to the maximum voucher amount of \$2,500.00;

(C) a Vermont resident with an adjusted gross income at or below 250 percent of the federal poverty level as determined by the U.S. Census Bureau qualifies for a reduced voucher amount up to \$1,875.00; or

(D) a Vermont resident with an adjusted gross income at or below 300 percent of the federal poverty level as determined by the U.S. Census Bureau qualifies for a reduced voucher amount up to \$1,250.00; and

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

\* \* \*

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

#### Sec. 22. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee Vote: 7-4-0)**

**Rep. Kimbell of Woodstock**, for the Committee on Ways and Means, recommends that the bill ought to pass when amended as recommended by the Committee on Environment.

**(Committee Vote: 9-2-0)**

#### H. 635

An act relating to eliminating Department of Corrections supervisory fees

**Rep. Sweeney of Shelburne**, for the Committee on Corrections and Institutions, recommends that the bill be amended as follows:

In Sec. 4, effective date, by striking out the word "passage" and inserting in lieu thereof "July 1, 2027"

**(Committee Vote: 11-0-0)**

**Rep. Waszazak of Barre City**, for the Committee on Ways and Means, recommends that the bill ought to pass when amended as recommended by the Committee on Corrections and Institutions.

**(Committee Vote: 11-0-0)**

**H. 775**

An act relating to creating tools for housing production

**Rep. Charlton of Chester**, for the Committee on General and Housing, recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Special Assessment Bonds \* \* \*

Sec. 1. 24 V.S.A. § 3257 is added to read:

§ 3257. SPECIAL ASSESSMENT BONDS

(a) Upon approval of the legislative body of the municipality and subject to subsection (c) of this section, a municipality may issue revenue bonds for the purpose of financing a public improvement for the benefit of the limited area of the municipality to be served by the improvement. A revenue bond issued under this section is issued for an essential and governmental purpose.

(b) A revenue bond issued pursuant to this section shall be payable solely and exclusively from the special assessments levied on the properties to be served by the improvement and shall not constitute general indebtedness of the municipality. No holder of a bond issued under this section shall have the right to compel any exercise of the taxing power of the municipality to pay on the bond.

(c) The municipality may issue a revenue bond pursuant to this section only if one or more of the following conditions are met:

(1) one of the following entities provides a commitment letter for the issuance:

(A) the Vermont Bond Bank;

(B) a bank regulated by the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, or the Federal Reserve Board;  
or

(C) a credit union regulated by the National Credit Union Administration; or

(2) a nationally recognized statistical rating organization that has an active U.S. public finance practice rates the issuance at a minimum credit rating of BBB or equivalent.

\* \* \* Vermont Housing Special Fund \* \* \*

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

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL

## INVESTMENTS

(a)(1) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b) and (c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9, the Vermont State Treasurer shall have the authority to establish on terms acceptable to the Treasurer:

(A) a credit facility of up to 10 12.5 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b) (c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9; and

(B) a credit facility of up to one percent of the State's average cash balance, provided that the credit facility established under subdivision (A) of this subdivision (1) shall be reduced by an equal amount to any credit facility amount established under this subdivision (B).

(2) The credit facility established in subdivision (1)(B) of this subsection may be used only to facilitate housing development through the bulk purchasing of off-site constructed housing and to aid in the purchase of off-site constructed housing units.

(3) Financial losses of the credit facility established in subdivision (1)(B) of this subsection shall be repaid from the Vermont Housing Special Fund established in section 12 of this title.

(b) The Treasurer may use amounts available under subsection (a) of this section to provide financing for infrastructure projects in Vermont mobile home parks and may modify the terms of such financing in the Treasurer's discretion as is necessary to promote the availability of mobile home park housing and to protect the interests of the State.

(c) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, and in addition to the provisions of subsection (a) ~~on~~ of this section, the Vermont State Treasurer shall have the authority to establish a credit facility of up to two and one-half percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b) ~~(e)~~ 433(b) and (c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9. The Treasurer may use amounts available under this subsection only to provide financing for climate infrastructure and resilience projects and may modify the terms of such financing in the Treasurer's discretion as is necessary to protect the ~~interest~~ interests of the State.

(d) Annually, on or before November 15, the Treasurer shall submit a report detailing the activities, financing, and accounting of any credit facilities created pursuant to subsection (c) of this section during the preceding calendar year to the Governor; the House Committees on Appropriations, on Commerce and Economic Development, and on Ways and Means; and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance.

(e) The Treasurer shall retain any interest paid on loans authorized under this section. Interest funds shall be transferred upon receipt to the Vermont Housing Special Fund established in section 12 of this title.

Sec. 3. 10 V.S.A. § 12 is added to read:

§ 12. VERMONT HOUSING SPECIAL FUND

(a) There is established the Vermont Housing Special Fund to be administered by the State Treasurer in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) The Fund shall consist of the following:

(1) any monies appropriated to the Fund by the General Assembly;

(2) any monies transferred to the Fund from the federal government, State agencies, or other governmental sources; and

(3) any interest paid on loans authorized pursuant to section 10 of this title.

(c)(1) The Treasurer shall use funds under this section to provide capital for housing projects in Vermont that, in the Treasurer's discretion, are necessary to promote the increased availability of housing, including the bulk purchasing of off-site constructed housing as authorized in subdivision 10(a)(2) of this title. This capital may be provided on terms acceptable to the Treasurer, including in the form of grants, interest-free loans, or the investment of equity stakes in housing projects.

(2) The Treasurer may use funds to pay the administrative costs necessary to support the credit facilities created in section 10 of this title.

(d)(1) The Treasurer shall credit to the Fund all interest and income derived from the deposit and investment of monies in the Fund.

(2) Any unexpended and unencumbered monies at the end of a fiscal year shall remain in the Fund.

\* \* \* Off-Site Construction Accelerator Pilot \* \* \*

Sec. 4. OFF-SITE CONSTRUCTION ACCELERATOR PILOT

(a) The Agency of Commerce and Community Development in collaboration with the Department of Buildings and General Services shall develop a pilot demonstration project and study that explores the possibilities of reducing housing development costs through modular construction.

(b) The pilot will consider the following elements:

(1) bulk purchasing for a single development or aggregation of multiple developments;

(2) streamlining regulatory processes by creating preapproved modular designs;

(3) creating a loan loss reserve for construction loans;

(4) off-site construction, including panelized or volumetric modular construction;

(5) establishing a statewide procurement consortium for bulk orders of modular units and materials;

(6) aligning State and local permitting; and

(7) the creation and adoption of off-site building codes.

(c)(1) As part of the pilot, the Agency shall work with the Office of the State Treasurer to identify the feasibility of the State providing a guarantee or other device to facilitate bulk purchasing of the off-site construction of homes.

(2) Prior to distributing any funds under this subsection, the Treasurer shall consult with the Department of Housing and Community Development, the Vermont State Housing Authority, the Vermont Housing Finance Agency, and the Vermont Housing and Conservation Board.

(d) The pilot shall occur in one or more municipalities willing to participate in the regulatory reforms necessary to implement the process and accept the constructed homes.

(e) A municipal planning grant shall be made available to the participating municipalities to assist in enacting the necessary regulatory reforms.

(f) On or before November 15, 2028, the Agency shall submit a written report to the House Committee on General and Housing and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action based on the success

of the pilot. The report shall include information on whether to enact a statewide building code or codes for off-site construction.

\* \* \* VHIP \* \* \*

Sec. 5. 10 V.S.A. § 699 is amended to read:

§ 699. VERMONT RENTAL HOUSING IMPROVEMENT PROGRAM

(a) Creation of Program.

(1) The Department of Housing and Community Development shall design and implement the Vermont Rental Housing Improvement Program, through which the Department shall award funding to statewide or regional nonprofit housing organizations, or both, to provide competitive grants and forgivable loans to private landlords for the rehabilitation, including weatherization and accessibility improvements, of eligible rental housing units.

(2) The Department shall develop statewide standards for the Program, including factors that partner organizations shall use to evaluate applications and award grants and forgivable loans. The Department may authorize partnership organizations to advance funding at the beginning of a project as part of an award.

\* \* \*

\* \* \* Vermont Economic Development Authority \* \* \*

Sec. 6. 10 V.S.A. § 212 is amended to read:

§ 212. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the Authority used in a trade or business whether or not such business is operated for profit, including land and rights in land, air, or water; buildings; structures; machinery; and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of State, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing unless otherwise authorized in this chapter. Such enterprises or endeavors may include:

\* \* \*

(S) After consultation with and deference to the Vermont Housing Finance Agency on applications that are eligible for financing from both the Authority and the Agency, financing for one or more of the following types of long-term care facilities licensed by the State pursuant to 33 V.S.A. chapter 71 and other applicable law, and any independent living facility, as defined in 32 V.S.A. § 9202(18), associated with the licensed facility:

- (i) an assisted living residence;
- (ii) a home for the terminally ill;
- (iii) a nursing home;
- (iv) a residential care home; and
- (v) a therapeutic community residence.

(T) Any capital improvement; purchase of receivables, property, assets, commodities, bonds, or other revenue streams or related assets; working capital program or liability; or other insurance program.

(U) After consultation with, and with deference to, the Vermont Housing Finance Agency on applications that are eligible for financing from both the Authority and the Agency, multiunit housing developments of five or more units when requested by, and jointly financed with, a financing lender, except that the Authority shall not finance housing developments that utilize funding issued by the Agency.

\* \* \*

\* \* \* Municipal Plans \* \* \*

Sec. 7. 24 V.S.A. § 4388 is added to read:

§ 4388. PLANNING FOR HOUSING TARGETS

(a) A municipality shall:

(1) include within the housing element of a municipal plan an identification and analysis of existing and projected housing needs for the projected population of the jurisdiction, including the housing needs for individuals with a disability, and provide regulations that allow for the rehabilitation, improvement, or development of the number of housing units needed, as identified in the land use plan and future land use map; or

(2) if the municipality cannot meet the regional housing targets developed pursuant to subdivision 4348a(a)(9) of this title, provide to the Department of Housing and Community Development an analysis of

regulatory and physical constraints preventing the municipality from developing sufficient housing to meet the regional housing targets, including:

(A) a quantification of the jurisdiction's existing and projected needed housing types, including location, age, condition, and occupancy required to accommodate existing and estimated population projections;

(B) an inventory of sites, including zoned, unzoned, vacant, underutilized, and potential redevelopment sites, available to meet the jurisdiction's needed housing types;

(C) an analysis of any constraints to housing development, such as zoning, development standards, and infrastructure needs and capacity, and the identification of market-based incentives that may affect or encourage the development of needed housing types; and

(D) a detailed description of what actions the jurisdiction may take to accommodate the projected needed housing types identified in subdivision (A) of this subdivision (2), including:

(i) updates to specific zoning or municipal bylaw provisions or maps; and

(ii) updates to specific infrastructure, including municipal water and sewer capacity.

(b) The housing element of the municipal plan may incorporate by reference any information or policies identified in other housing needs assessments adopted by the governing body, identified in the regional plan, or published in the Statewide Housing Needs Assessment published by the Department of Housing and Community Development in accordance with subdivision 4348a(a)(9) of this title.

(c) The amount of detail provided in the analysis beyond the minimum criteria established in this section is at the discretion of the legislative body.

\* \* \* Positions \* \* \*

## Sec. 8. POSITIONS

Two new permanent, full-time Grants Management Specialist Housing and Community Development classified positions are created within the Department of Housing and Community Development.

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

## Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2026.

**(Committee Vote: 10-0-1)**

**H. 778**

An act relating to dam safety

**Rep. Chapin of East Montpelier**, for the Committee on Environment, recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 10 is amended to read:

§ 10. REQUEST TO GOVERNOR BY MUNICIPAL AUTHORITIES

The all-hazards event provisions of this chapter shall not be brought into action unless the municipal director of emergency management, a member of the legislative body of the municipality, the city or town manager, or the mayor of a city that is within the area affected by an all-hazards event shall declare an emergency and request the Governor to find that a state of emergency exists and the Governor so finds, or unless the Governor declares a state of emergency under section 9 of this title. This section shall not be construed to prevent the Governor or the Director of Emergency Management without municipal approval from requiring the evacuation of an area subject to inundation from a dam failure when there is a dam failure or an imminent risk of failure.

Sec. 2. STATE OF VERMONT EMERGENCY OPERATIONS PLANNING  
PILOT PROJECT; REPORT

(a)(1) The Division of Emergency Management, in coordination with the Department of Environmental Conservation, shall conduct a pilot project under which the Division shall develop a set of emergency operations plans (EOPs) for two State-owned dams that have been classified as high-hazard potential. One of the dams shall have a population at risk of 1,000 or more persons and the other shall have a population at risk of 100 or more but fewer than 1,000 persons.

(2) The set of EOPs for each dam shall include an EOP for each municipality in the inundation zone of the dam.

(b)(1) In preparing the EOPs required under subsection (a) of this section and in order to ensure the sufficiency of the EOPs to protect public lives and property, the Division shall coordinate with and collect input from those entities traditionally involved in regional and municipal emergency management, including municipal officials; emergency responders; regional planning commissions; State and regional search and rescue partners, including swiftwater rescue providers; and other relevant interested parties

located in the regional area that would be inundated if the dam were to fail. The Division also shall coordinate with any owner or operator of a hydroelectric generation facility located at a State-owned dam.

(2) The Division of Emergency Management may hire a contractor, including a regional planning commission, to complete the requirements of this section, including one or both of the EOPs required under subsection (a) of this section.

(c) Each EOP required to be completed under subsection (a) of this section shall:

(1) be coordinated with each dam's emergency action plan and shall utilize each dam's emergency action plan inundation maps;

(2) identify planned evacuations and evacuation routes based on possible inundation scenarios, including how to evacuate vulnerable populations such as medically vulnerable individuals who need access to electricity or specialized medical equipment;

(3) identify where individuals shall evacuate to, such as a shelter, higher ground, or reunification location;

(4) engage facilities that house vulnerable populations, such as schools, shelters for the unhoused, and senior living communities, in the plan development;

(5) plan for the use of mutual aid and State resources, and coordinate such use between municipalities downstream of the dam;

(6) address how to implement the use of pre-event communication and early warning systems to alert persons in the inundation areas, including the use of the VT-Alert system; and

(7) include any additional provisions deemed useful by the Division in developing the EOP or for inclusion in the EOP.

(d) On or before July 1, 2028, the Division of Emergency Management shall submit to the House Committee on Environment and the Senate Committee on Natural Resources and Energy the results of the pilot project required under subsection (a) of this section, including:

(1) copies of the EOPs for the two dams;

(2) a summary of the process of developing the EOPs, including whether the Division completed the EOPs with Division staff, contracted with regional planning commissions, or hired other contractors to complete the EOPs;

(3) a summary of how the Division or the Division contractor coordinated with municipal officials; State and regional search and rescue entities, including swiftwater rescue partners; owners or operators of hydroelectric facilities at a dam; and emergency responders representing municipalities in the area of potential inundation from each dam;

(4) the cost of the EOPs completed under the pilot project;

(5) a summary of early warning and communications systems municipalities may use to communicate recommendations or requests for evacuation, including the best use of the State's VT-Alert System; and

(6) a scope, timeline, and budget for the Division to develop an EOP template or templates and a training on EOP development for municipalities.

(e) As part of the report required under subsection (d) of this section, the Division of Emergency Management shall, based on the results of the pilot project EOPs:

(1) recommend how EOPs should be completed for all State or federal dams in Vermont that are high-hazard potential dams and that have a population at risk of 100 or more persons, including:

(A) whether and how to prioritize completion of the EOPs for all high-hazard dams with a population at risk of 100 or more persons;

(B) whether the Division of Emergency Management can complete or contract for completion of the EOPs for all State or federal dams with a population at risk of 100 or more persons by 2035;

(C) whether the Division of Emergency Management can complete an EOP for a federal dam or whether the Division may only assist those local entities authorized to complete an EOP under federal law; and

(D) what it would cost for the Division of Emergency Management to complete the EOPs for dams with a population at risk of 100 or more persons or what it would cost for the Division to contract with a qualified consultant to complete the EOPs;

(2) recommend how EOPs should be completed for high-hazard dams with a population at risk of fewer than 100 persons;

(3) recommend potential funding sources that the Division or individual municipalities could access to complete or contract for the completion of EOPs;

(4) recommend how to best educate municipalities, regional planning commissions, and emergency service providers about the need for and importance of EOPs for dams;

(5) recommend whether and how an EOP should identify structures that persons would reasonably be expected to occupy and how to geotag these structures for purposes of inclusion in the VT-Alert system; and

(6) recommend how often the Division, regional planning commissions, or municipalities should conduct practice emergency response for the EOPs required under subsection (a) of this section and ultimately for all EOPs prepared for dams in the State.

### Sec. 3. APPROPRIATIONS

(a) In addition to other funds appropriated to the Department of Public Safety for the Division of Emergency Management in fiscal year 2027, \$250,000.00 is appropriated from the General Fund to the Department for completion by the Division of Emergency Management of the emergency operations plan pilot project required under Sec. 2 of this act.

(b) In addition to other funds appropriated to the Department of Environmental Conservation in fiscal year 2027, \$125,000.00 is appropriated from the General Fund to the Department of Environmental Conservation for the Department's assistance in completing the emergency operations plan pilot project required under Sec. 2 of this act.

### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee Vote: 11-0-0)**

**Favorable**

**H. 558**

An act relating to the Medicaid school-based services program

**Rep. Berbeco of Winooski**, for the Committee on Health Care, recommends that the bill ought to pass.

**(Committee Vote: 10-0-1)**

**For Informational Purposes**

**ANNOUNCEMENT: PUBLIC HEARING ON  
PROPOSED CHANGES TO THE DEPARTMENT OF  
MOTOR VEHICLES' INSPECTION MANUAL AND S.211**

The Vermont Senate Committee on Transportation will hold a **public hearing on February 24 from 5:00 p.m. to 7:00 p.m.** in Room 10 of the State House. Interested parties may attend the hearing in person or virtually.

The Committee will take testimony on the proposed changes to the Department of Motor Vehicles' Inspection Manual and S.211, a bill that proposes to require that motor vehicles be inspected every two years. Proposed changes to the Inspection Manual can be reviewed on the Committee's website. **Anyone interested in testifying must sign up in advance of the hearing through the following online form no later than 5:00 p.m. on February 18.** For those planning to testify, instructions on how to access and participate in the hearing will be sent the morning of the hearing.

Online sign-up form: <https://legislature.vermont.gov/s211-public-hearing>

**For those not planning to testify, the hearing will be available to watch live on YouTube at the following link:**  
<https://legislature.vermont.gov/committee/streaming/senate-transportation>.

Written testimony is encouraged and can be submitted through email at [testimony@leg.state.vt.us](mailto:testimony@leg.state.vt.us) or mailed to the Senate Committee on Transportation, c/o Megan Cannella, 115 State Street, Montpelier, VT 05633. For more information about the format of this event, contact Megan Cannella at [Megan.Cannella@vtleg.gov](mailto:Megan.Cannella@vtleg.gov).

**CROSSOVER DATES**

The Joint Rules Committee established the following crossover dates:

(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 13, 2026**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 13, 2026**.

(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**

20, 2026, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill, and the Fee/Revenue bills).**

### **HOUSE CONCURRENT RESOLUTION (H.C.R.) PROCESS**

Joint Rules 16a–16d provide the procedure for the General Assembly to adopt concurrent resolutions pursuant to the Consent Calendar. Here are the steps for Representatives to introduce an H.C.R. and to have it ceremonially read during a House session:

1. Meet with or email Legislative Counselor Michael Chernick regarding your H.C.R. draft request. Come prepared with an idea and any relevant supporting documents.
2. Have a date in mind if you want a ceremonial reading. You should communicate with Counselor Chernick **at least two weeks prior** to the week you want your ceremonial reading to happen.
3. Counselor Chernick will draft your H.C.R., and Resolutions Editor and Coordinator Jill Pralle will edit it. Upon completion of this process, a paper or electronic copy will be released to you. If a paper copy is released to you, a sponsor sign-out sheet will also be included.
4. Please submit a final sponsor list (with all sponsors listed) to Counselor Chernick by paper *or* electronically, but not both.
5. The final list of sponsors needs to be submitted, by email *or* on a paper sign-out sheet, to Counselor Chernick **not later than 1:00 p.m. the Wednesday of the week prior** to the H.C.R.’s appearance on the Consent Calendar.
6. The Office of Legislative Counsel will then send your H.C.R. to the House Clerk’s Office for incorporation into the Consent Calendar and House Calendar Addendum for the following week.
7. The week that your H.C.R. is on the Consent Calendar, any presentation copies that you requested will be mailed or available for pickup on Friday, after the House and Senate adjourn, which is when your H.C.R. is adopted pursuant to Joint Rules.
8. Your H.C.R. can be ceremonially read during a House session once it is adopted, meaning it must have been adopted through the House Consent

Calendar not later than the week prior to your requested ceremonial reading date. Contact Second Assistant Clerk Courtney Reckord to confirm your requested ceremonial reading date.

9. A Note: If there is a **specific date, week, or month that your resolution must be read** (e.g. to designate a specified period of time or to recognize a group on a certain day), please inform Second Assistant Clerk Courtney Reckord as soon as possible, so she can reserve that date in advance. You do not need to have the resolution drafted by then.

### JOINT FISCAL COMMITTEE NOTICES

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

**JFO #3271:** \$218,385.00 to the Vermont Center for Crime Victim Services from the U.S. Department of Justice. Funds will be used to consolidate data into one case management system. *[Received January 27, 2026]*

**JFO #3272:** \$195,053,740.00 to the Vermont Agency of Human Services, Central Office from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services. Participation in the Rural Health Transformation Plan (RHTP) will help to ensure long-term health care system sustainability in Vermont. This grant includes two (2) limited-service positions (LSP): one (1) Health Care Reform Integration Manager to the Office of Health Care Reform and one (1) Financial Manager II to the Agency of Human Services Central Office. Both limited positions are expected to last through 9/30/2031. *[Received January 27, 2026]*