

The House has adopted joint resolution of the following title:

**J.R.H. 16.** Joint resolution authorizing the Green Mountain Boys State educational program to use the State House.

In the adoption of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 106.** House concurrent resolution in memory of Robert William Kirkbride.

**H.C.R. 107.** House concurrent resolution designating March 10, 2022, as Social Worker Advocacy Day at the State House.

**H.C.R. 108.** House concurrent resolution designating the legislative week of March 8– 11, 2022 as Early Childhood Week at the General Assembly.

In the adoption of which the concurrence of the Senate is requested.

**Message from the Governor  
Appointment Referred**

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

The nomination of

Waples, Nancy Jear of Hinesburg - Associate Justice of the Supreme Court - from March 2, 2022 to March 21, 2023.

To the Committee on Judiciary.

**Bill Referred to Committee on Finance**

**S. 234.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to changes to Act 250.

**Bills Referred to Committee on Appropriations**

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 148.** An act relating to environmental justice in Vermont.

**S. 219.** An act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition and in the dual enrollment program.

### **Joint Resolution Placed on Calendar**

#### **J.R.H. 16.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House.

Whereas, the American Legion Department of Vermont sponsors the Green Mountain Boys State educational program, providing a group of boys entering the 12th grade a special opportunity to study the workings of State government, including conducting a mock legislative session at the State House, and

Whereas, the COVID-19 pandemic has forced the temporary closure of the State House to the public, and the extent of permitted public access to the building on June 23, 2022 will be dependent on the prevailing public health situation, now therefore be it

#### Resolved by the Senate and House of Representatives:

That the Green Mountain Boys State educational program is authorized to use the chambers and committee rooms of the State House on Thursday, June 23, 2022, from 8:00 a.m. to 4:15 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

### **Joint Resolution Placed on Calendar**

#### **J.R.H. 17.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing remote participation in joint committees under restricted, COVID-19-related circumstances through the remainder in 2022.

#### Resolved by the Senate and House of Representatives:

That Temporary Joint Rule 22A is amended to read as follows:

Rule 22A. Temporary Rule Regarding Joint Committee Meetings

(a)(1) A Joint committees shall return to in-person legislating, except that a member of a joint committee may debate and vote remotely in that committee if the member confirms with notifies the committee's chair or co-chairs a co-chair, as applicable, that the member must be absent from committee due to symptomatic illness or direct COVID-19-related circumstances meets one of the following conditions:

(A) the member has tested positive for COVID-19 and is within a required period of isolation;

(B) the member has been exposed to COVID-19 as a close contact and is within a required term of quarantine;

(C) the member has COVID-19 symptoms and is awaiting the results of a PCR test;

(D) the member has a household member who relies on the member for caregiving and the household member is required to be home due to one of the reasons set forth in subdivisions (A)–(C) of this subdivision (1) or because such a household member's daycare or school program has a short-term closure due to COVID-19; or

(E) the member provides to the joint committee chair or a co-chair, as applicable, written documentation from a health care provider indicating that the ongoing COVID-19 pandemic requires the member to participate remotely due to the member's health condition.

(2) The definitions, required time periods, and testing referenced in subdivision (1) of this subsection are those provided by Vermont Department of Health guidelines, including any revisions or updates

(b) The Joint Rules Committee is authorized to meet remotely as necessary to address COVID-19-related matters that may impact the operation of the General Assembly and joint committees.

(c) The remote authority set forth in this rule shall remain in effect through ~~Tuesday, March 8,~~ December 31, 2022.

(d) Notwithstanding the provisions of subsection (c) of this rule, if the Governor thereafter reissues capacity restrictions at gatherings and events or requires masks and physical distancing in response to COVID-19, the Joint Rules Committee is authorized to meet remotely and to permit any joint committees of the Legislature to meet and vote electronically as the Joint Rules Committee determines appropriate.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

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**Adjournment**

Pursuant to Rule 9 of the Senate Rules, on motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 9, 2022.

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**WEDNESDAY, MARCH 9, 2022**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 27**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 501.** An act relating to the regulation of food depackaging facilities.

**H. 717.** An act relating to providing humanitarian assistance to the people of Ukraine.

In the passage of which the concurrence of the Senate is requested.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

**H. 679.** An act relating to fiscal year 2022 budget adjustments.

And has adopted the same on its part.

**Bill Referred to Committee on Finance****S. 181.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to authorizing miscellaneous regulatory authority for municipal governments.

**Bills Referred to Committee on Appropriations**

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 155.** An act relating to the creation of the Agency of Public Safety.

**S. 258.** An act relating to amending the Required Agricultural Practices in order to address climate resiliency.

**Joint Resolution Placed on Calendar****J.R.S. 44.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Nitka,

**J.R.S. 44.** Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

*Whereas*, declarations have been submitted by the following six Superior Judges that they be retained for another six-year term, Judge Thomas S. Durkin, Judge David Fenster, Judge Kerry A. McDonald-Cady, Judge Robert A. Mello, Judge John Pacht, and Judge Helen M. Toor, and

*Whereas*, the procedures of the Joint Committee on Judicial Retention require at least one public hearing and the review of information provided by each candidate and the comments of members of the Vermont bar and the public, and

*Whereas*, the Committee is unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the candidates seeking to be retained in office by March 17, 2022, the date specified in subsection 608(e) of Title 4, and

*Whereas*, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Thursday, March 24, 2022, at ten o'clock and thirty minutes in the forenoon to vote on the retention of six Superior Judges. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty

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minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**Committee Bill Introduced**

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

**S. 286.**

By the Committee on Government Operations,

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

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 501.**

An act relating to the regulation of food depackaging facilities.

To the Committee on Natural Resources and Energy.

**H. 717.**

An act relating to providing humanitarian assistance to the people of Ukraine.

To the Committee on Appropriations.

**Adjournment**

Pursuant to Rule 9 of the Senate Rules, on motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, March 10, 2022.

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**THURSDAY, MARCH 10, 2022**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Pledge of Allegiance**

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

**Message from the House No. 28**

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

Madam President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 697.** An act relating to eligibility of reserve forestland for enrollment in the Use Value Appraisal Program.

In the passage of which the concurrence of the Senate is requested.

The Governor has informed the House that on February 28, 2022, he returned without signature and vetoed a bill originating in the House of the following title:

**H. 361.** An act relating to approval of amendments to the charter of the Town of Brattleboro.

**Text of Communication from Governor**

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 361** to the House is as follows:

**Communication from the Governor**

“February 28, 2022

The Honorable BetsyAnn Wrask  
Clerk of the Vermont House of Representatives  
115 State Street  
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.361, *An Act Relating to Approval of Amendments to the Charter of the Town of Brattleboro*, without my signature.

While I applaud 16- and 17-year-old Vermonters who take an interest in the issues affecting their communities, their state and their country, I do not support lowering the voting age in Brattleboro.

First, given how inconsistent Vermont law already is on the age of adulthood, this proposal will only worsen the problem. For example, the Legislature has repeatedly raised the age of accountability to reduce the consequences when young adults commit criminal offenses. They have argued this approach is justified because these offenders are not mature enough to contemplate the full range of risks and impacts of their actions.

Testimony given by leaders from Columbia University's Justice Lab, who said Vermont should raise the upper age of juvenile jurisdiction for most crimes, (including some violent crimes) described adolescents and what they called "emerging adults" as more volatile; more susceptible to peer influence; greater risk-takers; and less future-oriented than adults. This view was cited by the Legislature as justification to expand the definition of "child" to those 18 to 22 for purposes of criminal accountability. "Youthful offenders" up to age 22 may now avoid criminal responsibility for their crimes.

Second, if the Legislature is interested in expanding voting access to school-aged children, they should debate this policy change on a statewide basis. I do not support creating a patchwork of core election laws and policies that are different from town to town. The fundamentals of voting should be universal and implemented statewide.

For these reasons, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

I understand this is a well-intended local issue. I urge the Legislature to take up a thorough and meaningful debate on Vermont's age of majority and come up with consistent, statewide policy for both voting and criminal justice.

Sincerely,

/s/Philip B. Scott  
Governor

PBS/kp"

### **Rules Suspended; Bill Not Referred to Committee on Finance**

#### **S. 286**

Appearing on the Calendar for notice, and, pending referral of the bill to the Committee on Finance pursuant to Senate Rule 31, Senator Cummings moved that the rules be suspended and Senate bill entitled:

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

*Not* be referred to the Committee on Finance pursuant to Senate Rule 31.



Which was agreed to.

**Rules Suspended; Bill Committed**

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

**S. 239.** An act relating to enrollment in Medicare supplemental insurance policies.

was committed to the Committee on Finance pursuant to Rule 31 with the report of the Committee on Health and Welfare *intact*,

**Bill Referred to Committee on Finance**

**S. 226.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to expanding access to safe and affordable housing.

**Bills Referred to Committee on Appropriations**

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 72.** An act relating to the Interstate Compact on the Placement of Children.

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

**Joint Senate Resolution Adopted on the Part of the Senate**

**J.R.S. 45.**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Balint,

**J.R.S. 45.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, March 11, 2022, it be to meet again no later than Tuesday, March 15, 2022.

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**Bill Referred**

House bill of the following title was read the first time and referred:

**H. 697.**

An act relating to eligibility of reserve forestland for enrollment in the Use Value Appraisal Program.

To the Committee on Natural Resources and Energy.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered;  
Rules Suspended; Bill Passed in Concurrence; Bill Messaged**

**H. 717.**

Appearing on the Calendar for notice, on motion of Senator Balint, the rules were suspended and House bill entitled:

An act relating to providing humanitarian assistance to the people of Ukraine.

Was taken up for immediate consideration.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass in concurrence.

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

Thereupon, pending the question, Shall the bill be read a third time?, Senator Ram Hinsdale moved that the Senate propose to the House to amend the bill by adding a new Sec. 2 to read as follows:

Sec. 2. ASSISTANCE TO AFGHAN REFUGEES IN VERMONT;  
APPROPRIATION

The sum of \$644,826.00 is appropriated from the General Fund to the Agency of Human Services in fiscal year 2022 for distribution to the U.S. Committee for Refugees and Immigrants' Vermont Refugee Resettlement Program (USCRI) and the Ethiopian Community Development Council (ECDC), to be used to provide grants of \$1,500.00 to each Afghan arriving for settlement in Vermont in 2022, with the balance of the funds being made available to USCRI and ECDC to provide case management and other essential client support services to Afghan arrivals. The amount of funds USCRI and ECDC shall receive to facilitate the client support services shall be based on each agency's percentage of the total number of Afghan arrivals to be resettled in Vermont in 2022.

And by renumbering the existing Sec. 2, effective date, to be Sec. 3

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Ram Hinsdale?, Senator Ram Hinsdale requested and was granted leave to withdraw the proposal of amendment.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Balint, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator Balint, the rules were suspended and the bill was ordered messaged to the House forthwith.

**Bill Passed**

**S. 261.**

Senate bill of the following title was read the third time and passed:

An act relating to municipal retention of property tax collections.

**Joint Resolution Adopted on the Part of the Senate**

**J.R.S. 43.**

Joint Senate resolution of the following title was read the third time and adopted on the part of the Senate:

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to exchange quit claim deeds with the Vermont Land Trust and the Nature Conservancy in order to confirm the boundary between the Long Trail State Forest and the land co-owned by the Vermont Land Trust and the Nature Conservancy in the Towns of Eden and Belvidere.

**Bill Amended; Third Reading Ordered**

**S. 173.**

Senator Clarkson, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the State House Oversight Committee.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2 V.S.A. chapter 19 is amended to read:

CHAPTER 19. LEGISLATIVE ADVISORY COMMITTEE ON THE  
STATE HOUSE

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE  
HOUSE

(a) The Legislative Advisory Committee on the State House is created.

(b) The Committee shall be composed of ~~13~~ 12 members:

(1) ~~four~~ three members of the House of Representatives, appointed biennially by the Speaker of the House;

(2) ~~four~~ three members of the Senate, appointed biennially by the Committee on Committees;

(3) the Chair of the Board of Trustees of the Friends of the Vermont State House;

(4) the Director of the Vermont Historical Society;

(5) the Director of the Vermont Council on the Arts;

(6) the Commissioner of Buildings and General Services or designee;  
and

(7) the State Curator; and

(8) the Sergeant at Arms.

(c) The Committee shall biennially elect a chair from among its legislative members. A quorum shall consist of seven members.

(d) The Committee shall meet ~~at the State House~~ at least one time when the General Assembly is in session and at least one time when the General Assembly is not in session or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

(e) The Committee shall have the assistance of the Office of Legislative Counsel and the Office of Legislative Operations.

§ 652. PER DIEM AND EXPENSES; LEGISLATIVE MEMBERS

For meetings held during adjournment of the General Assembly, the legislative members of the Committee shall be entitled to per diem compensation and expense reimbursement as provided in subsection 406(a) of this title.

## § 653. FUNCTIONS

(a)(1) ~~The Legislative Advisory Committee on the State House shall be consulted on~~ oversee all activities relating to the ~~acquisition~~ collections and care of paintings and historic artifacts and furnishings; and ~~shall be consulted on~~ the refurbishing, renovation, preservation, and expansion of the building and its interior.

(2) ~~The Legislative Advisory Committee on the State House shall develop~~ approve a plan for the ~~acquisition~~ collections or commission of artwork for the State House collection that represents Vermont's diverse people and history, including diversity of gender, race, ethnicity, sexuality, and disability status.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services, in discharging responsibilities under subdivision 62(a)(6) of this title and 29 V.S.A. §§ 154(a) and 154a, respectively, shall consider the recommendations of the Committee. ~~The Committee's recommendations shall be advisory only.~~

(c)(1) The Committee may establish permanent or ad hoc subcommittees as needed to carry out its duties.

(2) A collections subcommittee of the Committee shall, in coordination with experts, develop a collections policy for recommendation to the Committee.

(d) The Chair of the Committee, the Sergeant at Arms, the State Curator, and the President of the Friends of the Vermont State House shall execute a memorandum of understanding to coordinate the policies, oversight, and care of the State House artwork collection.

Sec. 2. 2 V.S.A. § 62 is amended to read:

## § 62. LEGISLATIVE DUTIES

(a) The Sergeant at Arms shall:

(1) execute orders of either house, the Joint Legislative Management Committee, the Committee on Joint Rules, or the House or Senate Committee on Rules;

(2) maintain order among spectators and take measures to prevent interruption of either house or any committee thereof;

(3) arrange for special meetings and conferences at the State House;

(4) provide for the distribution of mail to all legislators;

(5) schedule the time for the use of rooms for committee meetings and hearings;

(6) maintain the State House and its furnishings in a good state of repair and ~~provide security for all furniture, draperies, rugs, desks, and other furnishings kept in the State House,~~ in consultation with the State Curator;

(7) provide for the establishment of a cafeteria and supervise its operation;

(8) provide security for the State House, pursuant to the responsibilities set forth in 29 V.S.A. § 171; and

(9) perform such other duties for the benefit of the legislators as may be required by any duly authorized committee thereof.

(b) He or she or any person in his or her employ shall not accept any compensation or gift for his or her services other than his or her salary. If he or she or any person in his or her employ violates this provision, he or she shall be fined \$25.00.

(c) The Sergeant at Arms shall not be responsible for structural repairs, capital improvements, or building for maintenance for the or curating the historic State House and its collections (as the term maintenance is defined in 29 V.S.A. § 159) or for the use, upkeep, or maintenance of the State House grounds.

(d) The Sergeant at Arms and employees of the Sergeant at Arms shall seek guidance from and operate in accordance with policies adopted by the Joint Legislative Management Committee.

Sec. 3. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the ~~general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House~~ its collections of art, decorative arts, and furnishings;

(2) interpretation of the State House to the visiting public through exhibits, publications, ~~and tours,~~ and other means of communication; and

(3) acquisition, management, and care of State collections of art and historic furnishings, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a); and

(4) oversight and management of the State's historic and contemporary art and collections in State buildings and on State property.

~~(c) Acquisition Collections policy. In coordination with the Legislative Advisory Committee on the State House, and in accordance with the plan developed pursuant to 2 V.S.A. § 653, and upon approval of the Legislative Advisory Committee on the State House, the State Curator shall adopt an acquisition a collections policy that ensures that the acquisition of art for the State House reflects a diversity of artistic media and artists, and celebrates the natural history of the State, and the diversity of the people and stories of Vermont throughout the history of the State.~~

(d) Interpretive plan. In coordination with the Friends of the Vermont State House and the Vermont Historical Society, the State Curator shall create an interpretive plan that tells the stories of the State House art collection through accessible written, multimedia, and oral means. The plan shall include appropriate and inclusive training of State House volunteers and staff.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

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

An act relating to the State House art collections.

And that when so amended the bill ought to pass.

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

First: In Sec. 1, 2 V.S.A. § 651, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) The Committee shall meet at the State House at least one time when the General Assembly is in session and at least one time when. When the General Assembly is not in session or at the call of the Chair, the Committee shall meet at least one time, but the Committee and any subcommittees shall not cumulatively meet more than six times per year; provided, however, that the Committee and any subcommittees of the Committee may meet more often with the approval of the Speaker of the House and the President Pro Tempore of the Senate. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

Second: In Sec. 1, 2 V.S.A § 653, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) The Sergeant at Arms, the State Curator, the President of the Friends of the Vermont State House, and the Chair of the Joint Legislative Management Committee shall execute a memorandum of understanding to coordinate the policies, oversight, and care of the State House artwork collection.

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended? was agreed to and third reading of the bill was ordered.

### **Bill Amended; Third Reading Ordered**

#### **S. 139.**

Senator Campion, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to public schools' team mascots.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to ensure that all Vermont schools provide positive and inclusive learning environments for all students by eliminating the use of discriminatory school branding, which undermines the educational experiences of members of all communities and perpetuates negative stereotypes. All Vermont students should feel safe and welcome while enrolled in a Vermont school.

Sec. 2. 16 V.S.A. § 568 is added to read:

#### § 568. SCHOOL BRANDING

(a) Definitions. As used in this section:

(1) "School" means a public school or an independent school approved under section 166 of this title.

(2) "School board" means the board of directors or other governing body of an educational institution when referring to an independent school.



(3) “School branding” means any name, symbol, or image used by a school as a mascot, nickname, logo, letterhead, team name, slogan, motto, or other identifier.

(b) Model policy.

(1) The Secretary of Education, in consultation with stakeholder groups including the Vermont School Boards Association, shall develop and, from time to time, update a model nondiscriminatory school branding policy. The policy shall prohibit school branding that directly or indirectly references or stereotypes the likeness, features, symbols, traditions, or other characteristics that are specific to either:

(A) the race, creed, color, national origin, sexual orientation, or gender identity of any person or group of persons; or

(B) any person, group of persons, or organization associated with the repression of others.

(2) The policy shall provide a process for an individual to file a complaint that an element of school branding is in violation of the policy. Complaints shall be determined first by the school board of the district and, if the individual is unsatisfied with the decision of the board, may be appealed to the Secretary of Education.

(3) The policy shall also require school boards to review the district’s school branding to ensure compliance with the policy after any school branding changes or updates to the policy.

(c) School branding policy adoption. Each school board shall develop, adopt, and ensure implementation of, and make available in the manner described under subdivision 563(1) of this title, a nondiscriminatory school branding policy that shall be at least as comprehensive as the model policy developed by the Secretary. Any school board that fails to adopt such a policy shall be presumed to have adopted the most current model policy published by the Secretary.

Sec. 3. IMPLEMENTATION

(a) The Agency of Education shall adopt the model policy required in Sec. 2 of this act not later than August 1, 2022.

(b) School boards, as defined in Sec. 2 of this act, shall adopt and implement school branding policies as required by section 2 of this act not later than January 1, 2023.

(c) School boards shall review the district’s school branding in place at the time the policy is adopted to ensure compliance with the policy.

(d) A school may use materials that feature school branding that does not comply with the policy after January 1, 2023, if the materials were purchased before January 1, 2023, and if the school selects new school branding by May 1, 2023, to take effect in the 2023-24 school year.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that when so amended the bill ought to pass.

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

**Bill Amended; Third Reading Ordered**

**S. 283.**

Senator Chittenden, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to miscellaneous changes to education laws.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Community College of Vermont In-State Tuition for Refugees \* \* \*

Sec. 1. 16 V.S.A. § 2185 is amended to read:

§ 2185. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements.

(b) Any member of the U.S. Armed Forces on active duty who is transferred to Vermont for duty other than for the purpose of education shall, upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period.

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

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

(2) is granted parole to enter the United States pursuant to 8 U.S.C. 1182(d)(5); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies Protection Act of 2008, as amended.

\* \* \* Suspension or Expulsion of Students \* \* \*

Sec. 2. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with State Board rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the student harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a student who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a student who brings a weapon to school pursuant to section 1166 of this title.

(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school, approved independent school, or prequalified private prekindergarten program who is under eight years of age shall not be suspended or expelled from the school; provided, however, that the school may suspend or expel the student if the student poses an imminent threat of harm or danger to others in the school.

Sec. 3. REPORT AND RECOMMENDATIONS ON SUSPENSION,  
EXPULSION, AND EXCLUSIONARY PRACTICES IN EARLY  
CHILDHOOD EDUCATION SETTINGS

The Building Bright Futures Council, established in 33 V.S.A. § 4602, shall

collaborate with the Agencies of Human Services and Education to define suspension, expulsion, and exclusionary practices in early childhood education settings and to establish best practices for supporting children who face such measures. The work of the Council shall include reviewing available data on exclusionary practices. On or before January 15, 2023 the Building Bright Futures Council shall issue a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, and the House Committee on Human Services detailing its work and findings and making recommendations for legislative action.

\* \* \* Entrance Age Threshold for Public School Kindergarten \* \* \*

Sec. 4. REPORT AND RECOMMENDATIONS ON THE IMPACT OF  
STANDARDIZING THE ENTRANCE AGE THRESHOLD FOR  
PUBLIC SCHOOL KINDERGARTEN

On or before December 15, 2022, the Agency of Education shall issue a written report to the Senate and House Committees on Education on the impact of standardizing the entrance age threshold for public school kindergarten attendance. In preparing the report, the Agency of Education shall consult with the Vermont Department for Children and Families, the Vermont Department of Health, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont Superintendents Association, and the Vermont National Education Association. The report shall include any recommendations for legislative action.

\* \* \* Statewide Uniform School Calendar \* \* \*

Sec. 5. REPORT AND RECOMMENDATIONS FOR A STATEWIDE  
UNIFORM SCHOOL CALENDAR

On or before January 15, 2024, the Agency of Education shall issue a written report to the Senate and House Committees on Education with a proposed statewide uniform school calendar, created to improve high-quality learning opportunities for all Vermont students. In creating the calendar, the Agency shall consider the impact on attendance at regional career and technical education centers as well as the impact on families and educators. The uniform calendar shall include student attendance days, periods of vacation, holidays, and teacher in-service education days.

\* \* \* Remote Learning \* \* \*

Sec. 6. REPORT AND RECOMMENDATIONS FOR STATEWIDE  
REMOTE LEARNING POLICY

On or before January 15, 2023, the Agency of Education, in consultation with the State Board of Education, shall issue a written report to the Senate

and House Committees on Education with recommendations for a statewide remote learning policy that incorporates remote learning into the requirements for student attendance, school days, and cumulative instructional hours. The report shall define remote learning and recommend statewide quality standards to ensure substantially equal access to quality basic education. The report shall also include any recommendations for legislative action.

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

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

**Proposal of Amendment; Third Reading Ordered**

**H. 701.**

Senator Pearson, for the Committee on Finance, to which was referred House bill entitled:

An act relating to cannabis license fees.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 7, 7 V.S.A. § 910, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. 7 V.S.A. §§ 910 and 911 are added to read:

§ 910. CANNABIS ESTABLISHMENT FEE SCHEDULE

The following fees shall apply to each person or product licensed by the Board:

(1) Cultivators.

(A) Outdoor cultivators.

(i) Outdoor cultivator tier 1. Outdoor cultivators with up to 1,000 square feet of plant canopy or fewer than 125 cannabis plants in an outdoor cultivation space shall be assessed an annual licensing fee of \$750.00.

(ii) Outdoor cultivator tier 2. Outdoor cultivators with up to 2,500 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$1,875.00.

(iii) Outdoor cultivator tier 3. Outdoor cultivators with up to 5,000 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$4,000.00.

(iv) Outdoor cultivator tier 4. Outdoor cultivators with up to 10,000 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$8,000.00.

(v) Outdoor cultivator tier 5. Outdoor cultivators with up to 20,000 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$18,000.00.

(vi) Outdoor cultivator tier 6. Outdoor cultivators with up to 37,500 square feet of plant canopy in an outdoor cultivation space shall be assessed an annual licensing fee of \$34,000.00.

(B) Indoor cultivators.

(i) Indoor cultivator tier 1. Indoor cultivators with up to 1,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$1,500.00.

(ii) Indoor cultivator tier 2. Indoor cultivators with up to 2,500 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$3,750.00.

(iii) Indoor cultivator tier 3. Indoor cultivators with up to 5,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$8,000.00.

(iv) Indoor cultivator tier 4. Indoor cultivators with up to 10,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$16,000.00.

(v) Indoor cultivator tier 5. Indoor cultivators with up to 15,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$36,000.00.

(vi) Indoor cultivator tier 6. Indoor cultivators with up to 25,000 square feet of plant canopy in an indoor cultivation space shall be assessed an annual licensing fee of \$75,000.00.

(C) Mixed cultivator tiers.

(i) Mixed cultivator tier 1. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$2,250.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 125 cannabis plants in an outdoor cultivation space.

(ii) Mixed cultivator tier 2. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$5,625.00: up to 2,500 square feet of plant canopy in an indoor cultivation space and up to 312 cannabis plants in an outdoor cultivation space.

(iii) Mixed cultivator tier 3. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$5,500.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 625 cannabis plants in an outdoor cultivation space.

(iv) Mixed cultivator tier 4. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$9,500.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 1,250 cannabis plants in an outdoor cultivation space.

(v) Mixed cultivator tier 5. Mixed cultivators with the following at the same licensed premises shall be assessed an annual licensing fee of \$19,500.00: up to 1,000 square feet of plant canopy in an indoor cultivation space and up to 2,500 cannabis plants in an outdoor cultivation space.

(2) Wholesalers. Wholesalers shall be assessed an annual licensing fee of \$4,000.00.

(3) Manufacturers.

(A) Manufacturer tier 1. Manufacturers that process and manufacture cannabis in order to produce cannabis products without using solvent-based extraction and not more than \$10,000.00 per year in cannabis products based on the manufacturer's total annual sales in cannabis products shall be assessed an annual licensing fee of \$750.00.

(B) Manufacturer tier 2. Manufacturers that process and manufacture cannabis in order to produce cannabis products without using solvent-based extraction shall be assessed an annual licensing fee of \$2,500.00.

(C) Manufacturer tier 3. Manufacturers that process and manufacture cannabis in order to produce cannabis products using all allowable methods of extraction, including solvent-based extraction, shall be assessed an annual licensing fee of \$15,000.00.

(4) Retailers. Retailers that sell cannabis and cannabis products to consumers shall be assessed an annual licensing fee of \$10,000.00.

(5) Testing laboratories. Testing laboratories shall be assessed an annual licensing fee of \$1,500.00.

(6) Integrated licensees. Integrated licensees shall be assessed an annual licensing fee of \$100,000.00.

(7) Employees. Cannabis establishments licensed by the Board shall be assessed an annual licensing fee of \$50.00 for each employee.

(8) Products. Retailers and integrated licensees shall be assessed an annual product licensing fee of \$50.00 for every type of cannabis and cannabis product that is sold in accordance with this chapter.

(9) Local licensing fees. Cannabis establishments licensed by the Board shall be assessed an annual local licensing fee of \$100.00 in addition to each fee assessed under subdivisions (1)–(6) of this section. Local licensing fees shall be distributed to the municipality in which the cannabis establishment is located pursuant to section 846(c) of this title.

(10) One-time fees.

(A) All applicants for a cannabis establishment license shall be assessed an initial one-time application fee of \$1,000.00.

(B) An applicant may choose to be assessed an initial one-time intent-to-apply fee of \$500.00. If the applicant subsequently seeks a license within one year after paying the intent-to-apply fee, the initial one-time application fee of \$1,000.00 shall be reduced by \$500.00.

#### § 911. FEE WAIVER AND REDUCTION; SOCIAL EQUITY APPLICANTS

The Cannabis Control Board may, in its discretion and pursuant to adopted rule or readily accessible policy, or both, reduce or waive cannabis establishment application and licensing fees for social equity applicants as defined by the Board, including individuals from communities that historically have been disproportionately impacted by cannabis prohibition and individuals directly and personally impacted by cannabis prohibition.

Second: By striking out Sec. 10, effective date, and its reader assistance heading in their entireties and inserting in lieu thereof a new Sec. 10 and reader assistance heading to read as follows:

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

#### Sec. 10. EFFECTIVE DATES

(a) Secs. 8 and 9 (medical cannabis; 7 V.S.A. §§ 955(b) and 977) shall take effect on July 1, 2022.

(b) All other sections shall take effect on passage.

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



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

### **Joint Resolutions Adopted in Concurrence**

Joint House resolutions entitled:

**J.R.H. 16.** Joint resolution authorizing the Green Mountain Boys State educational program to use the State House.

**J.R.H. 17.** Joint resolution authorizing remote participation in joint committees under restricted, COVID-19-related circumstances through the remainder in 2022.

Having been placed on the Calendar for action, were taken up.

Thereupon, the resolutions were severally adopted in concurrence.

### **Bill Amended; Third Reading Ordered**

#### **S. 206.**

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

An act relating to planning for the care and treatment of patients with cognitive impairments.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* State Plan \* \* \*

Sec. 1. 3 V.S.A. § 3085b is amended to read:

§ 3085b. COMMISSION ON ALZHEIMER'S DISEASE AND RELATED DISORDERS

\* \* \*

(b) The Commission shall be composed of ~~20~~ 21 members: the Commissioners of Disabilities, Aging, and Independent Living and of Health or designees, the Executive Director of Blueprint for Health or designee, one Senator chosen by the Senate Committee on Committees, one Representative chosen by the Speaker of the House, and 16 members appointed by the Governor. The members appointed by the Governor shall represent the following groups and organizations: physicians, social workers, hospitals and nursing home managers, including the administrators of the Vermont Veterans' Home, the clergy, adult day center providers, ~~the business community~~, registered nurses, residential care home operators, family care providers, the

home health agency, the legal profession, mental health service providers, the area agencies on aging, University of Vermont's Center on Aging, the Support and Services at Home (SASH) program, and the Alzheimer's Association. The members appointed by the Governor shall have direct expertise or experience working with or caring for individuals impacted by Alzheimer's disease and related disorders, expertise in clinical and medical research on Alzheimer's disease and related disorders, or knowledge of health systems and policies to equitably address Alzheimer's disease and related disorders and shall represent, to the degree possible, the five regions of the State.

\* \* \*

(f) The Commission shall advise State agencies on matters of State policy relating to Alzheimer's disease and other dementia-related disorders in Vermont for both the public and private sectors. The Commission shall:

(1) Evaluate the adequacy of existing services to individuals with Alzheimer's disease and other dementia-related disorders and their families; and conduct studies to identify gaps in these services. These studies may include access to mental health-related services and support for services to families of individuals with Alzheimer's disease.

(2) Identify strategies and recommend resources to expand existing services.

(3) Review or participate in the development of laws, rules, and other governmental initiatives that may affect individuals with Alzheimer's disease and other dementia-related disorders, and their families. ~~This may include participation in the development of rules, and procedures related to 1996 Acts and Resolves No. 160, Medicare and Medicaid, nursing and residential care facilities, adult day centers, special care units, and all community-based services to elders.~~

(4) Provide advice regarding revisions, coordination of services, accountability, and appropriations.

(5) Support the development of expanded community recognition, understanding, and capacity to meet the needs of individuals with Alzheimer's disease and dementia-related disorders. This may include development of new technologies to improve access to information for caregivers and practitioners who provide services throughout the State and identification of new models of service and activities related to expansion of community access to information, education, and service.

(6) Advise and provide written comments to the Departments of Health and of Disabilities, Aging, and Independent Living regarding the development of the State Plan on Aging as it relates to Alzheimer's disease and dementia

pursuant to 33 V.S.A. § 6206 and other relevant plans.

\* \* \*

Sec. 2. 33 V.S.A. § 6206 is amended to read:

§ 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM  
OF SERVICES, SUPPORTS, AND PROTECTIONS

(a) At least once every four years, the Department of Disabilities, Aging, and Independent Living shall adopt a State Plan on Aging, as required by the Older Americans Act. The State Plan on Aging shall describe a comprehensive and coordinated system of services, supports, and protections for older Vermonters, including individuals with Alzheimer's disease and related disorders, that is consistent with the principles set forth in section 6202 of this chapter and sets forth the nature, extent, allocation, anticipated funding, and timing of services for older Vermonters. The State Plan on Aging shall also include the following categories:

- (1) priorities for continuation of existing programs and development of new programs;
- (2) criteria for receiving services or funding;
- (3) types of services provided; and
- (4) a process for evaluating and assessing each program's success.

(b)(1) The Commissioner shall determine priorities for the State Plan on Aging based on:

(A) information obtained from older Vermonters, their families, and their guardians, if applicable, and from senior centers and service providers;

(B) a comprehensive needs assessment that includes:

(i) demographic information about Vermont residents, including older Vermonters, family caregivers, and kinship caregivers;

(ii) information about existing services used by older Vermonters, family caregivers, and kinship caregivers;

(iii) characteristics of unserved and underserved individuals and populations; and

(iv) the reasons for any gaps in service, including identifying variations in community needs and resources;

(C) a comprehensive evaluation of the services available to older Vermonters across the State, including home- and community-based services, residential care homes, assisted living residences, nursing facilities, senior

centers, and other settings in which care is or may later be provided; and

(D) identification of the additional needs and concerns of older Vermonters, their families, and their caregivers in the event of a public health crisis, natural disaster, or other emergency situation.

(2) Following the determination of State Plan on Aging priorities, the Commissioner shall consider funds available to the Department in allocating resources.

(c) At least 60 days prior to adopting the proposed plan, the Commissioner shall submit a draft to the Department's Advisory Board established pursuant to section 505 of this title and the Commission on Alzheimer's Disease and Related Disorders established pursuant to 3 V.S.A. § 3085b for advice and recommendations. The Advisory Board and Commission shall provide the Commissioner with written comments on the proposed plan.

(d) The Commissioner may make annual revisions to the plan as needed. The Commissioner shall submit any proposed revisions to the Department's Advisory Board and to the Commission on Alzheimer's Disease and Related Disorders for comment within the time frames established in subsection (c) of this section.

(e) On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the Governor regarding:

(1) implementation of the plan;

(2) the extent to which the system principles set forth in section 6202 of this chapter are being achieved;

(3) based on both qualitative and quantitative data, the extent to which the system has been successful in targeting services to individuals with the greatest economic and social need;

(4) the sufficiency of the provider network and any workforce challenges affecting providers of care or services for older Vermonters; and

(5) the availability of affordable and accessible opportunities for older Vermonters to engage with their communities, such as social events, educational classes, civic meetings, health and exercise programs, and volunteer opportunities.

(f) With regard to individuals with Alzheimer's disease and related disorders, the State Plan on Aging shall address:

(1) home-based care or placements and hospital and long-term care placements and transitions to and from care in home, hospital, and long-term care settings;

(2) support and education for families and caregivers; and

(3) strategies to promote affordable and accessible long-term care and home- and community-based services to individuals with Alzheimer's disease and related disorders.

Sec. 3. STATE PLAN ON AGING; ALZHEIMER'S DISEASE AND RELATED DISORDERS; ADDENDUM

In preparing the 2023 to 2026 State Plan on Aging pursuant to 33 V.S.A. § 6206, the Department of Disabilities, Aging, and Independent Living shall include as an addendum the State Plan on Alzheimer's Disease and Healthy Aging.

\* \* \* Creation of Public Education Resources and Coordinator \* \* \*

Sec. 4. 33 V.S.A. chapter 62 is amended to read:

CHAPTER 62. SUPPORTS FOR OLDER VERMONTERS ACT

Subchapter 1. Older Vermonters Act

§ 6201. SHORT TITLE

This ~~chapter~~ subchapter may be cited as the "Older Vermonters Act."

\* \* \*

§ 6203. DEFINITIONS

As used in this ~~chapter~~ subchapter:

\* \* \*

§ 6204. DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; DUTIES

\* \* \*

(b)(1) The Department shall coordinate strategies to incorporate the principles established in section 6202 of this ~~chapter~~ subchapter into all programs serving older Vermonters.

\* \* \*

(c) The Department's Advisory Board established pursuant to section 505 of this title shall monitor the implementation and administration of the Older Vermonters Act established by this ~~chapter~~ subchapter.

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§ 6205. AREA AGENCIES ON AGING; DUTIES

\* \* \*

(b) In addition to the duties described in subsection (a) of this section, the area agencies on aging shall:

(1) promote the principles established in section 6202 of this ~~chapter~~ subchapter across the agencies' programs and shall collaborate with stakeholders to educate the public about the importance of each principle;

(2) promote collaboration with a network of service providers to provide a holistic approach to improving health outcomes for older Vermonters; and

(3) use their existing area plans to facilitate awareness of aging issues, needs, and services and to promote the system principles expressed in section 6202 of this ~~chapter~~ subchapter.

§ 6206. PLAN FOR COMPREHENSIVE AND COORDINATED SYSTEM OF SERVICES, SUPPORTS, AND PROTECTIONS

(a) At least once every four years, the Department of Disabilities, Aging, and Independent Living shall adopt a State Plan on Aging, as required by the Older Americans Act. The State Plan on Aging shall describe a comprehensive and coordinated system of services, supports, and protections for older Vermonters that is consistent with the principles set forth in section 6202 of this ~~chapter~~ subchapter and sets forth the nature, extent, allocation, anticipated funding, and timing of services for older Vermonters. The State Plan on Aging shall also include the following categories:

\* \* \*

(e) On or before January 15 of each year, and notwithstanding the provisions of 2 V.S.A. § 20(d), the Department shall report to the House Committee on Human Services, the Senate Committee on Health and Welfare, and the Governor regarding:

(1) implementation of the plan;

(2) the extent to which the system principles set forth in section 6202 of this ~~chapter~~ subchapter are being achieved;

\* \* \*

Subchapter 2. Supports for Individuals with Alzheimer's and Related Disorders

§ 6221. PUBLIC EDUCATION RESOURCES

The Departments of Health and of Disabilities, Aging, and Independent Living shall jointly develop and maintain easily accessible electronic, print,

and in-person public education materials and programs on Alzheimer's disease and related disorders that shall serve as a resource for patients, families, caregivers, and health care providers. The Departments shall include information about the State Plan on Aging as well as resources and programs for prevention, care, and support for individuals, families, and communities.

#### Sec. 5. ALZHEIMER'S DISEASE COORDINATOR

On or before December 15, 2022, the Departments of Health and of Disabilities, Aging, and Independent Living shall submit a plan to the Senate Committee on Health and Welfare and to the House Committee on Human Services to fund a permanent Alzheimer's Disease Coordinator position to be shared between the Departments for the purpose of planning, public education, and coordination as informed by the recommendations of the Commission on Alzheimer's and Related Disorders established pursuant to 3 V.S.A. § 3085b, the State Plan on Aging required pursuant to 33 V.S.A. § 6206, and other relevant statewide plans on Alzheimer's disease and related disorders.

\* \* \* Expanding Professional Education Opportunities \* \* \*

#### Sec. 6. PROFESSIONAL EDUCATION OPPORTUNITIES; REPORT

(a) The Chair of the Commission on Alzheimer's Disease and Related Disorders shall appoint at least three members of the Commission to serve as a work group for the purpose of making recommendations to achieve a dementia-capable workforce and promote and expand opportunities for health care and human services providers and first responders to improve the diagnosis, treatment, and care of individual's with Alzheimer's disease and related disorders and to support their families and caregivers. In developing its recommendations, the work group shall consult with relevant stakeholders, including licensing entities related to the professions specified in this subsection.

(b)(1) The work group shall submit its findings and recommendations to the full Commission on or before November 1, 2023.

(2) Upon approval of the full Commission, the work group's findings and recommendations shall be submitted to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services on or before January 15, 2024.

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

#### Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except Sec. 2 (plan for comprehensive and coordinated system of services, supports, and protections) shall take effect on January 1, 2023.

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

An act relating to planning and support for individuals and families impacted by Alzheimer's Disease and related disorders.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Health and Welfare and when so amended ought to pass.

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

### **Joint Resolution Adopted on the Part of the Senate**

#### **J.R.S. 44.**

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

### **Message from the House No. 29**

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

Madam President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 680.** An act relating to obtaining a marriage license in any town in Vermont.

In the passage of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

**J.R.H. 18.** Joint resolution relating to the Russian invasion of Ukraine.

In the adoption of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 45.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.



The House has considered Senate proposal of amendment to the following House bill:

**H. 367.** An act relating to the management of perpetual care funds by cemetery associations.

And has severally concurred therein.

### **Adjournment**

On motion of Senator Balint, the Senate adjourned until eleven o'clock in the morning.

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### **FRIDAY, MARCH 11, 2022**

The Senate was called to order by the President.

### **Devotional Exercises**

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

### **Bill Referred to Committee on Finance**

#### **S. 195.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to the certification of mental health peer support specialists.

### **Bill Referred to Committee on Appropriations**

#### **S. 214.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to valuation of time-share projects.

### **Joint Resolution Referred**

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

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to the Russian invasion of Ukraine.

Whereas, on Thursday, February 24, 2022, Russian President Vladimir Putin invaded the independent nation of Ukraine, which has a democratically

elected government, stating that he wanted the de-Nazification of the country—despite Ukrainian President Volodymyr Zelenskyy himself being Jewish—triggering the largest military confrontation on the European continent since World War II, and

Whereas, President Putin has warned of dire historic consequences if any nation attempts to interfere in the Russian military operations in Ukraine, and he has placed the Russian nuclear arsenal on alert status, and

Whereas, deep national pride and a fierce anger at President Putin’s vicious attack upon Ukraine’s sovereignty has united Ukrainians, and many Ukrainian civilians have volunteered to defend their country, and

Whereas, under the inspiring leadership of President Zelenskyy, Ukrainians’ astonishment at Russia’s virulent invasion was shared by the rest of world; Russia’s increasingly severe military tactics have sparked enormous international condemnation; and over two million Ukrainians have fled their homeland, and

Whereas, demonstrations in Russia against President Putin’s attacks on Ukraine have resulted in the detention of thousands of antiwar protesters, and

Whereas, State Treasurer Beth Pearce and the Vermont Pension Investment Committee are liquidating State pension funds in Russian investments, and

Whereas, on March 3, 2022, Governor Philip B. Scott issued Executive Order No. 02-22, “Solidarity with the Ukrainian People,” which expressed strong dismay at the decision of President Putin to invade Ukraine, and directed that the State of Vermont limit business, investment, and contractual relationships associated with products either produced or sourced in Russia and terminated authorization for Vermont’s sister-state relationship with the Russian Republic of Karelia, and

Whereas, the General Assembly adopted 1990 Acts and Resolves No. R-157, “Joint resolution relating to strengthening ties with the peoples of Karelia within the Soviet Union,” and, while the peoples of the Republic of Karelia are not responsible for the Russian invasion of Ukraine, as a statement of the General Assembly’s concern over maintaining an official relationship with a Russian republic, this joint resolution warrants repeal, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly condemns the Russian invasion of Ukraine and expresses strong support for Ukraine’s fight for independence, the heroic leadership of Ukrainian President Volodymyr Zelenskyy, the resoluteness of the Ukrainian people, the courage of the Russian antiwar protesters, and the

actions of Governor Philip B. Scott in response to Russian aggression, and be it further

Resolved: That the General Assembly expresses its strong support for the United States' continued backing of Ukraine's heroic quest to remain a free and independent nation, and be it further

Resolved: That the General Assembly repeals 1990 Acts and Resolves No. R-157, "Joint resolution relating to strengthening ties with the peoples of Karelia within the Soviet Union," and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the embassies of Russia and Ukraine in Washington, D.C., to Governor Philip B. Scott, and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Government Operations.

### **Bill Referred**

House bill of the following title was read the first time and referred:

#### **H. 680.**

An act relating to obtaining a marriage license in any town in Vermont.

To the Committee on Government Operations.

### **Governor's Veto Overridden**

Senate Bill entitled:

**S. 30.** An act relating to prohibiting possession of firearms within hospital buildings.

Was taken up.

Thereupon, the pending question, Shall the bill pass, notwithstanding the refusal of the Governor to approve it?, was decided in the affirmative on a roll call required by the Vermont Constitution, Yeas 21, Nays 9. (the necessary *override* two-thirds vote *having* been attained).

### **Roll Call**

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

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

**Bill Amended; Third Reading Ordered; Rules Suspended; Bill Passed;  
Bill Messaged**

**S. 4.**

Senator Baruth, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to a 48-hour waiting period for firearms transfers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 4023 is added to read:

§ 4023. POSSESSION OF FIREARMS IN HOSPITAL BUILDINGS  
PROHIBITED

(a) A person shall not knowingly possess a firearm while within a hospital building.

(b) A person who violates this section shall be fined not more than \$250.00.

(c) This section shall not apply to a firearm possessed by a federal law enforcement officer or a law enforcement officer certified as a law enforcement officer by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. § 2358, for legitimate law enforcement purposes.

(d) Notice of the provisions of this section shall be posted conspicuously at each public entrance to each hospital.

(e) As used in this section:

(1) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(2) "Hospital" has the same meaning as in 18 V.S.A. § 1902.

Sec. 2. 13 V.S.A. § 4019 is amended to read:

§ 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

(a) As used in this section:

\* \* \*

(4) "Licensed dealer" means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) "Proposed transferee" means an unlicensed person to whom a proposed transferor intends to transfer a firearm.

(6) “Proposed transferor” means an unlicensed person who intends to transfer a firearm to another unlicensed person.

(7) “Transfer” means to transfer ownership of a firearm by means of sale, trade, or gift.

(8) “Unlicensed person” means a person who has not been issued a license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C. § 923(a).

(b)(1) Except as provided in subsection (e) of this section, an unlicensed person shall not transfer a firearm to another unlicensed person unless:

(A) the proposed transferor and the proposed transferee physically appear together with the firearm before a licensed dealer and request that the licensed dealer facilitate the transfer; and

(B) the licensed dealer agrees to facilitate the transfer.

(2) A person shall not, in connection with the transfer or attempted transfer of a firearm pursuant to this section, knowingly make a false statement or exhibit a false identification intended to deceive a licensed dealer with respect to any fact material to the transfer.

\* \* \*

(d) A person shall not transfer a firearm to another person if:

(1) the transfer requires a background check under this section or under federal law; and

(2) the licensed dealer facilitating the transfer has not been provided with a unique identification number for the transfer by the National Instant Criminal Background Check System, provided that if the identification number has not been provided within seven business days, then the transfer may proceed.

~~(d)~~(e)(1) An unlicensed person who transfers a firearm to another unlicensed person in violation of subdivision (b)(1) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(2) A person who violates subdivision (b)(2) or subsection (d) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

~~(e)~~(f) This section shall not apply to:

(1) the transfer of a firearm by or to a law enforcement agency;

(2) the transfer of a firearm by or to a law enforcement officer or member of the U.S. Armed Forces acting within the course of ~~his or her~~ the officer's or the U.S. Armed Forces member's official duties;

(3) the transfer of a firearm from one immediate family member to another immediate family member; or

(4) a person who transfers the firearm to another person in order to prevent imminent harm to any person, provided that this subdivision shall only apply while the risk of imminent harm exists.

~~(f)~~(g) A licensed dealer who facilitates a firearm transfer pursuant to this section shall be immune from any civil or criminal liability for any actions taken or omissions made when facilitating the transfer in reliance on the provisions of this section. This subsection shall not apply to reckless or intentional misconduct by a licensed dealer.

Sec. 3. 13 V.S.A. § 4057 is amended to read:

§ 4057. PROCEDURE

(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

\* \* \*

(d)(1) For purposes of a petition filed pursuant to this subchapter, a health care provider may notify a law enforcement officer when the provider believes in good faith that disclosure of the information is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public.

(2) As used in this subsection:

(A) "Health care provider" has the same meaning as in 18 V.S.A. § 9402.

(B) "Necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public" includes circumstances when the health care provider reasonably believes that the patient poses an extreme risk of causing harm to themselves or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the patient's custody or control.

Sec. 4. 13 V.S.A. § 4062 is added to read:

§ 4062. ANNUAL REPORTING; OFFICE OF COURT ADMINISTRATOR  
AND AGENCY OF HUMAN SERVICES

(a) On or before September 1, 2022 and annually thereafter, the Court Administrator, with the assistance of the Agency of Human Services, shall report data on the use of extreme risk protection orders during the previous year to the Senate and House Committees on Judiciary.

(b) The reports required by this section shall include the following data for the previous year:

(1) the number of extreme risk protection order petitions filed and the number of orders issued;

(2) geographical data indicating the county where the petition was filed; and

(3) follow-up information describing whether the order was renewed or terminated pursuant to section 4055 of this title and whether the subject of the order was charged with violating it under section 4058 of this title.

(c) The Agency of Human Services shall include in the reports required by this section an analysis of the impact of extreme risk prevention orders on Vermont suicide rates, including any relevant data relied on or utilized by the Agency for purposes of providing the information required by 2017 Acts and Resolves No. 34, An act relating to evaluation of suicide profiles.

Sec. 5. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

(a) A person shall not manufacture, possess, transfer, offer for sale, purchase, or receive or import into this State a large capacity ammunition feeding device. As used in this subsection, "import" shall does not include the transportation back into this State of a large capacity ammunition feeding device by the same person who transported the device out of State if the person possessed the device on or before the effective date of this section.

\* \* \*

(d)(1) This section shall not apply to any large capacity ammunition feeding device:

\* \* \*

(F) transported by a resident of another state into this State for the exclusive purpose of use in an organized shooting competition sponsored by an entity registered with the Secretary of State if the device is lawfully possessed

under the laws of another state.

\* \* \*

Sec. 6. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the court that the defendant has abused the plaintiff or the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on ~~his or her~~ the minor's own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or ~~his or her~~ the plaintiff's children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty or the personal liberty of the plaintiff's children, or both;

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; ~~and~~

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly, or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication; or

(E) to immediately relinquish, until the expiration of the order, all firearms that are in the defendant's possession, ownership, or control and to refrain from acquiring or possessing any firearms while the order is in effect.

(2) Upon a finding that the plaintiff, ~~his or her~~ or the plaintiff's children, or both, have been forced from the household and will be without shelter unless the defendant is ordered to vacate the premises, the court may order the defendant to vacate immediately the household and may order sole possession of the premises to the plaintiff.



(3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the court may award temporary custody of these minor children to the plaintiff or to other persons.

\* \* \*

#### Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

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

An act relating to procedures involving firearms.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered, on a roll call, Yeas 23, Nays 7.

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

#### **Roll Call**

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

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

\*Senator Benning explained his vote as follows:

Madam President:

I voted “no” on this bill for two reasons. First, I am not comfortable allowing out of state individuals to come to Vermont in possession of large capacity magazines which our own citizens are prohibited from possessing. It is insulting to Vermonters who are lawfully exercising their constitutional rights. I would prefer our own citizens had the same right of ownership.

Secondly, even though proponents claim it is “just temporary,” this bill clearly eliminates due process of law by depriving someone of their property on a mere accusation, almost always at a time when the owner of that property has no idea a court proceeding is taking place. This represents a significant shift in constitutional law and it should not go unnoticed. My greater fear is that this establishes a precedent for the next attempt to erode constitutional rights.

Thereupon, on motion of Senator Balint, the rules were suspended and the bill was placed on all remaining stages of passage.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Balint, the rules were suspended, and the bill was ordered messaged to the House forthwith.

### **Bill Amended; Third Reading Ordered**

#### **S. 247.**

Senator Hardy, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to prohibiting discrimination based on genetic information.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Genetic Information and Testing \* \* \*

Sec. 1. 18 V.S.A. § 9331 is amended to read:

#### § 9331. DEFINITIONS

~~For purposes of~~ As used in this chapter:

\* \* \*

(6) “Genetic information” means the results of genetic testing related to an individual or a family member of the individual contained in any report, interpretation, evaluation, or other record ~~thereof~~.

\* \* \*

Sec. 2. 18 V.S.A. § 9334 is amended to read:

#### § 9334. GENETIC TESTING AS A CONDITION OF INSURANCE COVERAGE

(a) No policy of insurance offered for delivery or issued in this State shall be underwritten or conditioned on the basis of:

(1) any requirement or agreement of the individual to undergo genetic testing; ~~or~~

(2) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(3) ~~the results of genetic testing~~ information of a member of the individual’s family that may be associated with a potential genetic condition in

that family member but that has not resulted in a diagnosed condition in the family member.

\* \* \*

\* \* \* Insurance \* \* \*

Sec. 3. 8 V.S.A. § 3702 is amended to read:

§ 3702. OTHER PROHIBITED PRACTICES

A life insurance company doing business in the State or an agent thereof shall not do any of the following:

(1) ~~issue~~ Issue a policy of insurance or make an agreement other than that plainly expressed in the policy issued to the insured;

(2) ~~pay~~ Pay or allow, or offer to pay or allow, as an inducement to insurance, a rebate or premium payable on the policy;

(3) ~~grant~~ Grant a special favor or advantage in the dividends or other benefits to accrue thereon; ~~or~~

(4) ~~provide~~ Provide any valuable consideration or inducement not specified in the policy.

(5)(A) Condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) genetic information of a member of the individual's family that may be associated with a potential genetic condition in that family member but that has not resulted in a diagnosed condition in the family member.

(B) As used in this subdivision (5), "genetic testing" and "genetic information" have the same meanings as in 18 V.S.A. § 9331.

(6) Request, require, purchase, or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested.

Sec. 4. 8 V.S.A. § 4724 is amended to read:

§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR  
DECEPTIVE ACTS OR PRACTICES DEFINED

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

\* \* \*

(7) Unfair discrimination; arbitrary underwriting action.

\* \* \*

(D) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance based on medical information, ~~including the results of genetic testing~~, where there is not a relationship between the medical information and the cost of the insurance risk that the insurer would assume by insuring the proposed insured. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience. ~~As used in this subdivision, “genetic testing” shall be defined as the term is defined in 18 V.S.A. § 9331(7).~~

\* \* \*

(F)(i) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance on:

(I) any requirement or agreement of the individual to undergo genetic testing;

(II) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(III) genetic information of a member of the individual’s family that may be associated with a potential genetic condition in that family member but that has not resulted in a diagnosed condition in the family member.

(ii) As used in this subdivision (7)(F), “genetic testing” and “genetic information” have the same meanings as in 18 V.S.A. § 9331.

\* \* \*

(22) Genetic testing.

(A) Conditioning insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing; or

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

~~(iii) the results of genetic testing information of a member of the individual's family unless the results are contained in the individual's medical record that may be associated with a potential genetic condition in that family member but that has not resulted in a diagnosed condition in the family member.~~

(B) As used in this subdivision (22), "genetic testing" ~~shall be defined as the term is defined and~~ "genetic information" have the same meanings as in 18 V.S.A. § 9331(7) 9331.

Sec. 5. 8 V.S.A. § 5115 is amended to read:

§ 5115. DUTY OF NONPROFIT HEALTH MAINTENANCE ORGANIZATIONS

(a) Any nonprofit health maintenance organization subject to this chapter shall offer nongroup plans to individuals in accordance with section 4080b of this title without discrimination based on age, gender, industry, genetic information, and medical history, except as allowed ~~by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title pursuant to 33 V.S.A. § 1811(f)(2)(A).~~

(b) As used in this section, "genetic information" has the same meaning as in 18 V.S.A. § 9331.

Sec. 6. 8 V.S.A. § 8086 is amended to read:

§ 8086. PREEXISTING CONDITIONS; GENETIC TESTING

\* \* \*

(b)(1) No long-term care insurance policy or certificate may exclude coverage for a loss or confinement ~~which~~ that is the result of a preexisting condition, unless ~~such~~ the loss or confinement begins within six months following the effective date of coverage of an insured person.

(2)(A) No long-term care insurance policy or certificate may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) genetic information of a member of the individual's family that may be associated with a potential genetic condition in that family member but that has not resulted in a diagnosed condition in the family member.

(B) As used in this subdivision (2), "genetic testing" and "genetic information" have the same meanings as in 18 V.S.A. § 9331.

\* \* \*

\* \* \* Social and Medical Services \* \* \*

Sec. 7. 8 V.S.A. § 4588 is amended to read:

§ 4588. ANNUAL REPORT TO COMMISSIONER

(a) Annually, on or before March 1, a medical service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31, which shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4590 of this title, the statement shall include a certification that the medical service corporation operates on a nonprofit basis for the purpose of providing an adequate medical service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, genetic information, and medical history, except as allowed by ~~subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title pursuant to~~ 33 V.S.A. § 1811(f)(2)(A).

(b) As used in this section, "genetic information" has the same meaning as in 18 V.S.A. § 9331.

Sec. 8. 8 V.S.A. § 4516 is amended to read:

§ 4516. ANNUAL REPORT TO COMMISSIONER

(a) Annually, on or before March 1, a hospital service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the

president and treasurer of the corporation showing its condition on December 31. The statement shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4518 of this title, the statement shall include a certification that the hospital service corporation operates on a nonprofit basis for the purpose of providing an adequate hospital service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, genetic information, and medical history, except as allowed by ~~subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B)~~ of this title pursuant to 33 V.S.A. § 1811(f)(2)(A).

(b) As used in this section, “genetic information” has the same meaning as in 18 V.S.A. § 9331.

Sec. 9. 33 V.S.A. § 101 is amended to read:

§ 101. POLICY

It is the policy of the State of Vermont that:

\* \* \*

(3) Assistance and benefits shall be administered promptly, with due regard for the preservation of family life, and without restriction of individual rights or discrimination on account of race, religion, political affiliation, genetic information, or place of residence within the State.

\* \* \*

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

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that when so amended the bill ought to pass.

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

**Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 139.** An act relating to public schools’ team mascots.

**S. 173.** An act relating to the State House Oversight Committee.

**S. 206.** An act relating to planning for the care and treatment of patients with cognitive impairments.

**S. 283.** An act relating to miscellaneous changes to education laws.

**Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment; Rules Suspended; Bill Messaged**

**H. 701.**

House bill entitled:

An act relating to cannabis license fees.

Was taken up.

Thereupon, pending third reading of the bill, Senators Pearson and Sears moved to amend the Senate proposal of amendment by striking out Sec. 10, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Regulation of the Medical Cannabis Registry \* \* \*

Sec. 10. REPEAL

(a) Due to the failure of the House bill entitled “An act relating to fiscal year 2022 budget adjustments” (H.679), for which the report of the committee of conference was considered and adopted on the part of the Senate on February 24, 2022 and on the part of the House on March 8, 2022, to become law prior to March 1, 2022, 18 V.S.A. chapter 86 (therapeutic use of cannabis) was repealed on March 1, 2022 pursuant to 2020 Acts and Resolves No. 164, Sec. 11. Accordingly, Secs. 59a (amendments to implementation of medical cannabis registry) and 59b (amendments to the effective dates of 2020 Acts and Resolves No. 164) of H.679 are now obsolete.

(b) If H.679 becomes law, then Secs. 59a and 59b of that act are repealed.

Sec. 11. REGULATION OF THE MEDICAL CANNABIS REGISTRY

Emergency rules identical to the proposed final rules entitled “Rule 3: Medical Cannabis” and “Rule 4: Compliance and Enforcement” that were filed with the Legislative Committee on Administrative Rules on March 9, 2022 shall be deemed to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a) if adopted as emergency rules prior to the permanent rules entitled “Rule 3: Medical Cannabis” and “Rule 4: Compliance and Enforcement” becoming effective.

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

Sec. 12. EFFECTIVE DATE

This act shall take effect on passage.

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



An act relating to cannabis license fees and the regulation of the medical cannabis registry.

Which was agreed to.

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

Thereupon, on motion of Senator Balint, the rules were suspended, and the bill was ordered messaged to the House forthwith.

### **Bill Amended; Third Reading Ordered**

#### **S. 188.**

Senator Pearson, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to regulating licensed small cannabis cultivation as farming.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 861(19) is amended to read:

~~(19) “Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:~~

~~(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.~~

~~(B) Government employees performing their official duties.~~

~~(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.~~

~~(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator. [Repealed.]~~

Sec. 2. 7 V.S.A. § 869 is amended to read:

#### **§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND USE STANDARDS; REGULATION OF SMALL CULTIVATORS**

~~(a)(1)~~ A cannabis establishment shall not be regulated as “farming” under the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law,

and cannabis produced from cultivation shall not be considered an agricultural product, farm crop, or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

~~(2) Notwithstanding subdivision (1) of this subsection, the cultivation of cannabis on agricultural land and the use of farm buildings to dry or process that cannabis shall not disqualify the land or buildings from the use value appraisal program or constitute “development” under 32 V.S.A. § 3752(5), provided that:~~

~~(A) the agricultural land or farm building is enrolled in the use value appraisal program at the time cannabis cultivation commences;~~

~~(B) the agricultural land or farm building is not transferred to another owner;~~

~~(C) the cultivation, drying, or processing of cannabis is done by a licensed small cultivator on 1,000 square feet or less of agricultural land; and~~

~~(D) all other requirements under 32 V.S.A. chapter 124 continue to be met.~~

(b) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with all applicable State, federal, and local environmental, energy, or public health law, unless otherwise provided under this chapter.

(c) A cannabis establishment regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter.

(d)(1) The cultivation, processing, and manufacturing of cannabis by all cultivators regulated under this chapter shall comply with the following sections of the Required Agricultural Practices as administered and enforced by the Board:

(A) section 6, regarding conditions, restriction, and operating standards;

(B) section 8, regarding groundwater quality and groundwater quality investigations; and

(C) section 12, regarding subsurface tile drainage.

(2) Application of or compliance with the Required Agricultural Practices under subdivision (1) of this subsection shall not be construed to provide a presumption of compliance with or exemption to any applicable State, federal, and local environmental, energy, public health, or land use law required under subsections (b) and (c) of this section.

(e) Persons cultivating cannabis or handling pesticides for the purposes of the manufacture of cannabis products shall comply with the worker protection standard of 40 C.F.R. ~~part~~ Part 170.

(f) Notwithstanding subsection (a) of this section, a small cultivator licensed under this chapter who initiates cultivation of cannabis outdoors on a parcel of land that was subject to the Required Agricultural Practices prior to licensed cultivation of cannabis shall:

(1) be regulated in the same manner as “farming” and not as “development” on the tract of land where cultivation occurs for the purposes of permitting under 10 V.S.A. chapter 151;

(2) not be regulated by a municipal bylaw adopted under 24 V.S.A. chapter 117 in the same manner that Required Agricultural Practices are not regulated by a municipal bylaw under 24 V.S.A. § 4413(d)(1)(A);

(3) be eligible to enroll in the Use Value Appraisal Program under 32 V.S.A. chapter 124 for the cultivation of cannabis, provided that the agricultural land or farm building on the parcel where cannabis cultivation occurs was enrolled in the Use Value Appraisal Program prior to commencement of licensed cannabis cultivation and the parcel continues to qualify for enrollment; and

(4) be exempt under 32 V.S.A. § 9741(3), (25) and (50) from the tax on retail sales imposed under 32 V.S.A. § 9771.

Sec. 3. 7 V.S.A. § 904 is amended to read:

#### § 904. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary and may purchase and sell cannabis seeds and immature cannabis plants to another licensed cultivator.

(b) Cultivation of cannabis shall occur only ~~in an enclosed, locked facility:~~

(1) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(2) in an area that is screened from public view and access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

\* \* \*

Sec. 4. 7 V.S.A. § 905 is amended to read:

§ 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary; ~~and~~

(2) transport, process, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, integrated licensee, and dispensary; and

(3) sell cannabis seeds or immature cannabis plants to a licensed cultivator.

Sec. 5. 18 V.S.A. § 4230e is amended to read:

§ 4230e. CULTIVATION OF CANNABIS BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates ~~no~~ not more than two mature cannabis plants and four immature cannabis plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature cannabis plants and four immature cannabis plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, “dwelling unit” means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any cannabis harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title, provided it is stored in an indoor facility on the property where the cannabis was cultivated and reasonable precautions are taken to prevent unauthorized access to the cannabis.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of cannabis only shall occur:

(A) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(B) in an enclosure area that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

- (A) not more than \$100.00 for a first offense;
- (B) not more than \$200.00 for a second offense; and
- (C) not more than \$500.00 for a third or subsequent offense.

#### Sec. 6. CANNABIS CONTROL BOARD; REPORT ON CANNABIS CULTIVATION AS FARMING

If the federal government removes “marihuana” from the Schedule 1 list of controlled substances set forth in 21 U.S.C. § 812, the Executive Director of the Cannabis Control Board shall, after consultation with the Secretary of Agriculture, Food and Markets submit to the Senate Committees on Judiciary and on Agriculture and the House Committees on Judiciary and on Agriculture and Forestry a recommendation as to whether the regulation of the cultivation of cannabis should be transferred from the jurisdiction of the Cannabis Control Board to the jurisdiction of the Agency of Agriculture, Food and Markets. The recommendation shall include whether cannabis cultivation should be regulated as “farming” and the estimated staff and budget necessary for the Secretary of Agriculture, Food and Markets to administer regulation.

#### Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Pearson, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

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

#### **Appointments Confirmed**

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Gray, Heather J. of Queechee - Superior Judge - January 3, 2022 to March 31, 2027.

Was confirmed by the Senate.

The nomination of

Kalfus, Howard A. of Colchester - Superior Judge - June 23, 2021 to March 31, 2025.

Was confirmed by the Senate.

The nomination of

Novotny, Elizabeth of Jericho - Superior Judge - January 3, 2022 to March 31, 2027.

Was confirmed by the Senate.

### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Vyhovsky and others,

#### **H.C.R. 109.**

House concurrent resolution congratulating the 2022 Essex High School Hornets girls' indoor track and field team on winning a second consecutive Division I championship.

By Reps. Vyhovsky and others,

#### **H.C.R. 110.**

House concurrent resolution congratulating the 2022 Essex High School boys' indoor track and field team on winning a second consecutive Division I championship.

By Reps. Garofano and others,

#### **H.C.R. 111.**

House concurrent resolution congratulating William O'Neil of Essex on his induction into the Vermont Sports Hall of Fame.

By Rep. Austin,

#### **H.C.R. 112.**

House concurrent resolution honoring the Voices of St. Joseph's Orphanage.

By Reps. Hango and others,  
By Senators Brock, Kitchel and Ram Hinsdale,

**H.C.R. 113.**

House concurrent resolution honoring the USS VERMONT (SSN 792).  
By Reps. Burke and others,  
By Senators Balint and White,

**H.C.R. 114.**

House concurrent resolution congratulating the 2021 Brattleboro Union High School Colonels Division II championship boys' hockey team.

By Reps. Vyhovsky and others,

**H.C.R. 115.**

House concurrent resolution congratulating the 2022 Essex High School Hornets State championship gymnastics team.

By Reps. James and others,  
By Senators Campion and Sears,

**H.C.R. 116.**

House concurrent resolution commemorating the 250th anniversary of the New Yorkers' capture and Bennington posse's rescue of early Arlington leader and pre-Revolutionary War patriot Remember Baker Jr..

By Reps. Morrissey and others,  
By Senators Campion and Sears,

**H.C.R. 117.**

House concurrent resolution congratulating Catamount Access Television in Bennington on its 30th anniversary.

By Reps. Pugh and others,  
By Senators Lyons and Westman,

**H.C.R. 118.**

House concurrent resolution honoring Diane Dalmasse for her extraordinary half century of State public service and leadership.

By Reps. Donahue and others,

**H.C.R. 119.**

House concurrent resolution honoring Anthony Mariano for 44 years of exemplary athletics leadership at Norwich University.

**Message from the House No. 30**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 517.** An act relating to the Vermont National Guard Tuition Benefit Program.

In the passage of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 109.** House concurrent resolution congratulating the 2022 Essex High School Hornets girls' indoor track and field team on winning a second consecutive Division I championship.

**H.C.R. 110.** House concurrent resolution congratulating the 2022 Essex High School boys' indoor track and field team on winning a second consecutive Division I championship.

**H.C.R. 111.** House concurrent resolution congratulating William O'Neil of Essex on his induction into the Vermont Sports Hall of Fame.

**H.C.R. 112.** House concurrent resolution honoring the Voices of St. Joseph's Orphanage.

**H.C.R. 113.** House concurrent resolution honoring the USS VERMONT (SSN 792).

**H.C.R. 114.** House concurrent resolution congratulating the 2021 Brattleboro Union High School Colonels Division II championship boys' hockey team.

**H.C.R. 115.** House concurrent resolution congratulating the 2022 Essex High School Hornets State championship gymnastics team.

**H.C.R. 116.** House concurrent resolution commemorating the 250th anniversary of the New Yorkers' capture and Bennington posse's rescue of early Arlington leader and pre-Revolutionary War patriot Remember Baker Jr..



**H.C.R. 117.** House concurrent resolution congratulating Catamount Access Television in Bennington on its 30th anniversary.

**H.C.R. 118.** House concurrent resolution honoring Diane Dalmasse for her extraordinary half century of State public service and leadership.

**H.C.R. 119.** House concurrent resolution honoring Anthony Mariano for 44 years of exemplary athletics leadership at Norwich University.

In the adoption of which the concurrence of the Senate is requested.

### **Adjournment**

On motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, March 15, 2022, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 45.

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## **TUESDAY, MARCH 15, 2022**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Bill Referred to Committee on Finance**

#### **S. 204.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to licensure of freestanding birth centers.

### **Bills Referred to Committee on Appropriations**

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 197.** An act relating to the Coordinated Mental Health Crisis Response Working Group.

**S. 220.** An act relating to State-paid deputy sheriffs.

**S. 251.** An act relating to divestment of State pension funds from fossil fuel companies.

**S. 284.** An act relating to weatherization.

**S. 285.** An act relating to expanding the Blueprint for Health and access to home- and community-based services.

**Committee Bill Introduced**

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

**S. 287.**

By the Committee on Finance,

An act relating to improving student equity by adjusting the school funding formula and providing education quality and funding oversight.

**Bill Referred**

House bill of the following title was read the first time and referred:

**H. 517.**

An act relating to the Vermont National Guard Tuition Benefit Program.

To the Committee on Education.

**Adjournment**

Pursuant to Rule 9 of the Senate Rules, on motion of Senator Hooker, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 16, 2022.

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**WEDNESDAY, MARCH 16, 2022**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 31**

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

Madam President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 115.** An act relating to household products containing hazardous substances.

In the passage of which the concurrence of the Senate is requested.

The House has considered the Governor's veto on House bill of the following title:

**H. 361.** An act relating to approval of amendments to the charter of the Town of Brattleboro.

And has passed the same, the refusal of the Governor to approve notwithstanding.

#### **Bills Referred to Committee on Appropriations**

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 234.** An act relating to changes to Act 250.

**S. 287.** An act relating to improving student equity by adjusting the school funding formula and providing education quality and funding oversight.

#### **Senate Resolution Placed on Calendar**

##### **S.R. 19.**

Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Lyons,

**S.R. 19.** Senate resolution commemorating St. Patrick's Day, celebrating the contributions of Vermonters of Irish heritage, and expressing the hope that the calm and cooperation that the 1998 Good Friday Agreement has engendered in Ireland will endure.

*Whereas*, Irish immigrants contributed significantly to the formation of the cultural and societal foundation of our nation, and

*Whereas*, 17 percent of Vermonters are of Irish heritage, the fourth highest percentage nationally, and Irish Vermonters have risen to leadership roles in many fields of endeavor, and

*Whereas*, Irish Americans remain proudly supportive of their ancestral homeland, and desire that Ireland be economically prosperous and at peace, and

*Whereas*, the lyrics and music of the songs of Ireland convey the tragedy and joy and the sorrows and glories of the Emerald Isle, and

*Whereas*, the American Irish State Legislators Caucus was recently established to foster and strengthen the longstanding cordial bilateral

relationship between the United States and Ireland, for the continuing mutual benefit of both nations, and

*Whereas*, the 1998 Good Friday Agreement ushered in a new era of peace on the island of Ireland, and the calm and cooperation the agreement has engendered is of the utmost importance for future peaceful coexistence on the Emerald Isle, and

*Whereas*, annually, on St. Patrick's Day, Americans, regardless of their ancestral heritage, become Irish for the day and jointly celebrate their love of Ireland, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the General Assembly commemorates St. Patrick's Day, celebrates the contributions of Vermonters of Irish heritage, and expresses the hope that the calm and cooperation that the 1998 Good Friday Agreement has engendered in Ireland will endure, ***and be it further***

***Resolved:*** That the Secretary of the Senate be directed to send a copy of this resolution to the National Co-Chairs of the American Irish State Legislators Caucus, and to Senator Mark Daly, the Cathaoirleach of Seanad Éireann (Chair of the Senate of Ireland).

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

**Senate Resolution Placed on Calendar**

**S.R. 20.**

Senate resolution of the following title was offered, read the first time and is as follows:

By the Committee on Rules,

**S.R. 20.** Senate resolution extending concurrently conducted electronic sessions and committee meetings.

*Whereas*, Permanent Senate Rule 9A permits the Rules Committee to authorize sessions of the Senate during a declared emergency be concurrently conducted electronically; and

*Whereas*, Permanent Senate Rule 32A permits the Rules Committee to authorize committee meetings during a declared emergency be concurrently conducted electronically; and

*Whereas*, the Governor of the State of Vermont issued a Declaration of State of Emergency in Response to COVID-19 which expired at midnight on June 15, 2021; and

*Whereas*, the adoption of S.R.9, S.R. 12 and S.R. 17 permitted the Senate to continue Senate Sessions pursuant to Permanent Senate Rule 9A and committee meetings pursuant to Permanent Senate Rule 32A until March 18, 2022; and

*Whereas*, the Senate desires continuing flexibility as it transitions to totally in person Senate Sessions and committee meetings; and

*Whereas*, extending the authority of the Rules Committee under Permanent Senate Rules 9 and 32A provides flexibility as the Senate continues the transition to totally in person Senate Sessions and committee meetings; *now therefore be it*

***Resolved by the Senate:***

Notwithstanding the language in Permanent Senate Rules 9A and 32A regarding their applicability during Declarations of Emergency, the provisions of Permanent Senate Rules 9A and 32A regarding Senate Sessions and committee meetings shall remain in effect through April 15, 2022.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

**Bill Referred**

House bill of the following title was read the first time and referred:

**H. 115.**

An act relating to household products containing hazardous substances.

To the Committee on Natural Resources and Energy.

**Adjournment**

Pursuant to Rule 9 of the Senate Rules, on motion of Senator Clarkson, the Senate adjourned until ten o'clock in the forenoon on Thursday, March 17, 2022.

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**THURSDAY, MARCH 17, 2022**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Mark Pitton of Sharon.

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**Pledge of Allegiance**

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

**Bills Referred to Committee on Appropriations**

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 195.** An act relating to the certification of mental health peer support specialists.

**S. 226.** An act relating to expanding access to safe and affordable housing.

**Rules Suspended; Bill Referred to Committee Finance****S. 281**

Senate bill of the following title:

An act relating to hunting coyotes with dogs.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Balint, the rules were suspended, and affecting the revenue of the state, was referred to the Committee on Finance under Senate Rule 31.

Which was agreed to.

**Joint Senate Resolution Adopted on the Part of the Senate****J.R.S. 46.**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Balint,

**J.R.S. 46.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, March 18, 2022, it be to meet again no later than Tuesday, March 22, 2022.

**Proposal of Amendment; Third Reading Ordered****H. 444.**

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

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

Reported recommending that the Senate propose to the House to amend the bill as follows:

By striking out Sec. 2, 24 App. V.S.A. chapter 1, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 24 App. V.S.A. chapter 1 is amended to read:

#### CHAPTER 1. CITY OF BARRE

\* \* \*

#### § 104. GENERAL CORPORATE POWERS

\* \* \*

(d) The City of Barre shall fly only the City, State, United States, and POW/MIA flags.

#### § 105. ORDINANCES - SUBJECT MATTER

(a) The general grant of ordinance promulgating authority in section 104 shall include the authority:

\* \* \*

(7) To adopt and enforce ordinances relating to the mediation of landlord tenant issues by the Housing Board of Review Notwithstanding any contrary provision of 23 V.S.A. § 1007, to adopt and enforce ordinances establishing a speed limit of less than 25 miles per hour on specified City streets, or sections thereof, within City boundaries as may be required for the safety and general welfare of the City.

\* \* \*

#### § 111. BONDING OF CITY OFFICIALS

The Mayor, councilors, members of the Police Department, City Manager, ~~First Constable~~ Finance Director, Superintendent of Public Works, Tax Collector, and Clerk and Treasurer shall annually be bonded by the City for the faithful discharge of their respective duties, as provided by State statute, and the expense of said bonds to be paid by the City.

\* \* \*

#### § 205. OFFICERS ELECTED

(a)(1) The legal voters shall elect biennially a Mayor, ~~a First Constable,~~ and one person to serve as Clerk and Treasurer.

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\* \* \*

Subchapter 4. City Officials

\* \* \*

ARTICLE 8. ~~CONSTABLE~~ [Repealed.]

\* \* \*

§ 418. DUTIES

~~The City Constable shall have the same powers and be under the same duties and liabilities as are prescribed by State statutes for constables of towns. [Repealed.]~~

\* \* \*

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

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

**Bill Amended; Third Reading Ordered**

**S. 140.**

Senator Baruth, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to prohibiting civil arrests at courthouses.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. § 3701 is added to read:

§ 3701. PROHIBITION ON CIVIL ARRESTS AT COURTHOUSES

(a) Prohibition. Any person or family or household member of the person who is attending a court proceeding in good faith as a party, juror, attorney, or witness shall be privileged from civil arrest while traveling to, entering, remaining at, or returning from the court proceeding.

(b) Exceptions. Subsection (a) of this section shall not apply to:

(1) an arrest pursuant to a judicially issued warrant or a court order;

(2) an arrest for contempt of the court where the proceeding is occurring; or



(3) an arrest to maintain order or safety in the court where the proceeding is occurring.

(c) Remedies.

(1) A person who violates this section by knowingly and willfully executing or assisting with an arrest prohibited by subsection (a) of this section shall be subject to civil contempt proceedings pursuant to chapter 5 of this title and may be liable in a civil action for false imprisonment.

(2) A person who is arrested in violation of subsection (a) of this section may bring a civil action against the violator for damages; injunctive, equitable, or declaratory relief; punitive damages; and reasonable costs and attorney's fees.

(3) The Office of the Attorney General may bring a civil action on behalf of the State of Vermont for appropriate injunctive, equitable, or declaratory relief if there is reasonable cause to believe that a violation of subsection (a) of this section has occurred or will occur.

(4) No action under this subsection shall be brought against the Judiciary or any of its members or employees for actions taken to maintain order or safety in the courts.

(d) Definitions. As used in this section:

(1) "Civil arrest" means an arrest for purposes of obtaining a person's presence or attendance at a civil proceeding, including an immigration proceeding.

(2) "Household member" has the same meaning as in 15 V.S.A. § 1101.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

**Bill Amended; Third Reading Ordered**

**S. 163.**

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

An act relating to State court jurisdiction for special immigrant juvenile status.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. chapter 111, subchapter 14 is amended to read:

Subchapter 14. ~~Special Immigration Status~~ Vulnerable Noncitizen Children

§ 3098. ~~SPECIAL IMMIGRATION JUVENILE STATUS; JURISDICTION AND FINDINGS-VULNERABLE NONCITIZEN CHILDREN~~

(a) Definitions. As used in this subchapter:

(1) “Child” or “children” means an unmarried individual or individuals who have not yet attained 21 years of age and who are not a U.S. citizen or citizens.

(2) “Court” means any court that has jurisdiction over an unmarried individual or individuals who have not yet attained 21 years of age and who are not a U.S. citizen or citizens, including the Probate Division and the Family Division of the Superior Court.

(3) “Dependent on the court” means subject to the jurisdiction of a court competent to make decisions concerning the protection, well-being, care and custody of a child for findings, orders, or referrals to support the health, safety, and welfare of a child or to remedy the effects on a child of abuse, abandonment, or other similar circumstances.

(4) “Noncitizen” means any person who is not a U.S. citizen.

(5) “Similar circumstances” means a condition or conditions that have an effect on a child comparable to abuse, neglect, or abandonment, including the death of a parent.

(6) “Vulnerable” means there is reasonable cause to suspect that a child’s health, safety, or welfare is in jeopardy due to abuse, neglect, abandonment, or similar circumstances and that return to the child’s or the child’s parent’s country of origin or country of last habitual residence would not be in the best interests of the child.

(b) Jurisdiction. The A court has reviewing a petition under this section shall have jurisdiction under Vermont law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. § 1101(a)(27)(J) and 8 C.F.R. § 204.11). The court is authorized to make the findings necessary to enable a child to petition the U.S. Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to 8 U.S.C. § 1101(a)(27)(J).

~~(b)(c)(1) If an order is requested from the court making the necessary findings regarding special immigrant juvenile status as described in subsection (a) of this section, the court shall issue an order if there is evidence to support those findings, which may include a declaration by the child who is the subject of the petition. The order issued by the court shall include all of the following findings:~~ Procedure for petition. A vulnerable noncitizen child, or a person interested in the welfare of a vulnerable noncitizen child, may petition the court for special findings to protect the child and obtain relief from the underlying abandonment, abuse, neglect, or similar circumstances. The court shall review the petition, including any supporting affidavits and other evidence presented, and issue findings of fact that determine whether the vulnerable noncitizen child:

~~(A) The child was either of the following:~~

~~(i) Declared Is a dependent of the court.~~

~~(ii) Legally or legally committed to or placed under the custody of a State agency or department or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.~~

~~(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of Has suffered from abuse, neglect, abandonment, or a similar basis pursuant to Vermont law circumstances. The court shall indicate the date on which reunification was determined not to be viable.~~

~~(C) May not be viably reunified with one or both parents due to abuse, neglect, abandonment, or a similar circumstance.~~

~~(D) That it is not in the best interests of the child to be returned to the child's or his or her parent's previous country of nationality or country of last habitual residence.~~

~~(2) Additional findings. If requested by a party, the court may make additional findings that are supported by evidence and Vermont law.~~

~~(3) Health, safety, and welfare considerations. The health, safety, and welfare of the child must be of paramount concern when the court considers the best interests of the child. In making the determination whether it is in the best interests of the child to be returned to the child's or his or her child's parent's previous country of nationality or country of last habitual residence, the court shall consider whether present or past living conditions will adversely affect the child's physical, mental, or emotional health.~~

(4) Guardianships. For purposes of this section, the term child or minor shall include a person who is less than 21 years of age and who consents to the appointment or continuation of a guardian after 18 years of age.

(d) Notice. If the identity or location of the vulnerable noncitizen child's parents is unknown or if the parents reside outside the United States, the court may serve notice using any alternative method of service the court determines is appropriate or waive service.

(e) Expeditious adjudication. When it is in the best interests of the vulnerable noncitizen child, a court shall hear, adjudicate, and issue findings of fact on any petition for special findings under this section as soon as it is administratively feasible and prior to the vulnerable noncitizen child attaining 21 years of age.

(f) Referral for services or protection. A vulnerable noncitizen child who is the subject of a petition for special findings under this section may be referred for psychiatric, psychological, educational, occupational, medical, dental, or social services or for protection against human trafficking or domestic violence; provided, however, that a child's participation in any referred service is voluntary.

(g) Additional available remedies under Vermont law; similar findings of fact.

(1) This section shall not limit a vulnerable noncitizen child from petitioning for special findings for a petition under any other provision of law or from any other rights and remedies available to the child under any other provision of law.

(2) This section shall not limit the court from issuing similar findings of fact to those described in this section in any other proceeding concerning the vulnerable noncitizen child.

(h) Construction. This section shall be liberally construed to its legislative purpose.

(e)(i) In any judicial proceedings in response to a request that the court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status, nationality, or place of birth that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

~~(d) As used in this section, “court” means the Probate Division and the Family Division of the Superior Court.~~

Sec. 2. 33 V.S.A. § 5126 is added to read:

§ 5126. RETENTION OF JURISDICTION OVER CERTAIN  
VULNERABLE NONCITIZEN CHILDREN

(a) Definitions. As used in this section:

(1) “Child” means an unmarried individual who has not yet attained 21 years of age and who is not a U.S. citizen.

(2) “Noncitizen” means any person who is not a U.S. citizen.

(3) “Vulnerable” means there is reasonable cause to suspect that a child’s health, safety, or welfare is in jeopardy due to abuse, neglect, abandonment, or similar circumstances and that return to the child’s or the child’s parent’s country of origin or country of last habitual residence would not be in the best interests of the child.

(b) Jurisdiction. The Family Division of the Superior Court may retain jurisdiction over a noncitizen child who has not yet attained 21 years of age for the sole purpose of adjudicating a petition for special findings and making judicial determinations regarding the custody and care of the child consistent with this section. Nothing in this section is intended to expand the scope of the court’s jurisdiction to order a youth into the custody of the Commissioner for Children and Families pursuant to this chapter.

(c) Procedure for petition to make special findings for vulnerable noncitizen children.

(1) A vulnerable noncitizen child, or a person interested in the welfare of the vulnerable noncitizen child, may petition the court for special findings to protect the child and obtain relief from the underlying abandonment, abuse, neglect, or similar circumstance.

(2) In accordance with the procedure set forth in 14 V.S.A. § 3098, the court shall review the petition, including any supporting affidavits and other evidence presented; issue findings of fact; and make relevant conclusions of law consistent with section 5101 of this chapter.

(d) Expeditious adjudication. When it is consistent with the purposes as set forth in section 5101 of this chapter, the court shall hear, adjudicate, and issue findings of fact and conclusions of law on any petition for special findings under this section as soon as it is administratively feasible and prior to the vulnerable noncitizen child attaining 21 years of age.

(e) Additional available remedies under Vermont law; similar findings of fact.

(1) This section shall not limit a child from petitioning for special findings for a petition under any other provision of law or from petitioning for any other rights and remedies available to the child under any other provision of law.

(2) This section shall not limit the court from issuing similar findings of fact or conclusions of law to those described in this section in any other proceeding concerning the vulnerable noncitizen child.

(f) In any judicial proceedings in response to a request that the court make the findings necessary to support a petition under this section, information regarding the child's immigration status, nationality, or place of birth that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

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

An act relating to State court petitions for vulnerable noncitizen youth.

And that when so amended the bill ought to pass.

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

### **Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 188.** An act relating to regulating licensed small cannabis cultivation as farming.

**S. 247.** An act relating to prohibiting discrimination based on genetic information.

**Bill Amended; Third Reading Ordered****S. 171.**

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to adoption of a State code of ethics.

Reported recommending 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. chapter 31, subchapter 1 is amended to read:

Subchapter 1. General Provisions; State Code of Ethics

§ 1201. DEFINITIONS

As used in this chapter:

(1) “Candidate” and “candidate’s committee” shall have the same meanings as in 17 V.S.A. § 2901.

(2) “Commission” means the State Ethics Commission established under subchapter 3 of this chapter.

(3) “Confidential information” means information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

(4) “Domestic partner” means an individual in an enduring domestic relationship of a spousal nature with the Executive officer or the public servant, provided the individual and Executive officer or public servant:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law; and

(E) have agreed between themselves to be responsible for each other’s welfare.

~~(3)~~(5) “Executive officer” means:

(A) a State officer; or

(B) under the Office of the Governor, an agency secretary or deputy or a department commissioner or deputy.

~~(4)(A)~~ “Gift” means anything of value, tangible or intangible, that is bestowed for less than adequate consideration.

~~(B)~~ “Gift” does not mean printed educational material such as books, reports, pamphlets, or periodicals.

~~(5)~~(6) “Governmental conduct regulated by law” means conduct by an individual in regard to the operation of State government that is restricted or prohibited by law and includes:

(A) bribery pursuant to 13 V.S.A. § 1102;

(B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

(C) taking illegal fees pursuant to 13 V.S.A. § 3010;

(D) false claims against government pursuant to 13 V.S.A. § 3016;

(E) owning or being financially interested in an entity subject to a department’s supervision pursuant to section 204 of this title;

(F) failing to devote time to duties of office pursuant to section 205 of this title;

(G) engaging in retaliatory action due to a State employee’s involvement in a protected activity pursuant to chapter 27, subchapter 4A of this title;

(H) a former legislator or former Executive officer serving as a lobbyist pursuant to 2 V.S.A. § 266(b); and

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title.

(7) “Immediate family” means an individual’s spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

~~(6)~~(8) “Lobbyist” shall and “lobbying firm” have the same meaning meanings as in 2 V.S.A. § 261.

(9) “Person” means any individual, group, business entity, association, or organization.

~~(7)~~(10) “Political committee” and “political party” shall have the same meanings as in 17 V.S.A. § 2901.

~~(8)~~(11) “State officer” means the Governor, Lieutenant Governor, Treasurer, Secretary of State, Auditor of Accounts, or Attorney General.



§ 1202. STATE CODE OF ETHICS; APPLICABILITY

~~The Ethics Commission, in consultation with the Department of Human Resources, shall create and maintain the State Code of Ethics that sets forth general principles of governmental ethical conduct.~~

Applicability.

(1) Unless excluded under this section, the Code of Ethics applies to all individuals elected or appointed to serve as officers of the State, all individuals elected or appointed to serve as members of the General Assembly, all State employees, all individuals appointed to serve on State boards and commissions, and individuals who in any other way are authorized to act or speak on behalf of the State. This code refers to them all as “public servants.”

(2) The Code of Ethics established by this section does not prohibit branches of State government, agencies, or departments from adopting additional personnel policies regarding ethical conduct not covered by this Code of Ethics or provisions that exceed the requirements of this Code of Ethics. Nothing herein shall be interpreted to require a lawyer or judicial officer to violate their respective professional codes of conduct.

(3) The application of this Code of Ethics does not in any way abrogate or alter the sole authority of each house of the General Assembly to judge the elections and qualifications of its own members under Chapter II, Sections 14 and 19 of the Vermont Constitution.

(4) The application of this Code of Ethics does not in any way abrogate or alter the Vermont Supreme Court’s constitutional authority under Chapter II, Section 30 of the Vermont Constitution.

§ 1203. CONFLICT OF INTEREST; APPEARANCE OF CONFLICT OF INTEREST(a) Conflict of interest; appearance of conflict of interest.

(1) In the public servant’s official capacity, the public servant shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(2) Except as otherwise provided in subsections (b) and (c) of this section, when confronted with a conflict of interest, a public servant shall recuse themselves from the matter and not take further action.

(3) As used in this section, “conflict of interest” means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant’s immediate family or household,

or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant's public body, or that is in conflict with the proper discharge of the public servant's duties. "Conflict of interest" does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(b) Course of action.

(1) Legislative Branch. A member of the General Assembly shall comply with Legislative Branch rules and policies regarding the course of action a public servant may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that is related to core legislative functions or duties.

(2) Judicial Branch. A judicial officer shall comply with the Vermont Code of Judicial Conduct regarding the course of action a judicial officer may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that falls under the Code of Judicial Conduct, including in situations where a conflict of interest, or the appearance of a conflict of interest, falls under both the Vermont Code of Judicial Conduct and the Code of Ethics.

(3) Government attorneys. A public servant who is a licensed attorney shall comply with the Vermont Rules of Professional Conduct regarding the course of action the attorney may take when confronted with a conflict of interest, or the appearance of a conflict of interest, that falls under the Vermont Rules of Professional Conduct, including situations where a conflict of interest, or the appearance of a conflict of interest, falls under both the Vermont Rules of Professional Conduct and the Code of Ethics.

(4) Public servants; other. Any public servant facing a conflict of interest not covered by subdivisions (1)–(3) of this subsection shall comply with requirements prescribed in this subdivision. Each time a public servant is confronted with a conflict of interest, other than that for which the public servant's action is solely ministerial or clerical, the public servant shall either make a public statement, which may consist of a statement made to the public servant's immediate supervisor, recusing themselves from the matter or, if the public servant chooses to proceed with the matter, prepare a written statement regarding the nature of the conflict. A public servant may request either guidance or an advisory opinion from the State Ethics Commission in making an initial determination whether a conflict of interest exists, or whether good cause to proceed exists as set forth in subsection (c) of this section. Once recused, a public servant shall not in any way participate in or act to influence a decision regarding the matter. If the public servant chooses to proceed with the matter, the public servant's prepared written statement shall:

(A) describe the matter requiring action;

(B) disclose the nature of the potential conflict or actual conflict of interest;

(C) explain why good cause, as set forth in subsection (c) of this section, exists so that the public servant can take action in the matter fairly, objectively, and in the public interest;

(D) include sufficient detail so that the matter may be understood by the public; and

(E) be filed in accordance with the policies and procedures set forth by the agency or entity governing the matter in question, including any requirement that the statement be made public.

(c) Good cause. As used in this section, “good cause to proceed” may include any of the following:

(1) the identified conflict or potential conflict is de minimis in nature;

(2) the conflict is amorphous, intangible, or otherwise speculative; or

(3) the public servant cannot legally or practically delegate the matter.

(d) Confidential information. Nothing in this section shall require a public servant to disclose confidential information or information that is otherwise privileged under law.

#### § 1203a. DIRECTING UNETHICAL CONDUCT

A public servant shall not direct another person to act in a manner that would be unethical for the public servant or the other person to act. A public servant who has a conflict of interest shall not direct others to act to the public servant’s benefit where such action would be a violation of the Code of Ethics if the public servant were to perform the act.

#### § 1203b. APPEARANCE OF UNETHICAL CONDUCT

A public servant shall avoid any actions creating the appearance that the public servant is violating the Code of Ethics. Whether particular circumstances create an appearance that the Code of Ethics have been violated shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

#### § 1203c. PREFERENTIAL TREATMENT

A public servant in the course of conducting State business shall act impartially, showing no favor toward or prejudice against any person. A public servant shall not give or represent an ability to give preference or special treatment to any person because of the person’s wealth, position, or

status or because of any personal relationship with the public servant. When permitted by law and written policy or rule, a public servant may give preference to designated persons.

§ 1203d. MISUSE OF POSITION

A public servant shall not use the public servant's official position for personal or financial gain.

§ 1203e. MISUSE OF INFORMATION

A public servant shall not use nonpublic government information or confidential information acquired during the course of State service for personal or financial gain or for the personal or financial gain of any other person.

§ 1203f. MISUSE OF GOVERNMENT RESOURCES

A public servant shall not make use of State materials, funds, property, personnel, facilities, or equipment, or permit another person to do so, for any purpose other than for official State business unless the use is expressly permitted or required by law or by a written agency, departmental, or institutional policy or rule. A public servant shall not engage in or direct another person to engage in work other than the performance of official duties during working hours, except as permitted or required by law or by written agency, departmental, or institutional policy or rule.

§ 1203g. GIFTS

(a) Gift limitations and exceptions. A public servant shall not solicit or accept a gift unless permitted under this section. For purposes of this subchapter, "gift" means anything of value, tangible or intangible, that is given for less than adequate consideration. A public servant may accept:

(1) A devise or inheritance. A public servant may accept a devise or inheritance.

(2) Gifts to the State. A public servant may accept goods or services that are provided to a State agency for use on State agency property or for use by the public servant while serving in an official capacity.

(3) Ceremonial awards. A public servant may accept a certificate, plaque, or other ceremonial award, provided the cost does not exceed the limit established pursuant to subsection (b) of this section.

(4) Rebates, discounts, and promotions. A public servant may accept a rebate, discount, or promotional item that is available to the general public or to a definable subset of the general public.

(5) Printed or recorded material. A public servant may accept printed or recorded informational or educational material germane to State action or functions.

(6) Food or beverages. A public servant may accept food or beverages, or both, under the following circumstances:

(A) The food or beverage, or both, is consumed on an occasion or occasions at which the person paying, directly or indirectly, for the food or beverage or the person's representative is in attendance, provided the cost does not exceed the limit established pursuant to subsection (b) of this section.

(B) The food or beverage, or both, is incidental to the performance of a legitimate State function.

(C) The food or beverage, or both, is provided at a charitable, cultural, political, or civic event at which the public servant participates in the public servant's official capacity.

(7) Admission fees and tickets. A public servant may accept tickets or admission to a charitable, cultural, political, or civic event at which a public servant participates in the public servant's official capacity, provided such tickets or admission is provided by the primary sponsoring entity.

(8) Private employment gifts. A public servant may accept anything of value provided by an employer of the public servant, provided such benefits are customarily and ordinarily provided to others in similar circumstances.

(9) Public-servant-to-public-servant gifts. A public servant may accept a gift from another public servant under the following circumstances:

(A) If the recipient is not in a supervisor-supervisee relationship with the giver, the public servant may accept a gift for a holiday or occasion of significance.

(B) If the recipient is in a supervisor-supervisee relationship, the public servant may accept a gift for a holiday or occasion of significance, provided the value does not exceed the limit established pursuant to subsection (b) of this section.

(10) Training or education. A public servant may accept attendance to training or similar events determined to be in the interest of the public servant's agency or department.

(11) Gifts of de minimis value. A public servant may accept an unsolicited gift having a de minimis market value as established pursuant to subsection (b) of this section.

(12) Personal gifts. A public servant may accept gifts clearly motivated by an outside relationship, family relationship, or personal friendship rather than the position of the public servant. Relevant factors in making such a determination include the history and nature of the relationship and whether the individual, family member, or a friend personally pays for the gift.

(13) Loans. A public servant may accept a commercially reasonable loan made on terms not more favorable than loans made in the ordinary course of business.

(14) Gifts otherwise permitted and legal. A public servant may accept a gift that is otherwise expressly permitted under State law.

(b) Gift valuation. For purposes of this subchapter, the value or cost limit for gifts described in subsection (a) of this section shall be:

(1) Beginning on July 1, 2022:

(A) Ceremonial awards: Less than \$100.00.

(B) Food or beverages, or both: Less than \$100.00 in the aggregate per recipient, per source, in a calendar year.

(C) A supervisor-supervisee relationship gift: Less than \$100.00 for any single gift, and the value of all gifts does not exceed \$200.00 in the aggregate per year.

(D) De minimis gift: \$50.00 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person does not exceed \$150.00 in a calendar year.

(2) On or after July 1, 2026, the State Ethics Commission may increase the value or cost limit set in subdivision (1) of this subsection, provided:

(A) the State Ethics Commission presents its proposed increase to the House and Senate Committees on Government Operations at least 180 days prior to proposed implementation and after consultation with the Department of Human Resources and the Judicial Branch;

(B) the cost or value limit is not increased more than once in a five-year period; and

(C) the increased cost or value limit is posted on the State Ethics Commission website and the Commission sends a notice of increase to public servants not less than 60 days prior to the increase's effective date.

#### § 1203h. UNAUTHORIZED COMMITMENTS

A public servant shall not make unauthorized commitments or promises of any kind purporting to bind State government.

§ 1203i. EMPLOYMENT RESTRICTIONS

(a) Outside employment. A public servant shall not seek or engage in outside employment or activities that are inconsistent, incompatible, or in conflict with the public servant's official duties.

(b) Post-government employment.

(1) Executive officers. Executive officers shall comply with the post-government employment restrictions prescribed in section 267 of this title and 2 V.S.A. § 266(b) and (c).

(2) Legislators. Legislators shall comply with the post-government employment restrictions prescribed in 2 V.S.A. § 266(b).

(3) Legislative Branch employees. Except as permitted in subdivision (4) of this subsection, for one year after leaving office, a former Legislative Branch employee may not, for compensation, appear before the General Assembly or its subparts, or the office in which the employee served in at the time of leaving service, to advocate for anyone other than the State, concerning any matter in which the State has a direct and substantial interest.

(4) Contracting exception. The limitations in subdivisions (1) through (3) of this subsection do not apply to individuals providing information or services to the State pursuant to contracts of the State unless the public servant is otherwise prohibited from doing so by State or federal law.

(5) Representation restrictions. After leaving State service or employment, a public servant shall not knowingly, with the intent to advocate for an outcome of an investigation, application, ruling, license, contract, claim, rulemaking, charge, arrest, or quasi-judicial or judicial proceeding, communicate with or appear before the State on matters involving specific parties in which the employee participated personally and substantially during government service and in which the State is a party or has a direct and substantial interest.

§ 1203j. COMPLIANCE WITH LAWS, RULES, AND POLICIES

A public servant shall comply with applicable State and federal laws and regulations, including anti-discrimination and equal opportunity laws, and comply with applicable governmental codes of conduct. A public servant shall comply with any other applicable rules or policies established by executive order, agency rule, or policy.

§ 1204. WHISTLEBLOWER PROTECTIONS FOR ETHICS COMPLAINTS

Consistent with section 971–978 of this title, a public servant shall be free

to disclose waste, fraud, abuse of authority, violations of law, or violations of this or other applicable codes regarding ethical conduct to the State Ethics Commission without fear of reprisal, intimidation, or retaliation.

§ 1205. MANDATORY ETHICS EDUCATION AND TRAINING

Within the first 120 days of public service, a public servant shall engage in ethics training, which may be in person or online. Completion of ethics training shall be documented by the department where the public servant is employed. A public servant shall participate in continuing ethics education, which may be in person or online, at least once every three years thereafter. Approved continuing ethics education providers are the State Ethics Commission, the Department of Human Resources – Center for Achievement in Public Service (CAPS), the Vermont House of Representatives Ethics Panel for the House of Representatives, the Vermont Senate Ethics Panel for the Senate, the Vermont Judiciary, and any education providers approved by the State Ethics Commission. Copies of State Code of Ethics training materials by ethics education providers shall be provided to the State Ethics Commission in advance of the training. On request, the State Ethics Commission may collaborate with or assist ethics education providers.

Sec. 2. REPEAL

3 V.S.A. § 1211(e) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that when so amended the bill ought to pass.

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

**Bill Amended; Third Reading Ordered**

**S. 178.**

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to supermajority verdicts in civil trials.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:



Sec. 1. 12 V.S.A. § 1950 is added to read:

§ 1950. VERDICT; EIGHTY PERCENT SUPERMAJORITY REQUIRED

Unless the parties stipulate otherwise, a verdict or finding agreed to by at least eighty percent of the total number of jurors serving on a jury in a civil trial shall be taken as the verdict or finding of the jury.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that when so amended the bill ought to pass.

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

**Bill Amended; Third Reading Ordered**

**S. 269.**

Senator Brock, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to extending the Energy Savings Account Partnership Pilot Program.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2018 Acts and Resolves No. 150, Sec. 2 is amended to read:

Sec. 2. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

(a) Definitions. As used in this section:

\* \* \*

(b) ESA Partnership Pilot; establishment. On or before July 1, 2019, the Commission by rule or order shall establish a ~~three-year~~ pilot program for customers to self-direct the use of their Customer EEC Funds, working with EVT. The total amount of Customer EEC Funds available in the pilot program each year shall not exceed \$2 million. The pilot program established under this section shall be an expansion of the ESA option under which:

(1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall continue to pay its EEC and be able to receive an amount equal to 100 percent of its ESA account balance to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from Efficiency Vermont; and for evaluation, measurement, and verification activity conducted by the

Department or EVT.

(2) The customer may receive payments in advance of project completion from EVT based on the energy management plan submitted under subsection (e) of this section, estimated project costs, and projected energy savings. However, a customer shall not receive advance payments from EVT that exceed the amount of Customer EEC Funds the customer has already paid.

(3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the Customer EEC Funds may be used for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. In addition, for a customer who is a manufacturer and whose purchases of regulated fuel exceeded 600,000 thousand cubic feet (MCF) in 2017, the Funds may be used for thermal energy and process-fuel efficiency for regulated fuels, and any regulated fuel savings attributable to investment of Customer EEC Funds through the pilot program shall be counted towards EVT's performance indicators. EVT may allocate the cost of the pilot across regulated and unregulated fuel funding sources in a manner that avoids or reduces the need to adjust savings goals approved by the Commission.

(4) The pilot created pursuant to this section shall be extended an additional 18 months, until December 31, 2023. The Commission shall allow the current participants in the pilot to decline to participate in this extension by submitting written notice to the Commission on or before June 30, 2022. The extension shall allow pilot participants to spend or contract to spend pilot funds accrued prior to January 1, 2024 but shall not allow participants to accrue additional pilot funds. The Commission shall consider requests and shall approve all reasonable extension requests.

(5) The participants selected for the pilot may request an additional extension until December 31, 2026. The Commission shall consider requests and shall approve all reasonable extension requests.

\* \* \*

(e) Energy management plans. Working with EVT, each customer selected for the ESA Partnership Pilot shall develop an energy management plan for the ~~three-year~~ period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments. A copy of each plan shall be submitted to the Commission, the Department, and ACCD.

\* \* \*

(i) Annual reports. On or before each November 1 from 2020 through ~~2022~~ 2025, the EVT and the selected customers jointly shall submit written

progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA Partnership Pilot and their associated energy and cost savings. A customer's projects under the pilot and the associated data and results shall be made public through this report. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order shall be disclosed only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

(j) Evaluation; recommendation. On completion of the ESA Partnership Pilot, the Commission shall conduct or shall have a third party conduct an independent evaluation of the ESA Partnership Pilot.

\* \* \*

(3) After considering the results of that evaluation, the Commission shall submit a written recommendation to the standing committees of jurisdiction on whether to continue the program conducted under this section and, if so, under what recommended conditions and revisions, if any. The Commission shall submit this recommendation to the General Assembly on or before ~~January 15, 2023~~ July 1, 2027.

## Sec. 2. ESA PARTNERSHIP PILOT WORKING GROUP

(a) On or before August 1, 2022, the Department of Public Service shall convene the Energy Savings Account Partnership Pilot Program Working Group. The Working Group shall include the participants in the Energy Savings Account program created pursuant to 30 V.S.A. § 209(d)(3)(B), the participants in the Energy Savings Account Partnership Pilot Program, Efficiency Vermont, and the Secretary of Commerce and Community Development or designee.

(b) On or before January 15, 2023, the Energy Savings Account Partnership Pilot Program Working Group shall report to the General Assembly with recommended changes to the Energy Savings Account program rules.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

### **House Proposal of Amendment Concurred In with Amendment**

#### **S. 53.**

House proposal of amendment to Senate bill entitled:

An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax.

Was taken up.

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

First: Before Sec. 1, exemption statutory purpose, by inserting a reader assistance heading to read as follows:

\* \* \* Sales and Use Tax; Feminine Hygiene Products \* \* \*

Second: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof:

\* \* \* Corporate Income Tax \* \* \*

Sec. 3. 32 V.S.A. § 5811 is amended to read:

#### § 5811. DEFINITIONS

~~The following definitions shall apply throughout this chapter unless the context requires otherwise~~ As used in this chapter:

\* \* \*

(22) “Affiliated group” means a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations, but shall exclude ~~overseas business organizations or~~ foreign corporations and corporations taxable under 8 V.S.A. § 6014.

(23) “Unitary business” means one or more related business organizations engaged in business activity both within and outside the State among which there exists a unity of ownership, operation, and use; or an interdependence in their functions.

(24) ~~“Overseas business organization” means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia.~~ [Repealed.]

\* \* \*

Sec. 4. 32 V.S.A. § 5832(2)(C)–(E) are amended to read:

(C) For C corporations with Vermont gross receipts from ~~\$0–\$2,000,000.00~~ \$100,000.00, the greater of the amount determined under subdivision (1) of this section or ~~\$300.00~~ \$250.00; or

(D) For C corporations with Vermont gross receipts from \$100,001.00–\$1,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$500.00; or

(E) For C corporations with Vermont gross receipts from \$1,000,001.00–\$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or \$2,000.00; or

(F) For C corporations with Vermont gross receipts from ~~\$2,000,001.00–\$5,000,000.00~~ \$5,000,001.00–\$300,000,000.00, the greater of the amount determined under subdivision (1) of this section or ~~\$500.00~~ \$6,000.00; or

~~(E)~~(G) For C corporations with Vermont gross receipts greater than ~~\$5,000,000.00~~ \$300,000,000.00, the greater of the amount determined under subdivision (1) of this section or ~~\$750.00~~ \$100,000.00.

Sec. 5. 32 V.S.A. § 5833 is amended to read:

#### § 5833. ALLOCATION AND APPORTIONMENT OF INCOME

(a) If the income of a taxable corporation is derived from any trade, business, or activity conducted entirely within this State, the Vermont net income of the corporation shall be allocated to this State in full. If the income of a taxable corporation is derived from any trade, business, or activity conducted both within and outside this State, the amount of the corporation's Vermont net income that shall be apportioned to this State, so as to allocate to this State a fair and equitable portion of that income, shall be determined by multiplying that Vermont net income by ~~the arithmetic average of the following factors, with the sales factor described in subdivision (3) of this subsection double-weighted:~~

(1) ~~The average of the value of all the real and tangible property within this State (A) at the beginning of the taxable year and (B) at the end of the taxable year (but the Commissioner may require the use of the average of such value on the 15th or other day of each month, in cases where he or she determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year), expressed as a percentage of all such property both within and outside this State;~~

~~(2) The total wages, salaries, and other personal service compensation paid during the taxable year to employees within this State, expressed as a percentage of all such compensation paid whether within or outside this State;~~

~~(3) The the amount of gross sales, or charges for services performed, within this State, expressed as a percentage of such sales or charges whether within or outside this State.~~

~~(A)(1) Sales of tangible personal property are made in this State if;~~

~~(i) the property is delivered or shipped to a purchaser, other than the U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; or~~

~~(ii) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and~~

~~(I) the purchaser is the U.S. government; or~~

~~(II) the corporation is not taxable in the State in which the purchaser takes possession.~~

~~(B)(2) Sales, other than the sale of tangible personal property, are in this State if the taxpayer's market for the sales is in this State. The taxpayer's market for sales is in this State:~~

~~(i)(A) in the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this State;~~

~~(ii)(B) in the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this State;~~

~~(iii)(C) in the case of sale of a service, if and to the extent the service is delivered to a location in this State; and~~

~~(iv)(D) in the case of intangible property:~~

~~(i) that is rented, leased, or licensed, if and to the extent the property is used in this State, provided that intangible property utilized in marketing a good or service to a consumer is "used in this State" if that good or service is purchased by a consumer who is in this State; and~~

~~(ii) that is sold, if and to the extent the property is used in this State, provided that:~~

~~(I) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in this State" if the geographic area includes all or part of this State;~~

~~(bb)~~(II) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision ~~(iv)~~(I)(D)(i) of this subdivision ~~(B)~~(2); and

~~(ee)~~(III) all other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

~~(C)~~(3) If the state or states of assignment under subdivision ~~(B)~~(2) of this subsection cannot be determined, the state or states of assignment shall be reasonably approximated.

~~(D)~~(4) If the taxpayer is not taxable in a state to which a receipt is assigned under subdivision ~~(B)~~(2) or ~~(C)~~(3) of this subsection, or if the state of assignment cannot be determined under subdivision ~~(B)~~(2) of this subsection or reasonably approximated under subdivision ~~(C)~~(3) of this subsection, such receipt shall be excluded from the denominator of the receipts factor.

~~(E)~~(5) The Commissioner of Taxes shall adopt regulations as necessary to carry out the purposes of this section.

(6) A taxable corporation subject to apportionment under this section shall report to the Commissioner of Taxes:

(A) the average of the value of all the real and tangible property within this State at the beginning of the taxable year and at the end of the taxable year, provided the Commissioner may require the use of the average of such value on the 15th or other day of each month in cases where the Commissioner determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year, expressed as a percentage of all such property both within and outside this State; and

(B) the total wages, salaries, and other personal service compensation paid to employees within this State during the taxable year, expressed as a percentage of all such compensation paid, whether within or outside this State.

\* \* \*

Sec. 6. 32 V.S.A. § 5862(d) is amended to read:

(d) A taxable corporation ~~which~~ that is part of an affiliated group engaged in a unitary business shall be treated as a single taxpayer and shall file a group return containing the combined net income of the affiliated group and such other informational returns as the Commissioner shall require by rule. A unitary combined return shall include the income and apportionment factors of any taxable corporation incorporated in the United States or formed under the

laws of any state, the District of Columbia, or any territory or possession of the United States and in a unitary relationship with the taxpayer. The income, gain, or losses from members of a combined group shall be combined to the extent allowed under the Internal Revenue Code for consolidated filing as if the combined group was a consolidated filing group, provided that a state tax credit shall not be combined and shall be limited to the member to which the credit is attributed.

#### Sec. 7. TRANSITION FROM JOYCE TO FINNIGAN METHOD

(a) For taxable years beginning on and after January 1, 2022, for purposes of determining whether sales are in Vermont and are included in the numerator of the sales apportionment factor, if the activities of any member of a unitary group create nexus with this State, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group shall be included in the Vermont sales factor numerator.

(b) For taxable years beginning on January 1, 2022 and before January 1, 2023:

(1) If any member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by any member of the unitary group shall be excluded from the Vermont sales factor numerator.

(2) If no member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by all members of the unitary group shall be included in the Vermont sales factor numerator.

#### Sec. 8. RULEMAKING; REPORT

The Department of Taxes shall adopt rules relating to the unitary combined reporting requirements imposed under this act. The rules required under this section shall include a change from the *Joyce* to the *Finnigan* approach to applying Vermont jurisdiction to corporations within a unitary group. The Department shall report to the House Committee on Ways and Means and the Senate Committee on Finance, on or before January 15, 2023, on the Department's proposed rules and any recommendations for legislation with respect to unitary combined reporting.

\* \* \* Sales and Use Tax; Prewritten Computer Software \* \* \*

Sec. 9. 32 V.S.A. § 9701(60) is added to read:

(60) "Vendor-hosted prewritten computer software" means prewritten computer software that is accessed through the Internet or a vendor-hosted



server or platform, including where possession of the software is maintained by the vendor or a third party, regardless of:

(A) the method of delivery or transfer, including whether any downloading occurs;

(B) whether the access is permanent or temporary; and

(C) whether the charge for the right of access and for the service is on a per use, per user, per license, subscription, or some other basis.

Sec. 10. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this State. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

\* \* \*

(7) tangible personal property to an advertising agency for its use in providing advertising services or creating advertising materials for transfer in conjunction with the delivery of advertising service; ~~or~~

(8) specified digital products transferred electronically to an end user regardless of whether for permanent use or less than permanent use and regardless of whether or not conditioned upon continued payment from the purchaser; or

(9) vendor-hosted prewritten computer software and the right to access and use vendor-hosted prewritten computer software to perform data processing services.

Sec. 11. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property or telecommunications service has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this State, except as otherwise exempted under this chapter:

\* \* \*

(4) specified digital products transferred electronically to an end user;  
and

(5) telecommunications service except coin-operated telephone service, private telephone service, paging service, private communications service, or value-added non-voice data service; and

(6) vendor-hosted prewritten computer software and the right to access and use vendor-hosted prewritten computer software to perform data processing services.

Sec. 12. REPEAL

2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed remotely) is repealed.

\* \* \* Fees \* \* \*

Sec. 13. 9 V.S.A. § 5302(f) is amended to read:

(f) Investment companies subject to 15 U.S.C. § 80a-1 et seq. shall pay to the Commissioner an initial notice filing fee of \$2,000.00 and an annual renewal fee of ~~\$1,500.00~~ \$1,750.00 for each portfolio or class of investment company securities for which a notice filing is submitted.

\* \* \* Income Tax; Military Retirement Exclusion \* \* \*

Sec. 14. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

\* \* \*

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; ~~and~~

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; ~~and~~

(v) [Reserved.]

(vi) the first \$10,000.00 of federally taxable U.S. military retirement pay; and

\* \* \*

Sec. 15. 32 V.S.A. § 5813(y) is added to read:

(y) The statutory purpose of the exclusion of the first \$10,000.00 of federally taxable U.S. military retirement pay in subdivision 5811(21)(B)(vi) of this title is to recognize the military service of Vermonters who derive part of their income from military retirement pay.

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

Sec. 16. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except:

(1) Secs. 3 (80/20 rule definitions), 4 (minimum corporate income tax), 5 (single sales factor and repeal of throwback), and 6–7 (Finnigan method and 80/20 rule) shall take effect on January 1, 2022 and apply to taxable years beginning on and after January 1, 2022.

(2) Secs. 9–12 (prewritten computer software) shall take effect on June 1, 2022.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 14–15 (military retirement exemption) shall take effect on January 1, 2021 and shall apply to taxable years beginning on and after January 1, 2021.

Third: That after passage the title of the bill be amended to read: “An act relating to tax changes affecting corporations, menstrual products, military retirement income, and prewritten computer software, and investment security company fees”

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Cummings, for the Committee on Finance, moved that the Senate concur in the House Proposal of amendment with the following amendment thereto:

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

\* \* \* Corporate Income Tax \* \* \*

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

~~The following definitions shall apply throughout~~ As used in this chapter unless the context requires otherwise:

\* \* \*

(22) “Affiliated group” means a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations, but shall exclude ~~overseas business organizations or~~ foreign corporations and corporations taxable under 8 V.S.A. § 6014.

(23) “Unitary business” means one or more related business organizations engaged in business activity both within and outside the State

among which there exists a unity of ownership, operation, and use; or an interdependence in their functions.

(24) ~~“Overseas business organization” means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia. [Repealed.]~~

\* \* \*

Sec. 2. 32 V.S.A. § 5833(a)(3)(A) is amended to read:

(A) Sales of tangible personal property are made in this State if:

(i) the property is delivered or shipped to a purchaser, other than the U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; ~~or~~

(ii) ~~the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and~~

~~(I) the purchaser is the U.S. government; or~~

~~(II) the corporation is not taxable in the State in which the purchaser takes possession.~~

Sec. 3. 32 V.S.A. § 5862(d) is amended to read:

(d) A taxable corporation that is part of an affiliated group engaged in a unitary business shall be treated as a single taxpayer and shall file a group return containing the combined net income of the affiliated group and such other informational returns as the Commissioner shall require by rule. A unitary combined return shall include the income and apportionment factors of any taxable corporation incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States and in a unitary relationship with the taxpayer. The income, gain, or losses from members of a combined group shall be combined to the extent allowed under the Internal Revenue Code for consolidated filing as if the combined group was a consolidated filing group, provided that a state tax credit shall not be combined and shall be limited to the member to which the credit is attributed.

Sec. 4. TRANSITION FROM JOYCE TO FINNIGAN METHOD

(a) For taxable years beginning on and after January 1, 2023, for purposes of determining whether sales are in Vermont and are included in the numerator of the sales apportionment factor, if the activities of any member of a unitary group create nexus with this State, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group shall be included in the Vermont sales factor numerator.

(b) For taxable years beginning on January 1, 2023 and before January 1, 2024:

(1) If any member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by any member of the unitary group shall be excluded from the Vermont sales factor numerator.

(2) If no member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by all members of the unitary group shall be included in the Vermont sales factor numerator.

#### Sec. 5. RULEMAKING; REPORT

The Department of Taxes shall adopt rules relating to the unitary combined reporting requirements imposed under this act. The rules required under this section shall include a change from the Joyce to the Finnigan approach to applying Vermont jurisdiction to corporations within a unitary group. The Department shall report to the House Committee on Ways and Means and the Senate Committee on Finance on or before January 15, 2024 on the Department's proposed rules and any recommendations for legislation with respect to unitary combined reporting.

\* \* \* Personal Income Tax; Retirement Income Exemptions \* \* \*

Sec. 6. 32 V.S.A. § 5811(21) is amended to read:

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

(B) decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

\* \* \*

(iv) the portion of certain retirement income and federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; ~~and~~

\* \* \*

(vi) U.S. military survivor benefit income received by the surviving spouse of a deceased service member; and

\* \* \*

Sec. 7. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

\* \* \*

(w) The statutory purpose of the partial exemption of certain retirement income and federally taxable benefits under the Social Security Act in section 5830e of this title is to lessen the tax burden on Vermonters with low to moderate income who derive part of their income from certain retirement income and Social Security benefits.

\* \* \*

(y) The statutory purpose of the exemption for U.S. military survivor benefit income in subdivision 5811(21)(B)(vi) of this title is to recognize the military service of Vermonters.

Sec. 8. 32 V.S.A. § 5830e is amended to read:

§ 5830e. RETIREMENT INCOME; SOCIAL SECURITY INCOME

(a) Social Security income. The portion of federally taxable Social Security benefits excluded from taxable income under subdivision 5811(21)(B)(iv) of this chapter shall be as follows:

\* \* \*

(b) Civil Service Retirement System income. The portion of income received from the Civil Service Retirement System excluded from taxable income under subdivision 5811(21)(B)(iv) shall be subject to the limitations under subsection (e) of this section and shall be determined as follows:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or surviving spouse:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$45,000.00, the first \$10,000.00 of income received from the Civil Service Retirement System shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$45,000.00 but less than \$55,000.00, the percentage of the first \$10,000.00 of income received from the Civil Service Retirement System to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$45,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$55,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the income received from the Civil Service Retirement System.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$55,000.00, no amount of the income received from the Civil Service Retirement System shall be excluded under this section.

(2) For taxpayers whose filing status is married filing jointly:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$60,000.00, the first \$10,000.00 of income received from the Civil Service Retirement System shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$60,000.00 but less than \$70,000.00, the percentage of the first \$10,000.00 of income received from the Civil Service Retirement System to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$60,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$70,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the income received from the Civil Service Retirement System.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$70,000.00, no amount of the income received from the Civil Service Retirement System shall be excluded under this section.

(c) Other contributory retirement systems; earnings not covered by Social Security. Other retirement income, except U.S. military retirement income pursuant to subsection (d) of this section, received by a taxpayer of this State shall be excluded pursuant to subsection (b) of this section as though the income were received from the Civil Service Retirement System and shall be subject to the limitations under subsection (e) of this section, provided that:

(1) the income is received from a contributory annuity, pension, endowment, or retirement system of:

(A) the U.S. government or a political subdivision or instrumentality of the U.S. government;

(B) this State or a political subdivision or instrumentality of this State; or

(C) another state or a political subdivision or instrumentality of another state; and

(2) the contributory system from which the income is received was based on earnings that were not covered by the Social Security Act.

(d) U.S. military retirement income. U.S. military retirement income received by a taxpayer of this State shall be excluded pursuant to subsection (b) of this section as though the income were received from the Civil Service Retirement System and shall be subject to the limitations under subsection (e) of this section.

(e) A taxpayer of this State who is eligible during the taxable year for the Social Security income exclusion under subsection (a) of this section and any of the exclusions under subsections (b)–(d) of this section shall elect either one of the exclusions for which the taxpayer is eligible under subsections (b)–(d) of this section or the Social Security income exclusion under subsection (a) of this section, but not both, for the taxable year.

\* \* \* Sales and Use Tax; Exemption; Menstrual Products \* \* \*

Sec. 9. 32 V.S.A. § 9706(oo) is amended to read:

(oo) The statutory purpose of the exemption for ~~feminine hygiene~~ menstrual products in subdivision 9741(56) of this title is to limit the cost of goods that are necessary for the health and welfare of Vermonters.

Sec. 10. 32 V.S.A. § 9741(56) is amended to read:

(56) ~~Feminine hygiene~~ Menstrual products. As used in this subdivision, “~~feminine hygiene~~ menstrual products” means tampons, panty liners, menstrual cups, sanitary menstrual napkins, and other similar tangible personal property designed for ~~feminine hygiene~~ use in connection with the human menstrual cycle but does not include “grooming and hygiene products” as defined in this chapter.

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

Sec. 11. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 1–5 (corporate income tax) shall take effect on January 1, 2023 and shall apply to taxable years beginning on and after January 1, 2023.

(2) Notwithstanding 1 V.S.A. § 214, Secs. 6–8 (retirement income exemptions) shall take effect retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2022.

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



An act relating to changes to Vermont's corporate income tax, personal income tax, and sales and use tax.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as moved by the Senator Cummings on behalf of the Committee on Finance?, Senator Cummings moved to amend the proposal of amendment of the Committee on Finance in Sec. 4, transition from Joyce to Finnigan method, by striking out the subsection (a) designation and by striking out subsection (b) in its entirety

Which was agreed to.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as moved by Senator Cummings on behalf of the Committee on Finance, as amended?, was decided in the affirmative.

### **Bill Amended; Third Reading Ordered**

#### **S. 127.**

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to a pilot project for a Department of Corrections report to assist the court setting conditions of probation.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF COMMUNITY SUPERVISION  
FURLOUGH

\* \* \*

(c) Appeal.

(1) An offender whose community supervision furlough status is revoked or interrupted for ~~90~~ 180 days or longer for a technical violation shall have the right to appeal the Department's determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record. If additional evidence is accepted by the court, the Department, through the Office of the Vermont Attorney General, shall have the opportunity to present rebuttal evidence, including testimony, for the court's consideration. The

notice of appeal filed pursuant to Rule 74 shall include a certification that the court has subject matter jurisdiction. The Department shall file an objection to subject matter jurisdiction within 14 days, which shall stay the filing of the record on appeal until the court issues an order on the Department's objection. The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused its discretion in imposing a furlough revocation or interruption for ~~90~~ 180 days or longer pursuant to subsection (d) of this section.

(2) An appeal filed pursuant to this subsection shall be limited to determine whether the decision to interrupt or revoke an offender's community supervision furlough status was an abuse of discretion by the Department based on the criteria set forth in subdivision (d)(2) of this section. The length of interruption or revocation may be a consideration in the abuse of discretion determination.

(3) An appeal filed pursuant to this subsection shall be brought in the unit of the Superior Court in which the offender resided at the time that the offender's furlough status was revoked or interrupted or the unit in which the offender is detained after the offender's furlough status was revoked or interrupted. If an appeal is filed pursuant to this subsection in a unit lacking proper venue, the court, on its own motion or on timely motion of a party to the appeal, may transfer the appeal to a unit having proper venue.

(d) Technical violations.

(1) As used in this section, "technical violation" means a violation of conditions of furlough that does not constitute a new crime.

(2) It shall be abuse of the Department's discretion to revoke furlough or interrupt furlough status for ~~90~~ 180 days or longer for a technical violation, unless:

(A) the offender's risk to reoffend can no longer be adequately controlled in the community, and no other method to control noncompliance is suitable; ~~or~~

(B) the violation or pattern of violations indicate the offender poses a danger to others ~~or to the community or poses a threat to abscond or escape from furlough; or~~

(C) the Commissioner has issued a warrant for the arrest of an offender because the offender absconded from furlough.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Judiciary was agreed to.

Thereupon, Senators Sears, Baruth, Benning, Nitka and White moved to amend the bill as follows:

First: In Sec. 1, 28 V.S.A. § 724, after the asterisks, by inserting subsection (b) to read as follows:

(b) ~~90-day~~ 180-day interruption or revocation. Any interruption of an offender's community supervision furlough after the Department has found a technical violation of furlough conditions shall trigger a Department Central Office case staffing review and Department notification to the Office of the Defender General if the interruption will be ~~90~~ 180 days or longer.

Second: By adding a new Sec. 2 to read as follows:

#### Sec. 2. APPLICABILITY

(a) Notwithstanding 1 V.S.A. §§ 213 and 214(b), the following provisions shall apply retroactively to any pending appeal filed at any time prior to the effective date of this act:

(1) the provisions of 28 V.S.A. § 724(c)(1) related to subject matter jurisdiction certification and the Department's ability to object to subject matter jurisdiction; and

(2) 28 V.S.A. § 724(c)(3) (venue).

(b) An appeal filed on or after the effective date of this act shall be reviewed under the 180-day or longer interruption or revocation period provided for in 28 V.S.A. § 724(c)(1) and (d)(2).

And by renumbering the remaining section to be numerically correct.

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

An act relating to the procedures and review of community supervision furlough revocation or interruption appeals.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

### **Senate Resolutions Adopted**

#### **S.R. 19.**

Senate resolution entitled:

Senate resolution commemorating St. Patrick's Day, celebrating the contributions of Vermonters of Irish heritage, and expressing the hope that the calm and cooperation that the 1998 Good Friday Agreement has engendered in Ireland will endure

Having been placed on the Calendar for action, was taken up and adopted.

**S.R. 20.**

Senate resolution entitled:

Senate resolution extending concurrently conducted electronic sessions and committee meetings

Having been placed on the Calendar for action, was taken up and adopted.

**Message from the House No. 32**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 279.** An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access.

**H. 572.** An act relating to the retirement allowance for interim educators.

In the passage of which the concurrence of the Senate is requested.

The Governor has informed the House that on March 15, 2022, he approved and signed a bill originating in the House of the following title:

**H. 717.** An act relating to providing humanitarian assistance to the people of Ukraine.

The Governor has informed the House that on March 16, 2022, he approved and signed a bill originating in the House of the following title:

**H. 679.** An act relating to fiscal year 2022 budget adjustments.

**Adjournment**

On motion of Senator Balint, the Senate adjourned until ten o'clock in the morning.

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**FRIDAY, MARCH 18, 2022**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Peter Plagge of Waterbury.

**Message from the House No. 33**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 244.** An act relating to authorizing the natural organic reduction of human remains.

**H. 500.** An act relating to prohibiting the sale of mercury lamps in the State.

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

**H. 606.** An act relating to community resilience and biodiversity protection.

**H. 655.** An act relating to telehealth licensure and registration and to provisional licensure for professions regulated by the Office of Professional Regulation.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to the following House bill:

**H. 701.** An act relating to cannabis license fees.

And has severally concurred therein.

**Senate Resolution Referred****S.R. 21.**

Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Benning,

**S.R. 21.** Senate resolution suspending Senate Temporary Rule 10A and calling for a meeting of the Joint Rules Committee to suspend the Legislative Face Mask Policy.

*Whereas*, in March of 2020, Vermont's health care infrastructure of over 900 available hospital beds and approximately 100 ICU beds was threatened by the sudden onslaught of patients infected by a virus known as Covid-19; and,

*Whereas*, Governor Phil Scott thus declared Vermont to be in a state of emergency and imposed a series of protective measures based on scientific guidance from the Centers for Disease Control and Prevention [hereinafter "CDC"] and medical advice from his Health Commissioner, Dr. Mark Levine; and,

*Whereas*, Vermonters responded with a successful campaign of vaccinations, compliance with mask mandates and social distancing; and,

*Whereas*, the General Assembly also responded with a self-imposed mask wearing requirement in all Statehouse rooms through its Joint Rules Committee; and,

*Whereas*, Governor Scott has since rescinded his declared state of emergency, thus removing any legal foundation for the General Assembly's self-imposed mask mandate within its Statehouse ; and,

*Whereas*, the CDC has declared Covid infection rates in Washington County, home of the General Assembly and Statehouse, to have dropped significantly enough to remove mask requirements unless otherwise advised by one's personal care provider, thus removing any CDC support for self-imposed mask mandates within the Statehouse; and,

*Whereas*, as of March 17, only 17 hospital beds and 5 ICU beds are occupied by Covid-19 patients in a State with a population of approximately 640,000, thus demonstrating Vermont's health care infrastructure is no longer threatened to the point of supporting self-imposed mask mandates within the Statehouse; and,

*Whereas*, this Senate has control over the Senate chamber and all Senate committee rooms; *now therefore be it resolved*

***Resolved by the Senate:***

That the self-imposed mask mandate dictated by Senate Temporary Rule 10A be suspended immediately within the Senate chamber and all Senate committee rooms; and,

***Resolved:*** That the Senate representatives to the Joint Rules Committee be directed to call for a meeting of said committee forthwith and vote to suspend immediately the Legislative Face Mask Policy adopted by the Joint Rules Committee for the Capitol Complex.

Thereupon, the President, in her discretion, treated the Senate resolution as a bill and referred it to the Committee on Rules.

Senator Benning, moved to suspend the rules to relieve the Committee on Rules of further consideration of the Senate resolution and that the Senate resolution be taken up for immediate consideration, which was disagreed to.

### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

#### **H. 244.**

An act relating to authorizing the natural organic reduction of human remains.

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

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

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

To the Committee on Health and Welfare.

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

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

To the Committee on Natural Resources and Energy.

#### **H. 523.**

An act relating to reducing hydrofluorocarbon emissions.

To the Committee on Natural Resources and Energy.

#### **H. 572.**

An act relating to the retirement allowance for interim educators.

To the Committee on Government Operations.

#### **H. 606.**

An act relating to community resilience and biodiversity protection.

To the Committee on Natural Resources and Energy.

#### **H. 655.**

An act relating to telehealth licensure and registration and to provisional licensure for professions regulated by the Office of Professional Regulation.

To the Committee on Health and Welfare.

**Third Reading Ordered**

**S. 90.**

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

An act relating to establishing an amyotrophic lateral sclerosis registry.

Reported that the bill ought to pass.

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

**Bill Amended; Third Reading Ordered**

**S. 161.**

Senator Bray, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to extending the baseload renewable power portfolio requirement.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO  
REQUIREMENT

\* \* \*

(b) Notwithstanding subsection 8004(a) and subdivision 8005(c)(1) of this title, commencing November 1, 2012, each Vermont retail electricity provider shall purchase the provider's pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, ~~2024~~ 2025.

\* \* \*

Sec. 2. 2021 Acts and Resolves No. 39, Sec. 2 is amended to read:

Sec. 2. PUBLIC UTILITY COMMISSION ORDER EXTENSION

All decisions and orders of the former Public Service Board and the Public Utility Commission in the matter Investigation into the Establishment of a Standard-Offer Price for Baseload Renewable Power under the Sustainably Priced Energy Enterprise Development (SPEED) Program, Docket No. 7782,



shall remain in full force and effect through October 31, ~~2024~~ 2025. For years 2023 ~~and~~, 2024, and the period from January 1, 2025 to October 31, 2025, the purchase price shall be the levelized value determined in Docket No. 7782.

Sec. 3. 2021 Acts and Resolves No. 39, Sec. 3 is amended to read:

Sec. 3. BASELOAD RENEWABLE POWER PORTFOLIO  
REQUIREMENT; COLOCATION REPORT

On or before January 15, ~~2023-2024~~, the owner of the baseload renewable power plant subject to 30 V.S.A. § 8009(b) shall report to the General Assembly on whether a project utilizing the excess thermal energy generated by the plant has been developed and is operational, or when a project utilizing the excess thermal energy generated by the plant will be operational.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

**Bill Amended; Third Reading Ordered**

**S. 162.**

Senator Perchlik, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to the collective bargaining rights of teachers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 1752 is amended to read:

§ 1752. GROUNDS AND PROCEDURES FOR SUSPENSION AND  
DISMISSAL

(a) A teacher under contract to teach in a public school who fails, without just cause, to complete the term for which the teacher contracted to teach, shall be disqualified to teach in any public school for the remainder of the school year.

(b) The provisions of subsections (c) and (d) of this section regarding the nonrenewal, suspension, and dismissal of teachers shall not apply to a teacher employed under the terms of a collective bargaining agreement under chapter 57 of this title that provides the teacher just cause rights. The decision to

nonrenew, suspend without pay, or dismiss a teacher shall be made by the school board.

~~(b)~~(c) ~~Unless otherwise negotiated,~~ a A teacher under contract to teach in a public school whose contract is not to be renewed for the ensuing year shall be notified in writing, setting forth the grounds therefor, ~~no~~ not later than April 15. If the teacher so notified desires a hearing, the teacher shall so request in writing to the clerk of the school board. The teacher shall have the right to a hearing before the school directors within 15 days, may present witnesses and written evidence, and may be represented by counsel. A hearing shall be in executive session unless the teacher making the appeal requests or agrees in writing that it be open to the public. The school board shall affirm, modify, or reverse the nonrenewal and shall issue its decision in writing within five days. In the case of a probationary teacher who has received two written performance evaluations per year of probationary service, a decision of the board shall be final. The standard for nonrenewal of a contract shall be:

(1) In the case of a nonprobationary teacher, just and sufficient cause.

(2) In the case of a probationary teacher, any reason other than those prohibited by law. However, the standard for nonrenewal for a probationary teacher's contract shall be just and sufficient cause if the teacher has not received at least two written performance evaluations per year of probationary service. A probationary teacher is a person who has been employed as a teacher in Vermont public schools for less than two school years.

(e)(d) The following provisions shall apply to the suspension or dismissal of a teacher:

(1) A superintendent may suspend a teacher under contract on the grounds of incompetence, conduct unbecoming a teacher, failure to attend to duties, or failure to carry out reasonable orders and directions of the superintendent and school board.

~~(d)~~(2) The suspension shall be in writing and shall set forth the grounds therefor. Copies shall be delivered to the teacher, ~~and~~ to the chair, and to the clerk of the board of school directors. Thereafter, performance under the teacher's contract shall be suspended, but ~~he or she~~ the teacher shall be paid pro rata to the time of ~~his or her~~ dismissal by the board.

~~(e)~~(3) The teacher so suspended shall have the right to appeal to the board of school directors of the district for review of the decision. Filing a written notice of appeal with the clerk of the school board within seven days ~~of~~ after the effective date of the suspension shall initiate the appeal. The clerk of the board shall forthwith forward a copy of the notice of appeal to the superintendent and send to the teacher an acknowledgment of receipt of the appeal.

~~(f)~~(4) The school board to which the appeal is directed shall hear the appeal within 10 days ~~of~~ after receipt of notification. The teacher and the superintendent shall be advised by the clerk of the board of the time and place of hearing by written notice at least three days before the date of hearing.

~~(g)~~(5) All parties shall be entitled to counsel at every stage of the proceedings established by this section. Hearings shall be in executive session, unless the teacher making an appeal requests or agrees in writing that they be open to the public. A teacher making an appeal may waive in writing ~~his or her~~ the right to a hearing.

~~(h)~~(6) Upon hearing, or if no appeal is taken, the school board shall affirm or reverse the suspension or take such other action, including dismissal, as may appear just. If the suspension, or the dismissal, is reversed, the teacher shall not suffer any loss of pay, retirement benefits, or any other benefits to which ~~he or she~~ the teacher would otherwise have been entitled.

~~(i)~~(7) The decision of the school board shall be in writing and filed with the clerk of the school board not later than five days after the hearing or after the time for taking an appeal has expired. The clerk shall within three days notify the superintendent and the teacher in writing of the decision.

~~(j)~~(e) No court action shall lie on the part of a teacher against any school district for breach of contract by reason of suspension or dismissal unless the procedures described in this section have been followed by ~~said~~ the teacher.

~~(k)~~(f) Every teacher's contract shall be deemed to contain the provisions of this section, and any provision in the contract inconsistent with this section shall be considered of no force or effect.

Sec. 2. 16 V.S.A. § 1986 is added to read:

§ 1986. NONINTERFERENCE WITH RIGHT TO TESTIFY

(a) Subject to subsection (b) of this section, no teacher, administrator, or other employee of a school district or supervisory union shall be subject to discipline by the school district or supervisory union for testifying before the General Assembly or a committee of the General Assembly or before the State Board of Education.

(b) A teacher, administrator, or other employee of a school district or supervisory union who testifies before the General Assembly or a committee of the General Assembly or before the State Board of Education shall not divulge information that is confidential to the school district or supervisory union or to its students or staff and may be disciplined by the individual's employer for divulging such confidential information.

(c) A teacher, administrator, or other employee of a school district or supervisory union who testifies before the General Assembly or a committee of the General Assembly or before the State Board of Education shall, unless authorized by the individual's employer to testify on the employer's behalf, state for the record that the individual is not testifying on behalf of the individual's employer.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

### **Bill Amended; Third Reading Ordered**

#### **S. 201.**

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

An act relating to the use of leghold traps.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. DEPARTMENT OF FISH AND WILDLIFE; BEST MANAGEMENT PRACTICES FOR TRAPPING

(a) On or before January 15, 2023, the Commissioner of Fish and Wildlife shall submit to the Senate Committee on Natural Resources and Energy, the House Committee on Natural Resources, Fish, and Wildlife, and the Fish and Wildlife Board recommended best management practices (BMPs) for trapping that propose criteria and equipment designed to modernize trapping and improve the welfare of animals subject to trapping programs. The BMPs shall be based on investigation and research conducted by scientists and experts at the Department of Fish and Wildlife and shall use the "Best Management Practices for Trapping in the United States" issued by the Association of Fish and Wildlife Agencies as the minimum standards for BMP development. The BMPs shall include recommended:

(1) trapping devices and components of trapping devices that are more humane than currently authorized devices and are designed to minimize injury to a captured animal;

(2) criteria for adjusting or maintaining trapping devices so that they operate correctly and humanely;

(3) trapping techniques, including the appropriate size and type of a trap for target animals, use of lures or other attractants, and trap safety;

(4) requirements for the location of traps, including the placing of traps for purposes other than nuisance trapping at a safe distance, from public trails, class 4 roads, playgrounds, parks, and other public locations where persons may reasonably be expected to recreate; and

(5) criteria for when live, captured animals should be released or dispatched.

(b) The report required under subsection (a) of this section shall include a recommendation from the Commissioner of Fish and Wildlife for funding the replacement of currently authorized trapping devices with trapping devices that are compliant with the recommended BMPs. The Commissioner's recommendation shall include alternatives financed with public funding, private funding, or some combination of public and private funding.

(c) In developing the BMPs required under subsection (a) of this section, the Commissioner shall provide an opportunity for public review and comment and shall hold at least one public hearing regarding the proposed BMPs.

(d) As used in this section, "trapping" means to take or attempt to take furbearing animals with traps including the dispatching of lawfully trapped furbearing animals.

Sec. 2. 10 V.S.A. § 4861 is amended to read:

§ 4861. FUR-BEARING ANIMALS, TAKING, POSSESSION

(a) Fur-bearing animals shall not be taken except in accordance with the provisions of this part, and of rules of the Board. The fur or skins of fur-bearing animals may be possessed at any time unless otherwise provided by this part, rules of the Board, or orders of the Commissioner.

(b) On or before January 1, 2024, the Fish and Wildlife Board shall revise the rules regulating the trapping of fur-bearing animals in the State. The revised rules shall be at least as stringent as best management practices for trapping recommended by the Department of Fish and Wildlife to the General Assembly.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to best management practices for trapping.

And that when so amended the bill ought to pass.

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

### **Bill Amended; Third Reading Ordered**

#### **S. 250.**

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

An act relating to enhanced administrative and judicial accountability of law enforcement officers.

Reported recommending 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. § 2366 is amended to read:

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

\* \* \*

(e)(1) On or before September 1, ~~2014~~ 2022, every State, county, and municipal law enforcement agency shall collect all data concerning law enforcement encounters, including roadside stop data consisting of the following:

- (A) the age, gender, and race of the driver;
- (B) the grounds for the stop;
- (C) the grounds for the search and the type of search conducted, if any;
- (D) the evidence located, if any;
- (E) the outcome of the stop, including whether physical force was employed or threatened during the stop, and if so, the type of force employed and whether the force resulted in bodily injury or death, and whether:
  - (i) a written warning was issued;
  - (ii) a citation for a civil violation was issued;
  - (iii) a citation or arrest for a misdemeanor or a felony occurred; or
  - (iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Executive Director of Racial Equity, the Criminal Justice Council, and a vendor chosen by the Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before ~~September~~ July 1, 2016 2023 and annually thereafter, law enforcement agencies shall provide all data collected by the agency, including the data collected under this subsection, to the Executive Director of Racial Equity and the vendor chosen by the Criminal Justice Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website and clear and understandable. ~~The receiving agency shall also report the data annually to the General Assembly.~~

(5) Annually, on or before July 1, all law enforcement agencies shall report the data collected pursuant to subdivision (3) of this subsection to the House and Senate Committees on Government Operations and on Judiciary. The report shall detail how the data is collected, how the data is accessible, how the data is used by the law enforcement agency, a review of the data to determine if additional data criteria is needed, and any recommendations to improve data collection and use.

(6) As used in this subsection, "physical force" shall refer to the force employed by a law enforcement officer to compel a person's compliance with the officer's instructions that constitutes a greater amount of force than handcuffing a compliant person.

\* \* \*

Sec. 2. 20 V.S.A. § 2370 is added to read:

§ 2370. LAW ENFORCEMENT OFFICER INFORMATION DATABASE

(a) Purpose. The purpose of this section is to create a law enforcement officer information database that catalogues potential impeachment information concerning law enforcement agency witnesses or affiants and enables a prosecutor to disclose such information consistently and appropriately under the obligations of *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny.

(b) Database. The Vermont Criminal Justice Council shall maintain a database cataloging any potential impeachment information concerning a law enforcement officer. Potential impeachment information may include:

(1) any finding of misconduct that reflects upon the truthfulness or possible bias of the law enforcement officer, including a finding of a lack of candor during a criminal, civil, or administrative inquiry or proceeding;

(2) any past or pending criminal charge brought against the law enforcement officer;

(3) any allegation of misconduct bearing upon truthfulness, bias, or integrity that is the subject of a pending investigation;

(4) any prior findings by a judge that a law enforcement officer testified untruthfully, made a knowing false statement in writing, engaged in an unlawful search or seizure, illegally obtained a confession, or engaged in other misconduct;

(5) any misconduct finding or pending misconduct allegation that either casts a substantial doubt upon the accuracy of a law enforcement officer as a witness, including testimony, that a prosecutor intends to rely on to prove an element of any crime charged, or that might have a significant bearing on the admissibility of prosecution evidence;

(6) information that may be used to suggest that the law enforcement officer is biased for or against a defendant; or

(7) information that reflects that the law enforcement officer's ability to perceive and recall truth is impaired.

(c) Duty to report. A law enforcement agency's executive officer or designee shall report any information required to be cataloged under this section to the Council within 10 business days after discovering the information.

(d) Accessibility. The database shall be accessible to the State's Attorney of any county of this State or designee and the Attorney General of this State or designee for the purpose of complying with the disclosure obligations of *Giglio v. United States*, 405 U.S. 150 (1972), and its progeny. This database shall not be accessible to anyone not listed in this subsection.

(e) Confidentiality. The database, documents, materials, or other information in possession or control of the Council that are obtained by or reported to the Council under this section shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The Council is authorized to use the database, or related documents, materials, or other



information, in furtherance of the Council's official duties. Unless otherwise authorized by law, the Council shall not disclose the database or make related documents, materials, or other information public without the prior written consent of the law enforcement agency and the law enforcement officer. Neither the Council nor any person who received documents, materials, or other information shared under this section shall be required to testify in any private civil action concerning the database or any confidential documents, materials, or information subject to this section. Nothing in the section shall exempt the Council, a State's Attorney, or the Attorney General from disclosing public records pursuant to 1 V.S.A. chapter 5, subchapter 3.

Sec. 3. 13 V.S.A. § 5585 is amended to read:

§ 5585. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a) As used in this section:

(1) "Custodial interrogation" means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject's position would consider ~~himself or herself~~ the person to be in custody, starting from the moment a person should have been advised of ~~his or her~~ the person's Miranda rights and ending when the questioning has concluded.

\* \* \*

(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony violation of ~~chapter 53 (homicide) or 72 (sexual assault)~~ of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

(c)(1) The following are exceptions to the recording requirement in subsection (b) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony violation of ~~chapter 53 (homicide) or 72 (sexual assault)~~ of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of ~~his or her~~ the person's identity; and

(F) equipment malfunction.

\* \* \*

Sec. 4. STUDY ON DECEPTIVE AND COERCIVE METHODS OF LAW ENFORCEMENT INTERROGATION; REPORT

(a) The Joint Legislative Justice Oversight Committee shall in its discretion select an organization to submit a written report studying the use of deceptive and coercive interrogation tactics employed by law enforcement in the State of Vermont. In particular, the report shall study and provide recommendations:

(1) concerning when providing false facts about evidence to a suspect during an interview conducted after the commission of a crime results in an involuntary confession or admission to the crime;

(2) regarding when confessions or admissions to crimes procured by providing a defendant with false facts should be inadmissible;

(3) concerning the appropriate age and circumstances to prohibit coercive techniques in cases involving juveniles;

(4) concerning the use of the interrogation and interviewing techniques, including the Reid Technique of Investigative Interviews and Advanced Interrogation Techniques, by law enforcement; and

(5) regarding legislation, initiatives, or programs for the General Assembly and law enforcement to consider to improve current practices.

(b) In preparation of the report, the Committee shall have the administrative, technical, and legal assistance of its selected entity, the Vermont Criminal Justice Council, the Council of State Governments, and any other stakeholders interested in assisting with the report.

Sec. 5. EFFECTIVE DATES

(a) Sec. 2 (law enforcement database) shall take effect on January 1, 2023.

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

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senators Ram Hinsdale, Clarkson, Collamore, Pollina and White moved to amend the recommendation of the Committee on Government Operations in Sec. 4, study on deceptive and

coercive methods of law enforcement interrogation; report, subsection (a), by striking out the words “in its discretion select an organization to”

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

An act relating to law enforcement data collection and interrogation.

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

### **Bill Amended; Third Reading Ordered**

#### **S. 254.**

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to creating a private right of action against law enforcement officers for violating rights established under Vermont law.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. chapter 190 is added to read:

#### CHAPTER 190. VIOLATIONS OF ARTICLE 11 OF THE VERMONT CONSTITUTION BY LAW ENFORCEMENT

##### § 5607. STANDARD TO RECOVER DAMAGES

(a) It is the intent of the General Assembly to codify the principle established by the Vermont Supreme Court in *Zullo v. State*, 2019 VT 1 as a burden that a plaintiff must prove to obtain damages in an action brought against any Vermont law enforcement agency for a violation of Article 11 of the Constitution of the State of Vermont.

(b) As used in this chapter, “law enforcement agency” has the same meaning as in 20 V.S.A. § 2351a.

##### § 5608. RECORD OF CASE DISPOSITION

Each law enforcement agency shall maintain a record of all final judgments and settlements paid by the law enforcement agency for claims made pursuant to this chapter and attach a copy of the complaint to each record. All judgments, settlements, and their underlying complaints are subject to public disclosure unless an exemption applies pursuant to 1 V.S.A. § 317. Any record disclosed shall include the name of the law enforcement agency and the monetary amount paid pursuant to the judgment or settlement.

Sec. 2. REPORT ON ACCESS TO CIVIL JUSTICE REMEDIES AND LAW ENFORCEMENT QUALIFIED IMMUNITY IN VERMONT

(a) On or before November 15, 2022, the Office of Legislative Counsel shall submit a written report to the Senate Committee on Judiciary, the House Committee on Judiciary, and the Joint Legislative Justice Oversight Committee concerning the impact of the doctrine of qualified immunity on access to civil justice remedies for people wrongfully harmed by bad-faith policing and violations of civil rights in the State of Vermont. In particular, the report shall identify:

(1) the origins of the doctrine of qualified immunity and its present interpretation by the State courts of Vermont;

(2) existing constitutional, statutory, and common law causes of action for redressing the alleged misconduct of Vermont law enforcement under Vermont law;

(3) existing immunities from suit concerning allegations of Vermont law enforcement misconduct under Vermont law;

(4) existing defenses to liability concerning allegations of Vermont law enforcement misconduct under Vermont law;

(5) existing statutory and common law limitations on damages concerning allegations of Vermont law enforcement misconduct under Vermont law; and

(6) the applicability of the doctrine of qualified immunity to all certified law enforcement officers.

(b) In the preparation of the report, the Office of Legislative Counsel shall have the administrative, technical, and legal assistance of the Office of the Vermont Attorney General, the Office of the Vermont Defender General, the Center for Justice Reform at Vermont Law School, and other stakeholders interested in assisting with the report.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Judiciary?, Senators Sears and White moved to amend the recommendation of the Committee on Judiciary as follows:

First: In Sec. 1, 12 V.S.A. chapter 190, § 5607, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) It is the intent of the General Assembly to codify the common law principle for a plaintiff seeking damages for an alleged violation of Article 11 of the Vermont Constitution as established by the Vermont Supreme Court's decision in *Zullo v. State*, 2019 VT 1 and apply it uniformly as a burden that a plaintiff must prove to recover damages in an action brought against any Vermont law enforcement agency alleging a violation of Article 11.

Second: In Sec. 1, 12 V.S.A. chapter 190, § 5607, by adding a new subsection (b) to read as follows:

(b) A plaintiff seeking damages against any Vermont law enforcement agency directly under Article 11 of the Vermont Constitution based on a law enforcement officer's alleged violation of that constitutional provision must show that:

(1) the law enforcement officer committed a violation of Article 11 of the Vermont Constitution;

(2) there is no meaningful alternative in the context of the particular case; and

(3) the law enforcement officer knew or should have known that the officer violated clearly established law or the officer acted in bad faith.

And by relettering the remaining subsection to be alphabetically correct.

Third: In Sec. 2, report on access to civil justice remedies and law enforcement qualified immunity in Vermont, by adding a new subsection (b) to read as follows:

(b) The report shall be confined to legal analysis and shall not make any policy recommendations.

And by relettering the remaining subsection to be alphabetically correct.

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

An act relating to recovering damages for Article 11 violations by law enforcement and a report on qualified immunity.

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

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**Message from the House No. 34**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 266.** An act relating to health insurance coverage for hearing aids.

**H. 399.** An act relating to incarceration terms for criminal defendants who are primary caretakers of dependent children.

**H. 475.** An act relating to the classification system for criminal offenses.

**H. 482.** An act relating to the Petroleum Cleanup Fund.

**H. 548.** An act relating to miscellaneous cannabis establishment procedures.

**H. 551.** An act relating to prohibiting racially and religiously restrictive covenants in deeds.

**H. 715.** An act relating to the Clean Heat Standard.

**H. 722.** An act relating to final reapportionment of the House of Representatives.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 44.** Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

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

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 46.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 120.** House concurrent resolution congratulating the 2022 Mt. Anthony Union High School boys' Division I Nordic skiing championship team.

**H.C.R. 121.** House concurrent resolution congratulating the 2022 Mt. Anthony Union High School Patriots State championship wrestling team.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolution originating in the Senate of the following title:

**S.C.R. 17.** Senate concurrent resolution honoring John Shannahan for his extraordinary contributions to the economic and cultural life of the Town of Bennington.

And has adopted the same in concurrence.

#### **Senate Concurrent Resolution**

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, was adopted on the part of the Senate:

By Senators Campion and Sears,

By Reps. Corcoran and others,

#### **S.C.R. 17.**

Senate concurrent resolution honoring John Shannahan for his extraordinary contributions to the economic and cultural life of the Town of Bennington.

#### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Morrissey and others,

By Senators Campion and Sears,

#### **H.C.R. 120.**

House concurrent resolution congratulating the 2022 Mt. Anthony Union High School boys' Division I Nordic skiing championship team.

By Reps. Morrissey and others,

By Senators Campion and Sears,

**H.C.R. 121.**

House concurrent resolution congratulating the 2022 Mt. Anthony Union High School Patriots State championship wrestling team.

**Adjournment**

On motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, March 22, 2022, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 46.

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**TUESDAY, MARCH 22, 2022**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Julie Lombard of Northfield.

**Pledge of Allegiance**

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

**Joint Senate Resolution Adopted on the Part of the Senate**

**J.R.S. 47.**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Balint,

**J.R.S. 47.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, March 25, 2022, it be to meet again no later than Tuesday, March 29, 2022.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 266.**

An act relating to health insurance coverage for hearing aids.



To the Committee on Health and Welfare.

**H. 399.**

An act relating to incarceration terms for criminal defendants who are primary caretakers of dependent children.

To the Committee on Judiciary.

**H. 475.**

An act relating to the classification system for criminal offenses.

To the Committee on Judiciary.

**H. 482.**

An act relating to the Petroleum Cleanup Fund.

To the Committee on Natural Resources and Energy.

**H. 548.**

An act relating to miscellaneous cannabis establishment procedures.

To the Committee on Judiciary.

**H. 551.**

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

To the Committee on Judiciary.

**H. 715.**

An act relating to the Clean Heat Standard.

To the Committee on Natural Resources and Energy.

**H. 722.**

An act relating to final reapportionment of the House of Representatives.

To the Committee on Reapportionment.

**Bill Amended; Third Reading Ordered**

**S. 258.**

Senator Collamore, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to amending the Required Agricultural Practices in order to address climate resiliency.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 23 is added to read:

§ 23. GOOD STANDING FOR AGENCY GRANTS

(a) As used in this section, “good standing” means an applicant for a grant exclusively awarded by the Agency:

(1) does not have an active enforcement violation that has reached a final order with the Secretary; and

(2) is in compliance with all terms of a current grant agreement or contract with the Agency.

(b) This section shall not amend, alter, or otherwise modify the “good standing” requirements established for grant programs in chapter 215 of this title.

(c) An applicant shall not be eligible for any grant exclusively awarded by the Agency unless the applicant is in good standing with the Secretary on all grant agreements, contract awards, and enforcement proceedings at the time of the grant award.

(d) In the Secretary’s sole discretion, the Agency may waive the grant prohibition in subsection (c) of this section if the Secretary determines that:

(1) the applicant is working constructively with the Agency in good faith to resolve all issues that prevent good standing, and the applicant agrees in writing to take all necessary measures to comply with good standing requirements within a described time period;

(2) all issues that prevent an applicant’s good standing are minor and do not warrant ineligibility for the applicable grant; or

(3) the Secretary determines that waiving the good standing requirement is in the interests of justice.

(e) The good standing requirement only applies to grants exclusively awarded by the Agency. When the Agency is involved in administering other grants, the Agency may raise an applicant’s lack of good standing for the awarding entity’s consideration and review. The awarding entity may consider the applicant’s lack of compliance when determining whether to award a grant.

Sec. 2. 6 V.S.A. § 4802(8) is amended to read:

(8) “Waste” or “agricultural waste” means material originating or emanating from a farm or imported onto a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of

the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed, and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated milk house waste; and any other farm waste as the term "waste" is defined in 10 V.S.A. § 1251(12).

Sec. 3. 6 V.S.A. § 4815 is amended to read:

§ 4815. WASTE STORAGE FACILITY

(a) No person shall construct a new waste storage facility or expand or modify a waste storage facility in existence on July 1, 2006 unless the facility meets the standard established for such facilities by the Natural Resources Conservation Service of the U.S. Department of Agriculture or an equivalent standard. If an equivalent design standard is used, the design and construction shall be certified by the Secretary of Agriculture, Food and Markets or a licensed professional engineer operating within the scope of ~~his or her~~ the engineer's expertise.

(b) The Secretary may require the owner or operator of a waste storage facility in existence on July 1, 2006, to modify the facility to meet the standard set forth in subsection (a) of this section if the facility poses a threat to human health or the environment ~~as established by a violation of the State groundwater protection standards~~. If the Secretary determines that a facility that meets the standard set forth in subsection (a) of this section poses a threat to human health or the environment, the Secretary may require the owner or operator of the facility to implement additional management measures.

(c) ~~The~~ If the Secretary suspects that a waste storage facility may be contaminating groundwater, the Secretary shall pay the costs of any initial groundwater monitoring conducted to determine if whether a facility poses a threat to human health or the environment ~~shall be paid by the Secretary~~. Within 21 days ~~of~~ after a determination under this subsection that a facility poses a threat to human health or the environment because of apparent violation of the Groundwater Protection Standards, the Secretary of Agriculture, Food and Markets shall notify the Department of Health and the Secretary of Natural Resources of the location of the facility and the name of its owner or operator.

~~(e)~~(d) As used in this section, "waste storage facility" means an impoundment made for the purpose of storing agricultural waste by constructing an embankment, excavating a pit or dugout, fabricating an inground and aboveground structure, or any combination thereof.

Sec. 4. 6 V.S.A. § 4817 is amended to read:

§ 4817. MANAGEMENT OF NON-SEWAGE WASTE

(a) As used in this section:

(1) “Non-sewage waste” means any waste other than sewage that may contain organisms pathogenic to human beings but does not mean stormwater runoff.

(2) “Sewage” means waste containing human fecal coliform and other potential pathogenic organisms from sanitary waste and used water from any building, including carriage water and shower and wash water. “Sewage” shall does not mean stormwater runoff as that term is defined in 10 V.S.A. § 1264.

(b) The Secretary may require a person transporting or arranging for the transport of non-sewage waste to a farm for deposit in a manure pit or for use as an input in a methane digester to obtain approval from the Secretary prior to transporting the non-sewage waste to the farm. The Secretary may require a person to report to the Secretary at a designated time one or more of the following:

(1) the composition of the material transported to the farm, including the source of the material; and

(2) the volume of the material transported to a farm.

(c) After receipt of a report required under subsection (b) of this section, the Secretary may prohibit the import of non-sewage waste onto a farm upon a determination that the import of the material would violate the nutrient management plan for the farm or otherwise present a threat to water quality.

Sec. 5. 6 V.S.A. § 4827 is amended to read:

§ 4827. ~~NUTRIENT MANAGEMENT PLANNING; INCENTIVE GRANTS~~

~~(a) A farm developing or implementing a nutrient management plan under chapter 215 of this title or federal regulations may apply to the Secretary of Agriculture, Food and Markets for financial assistance. The financial assistance shall be in the form of incentive grants. Annually, after consultation with the Natural Resources Conservation Service of the U.S. Department of Agriculture, natural resources conservation districts, the University of Vermont Extension Service and others, the Secretary shall determine the average cost of developing and implementing a nutrient management plan in Vermont. The dollar amount of an incentive grant awarded under this section shall be equal to the average cost of developing a nutrient management plan as determined by the Secretary or the cost of complying with the nutrient management planning requirements of chapter 215 of this title or federal regulations, whichever is less.~~

~~(b) Application for a State assistance grant shall be made in a manner prescribed by the Secretary and shall include, at a minimum:~~

~~(1) an estimated cost of developing and implementing a nutrient management plan for the applicant;~~

~~(2) the amount of incentive grant requested; and~~

~~(3) a schedule for development and implementation of the nutrient management plan.~~

~~(c) The Secretary annually shall prepare a list of farms ranked, regardless of size, in priority order that have applied for an incentive grant under this section. The priority list shall be established according to factors that the Secretary determines are relevant to protect the quality of waters of the State, including:~~

~~(1) the proximity of a farm to a water listed as impaired for agricultural runoff, pathogens, phosphorus, or sediment by the Agency of Natural Resources;~~

~~(2) the proximity of a farm to an unimpaired water of the State;~~

~~(3) the proximity of a drinking water well to land where a farm applies manure; and~~

~~(4) the risk of discharge to waters of the State from the land application of manure by a farm.~~

~~(d) Assistance in accordance with this section shall be provided from State funds appropriated to the Agency of Agriculture, Food and Markets for integrated crop management.~~

~~(e) If the Secretary or the applicable U.S. Department of Agriculture conservation programs lack adequate funds necessary for the financial assistance required by subsection (a) of this section, the requirement to develop and implement a nutrient management plan under State statute or State regulation shall be suspended until adequate funding becomes available. Suspension of a State-required nutrient management plan does not relieve an owner or operator of a farm permitted under section 4858 or 4851 of this title of the remaining requirements of a State permit, including discharge standards, groundwater protection, and land application of manure. This subsection does not apply to farms permitted under 10 V.S.A. § 1263.~~

~~(f) The Secretary may enter into grants with natural resources conservation districts, the University of Vermont Extension Service, and other persons and organizations to aid in the implementation of the incentive grants program under subsection (a) of this section and to assist farmers in the development and implementation of nutrient management plans. [Repealed.]~~

Sec. 6. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide State financial assistance for the purchase of new or innovative equipment to ~~improve manure application, separation of phosphorus from manure, or nutrient management plan implementation~~ achieve the purposes of this section.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary. Priority shall be given to capital equipment to be used on multiple farms; equipment to be used for phosphorus reduction, separation, or treatment; and projects managed by nonprofit organizations that are located in descending order within the boundaries of:

- (1) the Lake Champlain Basin;
- (2) the Lake Memphremagog Basin;
- (3) the Connecticut River Basin; and
- (4) the Hudson River Basin.

(d) An applicant for a State grant under this section to purchase or implement phosphorus reduction, separation, or treatment technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus reduction, separation, or treatment technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed \$300,000.00.

Sec. 7. 6 V.S.A. § 4832 is amended to read:

§ 4832. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation, including through education, training, or instruction, of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices may be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
- (2) cover cropping;
- (3) strip cropping;
- (4) cross-slope tillage;
- (5) zone or no-tillage;
- (6) pre-sidedress nitrate tests; and
- (7) ~~annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;~~
- (8) ~~educational and instructional activities to inform the farmers and citizens of Vermont of:~~
  - (A) ~~the impact on Vermont waters of agricultural waste discharges;~~
  - and
  - (B) ~~the federal and State requirements for controlling agricultural waste discharges;~~
  - (9) ~~implementing alternative manure application techniques; and~~
  - (10) additional soil erosion reduction practices soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges.
- (b) ~~Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.~~

Sec. 8. 6 V.S.A. § 4852 is amended to read:

§ 4852. RULES

The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 concerning program administration, program enforcement, appeals and standards for waste management and waste storage, setbacks or siting criteria for new construction or expansion, groundwater contamination, odor, noise, traffic, insects, flies, and other pests in order to implement this subchapter. The siting criteria adopted by the Secretary by rule shall be consistent with the standards for the quality of State waters and standards for ~~acceptable~~ required agricultural practices pursuant to subchapter 2 of this chapter. The groundwater contamination rules adopted by the Secretary shall include a process under which the agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner.

Sec. 9. EXTENSION OF TASK FORCE TO REVITALIZE THE VERMONT DAIRY INDUSTRY

(a) Notwithstanding 2020 Acts and Resolves No. 129, Sec. 31(c)(6), the Task Force to Revitalize the Vermont Dairy Industry shall continue to exist and retain the authority granted to it in 2020 Acts and Resolves No. 129, Sec. 31 until February 1, 2023.

(b)(1) For attendance of a meeting of the Task Force to Revitalize the Vermont Dairy Industry during adjournment of the General Assembly between the effective date of this act and February 1, 2023, a legislative member of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Task Force that are not legislative members shall be entitled to both per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to agricultural water quality, enforcement, and dairy farming.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

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

**Third Reading Ordered**

**S. 72.**

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

An act relating to the Interstate Compact on the Placement of Children.

Reported that the bill ought to pass.



Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

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

**Bill Amended; Third Reading Ordered**

**S. 91.**

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

An act relating to Parent Child Center Network.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. chapter 37 is amended to read:

CHAPTER 37. ~~PARENT-CHILD~~ PARENT CHILD CENTER PROGRAM  
NETWORK

§ 3701. ~~PARENT-CHILD~~ PARENT CHILD CENTER PROGRAM  
NETWORK; ELIGIBILITY

(a) ~~For purposes of~~ As used in this chapter, “parent-child center”:

(1) “Concrete supports” means community services and resources to address the immediate needs of the family or contribute to the long-term well-being of the family, or both.

(2) “Parent child center” means a community-based organization established for the purpose of providing prevention and early intervention services such as parenting education, support, training, referral, and related services to prospective parents and families with young children including those whose children are medically, socially, or educationally at risk that serves as a central hub and lead provider of primary prevention services for families with young children on behalf of the State.

(3) “Parent Child Center Network” means an Agency of Human Services’ community partner composed of designated parent child centers that ensures accountability and collaboration among designated parent child centers.

(4) “Secretary” means the Secretary of Human Services or designee.

(b) ~~The Secretary of Human Services shall:~~

(1) ~~upon applications made annually, award grants to eligible parent-child centers; and~~

~~(2) establish, by rule, a formula for determining the amount of grants awarded under this chapter and minimum eligibility standards for such awards~~  
The Parent Child Center Network may recommend to the Secretary of Human Services one or more new parent child centers for designation. Upon receipt of the Network's recommendations, the Secretary shall review each parent child center recommended for designation to ensure it meets the criteria set forth in subsection (c) of this section. A parent child center recommended by the Network and determined to meet the criteria in subsection (c) of this section by the Secretary shall be deemed a designated parent child center.

~~(c) In order to be eligible for a grant under this chapter, a parent-child center~~ designation pursuant to subsection (b) of this section, a parent child center shall:

(1) Receive some funding from one or more private, local, or federal source. Contributions in kind, whether material, commodities, transportation, or office space, may be used to satisfy the contribution requirement of this subdivision.

(2) Qualify for tax exempt status under the provisions of Section 501(c) of the Internal Revenue Code.

(3) Have parent representation on its board of directors.

(4) Represent a designated geographic catchment area.

(5) Complete a peer review every three years, which shall be conducted by the Parent Child Center Network.

(6) Provide each of the eight core services set forth in subsection (d) of this section.

(7) Indicate an intention to participate in the Parent Child Center Network as a member.

(8) Work to achieve population-level quality of life outcomes related to children and families pursuant to 3 V.S.A. § 2311.

~~(d) A parent-child center funded under this chapter shall:~~

~~(1) provide leadership in the coordination of services for families with other community service providers;~~

~~(2) provide such financial or programmatic information as may be necessary to enable the Secretary of Human Services to evaluate the services provided through grant funds, the effect of such services on consumers of these services, and an accounting of the expenditure of grant funds; and~~

(3) participate in an annual peer review process conducted by the parent-child center network and the Agency of Human Services designated parent child center shall provide, either directly or indirectly through formal community partnerships, the following eight core services:

- (1) home visits;
- (2) early childhood services;
- (3) parent education;
- (4) playgroups;
- (5) parent support groups;
- (6) concrete supports;
- (7) community development; and
- (8) resources and referrals.

(e) Any parent child center in existence on January 1, 2021 shall be deemed to meet the designation criteria in subsection (c) of this section.

#### § 3702. FUNDING

(a) The Secretary of Human Services shall annually disperse a joint appropriation for all parent child center services to the Parent Child Center Network, which shall distribute funding to each designated parent child center. Notwithstanding subsection (c) of this section, any increases to base funding shall be based on increased community need, the provision of additional services, or the designation of a new parent child center.

(b) The Parent Child Center Network shall work in partnership with the Agency of Human Services to develop appropriate measures of accountability and to provide any financial or programmatic information as may be necessary to enable the Secretary to evaluate the services provided through grant funds, the effect of services on consumers, and an accounting of the expenditure of grant funds.

(c) The Agency of Human Services' budget presentation to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare shall indicate the appropriation needed were the Agency to employ an annual inflation factor for the Parent Child Center Network using the Employment Cost Index for total compensation for private industry workers in New England as published by the U.S. Bureau of Labor Statistics for the 12-month period ending in September of the most recent calendar year.

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**Sec. 2. APPROPRIATION**

In fiscal year 2023, a \$1,500,000.00 appropriation shall be added to the existing parent child center grant of \$3,350,000.00 for a total base appropriation of \$4,850,000.00 to be appropriated to the Department for Children and Families for distribution to the Parent Child Center Network. In addition, in fiscal year 2023, \$3,700,000.00 in one-time funding is appropriated to the Department for Children and Families for distribution to the Parent Child Center Network.

**Sec. 3. EFFECTIVE DATE**

This act shall take effect on July 1, 2022.

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

An act relating to the Parent Child Center Network.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, 33 V.S.A. chapter 37, § 3702, by striking out subsection (c) in its entirety.

Second: By striking out Sec. 2, appropriation, in its entirety and renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended? was agreed to and third reading of the bill was ordered.

**Bill Amended; Third Reading Ordered****S. 214.**

Senator Hardy, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to valuation of time-share projects.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 5412(e) is amended to read:

(e) A reduction made under this section shall be an amount equal to the loss in education grand list value multiplied by the tax rate applicable to the subject property in the year the request is submitted. However, the total amount for all reductions made under this section in one year shall not exceed ~~\$100,000.00~~ \$1,000,000.00. If total reductions for a calendar year would exceed this amount, the Director shall instead prorate the reductions proportionally among all municipalities eligible for a reduction so that total reductions equal ~~\$100,000.00~~ \$1,000,000.00.

Sec. 2. 32 V.S.A. § 5413 is added to read:

§ 5413. STATE APPRAISAL AND LITIGATION ASSISTANCE PROGRAM

(a) A State appraisal and litigation assistance program shall be created within the Division of Property Valuation and Review of the Department of Taxes to assist municipalities with the valuation of complex commercial, utility, or other unique properties within a municipality's jurisdiction and to assist with any appeals arising from those valuations. The Commissioner of Taxes may contract with one or more commercial appraisers to provide State appraisal and litigation assistance to municipalities under this section. The Commissioner may adopt rules to administer the provisions of this section.

(b) The Commissioner shall:

(1) determine the conditions for a property to be eligible for State assistance, including the grand list value or category of the property or other relevant factors as determined by the Commissioner; and

(2) provide a process by which a municipality may apply for assistance under this section for one or more properties.

(c) Any municipality assisted under this section shall be considered to have followed best practices pursuant to subdivision 5412(a)(1)(D) of this title.

Sec. 3. COST ESTIMATE; NEW STATE PROGRAM

On or before January 15, 2023, the Commissioner of Taxes shall submit a cost estimate for the creation of a new State appraisal and litigation assistance program within the Division of Property Valuation and Review of the Department of Taxes to the House Committees on Appropriations and on Ways and Means and the Senate Committees on Appropriations and on Finance. The cost estimate under this section shall include the upfront and ongoing operating costs required to create, implement, and maintain a new program, including contracting with one or more commercial appraisers to provide State assistance to municipalities.

Sec. 4. 32 V.S.A. § 4461(a) is amended to read:

(a) A taxpayer or the selectboard members of a town aggrieved by a decision of the board of civil authority under subchapter 1 of this chapter may appeal the decision of the board to either the Director or the Superior Court of the county in which the property is located. The appeal to the Superior Court shall be heard without a jury. The appeal to either the Director or the Superior Court shall be commenced by filing a notice of appeal pursuant to Rule 74 of the Vermont Rules of Civil Procedure within 30 days after entry of the decision of the board of civil authority. The date of mailing of notice of the board's decision by the town clerk to the taxpayer shall be deemed the date of entry of the board's decision. The town clerk shall transmit a copy of the notice to the Director or to the Superior Court as indicated in the notice and shall record or attach a copy of the notice in the grand list book. The entry fee for an appeal to the Director is \$70.00; provided, however, that the Director may waive, reduce, or refund the entry fee in cases of hardship or to join appeals regarding the same parcel. If, in the opinion of the Director, an appeal under this subsection involves a complex or unique property or valuation that would be best adjudicated by the Superior Court, the Director may decline to assign a property valuation hearing officer pursuant to section 4465 of this title and shall forward the appeal to the Superior Court where it shall be heard. An appeal forwarded by the Director under this subsection shall be considered timely filed in the Superior Court if it was timely appealed to the Director.

Sec. 5. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY VALUATION HEARING  
OFFICER; OATH; PAY

When an appeal to the Director is not withdrawn or forwarded by the Director to Superior Court pursuant to subsection 4461(a) of this title, the Director shall refer the appeal in writing to a person not employed by the Director, appointed by the Director as hearing officer. The Director shall have the right to remove a hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the Director shall appoint a hearing officer to fill any vacancy created by resignation, removal, or other cause. Before entering into their duties, persons appointed as hearing officers shall take and subscribe the oath of the office prescribed in the Constitution, which oath shall be filed with the Director. The Director shall pay each hearing officer a sum not to exceed \$150.00 per diem for each day wherein hearings are held, together with reasonable expenses as the Director may determine. A hearing officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

Sec. 6. 32 V.S.A. § 4041a(a) is amended to read:

~~(a) A municipality shall be paid \$8.50 per grand list parcel per year from the Education Fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list. [Repealed.]~~

Sec. 7. 32 V.S.A. § 5405(f) is amended to read:

(f) Within the limits of the resources available for that purpose, the Commissioner may employ such individuals, whether on a permanent, temporary, or contractual basis, as shall be necessary, in the judgment of the Commissioner, to aid in the performance of duties under this section. The Commissioner shall pay each municipality the sum of ~~\$1.00~~ \$12.00 per grand list parcel in the municipality for services provided to the Commissioner in connection with the performance of duties under this section, for preparation of the municipality's education property tax grand list, and for reappraisal and costs related to reappraisal of the municipality's education property tax grand list properties. Each municipality shall deposit payments received under this subsection into a special fund that shall be used to support the preparation of the municipality's education property tax grand list and reappraisals.

Sec. 8. REPORT; TIME-SHARE PROJECT VALUATION

On or before January 15, 2023, the Commissioner of Taxes shall submit a report to the House Committee on Ways and Means and the Senate Committee on Finance proposing options for addressing the complexities of valuing time-share projects in this State. The report under this section shall include a review of other states' time-share project valuation laws and an evaluation of the feasibility of applying those formulas in Vermont. The report shall propose any recommendations for legislative changes to clarify the valuation of time-share projects.

Sec. 9. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 1 (refund for reduction in grand list value) shall take effect on January 1, 2023 and shall apply to municipal requests for reduction submitted on or after January 1, 2023 for a final appeal or court action resolved within the previous calendar year, beginning with the 2022 calendar year.

(2) Sec. 2 (State appraisal and litigation assistance program) shall take effect on July 1, 2023, provided the General Assembly has, on or before July 1, 2023, appropriated funding to cover the Department of Taxes' operating costs required to create, implement, and maintain a new State appraisal and litigation assistance program.

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

An act relating to valuation for purposes of the education property tax.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

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

### **Adjournment**

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 23, 2022.

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### **WEDNESDAY, MARCH 23, 2022**

The Senate was called to order by the President.

### **Devotional Exercises**

Devotional exercises were conducted by the Reverend Adrienne Carr of Burlington.

### **Message from the House No. 35**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 287.** An act relating to patient financial assistance policies and medical debt protection.

**H. 465.** An act relating to boards and commissions.

**H. 518.** An act relating to municipal energy resilience initiatives.

**H. 533.** An act relating to converting civil forfeiture of property in drug-related prosecutions into a criminal process.

**H. 534.** An act relating to sealing criminal history records.

**H. 629.** An act relating to access to adoption records.



**H. 711.** An act relating to the creation of the Opioid Settlement Advisory Committee and the Opioid Abatement Special Fund.

**H. 716.** An act relating to making miscellaneous changes in education law.

**H. 727.** An act relating to the exploration, formation, and organization of union school districts and unified union school districts.

**H. 731.** An act relating to technical corrections for the 2022 legislative session.

In the passage of which the concurrence of the Senate is requested.

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

**S. 4.** An act relating to procedures involving firearms.

And has passed the same in concurrence.

#### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

#### **H. 287.**

An act relating to patient financial assistance policies and medical debt protection.

To the Committee on Health and Welfare.

#### **H. 465.**

An act relating to boards and commissions.

To the Committee on Government Operations.

#### **H. 518.**

An act relating to municipal energy resilience initiatives.

To the Committee on Natural Resources and Energy.

#### **H. 533.**

An act relating to converting civil forfeiture of property in drug-related prosecutions into a criminal process.

To the Committee on Judiciary.

#### **H. 534.**

An act relating to sealing criminal history records.

To the Committee on Judiciary.

**H. 629.**

An act relating to access to adoption records.

To the Committee on Judiciary.

**H. 711.**

An act relating to the creation of the Opioid Settlement Advisory Committee and the Opioid Abatement Special Fund.

To the Committee on Health and Welfare.

**H. 716.**

An act relating to making miscellaneous changes in education law.

To the Committee on Education.

**H. 727.**

An act relating to the exploration, formation, and organization of union school districts and unified union school districts.

To the Committee on Education.

**H. 731.**

An act relating to technical corrections for the 2022 legislative session.

To the Committee on Government Operations.

**Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 127.** An act relating to a pilot project for a Department of Corrections report to assist the court setting conditions of probation.

**S. 140.** An act relating to prohibiting civil arrests at courthouses.

**S. 163.** An act relating to State court jurisdiction for special immigrant juvenile status.

**S. 171.** An act relating to adoption of a State code of ethics.

**Bill Passed****S. 178.**

Senate bill of the following title:

An act relating to supermajority verdicts in civil trials.

Was read the third time and passed on a division of the Senate, Yeas 16, Nays 11.

**Bill Amended; Bill Passed**

**S. 269.**

Senate bill entitled:

An act relating to extending the Energy Savings Account Partnership Pilot Program.

Was taken up.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the bill in Sec. 1, 2018 Acts and Resolves No. 150, Sec. 2, subsection (b), by striking out subdivisions (4) and (5) in their entireties and inserting in lieu thereof the following:

(4) The pilot created pursuant to this section shall be extended an additional 18 months, until December 31, 2023. The Commission shall allow the current participants in the pilot to decline to participate in this extension by submitting written notice to the Commission on or before June 30, 2022.

(5) The participants selected for the pilot may request an additional extension until December 31, 2026. The extension shall allow pilot participants to spend or contract to spend pilot funds accrued prior to January 1, 2024 but shall not allow participants to accrue additional pilot funds. The Commission shall consider requests and shall approve all reasonable extension requests.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

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

**H. 444.**

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

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

**Bill Amended; Bill Passed**

**S. 90.**

Senate bill entitled:

An act relating to establishing an amyotrophic lateral sclerosis registry.

Was taken up.

Thereupon, pending third reading of the bill, Senators Terenzini, Cummings, Hardy, Hooker and Lyons moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 4A is added to read:

CHAPTER 4A. AMYOTROPHIC LATERAL SCLEROSIS REGISTRY

§ 171. DEFINITIONS

As used in this chapter:

(1) “Amyotrophic lateral sclerosis” or “ALS” means a progressive neurodegenerative disease that affects nerve cells in the brain and the spinal cord.

(2) “Health care facility” has the same meaning as in section 9432 of this title.

(3) “Health care provider” has the same meaning as in section 9432 of this title.

§ 172. ESTABLISHMENT OF AMYOTROPHIC LATERAL SCLEROSIS REGISTRY

(a) The Commissioner shall establish a uniform statewide population-based amyotrophic lateral sclerosis registry system for the collection of information determining the incidence of amyotrophic lateral sclerosis and related data. Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt rules necessary to effect the purposes of this chapter, including the data to be reported and the effective date after which reporting by health care facilities and health care providers shall be required.

(b) All cases of amyotrophic lateral sclerosis diagnosed or treated in the State shall be reported to the representative of the Department of Health authorized by the Commissioner to compile the amyotrophic lateral sclerosis data, or any individual, agency, or organization designated to cooperate with that representative.

(c) The Commissioner shall establish a training program for the personnel of participating health care facilities and a quality control program for amyotrophic lateral sclerosis data. The Commissioner shall collaborate in studies with clinicians and epidemiologists and publish reports on the results of such studies. The Commissioner shall cooperate with the National Institutes of Health and the Centers for Disease Control and Prevention in providing amyotrophic lateral sclerosis incidence data.

§ 173. PARTICIPATION IN PROGRAM

(a) Any health care facility diagnosing or providing treatment to patients with amyotrophic lateral sclerosis shall report each case of amyotrophic lateral sclerosis to the Commissioner or the Commissioner's authorized representative in a format prescribed by the Commissioner within 180 days of admission or diagnosis. If the facility fails to report in a format prescribed by the Commissioner, the Commissioner's authorized representative may enter the facility, obtain the information, and report it in the appropriate format. In these cases, the facility shall reimburse the Commissioner or the authorized representative for the cost of obtaining and reporting the information.

(b) Any health care provider diagnosing or providing treatment to patients with amyotrophic lateral sclerosis shall report each case to the Commissioner or the Commissioner's authorized representative within 180 days of diagnosis.

(c) All health care facilities and health care providers who provide diagnostic or treatment services to patients with amyotrophic lateral sclerosis shall report to the Commissioner any further demographic, diagnostic, or treatment information requested by the Commissioner concerning any person now or formerly receiving services. Additionally, the Commissioner or the Commissioner's authorized representative shall have physical access to all records that would identify cases of amyotrophic lateral sclerosis or would establish characteristics of the amyotrophic lateral sclerosis, treatment of the amyotrophic lateral sclerosis, or medical status of any identified patient with amyotrophic lateral sclerosis.

§ 174. CONFIDENTIALITY

(a)(1) All information reported pursuant to this chapter is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(2)(A) All identifying information regarding an individual patient, health care provider, or health care facility contained in records of interviews, written reports, and statements procured by the Commissioner or by any other person, agency, or organization acting jointly with the Commissioner in connection with amyotrophic lateral sclerosis morbidity and mortality studies is exempt from public inspection and copying under the Public Records Act, shall be kept confidential, and used solely for the purposes of studying amyotrophic lateral sclerosis.

(B) Nothing in this section shall prevent the Commissioner from publishing statistical compilations relating to morbidity and mortality studies that do not identify individual cases or sources of information.

(b) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this section shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

#### § 175. DISCLOSURE

(a) The Commissioner may enter into agreements to exchange confidential information with any other amyotrophic lateral sclerosis registries in order to obtain complete reports of Vermont residents diagnosed or treated in other states and to provide information to other states regarding their residents diagnosed or treated in Vermont.

(b) The Commissioner may furnish confidential information to other states' amyotrophic lateral sclerosis registries or health researchers in order to collaborate in a national amyotrophic lateral sclerosis registry or to collaborate in amyotrophic lateral sclerosis control and prevention research studies. However, before releasing confidential information, the Commissioner shall first obtain from such state registries, agencies, or researchers an agreement in writing to keep the identifying information confidential and privileged. In the case of researchers, the Commissioner shall also first obtain evidence of the approval of their academic committee for the protection of human subjects established in accordance with 45 C.F.R. part 46.

#### § 176. LIABILITY

(a) No action for damages arising from the disclosure of confidential or privileged information may be maintained against any person, or the employer or employee of any person, who participates in good faith in the reporting of amyotrophic lateral sclerosis registry data or data for amyotrophic lateral sclerosis morbidity or mortality studies in accordance with this chapter.

(b) No license of a health care facility or health care provider may be denied, suspended, or revoked for the good faith disclosure of confidential or privileged information in the reporting of amyotrophic lateral sclerosis registry data or data for amyotrophic lateral sclerosis morbidity or mortality studies in accordance with this chapter.

(c) Nothing in this section shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

### **Sec. 2. GRANT APPLICATIONS TO FUND AMYOTROPHIC LATERAL SCLEROSIS REGISTRY**

The Department of Health shall seek and apply for grants to fund the amyotrophic lateral sclerosis registry established in 18 V.S.A. chapter 4A. As part of its fiscal year 2024 budget presentation, the Department shall describe

any grants applied for or awarded for this purpose or other identified funding sources.

Sec. 3. REPORT; REGISTRY EXPANSION

On or before December 1, 2022, the Department of Health shall submit a written report to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare exploring the benefits of expanding the amyotrophic lateral sclerosis registry established in 18 V.S.A. chapter 4A by broadening the scope of neurodegenerative diseases addressed in the registry or by partnering with at least three neighboring states to collect data from a larger population, or both.

Sec. 4. EFFECTIVE DATES

(a) Except as provided in subsection (b) of this section, this act shall take effect on July 1, 2022.

(b) Sec. 1 (amyotrophic lateral sclerosis registry) shall take effect on July 1, 2023.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

**Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 72.** An act relating to the Interstate Compact on the Placement of Children.

**S. 91.** An act relating to Parent Child Center Network.

**S. 161.** An act relating to extending the baseload renewable power portfolio requirement.

**S. 162.** An act relating to the collective bargaining rights of teachers.

**S. 201.** An act relating to the use of leghold traps.

**S. 214.** An act relating to valuation of time-share projects.

**S. 250.** An act relating to enhanced administrative and judicial accountability of law enforcement officers.

**S. 258.** An act relating to amending the Required Agricultural Practices in order to address climate resiliency.

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**House Proposal of Amendment Concurred In****J.R.S. 44.**

House proposal of amendment to Senate bill entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

Was taken up.

The House proposes to the Senate to amend the resolution by striking out all after the Resolved Clause and inserting in lieu thereof the following:

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Thursday, March 24, 2022, at ten o'clock and thirty minutes in the forenoon to vote on the retention of six Superior Judges, *and be it further*

***Resolved:*** That the Joint Assembly shall be concurrently conducted electronically at which members of the General Assembly may participate and debate from a remote location if they notify the Speaker of the House in the case of House members, or the President of the Senate in the case of Senators, that the member meets one of the COVID-19-related conditions set forth in 2022, J.R.H. 17 (remote participation in joint committees under restricted, COVID-19-related circumstances), *and be it further*

***Resolved:*** That balloting for any members participating remotely shall be conducted through electronic means in a timeframe prescribed in the Joint Assembly, whereby remote members' completed ballots shall be submitted electronically to the Secretary of the Senate and the Clerk of the House, who may provide assistance to those remote voters in accordance with 17 V.S.A. § 2569 (assistance to voter) in order to ensure that remote members' votes are not distinguishable from in-person members' votes in order to maintain the confidentiality of the votes of remote members, and who shall commingle those completed ballots with those of the members who vote in-person at the Joint Assembly, *and be it further*

***Resolved:*** That in case the vote to retain the Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays, Sundays, and Mondays excepted, and proceed until the above is completed.

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



**Bill Amended; Third Reading Ordered****S. 155.**

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

An act relating to the creation of the Agency of Public Safety.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Creation of Agency \* \* \*

Sec. 1. 3 V.S.A. chapter 72 is added to read:

CHAPTER 72. AGENCY OF PUBLIC SAFETY

Subchapter 1. General Provisions

§ 5201. DEFINITIONS

(1) “Agency” means the Agency of Public Safety.

(2) “Commissioner” means the head of a department responsible to the Secretary for the administration of the department.

(3) “Department” means a major component of the Agency.

(4) “Director” means the head of a division of the Agency.

(5) “Division” means a major component of a department engaged in furnishing services to the public or to units of government at levels other than the State level.

(6) “Secretary” means the head of the Agency, a member of the Governor’s Cabinet, who is responsible to the Governor for the administration of the Agency.

§ 5202. CREATION OF AGENCY

(a) There is hereby created the Agency of Public Safety for the purpose of ensuring the coordination of all State public safety resources, including reducing redundancies; increasing efficiencies; and standardizing policies, training, and data collection.

(b) The Agency of Public Safety shall consist of the following:

(1) the Department of Fire Safety and Emergency Management, including:

(A) the Division of Emergency Management;

(B) the Division of Fire Safety; and

(C) the Office of Training;

(2) the Department of Law Enforcement, including the Division of the Vermont State Police;

(3) the Division of Support Services; and

(4) the Office of Community Collaboration and Empowerment.

(c) The Agency shall provide administrative support to the following boards, commissions, and councils:

(1) the Fire Service Training Council;

(2) the Law Enforcement Advisory Board;

(3) the State Police Advisory Commission;

(4) the Search and Rescue Council;

(5) the Animal Cruelty Investigation Advisory Board;

(6) the Electricians Licensing Board;

(7) the Elevator Safety Review Board;

(8) the State Emergency Response Commission;

(9) the Plumbers Examining Board;

(10) the Vermont Access Board; and

(11) the Enhanced 911 Board.

#### § 5203. ADVISORY CAPACITY

(a) Except as otherwise provided in this chapter, all boards and commissions that are a part of or are attached to the Agency pursuant to this chapter shall be advisory only, and the powers and duties of the boards and commissions, including administrative, policymaking, and regulatory functions, shall vest in and be exercised by the Secretary of the Agency.

(b) Notwithstanding subsection (a) of this section, boards of registration attached to this Agency shall retain and exercise all existing authority with respect to licensing and maintenance of the standards of the persons registered.

#### § 5204. PERSONNEL DESIGNATION

The Secretary, Deputy Secretary, commissioners, deputy commissioners, attorneys, and all members of boards, committees, commissions, or councils attached to the Agency are exempt from the classified State service. Division director positions may be exempt from the classified service or may be within the classified service. Except as authorized by section 311 of this title or otherwise by law, all other positions shall be within the classified service.

Subchapter 2. Secretary§ 5221. APPOINTMENT AND DUTIES

(a) The Agency shall be under the direction and supervision of the Secretary, who shall be appointed by the Governor with the advice and consent of the Senate and shall serve at the pleasure of the Governor.

(b) The Secretary shall oversee the activities of the Division of Support Services and the Office of Community Collaboration and Empowerment. The Secretary shall supervise the Commissioner of Fire Safety and Emergency Management and the Commissioner of Law Enforcement.

§ 5222. BUDGET AND REPORT

The Secretary shall be responsible to the Governor and shall plan, coordinate, and direct the functions vested in the Agency.

§ 5223. DEPUTY SECRETARY

(a) The Secretary, with the approval of the Governor, may appoint a deputy to serve at the Secretary's pleasure and to perform such duties as the Secretary may prescribe. The Deputy shall be exempt from the classified service. The appointment shall be in writing and shall be filed in the Office of the Secretary of State.

(b) The Deputy Secretary shall discharge the duties and responsibilities of the Secretary in the Secretary's absence. In case a vacancy occurs in the office of the Secretary, the Deputy shall assume and discharge the duties of office until the vacancy is filled.

§ 5224. ADVISORY COUNCILS OR COMMITTEES

The Secretary, with the approval of the Governor, may create such advisory councils or committees as the Secretary deems necessary within the Agency and appoint their members for terms not exceeding the Governor's term.

§ 5225. TRANSFER OF PERSONNEL AND APPROPRIATIONS

(a) The Secretary, with the approval of the Governor, may transfer classified positions between State departments and other components of the Agency, subject to personnel laws and rules.

(b) Notwithstanding subsection (a) of this section, members from different divisions of the Department of Law Enforcement shall not be reassigned or transferred outside their division unless the member requests a transfer and the Commissioner approves the transfer.

(c) The Secretary, with the approval of the Governor, may transfer appropriations or parts thereof between departments and other components in

the Agency, consistent with the purposes for which the appropriation was made.

Subchapter 3. Commissioners and Directors

§ 5251. COMMISSIONERS; DEPUTY COMMISSIONERS;  
APPOINTMENT; TERM

The Secretary, with the approval of the Governor, shall appoint a commissioner of each department, who shall be the chief executive and administrative officer and shall serve at the pleasure of the Secretary.

§ 5252. MANDATORY DUTIES

(a) The Commissioner shall exercise the powers and perform the duties required for the effective administration of the Department.

(b) The Commissioner, with the approval of the Governor, shall so organize and arrange the Department as will best and most efficiently promote its work and carry out the objectives of this chapter. The Commissioner may formulate, put into effect, alter, and repeal rules for the administration of the Department.

(c) In addition to other duties imposed by law, the Commissioner shall:

- (1) administer the laws assigned to the Department;
- (2) coordinate and integrate the work of the divisions; and
- (3) supervise and control all staff functions.

§ 5253. PERMISSIVE DUTIES; APPROVAL OF SECRETARY

(a) The Commissioner may, with the approval of the Secretary:

(1) transfer classified positions within or between divisions subject to State personnel laws and rules;

(2) cooperate with the appropriate federal agencies and administer federal funds in support of programs within the Department;

(3) submit plans and reports, and in other respects comply with federal law and regulations that pertain to programs administered by the Department;

(4) make rules and policies consistent with law for the internal administration of the Department and its programs;

(5) appoint a deputy commissioner;

(6) provide training and instructions for any employees of the Department, at the expense of the Department, in educational institutions or other places; and

(7) organize, reorganize, transfer, or abolish divisions, staff functions, or sections within the Department.

(b) The Commissioner of the Department of Law Enforcement, with the approval of the Secretary, may:

(1) designate or change the rank or grade to be held by a member in accordance with the rules adopted by the Commissioner;

(2) assign or transfer members within a division to serve at such stations and to perform such duties as the Commissioner shall designate; and

(3) determine what certified law enforcement officers other than State Police officers shall give bonds and prescribe the conditions and amount.

(c) Notwithstanding anything to the contrary in this chapter, the divisions within the Department of Law Enforcement shall not be abolished or transferred and members from different divisions of the Department of Law Enforcement shall not be reassigned or transferred outside their division unless the member requests a transfer and the Commissioner approves the transfer.

#### § 5254. DIRECTORS

(a) A director shall administer each division within the Agency. The commissioners, with the approval of the Secretary, shall appoint the directors for divisions that are part of a department, and the Secretary shall appoint any other directors whose appointment is not otherwise governed by law. Each division and its officers shall be under the direction and control of the appointing authority except with regard to the quasi-judicial acts or duties vested in them by law.

(b) No rule or policy may be issued by a director of a division without the approval of the appointing authority.

#### Subchapter 4. Departments, Divisions, and Boards

#### § 5281. DEPARTMENT OF LAW ENFORCEMENT

The Department of Law Enforcement is created within the Agency of Public Safety.

#### § 5282. DEPARTMENT OF FIRE SAFETY AND EMERGENCY MANAGEMENT

The Department of Fire Safety and Emergency Management is created within the Agency of Public Safety. The Commissioner of Fire Safety and Emergency Management, as Fire Marshal, shall be responsible for enforcing the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training.

§ 5283. DIVISION OF SUPPORT SERVICES

(a) The Division of Support Services is created within the Agency of Public Safety. It shall be administered by the Deputy Secretary of the Agency.

(b) The Division of Support Services shall provide the following services to the Agency, including the following components assigned to it for administrative support:

(1) personnel administration;

(2) financing and accounting activities;

(3) coordination of filing and records maintenance activities;

(4) provision of facilities, office space, and equipment and the care thereof;

(5) requisitioning from the Department of Buildings and General Services of the Agency of Administration supplies, equipment, and other requirements;

(6) management improvement services;

(7) training, including diversity, equity, and inclusion training;

(8) communications, including dispatch and radio technology;

(9) fleet services;

(10) information systems and technology, including the Vermont Crime Information Center and the Sex Offender Registry;

(11) grant management; and

(12) other administrative functions assigned to it by the Secretary.

(c) Other provisions of the law notwithstanding, all administrative service functions delegated to other components of the Agency shall be performed within the Agency by the Division of Support Services.

§ 5284. OFFICE OF COMMUNITY COLLABORATION AND EMPOWERMENT

(a) Creation. The Office of Community Collaboration and Empowerment is created within the Agency of Public Safety. It shall be administered by the Deputy Secretary of the Agency.

(b) Duties; responsibilities. The Office of Community Collaboration and Empowerment shall:

(1) create and execute a process to engage public safety stakeholders in the development of key Agency policies with broad stakeholder interest;

(2) create and maintain a variety of mechanisms for community feedback and engagement regarding the operations of the public safety system;

(3) maintain a list of relevant public safety stakeholders;

(4) create a system to periodically review all Agency policies that includes the use of the Equity Impact Assessment Tool;

(5) define the relationship between the Office of Community Collaboration and Empowerment and the other offices, divisions, and departments within the Agency; and

(6) establish organizational structures that allow for meaningful community participation.

(c) Report. On or before November 1, 2023, and every two years thereafter, the Office of Community Collaboration and Empowerment shall report to the House and Senate Committees on Government Operations and on Judiciary, and to the list of stakeholders identified pursuant to subdivision (3) of subsection (b) of this section, on the Office's progress and implementation on the duties and responsibilities identified in subsection (b) of this section.

\* \* \* Transfer of Funds, Equipment, and Positions \* \* \*

## Sec. 2. PROVISIONS FOR THE TRANSITION OF THE ENHANCED 911 BOARD

(a) All financial assets and liabilities of the Enhanced 911 Board, including all appropriations associated with the positions transferred pursuant to subsection (b) of this section, are transferred to the Agency of Public Safety.

(b) All authorized positions and equipment, supplies, and inventory of the Enhanced 911 Board are transferred to the Agency of Public Safety.

(c) The Enhanced 911 Board shall have the administrative, technical, and legal assistance of the Agency of Public Safety.

(d) The rules of the Enhanced 911 Board shall become a subtitle under the rules of the Agency of Public Safety.

\* \* \* General Transition Provisions \* \* \*

## Sec. 3. TRANSITION; GENERALLY

The Secretary of Public Safety shall coordinate with the Secretary of Administration; the Commissioner of Finance and Management; the Commissioner of Human Resources; the Executive Director of the Criminal Justice Council; the Chair of the Criminal Justice Council; the Executive Director of the Enhanced 911 Board; the Secretary of the Agency of Transportation; and the Commissioners of the Departments of Motor Vehicles,

of Fish and Wildlife, of Liquor and Lottery, and their directors of enforcement as necessary to enable the organizational modernization and most efficient operation of State law enforcement divisions and resources.

\* \* \* Statutory Changes for the Enhanced 911 Board \* \* \*

Sec. 4. 30 V.S.A. § 7052 is amended to read:

§ 7052. VERMONT ENHANCED 911 BOARD

\* \* \*

(e) The Board shall ~~appoint, subject to the approval of the Governor, advise the Secretary on and assist the Secretary with the selection of the Executive Director who shall hold office at the pleasure of the Board. He or she~~ The Executive Director shall perform such duties as may be assigned by the Board. The Executive Director is entitled to compensation, as established by law, and reimbursement for the expenses within the amounts available by appropriation. The Executive Director may, with the approval of the Board, hire employees, agents, and consultants and prescribe their duties. The Executive Director shall submit a budget to the Secretary. The Executive Director shall not be under the direction and control of the Secretary except with regard to the budget and other administrative functions given to the Director or the Board by law.

Sec. 5. 30 V.S.A. § 7053 is amended to read:

§ 7053. BOARD; RESPONSIBILITIES AND POWERS

(a) The Board shall be the single governmental agency responsible for statewide Enhanced 911 pursuant to chapter 87 of this title and 3 V.S.A. chapter 72. To the extent feasible, the Board shall consult with the Agency of Human Services, the ~~Department~~ Agency of Public Safety, the Department of Public Service, and local community service providers on the development of policies, system design, standards, and procedures. The Board shall develop designs, standards, and procedures and shall adopt rules on the following:

(1) The technical and operational standards for public safety answering points.

(2) The system database standards and procedures for developing and maintaining the database. The system database shall be the property of the Board.

(3) Statewide, locatable means of identifying customer location, such as addressing, geo-coding, or other methods of locating the caller.

(4) Standards and procedures to ensure system and database security.



\* \* \*

\* \* \* Statutory Changes for Department of Public Safety Becoming  
Agency \* \* \*

Sec. 6. 23 V.S.A. § 1 is amended to read:

§ 1. ADMINISTRATION AND ENFORCEMENT OF TITLE

The Commissioner of Motor Vehicles and the Commissioner of ~~Public Safety~~ Law Enforcement shall cooperate in carrying out all the statutes and rules adopted to implement the provisions of this title to achieve the most efficient and economical administration. In case of disagreement as to division of work, the Governor shall decide.

Sec. 7. 23 V.S.A. § 1600 is amended to read:

§ 1600. DEFINITION

Notwithstanding subdivision 4(4) of this title, as used in this chapter, “Commissioner” means the Commissioner of the Agency of Public Safety, Department of Law Enforcement.

Sec. 8. 3 V.S.A. § 2101 is amended to read:

§ 2101. CREATION

A cabinet is created in the Executive Branch of government ~~which that~~ shall consist of the Secretaries of such agencies as are created by law, as well as such Commissioners of the departments created by law as the Governor, in the Governor’s discretion, shall appoint to be a member of the Cabinet.

Sec. 9. 20 V.S.A. § 3 is amended to read:

§ 3. VERMONT EMERGENCY MANAGEMENT DIVISION

(a) There is hereby created within the ~~Department of Public Safety Agency~~ of Public Safety, Department of Fire Safety and Emergency Management, a division to be known as the Vermont Emergency Management Division.

\* \* \*

Sec. 10. 20 V.S.A. § 1871 is amended to read:

§ 1871. ~~DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER~~  
CONTRACTING

~~(a) The Department of Public Safety, created by 3 V.S.A. § 212, shall include a Commissioner of Public Safety.~~

~~(b) The head of the Department shall be the Commissioner of Public Safety, who shall be a citizen of the United States and shall be selected on the~~

~~basis of training, experience, and qualifications. The Commissioner shall be appointed by the Governor, with the advice and consent of the Senate.~~

~~(e)(a)~~ The Commissioner of Public Safety Law Enforcement may contract for security and related traffic control, and receive reimbursement for reasonable costs that shall include costs associated with providing personnel, benefits, equipment, vehicles, insurances, and related expenses. These reimbursements shall be credited to a special fund established pursuant to 32 V.S.A. chapter 7, subchapter 5, and be available to offset costs of providing those services.

~~(d)(b)~~ The Commissioner of Public Safety Law Enforcement shall collect fees for the termination of alarms at State Police facilities and for response to false alarms.

~~(e)(c)~~ Termination Fees.

(1) The termination fee for a single dedicated circuit alarm at a State Police facility ~~will~~ shall be \$250.00 per user per year.

(2) An alarm company or monitoring service that is authorized to install a ~~multi-unit~~ multiunit alarm panel at a State Police facility ~~will~~ shall be assessed a fee of \$25.00 per alarm with a minimum fee of \$250.00 per panel per year.

(3) An individual or business who programs a tape dialer or other automatic notification device to transmit a voice message to a State Police facility, informing the police of a burglary or other emergency, must register such dialer with the State Police facility and ~~will~~ shall be assessed a registration fee of \$50.00 per year. The fee includes an onsite inspection by a member of the State Police.

(4) If State Police respond to an alarm and it is found that the alarm was transmitted by an unregistered tape dialer or similar notification device, a registration fee of \$50.00 ~~will~~ shall be assessed subsequent to that response. Unpaid registration fees are considered to be alarms in default and handled in accordance with the provisions of the section on response terminations.

~~(f)(d)~~ False Alarms alarms.

(1) A false alarm is notification given to the State Police by electronic or telephonic means that an emergency situation exists, when an emergency or other circumstance that could be perceived as an emergency does not exist and to which the State Police have responded.

(2) Alarm periods shall be based on the calendar year, January 1 through December 31.

(3) The first false alarm in an alarm period shall be at no cost. The second false alarm in the alarm period shall be assessed at \$50.00 and each successive false alarm in the same alarm period shall be assessed at \$75.00.

~~(g)~~(e) Response ~~Terminations~~ terminations.

(1) Alarm fees that have been assessed and not paid for a period of 60 days from the date of the last billing are considered alarms in default and the State Police station commander, with the concurrence of the State Police troop commander, may notify the alarm holder that the State Police will no longer respond to alarms at that location as long as the alarm holder is in default.

(2) When in the opinion of the station commander, with the concurrence with the troop commander, there exists a chronic false alarm problem that the alarm holder appears not to have taken reasonable measures to correct, the station commander may send notification that the State Police will no longer respond to alarms at that location until the problem is corrected even if the alarm holder is not in default on fees assessed.

~~(h)~~(f) Appeal. An alarm holder may appeal a decision of the station commander to the troop commander.

~~(i)~~(g) The Commissioner of Public Safety Law Enforcement may enter into contractual arrangements to perform dispatching functions for State, municipal, or other emergency services.

~~(j)~~(h) Charges collected under subsections ~~(e)~~(c), ~~(f)~~(d), and ~~(i)~~(g) of this section shall be credited to the Vermont Law Telecommunications Special Fund and shall be available to the Department to offset the costs of providing the services.

Sec. 11. 20 V.S.A. § 1872 is amended to read:

#### § 1872. DUTIES OF COMMISSIONER GENERALLY

The Commissioner shall be the chief enforcement officer of all the statutes and rules pertaining to the law of the road and the display of lights on vehicles. In addition, the Commissioner shall supervise and direct the activities of the State Police and of the Vermont Crime Information Center ~~and, as Fire Marshal, be responsible for enforcing the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training.~~

Sec. 12. 20 V.S.A. § 1874 is amended to read:

#### § 1874. ORGANIZATION OF DEPARTMENT BY COMMISSIONER

(a) The Commissioner of Law Enforcement, with the approval of the Governor and the Secretary, shall so organize and arrange the Department of

Law Enforcement as will best and most efficiently promote its work and carry out the objectives of this chapter and 3 V.S.A. chapter 72. To that end, the Commissioner may, with the Governor's approval, create, rearrange, and abolish divisions; establish grades, ranks, and positions to be held by members; and formulate, put into effect, alter, and repeal rules for the administration of the Department to the extent permitted by law.

\* \* \*

Sec. 13. 20 V.S.A. § 1883 is amended to read:

§ 1883. STATE LAW ENFORCEMENT; MEMORANDUM OF UNDERSTANDING

(a) ~~The Commissioner of Public Safety~~ In anticipation of consolidating all certified law enforcement resources into the Agency of Public Safety, the Secretary of Public Safety shall develop and execute a memorandum of understanding with the Commissioners of Fish and Wildlife, of Motor Vehicles, and of Liquor and Lottery and their respective directors of law enforcement. The memorandum of understanding shall ~~be reviewed at least every two years and shall~~ at a minimum address:

(1) ~~Maximizing~~ Consolidating collective resources by and reducing or eliminating redundancies and implementing a methodology that will enhance overall coordination and communication and standardize training and policies while supporting the mission of individual enforcement ~~agencies~~ divisions.

(2) Providing for an overall statewide law enforcement strategic plan supported by quarterly planning and implementation strategy sessions to improve efficiencies and coordination on an operational level and ensure ~~interagency~~ cooperation and collaboration of programs funded through grants. The strategic plan should identify clear goals and performance measures that demonstrate results, as well as specific strategic plans for individual enforcement ~~agencies~~ divisions.

(3) ~~Creating a task force concept that will provide for the sharing and disseminating of information and recommendations involving various levels of statewide law enforcement throughout Vermont that will benefit all law enforcement agencies as well as citizens.~~

(4)(3) Developing an integrated and coordinated approach to ~~multi-agency special teams~~ with the goal of creating a force multiplier, ~~where feasible to be coordinated through the Agency of Public Safety, Department of Law Enforcement.~~ These teams will be coordinated by the Vermont State Police during training and deployments.

(5)(4) Providing for the ~~Commissioner~~ Secretary of Public Safety, with the approval of the Governor and in ~~consultation with the Commissioners of Motor Vehicles, of Fish and Wildlife, and of Liquor and Lottery~~ accordance with the State Emergency Management Plan, to assume the role of lead coordinator of statewide law enforcement units in the event of elevated alerts, critical incidents, and ~~all hazard~~ all-hazards events. The lead coordinator shall maintain control until in ~~his or her~~ the lead coordinator's judgment the event no longer requires coordinated action to ensure the public safety.

\* \* \*

Sec. 14. 20 V.S.A. chapter 113, subchapter 2 is amended to read:

Subchapter 2. State Police Certified Law Enforcement Officers

§ 1911. EXAMINATIONS; APPOINTMENT; PROMOTION; PROBATION

The Commissioner shall devise and administer examinations designed to test the qualifications of applicants for positions as State Police certified law enforcement officers assigned to the Department of Law Enforcement and only those applicants shall be appointed or promoted who meet the prescribed standards and qualifications. Where certified law enforcement officer positions support the work of agencies or departments outside the Agency of Public Safety, the Commissioner shall consult the agencies or departments concerning the qualifications for the positions. All State Police certified law enforcement officers assigned to the Department of Law Enforcement shall be on probation for one year from the date of first appointment. Such examinations shall be with the advice of the Department of Human Resources.

§ 1912. BOND AND OATH

State Police Certified law enforcement officers assigned to the Department of Law Enforcement shall give bond to the State, at the expense of the State, in such penal sum as the Commissioner shall require, conditioned for the faithful performance of their duties. State Police Certified law enforcement officers assigned to the Department of Law Enforcement and auxiliary State police shall take the oath of office prescribed for sheriffs before the Commissioner or any person designated under 12 V.S.A. § 5852 to administer oaths.

§ 1913. UNIFORMS AND EQUIPMENT

Within the appropriation for the Department, the Commissioner shall provide the State Police certified law enforcement officers assigned to the Department of Law Enforcement, and such other members as ~~he or she~~ the Commissioner may designate, with uniforms and all members with the equipment necessary in the performance of their respective duties, which shall remain the property of the State. The Commissioner shall consult with

agencies and departments that are supported by certified law enforcement officers assigned to the Department of Law Enforcement on the uniforms and equipment necessary for those positions. The Commissioner may sell such equipment as may become unfit for use, and all monies received from the sale shall be paid into the State Treasury and credited to the ~~Department's~~ Agency's appropriation. The Commissioner shall keep an inventory and shall charge against each member all property of the Department issued to ~~him or her~~ the member, and if the Commissioner ~~shall determine~~ determines that a loss or destruction was due to the carelessness or neglect of the member, the value of the property shall be deducted from ~~his or her~~ the member's pay.

#### § 1914. POWERS AND IMMUNITIES

The Commissioner of ~~Public Safety Law Enforcement~~ and ~~the State Police~~ all certified law enforcement officers assigned to the Department of Law Enforcement shall be peace officers and shall have the same powers with respect to criminal matters and the enforcement of the law relating to criminal matters as sheriffs, constables, and local police have in their respective jurisdictions, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and local police in a suit brought against them in consequence of acts done in the course of their employment. ~~State Police Certified law enforcement officers assigned to the~~ Department of Law Enforcement shall be informing or complaining officers with the same powers possessed by sheriffs, deputy sheriffs, constables, or police officers of a city or incorporated village as provided in 13 V.S.A. § 5507.

\* \* \*

Sec. 15. 20 V.S.A. § 1933 is amended to read:

#### § 1933. DNA SAMPLE REQUIRED

\* \* \*

(c) A person serving a sentence for a designated crime not confined to a correctional facility shall have ~~his or her~~ DNA samples collected or taken at a place and time designated by the Commissioner of Corrections, the Commissioner of ~~Public Safety Law Enforcement~~, or a court if the person has not previously submitted a DNA sample in connection with the designated crime for which ~~he or she~~ the person is serving the sentence.

Sec. 16. 20 V.S.A. § 2352 is amended to read:

#### § 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Council shall consist of:

(A) the Commissioners of ~~Public Safety Law Enforcement~~, of Corrections, of Motor Vehicles, of Fish and Wildlife, and of Mental Health;

\* \* \*

Sec. 17. REPEALS

3 V.S.A. § 212(18) (the Department of Public Safety) is repealed.

\* \* \* Conforming Revisions \* \* \*

Sec. 18. CONFORMING REVISIONS

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

(1) replace “Department of Public Safety” with “Department of Law Enforcement”; and

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

\* \* \* Reporting \* \* \*

Sec. 19. CREATION OF AGENCY OF PUBLIC SAFETY; REPORTS

(a) On or before November 15, 2022, the Secretary of the Agency of Public Safety shall report to the Governor, the leadership of the General Assembly, and the House and Senate Committees on Government Operations and on Judiciary on the status of the organizational transition and recommend any legislative changes needed to continue the orderly and efficient organizational transition of the Agency of Public Safety.

(b) On or before October 15, 2023, the Secretary of the Agency of Public Safety shall study the effectiveness, efficiency, and delivery of State public safety law enforcement services and shall report to the Governor and the General Assembly on the feasibility and advisability of transferring the operations of the Department of Motor Vehicles certified law enforcement officers, Department of Fish and Wildlife certified law enforcement officers, Department of Liquor and Lottery certified law enforcement officers, the Capitol Police, and the Department of Labor relating to VOSHA, Project WorkSAFE, and Passenger Tramway Safety to the Agency of Public Safety.

(c) On or before November 15, 2023, the Secretary of the Agency of Public Safety shall report to the Governor, the leadership of the General Assembly, and the House and Senate Committees on Government Operations and on Judiciary on the status of the organizational transition and recommend

any legislative changes needed to continue an orderly and efficient organizational transition.

Sec. 20. UNIFICATION OF ANIMAL WELFARE AND RELATED  
PUBLIC SAFETY FUNCTIONS; REPORT

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

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

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

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

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

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

(b) The Department shall engage with the animal welfare coalition consisting of the Animal Cruelty Investigative Advisory Board, the Vermont Humane Federation, and the Animal Welfare Regulations Coalition as needed to comply with this section.



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

Sec. 21. EFFECTIVE DATES

(a) This section and Sec. 3 (transition; generally), Secs. 6–17 (conforming statutory revisions), and Secs. 18–20 (conforming changes; reporting) shall take effect on July 1, 2022.

(b) Sec. 1 (agency creation) shall take effect on July 1, 2022, except that in Sec. 1, 3 V.S.A. § 5202(c)(11) (E-911 board) shall take effect on July 1, 2023.

(c) Secs. 2 and 4–5 (transition and conforming statutory revisions for the E-911 Board) shall take effect on July 1, 2023.

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

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

**Bill Amended; Third Reading Ordered**

**S. 219.**

Senator Campion, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition and in the dual enrollment program.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Provision of Publicly Funded Education in Vermont \* \* \*

Sec. 1. 16 V.S.A. § 820 is added to read:

§ 820. PROVISION OF PUBLICLY FUNDED EDUCATION IN VERMONT

(a) Findings and purpose.

(1) The Vermont Constitution provides that “a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth.” VT Const. CH II, § 68. Interpreting this provision in *Brigham v. State*, 692 A.2d 384 (1997), the Vermont Supreme Court stated that “[t]he state may delegate to local towns and cities the authority to finance and administer the schools

within their borders; it cannot, however, abdicate the basic responsibility for education by passing it on to local governments, which are themselves creations of the state.” *Id.* at 395.

(A) From this, it is evident that the State has a constitutional obligation to provide public education to its youth. Many Vermont school districts operate schools, but others do not. Vermont is a relatively sparsely populated and mountainous state that has made the operation of public schools unviable in certain regions of the State. Students who live in these regions do not have the choice of enrolling in a public school in their district; their only choice is to enroll in a public school operated by another school district or an independent school or to be homeschooled.

(B) Therefore, in order to fulfill its constitutional requirement to provide public education to its youth, the State permits school districts that do not operate schools (nonoperating school districts) to use public funds to send their resident youth to public schools operated by other school districts or to certain independent schools. In order for an independent school to be eligible to receive public tuition, this section requires these schools to:

(i) comply with all federal and State antidiscrimination laws applicable to Vermont public schools; and

(ii) not use public tuition to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views.

(2) Chapter 1, Article 3 of the Vermont Constitution, known as the “Compelled Support Clause,” provides that “no person ... can be compelled to support any place of worship ... contrary to the dictates of conscience ...”

(A) In *Chittenden Town v. Department of Education*, 38 A.2d 539 (Vt. 1999), the Vermont Supreme Court held that a school district may pay public tuition to a school with a religious mission under the Compelled Support Clause only if the school has adequate safeguards against the use of such funds for religious worship or instruction or the propagation of religious views.

(B) This section sets out adequate safeguards to ensure that public tuition is not used for religious instruction, religious indoctrination, religious worship, or the propagation of religious views.

(b) Conditions for eligibility of an approved independent school to receive public tuition. An approved independent school shall be eligible to receive public tuition only if all of the following conditions are met.

(1)(A) The school has adopted and implemented policies and procedures to comply with all federal and State antidiscrimination laws applicable to

Vermont public schools and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, the Vermont Fair Employment Practices laws, 21 V.S.A. chapter 5, subchapter 6, and all other federal and State antidiscrimination laws that apply to public schools, to the same extent that these laws apply to public schools, even if those laws by their terms do not apply to the approved independent school.

(B) Notwithstanding 21 V.S.A. § 495(e) (Unlawful Employment Practice), which permits religious organizations, under limited circumstances, to discriminate on the basis of sexual orientation or gender identity with respect to matters of employment, approved independent schools eligible to receive public tuition shall not discriminate on the basis of sexual orientation or gender identity with respect to matters of employment.

(C) The school posts and maintains on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools.

(2) None of the public tuition will be used to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of any one religion or theology over others. As used in this section, “indoctrination” means to instruct in a body of doctrine or principles.

(3) The school receives approval from the State Board of Education to receive public tuition. In order to receive State Board approval, the school shall, in addition to satisfying any conditions required by the State Board, enter into a contract with the State Board, signed by an authorized representative acting on behalf of the school’s governing body, agreeing to comply with the eligibility requirements under subdivisions (1)–(2) of this subsection (antidiscrimination; no use of funds for religious purposes).

(c) Process for payment and school selection.

(1) The State Board of Education shall maintain a list of approved independent schools eligible to receive public tuition on its website.

(2) A school district may only pay tuition to an approved independent school eligible to receive public tuition listed on the State Board’s website. Payment of public tuition shall be made directly from the district to the school unless otherwise required by court order.

(d) Approved independent school eligible to receive public tuition. As used in this title, an “approved independent school eligible to receive public tuition” means an approved independent school that is eligible to receive public tuition under this section. An independent school meeting education quality standards under section 165 of this title or an approved independent school in Vermont functioning as an approved area career technical center under chapter 37 of this title that seeks to receive public tuition is required also to qualify as an approved independent school eligible to receive public tuition.

(e) No private right of action. No private right of action is created by this section against an approved independent school eligible to receive public tuition for noncompliance with subsection (b) of this section or noncompliance with the contract between the school and the State Board of Education required under that subsection. The State Board is authorized to use its powers under subdivision 166(b)(5) of this title to revoke, suspend, or impose conditions on the eligibility of an approved independent school to receive public tuition for noncompliance with these requirements. The State Board shall establish and maintain a process to receive, investigate, and resolve allegations of noncompliance with these requirements in a manner that provides due process for the person or persons making the allegation and the approved independent school against which the allegation is made.

Sec. 1a. 16 V.S.A. § 820 is amended to read:

§ 820. PROVISION OF PUBLICLY FUNDED EDUCATION IN  
VERMONT

(a) Findings and purpose.

(1) The Vermont Constitution provides that “a competent number of schools ought to be maintained in each town unless the general assembly permits other provisions for the convenient instruction of youth.” VT Const. CH II, § 68. Interpreting this provision in *Brigham v. State*, 692 A.2d 384 (1997), the Vermont Supreme Court stated that “[t]he state may delegate to local towns and cities the authority to finance and administer the schools within their borders; it cannot, however, abdicate the basic responsibility for education by passing it on to local governments, which are themselves creations of the state.” *Id.* at 395.

\* \* \*

(B) Therefore, in order to fulfill its constitutional requirement to provide public education to its youth, the State permits school districts that do not operate schools (nonoperating school districts) to use public funds to send their resident youth to public schools operated by other school districts or to

certain independent schools. In order for an independent school to be eligible to receive public tuition, this section requires these schools to:

(i) comply with all federal and State antidiscrimination laws applicable to Vermont public schools; ~~and~~

(ii) not use public tuition to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views; ~~and~~

(iii) enroll any student with an individualized education program (IEP) who requires special education services and who is placed in the independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency (LEA) as required under section 2973 of this title.

\* \* \*

(b) Conditions for eligibility of an approved independent school to receive public tuition. An approved independent school shall be eligible to receive public tuition only if all of the following conditions are met.

\* \* \*

(3) The school enrolls any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by LEA as required under section 2973 of this title.

~~(3)~~(4) The school receives approval from the State Board of Education to receive public tuition. In order to receive State Board approval, the school shall, in addition to satisfying any conditions required by the State Board, enter into a contract with the State Board, signed by an authorized representative acting on behalf of the school's governing body, agreeing to comply with the eligibility requirements under subdivisions ~~(1)-(2)~~(3) of this subsection (antidiscrimination; no use of funds for religious purposes; enrollment of students on an IEP).

\* \* \*

\* \* \* Dual Enrollment \* \* \*

Sec. 2. 16 V.S.A. § 944 is amended to read:

§ 944. DUAL ENROLLMENT PROGRAM

\* \* \*

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) ~~the student:~~

~~(i) is enrolled in:~~

~~(I) a Vermont public school, including a Vermont career technical center;~~

~~(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or~~

~~(III) an approved independent school in Vermont to which the student's district of residence pays publicly funded tuition on behalf of the student;~~

~~(ii) is assigned to a public school through the High School Completion Program; or~~

~~(iii) is a home study student; none of the payment to the accredited postsecondary institution will be used to support religious instruction, religious indoctrination as defined in section 820 of this title, religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of religious views of any one religion or theology over others; and~~

~~(B) the student is not enrolled in a recognized independent school or a school or program that is not recognized for attendance purposes under section 1121 of this title;~~

~~(B)(C) dual enrollment is an element included within the student's personalized learning plan; and~~

~~(C)(D) the secondary school and the postsecondary institution have determined that the student is sufficiently prepared to succeed in a dual enrollment course, which can be determined in part by the assessment tool or tools identified by the participating postsecondary institution.~~

\* \* \*

\* \* \* Conforming Changes \* \* \*

Sec. 3. 16 V.S.A. § 11 is amended to read:

#### § 11. CLASSIFICATIONS AND DEFINITIONS

(a) As used in this title, unless the context otherwise clearly requires:

\* \* \*

(36) “Approved independent school eligible to receive public tuition” means an approved independent school that is also approved by the State Board of Education to receive public tuition under section 820 of this title.

Sec. 4. 16 V.S.A. § 165 is amended to read:

§ 165. EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL OPPORTUNITIES; INDEPENDENT SCHOOL MEETING EDUCATION QUALITY STANDARDS

\* \* \*

(b) Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, ~~he or she~~ the Secretary shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress within two years of the determination, the Secretary shall recommend to the State Board one or more of the following actions:

\* \* \*

(4) the State Board close an individual school or schools and require that the school district pay tuition to another public school or an approved independent school ~~pursuant to chapter 21 of this title~~ eligible to receive public tuition; or

\* \* \*

Sec. 5. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

\* \* \*

(b) Approved independent schools. On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board’s rules for approved independent schools. ~~An independent school that intends to accept public tuition shall be approved by the State Board only~~

~~on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the local education agency and the school. Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.~~

\* \* \*

Sec. 6. 16 V.S.A. § 821 is amended to read:

§ 821. SCHOOL DISTRICT TO MAINTAIN PUBLIC ELEMENTARY SCHOOLS OR PAY TUITION

\* \* \*

(d) Notwithstanding subdivision (a)(1) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary student at an approved independent elementary school eligible to receive public tuition or an independent school meeting education quality standards pursuant to sections 823 and 828 of this chapter upon notice given by the student's parent or legal guardian before April 15 for the next academic year.

Sec. 7. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR PAY TUITION

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:



(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting education quality standards, to be selected by the parents or guardians of the student, within or outside the State in accordance with sections 824 and 828 of this title; or

\* \* \*

(c)(1) A school district may both maintain a high school and furnish high school education by paying tuition:

\* \* \*

(B) to an approved independent school eligible to receive public tuition or an independent school meeting education quality standards if the school board judges that a student has unique educational needs that cannot be served within the district or at a nearby public school.

\* \* \*

Sec. 8. 16 V.S.A. § 823 is amended to read:

§ 823. ELEMENTARY TUITION

\* \* \*

(b) Unless the electorate of a school district authorizes payment of a higher amount at an annual or special meeting warned for the purpose, the tuition paid to an approved independent elementary school eligible to receive public tuition or an independent school meeting education quality standards shall not exceed the least of:

\* \* \*

Sec. 9. 16 V.S.A. § 824 is amended to read:

§ 824. HIGH SCHOOL TUITION

\* \* \*

(c) The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for the year of attendance for its students enrolled in an approved independent school eligible to receive public tuition that does not functioning function as a Vermont area career technical center; or any higher amount approved by the electorate at an annual or special meeting warned for that purpose.

Sec. 10. 16 V.S.A. § 827 is amended to read:

§ 827. DESIGNATION OF A PUBLIC HIGH SCHOOL OR AN APPROVED INDEPENDENT HIGH SCHOOL AS THE PUBLIC HIGH SCHOOL OF A SCHOOL DISTRICT

(a) A school district not maintaining an approved public high school may vote on such terms or conditions as it deems appropriate, to designate three or fewer approved independent schools eligible to receive public tuition or public high schools as the public high school or schools of the district.

\* \* \*

(c) A parent or legal guardian who is dissatisfied with the instruction provided at a designated school or who cannot obtain for ~~his or her~~ the parent's or legal guardian's child the kind of course or instruction desired there, or whose child can be better accommodated in an approved independent school eligible to receive public tuition or public high school nearer ~~his or her~~ the child's home during the next academic year, may request on or before April 15 that the school board pay tuition to another approved independent school eligible to receive public tuition or public high school selected by the parent or guardian.

\* \* \*

(e) Notwithstanding any other provision of law to the contrary:

\* \* \*

(2) unless otherwise directed by an affirmative vote of the school district, when the Wells Board approves parental requests to pay tuition to a nondesignated approved independent school eligible to receive public tuition or public school, the Board shall pay tuition in an amount not to exceed the base education amount as determined under section 4011 of this title for the fiscal year in which tuition is being paid; and

(3) unless otherwise directed by an affirmative vote of the school district, when the Strafford Board approves a parental request to pay tuition to a nondesignated approved independent school eligible to receive public tuition or public school, the Board shall pay tuition to the nondesignated school pursuant to section 824 of this title for the year in which the student is enrolled; provided, however, that it shall not pay tuition in an amount that exceeds the tuition paid to the designated school for the same academic year.

Sec. 11. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

(a) A school district shall not pay the tuition of a student except to a public school, an approved independent school eligible to receive public tuition, an

independent school meeting education quality standards, a tutorial program approved by the State Board, an approved education program, or, subject to subsection (b) of this section, an independent school in another state or country approved under the laws of that state or country, ~~nor shall payment~~. Payment of tuition on behalf of a person shall not be denied on account of age. Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she the person may attend; may appeal to the State Board, and its decision shall be final.

(b) An independent school in another state or country that is approved under the laws of that state or country is eligible to receive public tuition if all of the following conditions are met:

(1) It is located in a state that borders Vermont or in the Quebec Province of Canada, provided that an independent school that is not located in a state that borders Vermont or in the Quebec Province of Canada shall be eligible to receive public tuition if:

(A) the student is on an individual education program (IEP) and is placed at the school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, as amended;

(B) the student is on a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, as amended (504 Plan); or

(C) the student is determined to be disabled by the evaluation planning team or local education agency representative under State Board of Education rules.

(2)(A) The independent school has adopted and implemented policies and procedures to comply with all antidiscrimination laws applicable to public schools in the state or country where the independent school is located and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with antidiscrimination laws to the same extent as these laws apply to public schools, even if those laws by their terms do not apply to the independent school.

(B) The independent school posts and maintains on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools in the state or country where the independent school is located.

(3) None of the public tuition will be used to support religious instruction, religious indoctrination (as defined in section 820 of this title), religious worship, or the propagation of religious views, except for religious

instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of religious views of any one religion or theology over others.

(4) The independent school enters into a contract with the Vermont State Board of Education, signed by an authorized representative acting on behalf of the school's governing body, agreeing to comply with the eligibility requirements under subdivisions (2)–(3) of this subsection (antidiscrimination; no use of funds for religious purposes).

Sec. 12. 16 V.S.A. § 1073 is amended to read:

§ 1073. “LEGAL PUPIL” DEFINED; ACCESS TO SCHOOL

\* \* \*

(b) Access to school.

\* \* \*

(2) Right to enroll in a public or independent school. Notwithstanding the provisions of sections 822 and 1075 of this title, a pregnant or parenting student may enroll in any approved public school in Vermont or an adjacent state, any approved independent school eligible to receive public tuition in Vermont, or any other educational program approved by the State Board in which any other legal pupil in Vermont may enroll.

\* \* \*

Sec. 13. 16 V.S.A. § 2962 is amended to read:

§ 2962. EXTRAORDINARY SPECIAL EDUCATION REIMBURSEMENT

\* \* \*

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with ~~certain~~ approved independent schools ~~that accept public tuition~~ eligible to receive public tuition. If the approved independent school is entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement.

Sec. 14. 16 V.S.A. § 2973 is amended to read:

§ 2973. INDEPENDENT SCHOOL TUITION RATES

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school ~~that accepts~~ eligible to receive public tuition shall enroll any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school.

\* \* \*

\* \* \* Development of Standard Contract \* \* \*

Sec. 15. DEVELOPMENT OF STANDARD CONTRACT

(a) On or before August 1, 2022, the State Board of Education shall create and post on its website a standard form contract for use by approved independent schools eligible to receive public tuition that complies with the requirements of 16 V.S.A. § 820(b)(3) (antidiscrimination; no use of funds for religious purposes; enrollment of students on an individualized education program). The contract shall contain each of the following provisions:

(1) The State Board's authorization for the school to receive public tuition is conditioned on continued compliance by the school of this contract as well as any other conditions required by law or State Board rules.

(2)(A) The school has adopted and implemented policies and procedures to comply with all federal and State antidiscrimination laws applicable to Vermont public schools and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with the Vermont Public Accommodations Act, 9 V.S.A. chapter 139, the Vermont Fair Employment Practices laws, 21 V.S.A. chapter 5, subchapter 6, and all other federal and State antidiscrimination laws that apply to public schools to the same extent that these laws apply to public schools, even if those laws by their terms do not apply to the school.

(B) Notwithstanding subsection (e) of 21 V.S.A. § 495 (Unlawful Employment Practice), which permits religious organizations, under limited circumstances, to discriminate on the basis of sexual orientation or gender

identity with respect to matters of employment, the school shall not discriminate on the basis of sexual orientation or gender identity with respect to matters of employment.

(C) The school has posted and shall maintain on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools.

(3) None of the public tuition will be used by the school to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of any one religion or theology over others. As used in this contract, “indoctrination” means to instruct in a body of doctrine or principles.

(4) Commencing with the 2023–2024 school year and thereafter, the school shall enroll any student with an individualized education program who requires special education services and who is placed in the school as an appropriate placement and least restrictive environment for the student by the student’s individualized education program team or by the local education agency as required under 16 V.S.A. § 2973.

(b) On or before August 1, 2022, the State Board of Education shall create and post on its website a standard form contract for use by independent schools in another state or country that complies with the requirements of 16 V.S.A. § 828(b) (antidiscrimination; no use of funds for religious purposes). The contract shall contain each of the following provisions:

(1) The State Board’s authorization for the school to receive public tuition is conditioned on continued compliance by the school of this contract.

(2)(A) The independent school has adopted and implemented policies and procedures to comply with all antidiscrimination laws applicable to public schools in the state or country where the independent school is located and makes reasonable efforts to enforce these policies and procedures. Compliance with the requirements set forth in these antidiscrimination laws includes compliance with antidiscrimination laws to the same extent as these laws apply to public schools, even if those laws by their terms do not apply to the independent school.

(B) The independent school posts and maintains on its website in a prominent place its policy to comply with all antidiscrimination laws that apply to public schools in the state or country where the independent school is located.

(3) None of the public tuition will be used to support religious instruction, religious indoctrination, religious worship, or the propagation of religious views, except for religious instruction that is designed to provide an overview of religious history and teachings and does not support religious instruction, religious indoctrination, religious worship, or the propagation of religious views of any one religion or theology over others. As used in this contract, “indoctrination” means to instruct in a body of doctrine or principles.

(c) A contract signed on behalf of the State Board and a school under 16 V.S.A. § 820(b)(3) or 828(b) shall contain no other conditions or requirements than those required under this section. The State Board and the school shall amend the contract as necessary to comply with applicable law, and the State Board shall amend its model contracts accordingly.

\* \* \* Transition \* \* \*

#### Sec. 16. TRANSITION

(a) A student enrolled for the 2021–2022 school year in, or has been accepted for enrollment for the 2022–2023 school year by, an independent school in another state or country that would not be eligible to receive public tuition under 16 V.S.A. § 828 as amended by this act shall continue to be entitled to public tuition until such time as the student graduates from that school. The school shall not be required to enter into the contract with the Vermont State Board of Education under 16 V.S.A. § 828 as amended by this act.

(b) Notwithstanding the provisions of this act, an approved independent school or out-of-state independent school that enrolled a student on public tuition for the 2021–2022 school year shall be entitled to that tuition payment for that school year, and school districts are authorized to make that payment or reimburse a parent or guardian who made that payment to the school.

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

#### Sec. 17. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1a (16 V.S.A. § 820), 5 (16 V.S.A. § 166), 13 (16 V.S.A. § 2962), and 14 (16 V.S.A. § 2973) shall take effect on July 1, 2023.

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

An act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

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

### **Third Reading Ordered**

#### **H. 628.**

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

An act relating to amending a birth certificate to reflect gender identity.

Reported that the bill ought to pass in concurrence.

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

### **Bill Amended; Third Reading Ordered**

#### **S. 197.**

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

An act relating to the Coordinated Mental Health Crisis Response Working Group.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Mental Health Crisis Response Inventory \* \* \*

#### **Sec. 1. INVENTORY OF MENTAL HEALTH CRISIS RESPONSE PROGRAMS**

On or before January 15, 2023, the Department of Mental Health, in consultation with the Agencies of Education and of Human Services and the Department of Public Safety, shall submit the Mobile Crisis Needs Assessment report required by the Department's federally-funded mobile crisis state planning grant, including the stakeholder engagement summary and the mobile crisis benefit implementation plan, to the House Committee on Health Care and to the Senate Committee on Health and Welfare.



\* \* \* Integrating Mental Health for Educators and Students \* \* \*

Sec. 2. PROVISION OF MENTAL HEALTH AND WELL-BEING  
SUPPORTS FOR EDUCATORS

In fiscal year 2023, the Agency of Education, in consultation with the Department of Mental Health, shall contract with one or more organizations to provide statewide COVID-19 recovery supports for educators and school staff. The supports shall be provided by mental health clinicians and focused on COVID-19 recovery, including wellness and trauma-responsive school practice supports on a statewide, regional, or supervisory union or supervisory district-specific level as needed.

Sec. 3. GRANTS TO EXPAND MENTAL HEALTH AND WELL-BEING  
SERVICES TO YOUTH

(a) In fiscal year 2023, the Agency of Education shall work collaboratively with the Department of Mental Health to establish and administer a two-year program utilizing a tiered-support approach to ensure continuous support to children and youth in a variety of settings, including supervisory union and district-wide, in-school, community technical education centers, and afterschool, by providing grants to:

(1) expand existing school-based counseling services in underserved districts of the State; or

(2) develop either school-based or community-based afterschool programs, operating in a variety of settings outside the school day and over the summer, including before and after school, in-service days, and school vacation week, that support the mental health and wellness needs of students, families, and staff.

(b) The Agency shall adopt policies, procedures, and guidelines necessary for implementation of the program described in subsection (a) of this section.

(c) The Agency shall issue grants to in-school counseling programs and afterschool programs in geographically diverse regions when the applicant meets all of the eligibility criteria listed in subdivision (1) of this subsection and at least one eligibility criterion listed in subdivision (2) of this subsection:

(1) Mandatory eligibility criteria.

(A) The applicant uses evidence-based strategies to address students' social, emotional, mental health, and wellness needs. As used in this subdivision, "evidence-based" means the same as in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 8101.

(B) The applicant collects data to demonstrate the effectiveness of the mental health and wellness supports and interventions utilized in the program.

(C) The applicant meets student needs by incorporating multitiered systems of supports, trauma-informed and responsive approaches, and approaches such as the Whole Child, Whole School, Whole Community model or the Strengthening Families curriculum's Youth Thrive program.

(2) Additional eligibility criterion.

(A) The applicant works in close partnership with classroom teachers and school guidance counselors to coordinate supports, communication, and strategies.

(B) The applicant uses specially trained staff to provide one-on-one and small group supports and resilience sessions for children and youth, including addressing specific needs, such as suicide prevention, social isolation, anxiety, and substance use.

(C) The applicant provides participating families with assistance in navigating behavioral health resources in their communities.

(D) The applicant provides opportunities for children and youth to participate in activities that heal and prevent social isolation, such as outdoor activities, art therapy, recreation, and time in nature.

(E) The applicant consults with local pediatricians to provide referrals for support.

(F) The applicant provides staff training on Youth Mental Health First Aid and other evidence-based techniques and approaches to crisis prevention and intervention, such as trauma-responsive practices, adolescent brain development, and how to build a culture of connection.

(d) On or before January 15, 2025, the Agency, in collaboration with the Department, shall submit a report to the House Committees on Education and on Human Services and to the Senate Committees on Education and on Health and Welfare summarizing the programs to which grants were awarded and recommending a model for the integration of mental health and in-school and afterschool programming that provides consistency and reliability to children and youth, is fiscally sustainable, and does not create further workforce capacity challenges for afterschool organizations, schools, community technical education centers, the Agency, or the Department.

## Sec. 4. ALLOCATION OF UNEXPENDED ESSER III FUNDS

In fiscal year 2023, ESSER III funds appropriated pursuant to 2021 Acts and Resolves No. 74, Sec. E.501.3 shall be used as follows:

(1) \$500,000.00 for statewide COVID-19 recovery supports for educators and school staff pursuant to Sec. 2 of this act; and

(2) \$2,500,000.00 for grants to expand mental health and well-being services for children and youth pursuant to Sec. 3 of this act.

\* \* \* Interagency Youth Afterschool Task Force \* \* \*

## Sec. 5. VERMONT INTERAGENCY AFTERSCHOOL YOUTH TASK FORCE; REPORTING

The Vermont Interagency Afterschool Youth Task Force established pursuant to Executive Order No. 08-21 shall submit to the House Committees on Education and on Human Services and to the Senate Committees on Education and on Health and Welfare copies of its bimonthly progress reports on achieving expanded universal afterschool and summer programming. The Task Force shall also provide advice and recommendations to the General Assembly upon request.

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

## Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

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

An act relating to the provision of mental health supports.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

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

### Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, March 24, 2022.

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**THURSDAY, MARCH 24, 2022**

The Senate was called to order by the President.

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**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 36**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 505.** An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug.

**H. 546.** An act relating to racial justice statistics.

**H. 626.** An act relating to the sale, use, or application of neonicotinoid pesticides.

**H. 720.** An act relating to the system of care for individuals with developmental disabilities.

In the passage of which the concurrence of the Senate is requested.

The Governor has informed the House that on March 22, 2022, he approved and signed bills originating in the House of the following titles:

**H. 367.** An act relating to the management of perpetual care funds by cemetery associations.

**H. 654.** An act relating to extending COVID-19 health care regulatory flexibility.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 505.**

An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug.

To the Committee on Judiciary.

**H. 546.**

An act relating to racial justice statistics.

To the Committee on Judiciary.

**H. 626.**

An act relating to the sale, use, or application of neonicotinoid pesticides.

To the Committee on Agriculture.

**H. 720.**

An act relating to the system of care for individuals with developmental disabilities.

To the Committee on Health and Welfare.

**Bill Passed****S. 254.**

Senate bill of the following title:

An act relating to creating a private right of action against law enforcement officers for violating rights established under Vermont law.

Was read the third time and passed on a roll call, Yeas 19, Nays 11.

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

**Roll Call**

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

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

**Bill Amended; Third Reading Ordered****S. 220.**

Senator Collamore, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to State-paid deputy sheriffs.

Reported recommending that the bill be amended as follows:

First: By striking out Sec.2, 3 V.S.A. § 911, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 3 V.S.A. § 911 is added to read:

§ 911. DESIGNATION OF DEPUTY SHERIFFS PAID BY STATE;  
STATEWIDE BARGAINING RIGHTS

Deputy sheriffs paid by the State pursuant to 24 V.S.A. § 290(b) shall be part of a single, separate statewide bargaining unit for the purpose of bargaining collectively pursuant to this chapter. The bargaining unit created pursuant to this section shall be referred to as the State Paid Deputy Sheriffs Unit.

Second: By striking out Sec. 4, effective date, in its entirety and inserting in lieu thereof Secs. 4–5 to read as follows:

Sec. 4. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters that are prescribed or controlled by statute. The matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include:

\* \* \*

(8) terms of coverage and amount of employee financial participation in insurance programs, except that the Department of State’s Attorneys and Sheriffs and the deputy State’s Attorneys ~~and~~ other employees of the State’s Attorneys’ offices, and deputy sheriffs paid by the State pursuant to 24 V.S.A. § 290(b) shall not bargain in relation to terms of coverage;

\* \* \*

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto:

In the second instance of amendment, in Sec. 5, effective date, by striking out the words “on passage” and inserting in lieu thereof on July 1, 2022

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended? was agreed to and third reading of the bill was ordered.

**Bill Amended; Third Reading Ordered****S. 287.**

Senate committee bill entitled:

An act relating to improving student equity by adjusting the school funding formula and providing education quality and funding oversight.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Baruth, for the Committee on Appropriations, moved to amend the bill as follows:

First: By striking out Sec. 17, Agency of Education; staffing, in its entirety and inserting in lieu thereof the following:

Sec. 17. [Deleted.]

Second: In Sec. 21, effective dates, by striking out subdivision (a)(9) in its entirety and by renumbering the remaining subdivisions to be numerically correct.

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

**Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 155.** An act relating to the creation of the Agency of Public Safety.

**S. 197.** An act relating to the Coordinated Mental Health Crisis Response Working Group.

**S. 219.** An act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition and in the dual enrollment program.

**Bill Passed in Concurrence****H. 628.**

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

An act relating to amending a birth certificate to reflect gender identity.

---

**Bill Amended; Third Reading Ordered****S. 234.**

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

An act relating to changes to Act 250.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Municipal Zoning \* \* \*

Sec. 1. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF  
NEIGHBORHOOD DEVELOPMENT AREAS

(a) Purpose. This section is intended to encourage a municipality to plan for new and infill housing in the area including and immediately encircling its designated downtown, village center, new town center, or within its designated growth center in order to provide needed housing and to further support the commercial establishments in the designated center. To support this goal, this section sets out a two-component process.

\* \* \*

(b) Definitions.

(1) “Neighborhood planning area” means an automatically delineated area including and encircling a downtown, village center, or new town center designated under this chapter or within a growth center designated under this chapter. A neighborhood planning area is used for the purpose of identifying locations suitable for new and infill housing that will support a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles. To ensure a compact settlement pattern, the outer boundary of a neighborhood planning area shall be located entirely within the boundaries of the applicant municipality, unless a joint application is submitted by more than one municipality, and shall be determined:

\* \* \*

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

\* \* \*

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and



infill housing, excluding identified flood hazard and fluvial erosion areas, except those areas containing preexisting development in areas suitable for infill development as defined in § 29-201 of the Vermont Flood Hazard Area and River Corridor Rule. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or ~~that~~ minimizes to the extent feasible the inclusion of “important natural resources” as defined in subdivision 2791(14) of this title. If an “important natural resource” is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized. If the neighborhood development area includes flood hazard areas or river corridors, the local bylaws shall contain provisions consistent with the Agency of Natural Resources’ rules required under 10 V.S.A. § 754(a) to ensure that new infill development within a neighborhood development area occurs outside the flood hazard area and will not cause or contribute to fluvial erosion hazards within the river corridor. If the neighborhood development area includes flood hazard areas or river corridors, local bylaws shall also contain provisions to protect river corridors outside the neighborhood development area consistent with the Agency of Natural Resources’ rules required under 10 V.S.A. § 754(a).

\* \* \*

(6) ~~The neighborhood development area is served by:~~

~~(A) municipal sewer infrastructure; or~~

~~(B) a community or alternative wastewater system approved by the Agency of Natural Resources. [Repealed.]~~

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four ~~single-family detached~~ dwelling units per acre for all identified residential uses or residential building types, exclusive of accessory dwelling units, or ~~no~~ not fewer than the average existing density of the surrounding neighborhood, whichever is greater. The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

\* \* \*

Sec. 2. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

\* \* \*

(b) Within 45 days of receipt of a completed application, the State Board shall designate a new town center development district if the State Board finds, with respect to that district, the municipality has:

\* \* \*

(2) Provided a community investment agreement that has been executed by authorized representatives of the municipal government, businesses and property owners within the district, and community groups with an articulated purpose of supporting downtown interests, and contains the following:

\* \* \*

(B) Regulations enabling ~~high~~ densities that are ~~greater~~ not less than four dwelling units, including all identified residential uses or residential building types, per acre and not less than those allowed in any other part of the municipality not within an area designated under this chapter.

\* \* \*

Sec. 3. 24 V.S.A. § 4449 is amended to read:

§ 4449. ZONING PERMIT, CERTIFICATE OF OCCUPANCY, AND MUNICIPAL LAND USE PERMIT

(a) Within any municipality in which any bylaws have been adopted:

\* \* \*

(4) No municipal land use permit issued by an appropriate municipal panel or administrative officer, as applicable, for a site plan or conditional use shall be considered abandoned or expired unless more than two years has passed since the permit approval was issued.

\* \* \* Act 250 \* \* \*

Sec. 4. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

\* \* \*

(3)(A) “Development” means each of the following:

\* \* \*

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) [Repealed.]

(bb) [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000.

(ee) ~~25 or more, in a municipality with a population of less than 3,000.~~ [Repealed.]

(ff) Notwithstanding subdivisions (cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision (ff) if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

\* \* \*

(D) The word “development” does not include:

\* \* \*

(IV) Notwithstanding any other provision of this chapter to the contrary, the construction of a priority housing project funded primarily by the American Rescue Plan Act of 2021 only if the mixed income housing project to be constructed contains at least 80 percent of the housing units with a duration of affordability of not less than 30 years.

\* \* \*

~~(6) “Floodway” means the channel of a watercourse that is expected to flood on an average of at least once every 100 years and the adjacent land areas that are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects~~ “Flood hazard area” has the same meaning as under section 752 of this title.

~~(7) “Floodway fringe” means an area that is outside a floodway and is flooded with an average frequency of once or more in each 100 years, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects~~ “River corridor” has the same meaning as under section 752 of this title.

\* \* \*

(27) “Mixed income housing” means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) ~~at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

~~(ii) at least 20 percent of the housing units have a purchase price that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency~~ meet the requirements of affordable owner-occupied housing under subdivision (29)(A) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.

(B) Rental housing. ~~At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of For~~ not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.

\* \* \*

Sec. 5. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the District Commission shall find that the subdivision or development:

\* \* \*

(D) ~~Floodways~~ Flood hazard areas; river corridors. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria:

(i) ~~the development or subdivision of lands within a floodway flood hazard area or river corridor will not restrict or divert the flow of flood waters floodwaters, cause or contribute to fluvial erosion, and endanger the health, safety, and welfare of the public or of riparian owners during flooding; and~~

(ii) ~~the development or subdivision of lands within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, or welfare of the public or riparian owners during flooding.~~

\* \* \*

\* \* \* Municipal Response to Act 250 Requests \* \* \*

Sec. 6. 10 V.S.A. 6086(g) is added to read:

(g) If a municipality fails to respond to a request by the applicant within 90 days as to the impacts related to subdivision (a)(6) or (7) of this section, the application will be presumed not to have an unreasonable burden on educational, municipal, or governmental services.

\* \* \* Forest Blocks \* \* \*

Sec. 7. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

\* \* \*

(43) “Connecting habitat” means land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include features including recreational trails and improvements constructed for farming, logging, or forestry purposes.

(44) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include features including recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

(45) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.

Sec. 8. 10 V.S.A. § 6086(a)(8) is amended to read:

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Aesthetics. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, or historic sites ~~or rare and irreplaceable natural areas.~~

~~(A)~~(B) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and:

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; ~~or~~

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or

(iii) a reasonably acceptable alternative site is owned or controlled by the applicant ~~which~~ that would allow the development or subdivision to fulfill its intended purpose.

(C) Forest blocks and connecting habitat. Will not result in an undue adverse impact on forest blocks, connecting habitat, or rare and irreplaceable natural areas. If a project as proposed would result in an undue adverse impact, a permit may only be granted if effects are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

Sec. 9. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources, shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how impacts can be avoided, minimized, or mitigated, including how fragmentation of forest blocks or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses of on-site and off-site mitigation.

(b) The Board shall convene a working group to provide input to the rule prior to prefiling with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before June 1, 2023.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before June 15, 2024.

Sec. 10. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

~~(a) On or before January 15, 2013, the~~ The Secretary of Natural Resources shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the ~~GIS-based~~ resource mapping.

(b) ~~The Secretary of Natural Resources shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.~~

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.

\* \* \* Roads \* \* \*

Sec. 11. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

\* \* \*

(3)(A) “Development” means each of the following:

\* \* \*

(xi) The construction of a road, roads, driveway, or driveways, which as a single road or driveway is greater than 800 feet, or which in combination is greater than 2,000 feet, to provide access to or within a tract or tracts of land of more than one acre owned or controlled by a person.

(I) For the purposes of determining jurisdiction under this subdivision (xi), any tract or tracts of land that will be provided access by the road or driveway is involved land.

(II) As used in this subdivision (xi), “road” shall include any new road or upgrade of a class 4 highway by a person other than a municipality, including a road that will be transferred to or maintained by a municipality after its construction or upgrade. For the purposes of this subdivision (II), routine maintenance of a class 4 highway or stormwater improvement required pursuant to section 1264 of this title shall not constitute an “upgrade.”

(aa) Routine maintenance shall include replacing a culvert or ditch, increasing the size or configuration of an existing drainage structure to improve resiliency, applying new stone, grading, or making repairs after adverse weather.



(bb) Routine maintenance shall not include changing the size of the road, changing the location or layout of the road, or adding pavement unless undertaken to improve the function of an existing drainage structure.

(III) For the purpose of determining the length under this subdivision (xi), the length of all roads and driveways within the tract or tracts of land constructed within any continuous period of 10 years after October 1, 2020 shall be included.

(IV) This subdivision (xi) shall not apply to:

(aa) a road constructed for a municipal, county, or State purpose; a utility corridor of an electric transmission or distribution company; or a road located entirely within a designated downtown or neighborhood development area; and

(bb) a road used primarily for farming or forestry purposes unless used for a residential purpose.

\* \* \*

\* \* \* Wood Products Manufacturers \* \* \*

Sec. 12. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

(47) “Wood products manufacturer” means a manufacturer that aggregates wood products from forestry operations and adds value through processing or marketing in the wood products supply chain or directly to consumers through retail sales. “Wood products manufacturer” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch, and fuel wood; and log and pulp concentration yards. “Wood products manufacturer” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving wood products from forestry operations.

(48) “Wood product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

Sec. 13. 10 V.S.A. § 6086(c) is amended to read:

(c)(1) Permit conditions. A permit may contain such requirements and conditions as are allowable proper exercise of the police power and ~~which~~ that are appropriate within the respect to subdivisions (a)(1) through (10) of this

section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to ensure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) Permit conditions on a wood products manufacturer.

(A) A permit condition that sets hours of operation for a wood products manufacturer shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section.

(B) If an adverse impact under subdivision (a)(1), (5), or (8) of this section would result, a permit with conditions shall allow the manufacturer to operate while mitigating these impacts. A permit with conditions that mitigate these impacts shall allow for deliveries of wood products from forestry operations to the manufacturer outside permitted hours of operation, including nights, weekends, and holidays, for the number of days demonstrated by the manufacturer as necessary to enable business operations, not to exceed 90 days per year.

(3) Permit with conditions on the delivery of wood heat fuels. A permit with conditions issued to a wood products manufacturer that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the manufacturer to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year. Permits with conditions shall mitigate the undue adverse impacts while enabling the operations of the manufacturer.

(4) Permit amendments. A wood products manufacturer holding a permit may request an amendment to existing permit conditions related to hours of operation and seasonal restrictions to be consistent with subdivisions (2) and (3) of this subsection. Requests for condition amendments under this subsection shall not be subject to Act 250 Rule 34(E).

\* \* \* One-acre towns \* \* \*

Sec. 14. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

(3)(A) “Development” means each of the following:

(i) The construction of improvements on a tract or tracts of land, owned or controlled by a person, involving more than 10 acres of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes in a municipality that has adopted permanent zoning and subdivision bylaws.

(ii) The construction of improvements on a tract or tracts of land, owned or controlled by a person, involving more than one acre of land within a radius of five miles of any point on any involved land, for commercial or industrial purposes on more than one acre of land within in a municipality that has not adopted permanent zoning and subdivision bylaws.

\* \* \*

\* \* \* Reports \* \* \*

#### Sec. 15. REPORT; ACT 250 JURISDICTION OVER AGRICULTURAL BUSINESSES

On or before January 15, 2023, the Natural Resources Board shall submit to the General Assembly a report with recommendations on how Act 250 jurisdiction should be applied to agricultural businesses, including those located on properties already operating as farms. The report shall address the current land use planning requirements for farms and farms with accessory on-farm businesses and whether different types of businesses associated with farms and farming require different levels of review. The report may consider whether or not the location of such businesses is relevant and may consider the designation or adoption of agricultural business innovation zones with different levels of review.

#### Sec. 16. DESIGNATED AREA REPORT; APPROPRIATION

(a) The sum of \$150,000.00 is appropriated from the General Fund to the Department of Housing and Community Development in fiscal year 2023 for the purpose of hiring a consultant to evaluate the State designation programs established in 24 V.S.A. chapter 76A pursuant to subsection (b) of this section.

(b)(1) The Department of Housing and Community Development shall hire an independent consultant to:

(A) review and assess the State designation programs and incentives established in 24 V.S.A. chapter 76A that recognize and invest in the vitality of Vermont's compact settlement areas; and

(B) conduct statewide stakeholder outreach to support the evaluation of and future improvements to the programs, including participation by State, regional, municipal, and advocacy and non-governmental organizations.

(2) The consultant shall make recommendations on how to:

(A) objectively define and map existing compact settlements as a basis for broader recognition;

(B) improve the consistency between and among regional plans and future land use maps;

(C) modernize these programs, including consideration of program reform or consolidation;

(D) make the designation programs and associated benefits more accessible to municipalities;

(E) apply regulatory and non-regulatory benefits;

(F) strengthen designation and incentives as a platform for place-based economic development, climate-action, complete streets, and equity and efficiency of public investment and service delivery;

(G) implement the smart growth principles established by 24 V.S.A. § 2791; and

(H) achieve the goals established in 24 V.S.A. § 4302.

(3) On or before July 15, 2023, the consultant shall submit a written report to the General Assembly with its findings and any recommendations for legislative action.

\* \* \* Study Committee; Effective Date \* \* \*

#### Sec. 17. STUDY COMMITTEE; NATURAL RESOURCES BOARD STRUCTURE

(a) There is created a study committee on the structure and function of the Natural Resources Board. The group shall consist of eight members, four appointed by the Speaker of the House and four appointed by the Committee on Committees.

(b) The group shall hear from various stakeholder groups on how to enhance the administration of the Act 250 program, including considerations of:

(1) the membership of the Board;

(2) the appointment process;

(3) grounds for removing a member from the Board;

(4) the responsibilities and authorities of the Board and District Commissions;

(5) funding of the operation of the Board, District Commissions, and the Act 250 program; and

(6) the handling of appeals issued by the District Commissions and the Board.

(c) On or before December 31, 2022, the group shall report back to the General Assembly with any proposed changes to the structure and function of the Natural Resources Board.

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

#### Sec. 18. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 8 (10 V.S.A. § 6086(a)(8)) shall take effect on September 1, 2024.

And that when so amended the bill ought to pass.

Senator Bray, for the Committee on Finance, to which the bill was referred, reported the same without recommendation.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By striking out Sec. 16, designated area report; appropriation, in its entirety

Second: In Sec. 17, study committee; natural resources board structure, in subsection (a) by inserting the word Legislative after the word eight

And by renumbering the remaining sections to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended? was agreed to and third reading of the bill was ordered.

#### **Consideration Postponed**

Senate bill entitled:

#### **S. 79.**

An act relating to improving rental housing health and safety.

Was taken up.

Thereupon, pending consideration of the Governor's veto, Senator Sirotkin moved that consideration of the bill be postponed until Wednesday, April 20, 2022, which was agreed to.

### **Adjournment**

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

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### **FRIDAY, MARCH 25, 2022**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Message from the House No. 37**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 353.** An act relating to pharmacy benefit management.

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

**H. 492.** An act relating to the structure of the Natural Resources Board.

**H. 512.** An act relating to modernizing land records and notarial acts law.

**H. 624.** An act relating to supporting creative sector businesses and cultural organizations.

**H. 635.** An act relating to secondary enforcement of minor traffic offenses.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 47.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

**Bill Referred to Committee on Finance****H. 159.**

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to community and economic development and workforce revitalization.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 353.**

An act relating to pharmacy benefit management.

To the Committee on Health and Welfare.

**H. 464.**

An act relating to miscellaneous changes to the Reach Up Program.

To the Committee on Health and Welfare.

**H. 492.**

An act relating to the structure of the Natural Resources Board.

To the Committee on Natural Resources and Energy.

**H. 512.**

An act relating to modernizing land records and notarial acts law.

To the Committee on Government Operations.

**H. 624.**

An act relating to supporting creative sector businesses and cultural organizations.

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

**H. 635.**

An act relating to secondary enforcement of minor traffic offenses.

To the Committee on Judiciary.

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**Proposals of Amendment; Third Reading Ordered**

**H. 722.**

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

An act relating to final reapportionment of the House of Representatives.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2, 17 V.S.A. § 1893b, in CHITTENDEN-24, following “then southerly along the eastern side of Sandhill Road to the intersection of River Road; then westerly along the” by striking out “northern” and inserting in lieu thereof southern

Second: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof Secs. 3–4 to read as follows:

Sec. 3. 17 V.S.A. § 1881 is amended to read:

§ 1881. NUMBER TO BE ELECTED

Senatorial districts and the number of Senators to be elected from each are as follows:

(1) Addison Senatorial District, composed of the towns of Addison, Bridport, Bristol, Buel’s Gore, Cornwall, Ferrisburgh, Goshen, Granville, Hancock, Huntington, Leicester, Lincoln, Middlebury, Monkton, New Haven, Orwell, Panton, Rochester, Ripton, Salisbury, Shoreham, Starksboro, Vergennes, Waltham, Weybridge, and Whiting..... two;

(2) Bennington Senatorial District, composed of the towns of Arlington, Bennington, Dorset, Glastenbury, Landgrove, Londonderry, Manchester, Peru, Pownal, Readsboro, Rupert, Sandgate, Searsburg, Shaftsbury, Somerset, Stamford, Stratton, Sunderland, Wilmington, Winhall, and Woodford..... two;

(3) Caledonia Senatorial District, composed of the towns of Barnet, ~~Bradford, Burke,~~ Danville, Fairlee, Groton, Hardwick, ~~Kirby, Lyndon,~~ Newark, Newbury, ~~Orange,~~ Peacham, Ryegate, St. Johnsbury, ~~Sheffield,~~ Stannard, ~~Sutton, Topsham,~~ Walden, Waterford, ~~West Fairlee,~~ and Wheelock..... ~~two~~ one;

(4) ~~Chittenden~~ Chittenden-Central Senatorial District, composed of towns of Bolton, Burlington, Charlotte, Essex, Hinesburg, Jericho, Milton, Richmond, St. George, Shelburne, ~~South Burlington,~~ Underhill, Westford, ~~Williston,~~ and ~~Winooski~~ the city of Winooski, that portion of the town of



Essex not included in Chittenden-North Senatorial District, that portion of the town of Colchester not included in Grand Isle Senatorial District, and that portion of the city of Burlington encompassed within a boundary beginning at the point where the eastern boundary line of the city of Burlington intersects with the South Burlington Recreation Path; then westerly along the northern side of the boundary between the South Burlington Recreation Path and the Burlington Country Club to where the South Burlington Recreation Path turns north; then continuing westerly along the northern side of the property boundary of the Burlington Country Club to the property boundary line between 544 South Prospect Street and 500 South Prospect Street; then westerly along the northern side of the property line between 544 South Prospect Street and 500 Prospect Street to where it intersects with South Prospect Street; then northerly along the eastern side of the centerline of South Prospect Street to the intersection of Cliff Street; then westerly along the northern side of the centerline of Cliff Street to the intersection of U.S. Route 7; then briefly northerly along the eastern side of the centerline of U.S. Route 7 to the intersection of Spruce Street; then westerly along the northern side of the centerline of Spruce Street to the intersection of South Union Street; then northerly along the eastern side of the centerline of South Union Street to the intersection of Adams Street; then westerly along the northern side of the centerline of Adams Street to the intersection of South Winooski Avenue; then northerly along the eastern side of the centerline of South Winooski Avenue to the intersection of Maple Street; then westerly along the northern side of the centerline of Maple Street to the end of Maple Street; then continuing on a line due west across Lake Champlain to the boundary of the city of South Burlington in Lake Champlain; then northerly along the city line of South Burlington in Lake Champlain and continuing along the city line of South Burlington as it follows the eastern shore of Lake Champlain to the boundary of the town of Colchester; then northerly and then southeasterly along the town line of Colchester to the boundary of the city of Winooski; then southeasterly along the city line of Winooski to the boundary of the city of South Burlington; then southwestly along the city line of South Burlington to the point of beginning..... six three;

(5) Chittenden-North Senatorial District, composed of towns of Fairfax, Milton, Westford, and that portion of the town of Essex encompassed within a boundary beginning at the point where the western boundary line of the town of Essex intersects with VT Route 2A; then southerly along the eastern side of the centerline of VT Route 2A to the intersection of Gentes Road; then briefly easterly along the northern side of the centerline of Gentes Road to where it intersects with the railroad tracks before Lamore Road; then southerly along the eastern side of the railroad tracks to where they intersect with VT Route 289; then southeasterly along the northeastern side of the centerline of VT

Route 289 to the intersection of Upper Main Street; then northeasterly along the northwestern side of the centerline of Upper Main Street to the intersection of Center Road; then easterly along the northern side of the centerline of Center Road to the intersection of Jericho Road; then southeasterly along the northeastern side of the centerline of Jericho Road to the intersection of Allen Martin Drive; then southwesterly along the southeastern side of the centerline of Allen Martin Road to the intersection of Sandhill Road; then southerly along the eastern side of Sandhill Road to the intersection of River Road; then westerly along the southern side of the centerline of River Road to where it intersects with Alder Brook; then southerly along the eastern side of Alder Brook to the boundary of the town of Williston; then easterly along the town line of Williston to the boundary of the town of Jericho; then northeasterly along the town line of Jericho to the boundary of the town of Westford; then westerly along the town line of Westford to the boundary of the town of Colchester; then southerly along the town line of Colchester to the point of beginning..... one;

(6) Chittenden-Southeast Senatorial District, composed of towns of Bolton, Charlotte, Hinesburg, Jericho, Richmond, Shelburne, South Burlington, St. George, Underhill, Williston, and that portion of the city of Burlington not included in Chittenden-Central Senatorial District..... three;

(7) ~~Essex-Orleans~~ Essex Senatorial District, composed of the towns of Albany, Averill, Avery's Gore, ~~Barton~~, Bloomfield, Brighton, ~~Brownington~~, Brunswick, Canaan, ~~Charleston~~, Concord, ~~Coventry~~, ~~Craftsbury~~, Derby, East Haven, Ferdinand, ~~Glover~~, Granby, ~~Greensboro~~, Guildhall, Holland, ~~Irasburg~~, Jay, Kirby, Lemington, Lewis, ~~Lowell~~, Lunenburg, Lyndon, Maidstone, ~~Montgomery~~, Morgan, Newport City, ~~Newport Town~~, Norton, ~~Richford~~, Troy, Victory, Warner's Grant, and Warren Gore, ~~Westfield~~, ~~Westmore~~, and ~~Woleott~~..... two one;

(6)(8) Franklin Senatorial District, composed of the towns of Alburgh, Bakersfield, Berkshire, Enosburgh, ~~Fairfax~~, Fairfield, ~~Fletcher~~, Franklin, Georgia, Highgate, ~~Richford~~, St. Albans City, St. Albans Town, Sheldon, and Swanton..... two;

(7)(9) Grand Isle Senatorial District, composed of the towns of ~~Colchester~~, Grand Isle, Isle La Motte, North Hero, and South Hero, and that portion of the town of Colchester encompassed within a boundary beginning at the point where the southern boundary line of Colchester and the northern boundary of the city of Winooski intersects with U.S. Route 7; then northerly along the western side of the centerline of U.S. Route 7 to the intersection of Hercules Drive; then easterly along the northern side of the centerline of Hercules Drive; then continue southerly along the eastern side of the centerline

of Hercules Drive to the intersection of Vermont National Guard Road; then southeasterly along the northeastern side of the centerline of Vermont National Guard Road to the intersection of Hegeman Avenue; then northeasterly along the northwestern side of the centerline of Hegeman Avenue to the intersection of Barnes Avenue; then briefly northwesterly along the southwestern side of the centerline of Barnes Avenue to the intersection of Troy Avenue; then northeasterly along the northwestern side of the centerline of Troy Avenue to where it joins Hegeman Avenue; then briefly southeasterly along the northeastern side of the centerline of Hegeman Avenue to the intersection of Vermont Avenue; then briefly easterly along the northern side of the centerline of Vermont Avenue to where it intersects with the boundary of the town of Essex; then northeasterly along the town line of Essex to the boundary of the town of Milton; then northwesterly along the town line of Milton to the boundary of the town of South Hero; then southwestly along the town line of South Hero to the state border of New York; then southerly along the state border of New York to the boundary of the city of South Burlington in Lake Champlain; then easterly along the city line of South Burlington to the boundary of the city of Burlington; then easterly along the city line of Burlington to the boundary of the city of Winooski; then northeasterly along the city line of Winooski; then continue along the city line of Winooski to the point of beginning..... one;

(8)(10) Lamoille Senatorial District, composed of the towns of Belvidere, Cambridge, Eden, Elmore, Fletcher, Hyde Park, Johnson, Morristown, Stowe, and Waterville, and Wolcott..... one;

(9)(11) Orange Senatorial District, composed of the towns of Braintree, Bradford, Brookfield, Chelsea, Corinth, Fairlee, Randolph, Strafford, Thetford, Topsham, Tunbridge, Vershire, Washington, West Fairlee, and Williamstown..... one;

(12) Orleans Senatorial District, composed of the towns of Albany, Barton, Brownington, Burke, Charleston, Coventry, Craftsbury, Glover, Greensboro, Irassburg, Jay, Lowell, Montgomery, Newport Town, Newark, Sheffield, Sutton, Troy, Westfield, and Westmore..... one;

(10)(13) Rutland Senatorial District, composed of the towns of Benson, Brandon, Castleton, Chittenden, Clarendon, Danby, Fair Haven, Hubbardton, Ira, Killington, Mendon, Middletown Springs, Mt. Holly, Mt. Tabor, Pawlet, Pittsfield, Pittsford, Poultney, Proctor, Rutland City, Rutland Town, Shrewsbury, Sudbury, Tinmouth, Wallingford, Wells, West Haven, and West Rutland..... three;

(11)(14) Washington Senatorial District, composed of the towns of Barre City, Barre Town, Berlin, Braintree, Cabot, Calais, Duxbury, East

Montpelier, Fayston, Marshfield, Middlesex, Montpelier, Moretown, Northfield, Orange, Plainfield, Roxbury, Stowe, Waitsfield, Warren, Waterbury, Woodbury, and Worcester..... three;

~~(12)~~(15) Windham Senatorial District, composed of the towns of Athens, Brattleboro, Brookline, Dover, Dummerston, Grafton, Guilford, Halifax, Jamaica, Marlboro, Newfane, Putney, Rockingham, ~~Somerset~~, ~~Stratton~~, Townshend, Vernon, Wardsboro, Westminster, Whitingham, and Windham..... two;

~~(13)~~(16) Windsor Senatorial District, composed of the towns of Andover, Baltimore, Barnard, Bethel, Bridgewater, Cavendish, Chester, Hartford, Hartland, ~~Londonderry~~, Ludlow, ~~Mt. Holly~~, Norwich, Pittsfield, Plymouth, Pomfret, Reading, ~~Rochester~~, Royalton, Sharon, Springfield, Stockbridge, Thetford, Weathersfield, Weston, West Windsor, Windsor, and Woodstock..... three.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage and shall apply to representative and senatorial districts for the 2022 election cycle and thereafter.

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

An act relating to reapportioning the final representative districts of the House of Representatives and the senatorial districts of the Senate.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

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

#### **Roll Call**

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

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

**Those Senators absent and not voting were:** Benning, Terenzini.

**Bill Amended; Third Reading Ordered****S. 148.**

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

An act relating to environmental justice in Vermont.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. FINDINGS**

The General Assembly finds that:

(1) According to American Journal of Public Health studies published in 2014 and 2018 and affirmed by decades of research, Black, Indigenous, and Persons of Color (BIPOC) and individuals with low income are disproportionately exposed to environmental hazards and unsafe housing, facing higher levels of air and water pollution, mold, lead, and pests.

(2) The cumulative impacts of environmental harms disproportionately and adversely impact the health of BIPOC and communities with low income, with climate change functioning as a threat multiplier. These disproportionate adverse impacts are exacerbated by lack of access to affordable energy, healthy food, green spaces, and other environmental benefits.

(3) Since 1994, Executive Order 12898 has required federal agencies to make achieving environmental justice part of their mission by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and populations with low incomes in the United States.

(4) According to the Centers for Disease Control and Prevention, 30 percent of Vermont towns with high town household poverty have limited access to grocery stores. In addition, a study conducted at the University of Vermont showed that in Vermont, BIPOC individuals were twice as likely to have trouble affording fresh food and to go hungry in a month than white individuals.

(5) Inadequate transportation impedes job access, narrowing the scope of jobs available to individuals with low income and potentially impacting job performance.

(6) In 2020, the Center for American Progress found that 76 percent of BIPOC individuals in Vermont live in "nature deprived" census tracts with a higher proportion of natural areas lost to human activities than the Vermont median. In contrast, 27 percent of white individuals live in these areas.

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(7) The U.S. Centers for Disease Control and Prevention states that systemic health and social inequities disproportionately increases the risk of racial and ethnic minority groups becoming infected by and dying from COVID-19.

(8) According to the Vermont Department of Health, inequities in access to and quality of health care, employment, and housing have contributed to disproportionately high rates of COVID-19 among BIPOC Vermonters.

(9) An analysis by University of Vermont researchers found that mobile homes are more likely than permanent structures to be located in a flood hazard area. During Tropical Storm Irene, mobile parks and over 561 mobile homes in Vermont were damaged or destroyed. Mobile homes make up 7.2 percent of all housing units in Vermont and were approximately 40 percent of sites affected by Tropical Storm Irene.

(10) A University of Vermont study reports that BIPOC individuals were seven times more likely to have gone without heat in the past year, over two times more likely to have trouble affording electricity, and seven times less likely to own a solar panel than white Vermonters.

(11) The U.S. Environmental Protection Agency recognized Vermont's deficiencies in addressing environmental justice concerns related to legacy mining and mobile home park habitability, providing grants for these projects in 1998 and 2005.

(12) Vermont State agencies receiving federal funds are subject to the antidiscrimination requirements of Title VI of the Civil Rights Act of 1964.

(13) In response to the documented inadequacy of state and federal environmental and land use laws to protect vulnerable communities, increasing numbers of states have adopted formal environmental justice laws and policies.

(14) At least 17 states have developed mapping tools to identify environmentally overburdened communities and environmental health disparities.

(15) The State of Vermont does not currently have a State-managed mapping tool that clearly identifies environmentally overburdened communities.

(16) The 1991 Principles of Environmental Justice adopted by The First National People of Color Environmental Leadership Summit demand the right of all individuals to participate as equal partners at every level of decision making, including needs assessment, planning, implementation, enforcement, and evaluation.

(17) Article VII of the Vermont Constitution establishes the government as a vehicle for the common benefit, protection, and security of Vermonters and not for the particular emolument or advantage of any single set of persons who are only a part of that community. This, coupled with Article I’s guarantee of equal rights to enjoying life, liberty, and safety, and Article IV’s assurance of timely justice for all, encourages political officials to identify how particular communities may be unequally burdened or receive unequal protection under the law due to race, income, or geographic location.

(18) On January 27, 2021, President Biden signed Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” that created a government-wide “Justice40 Initiative” that aims to deliver 40 percent of the overall benefits of federal investments related to climate, natural disasters, environment, clean energy, clean transportation, housing, water and wastewater infrastructure, and legacy pollution reduction to “disadvantaged communities” that have been historically marginalized and overburdened by pollution and underinvestment.

(19) According to American Community Survey data from 2016–2019, at least 51 percent of census block groups in Vermont (or 52 percent of Vermont’s population) meet the Justice40 Initiative federal guidelines of a disadvantaged community.

(20) Lack of a clear environmental justice policy has resulted in a piecemeal approach to understanding and addressing environmental justice in Vermont and creates a barrier to establishing clear definitions, metrics, and strategies to ensure meaningful engagement and more equitable distribution of environmental benefits and burdens.

(21) It is the State of Vermont’s responsibility to pursue environmental justice for its residents and to ensure that its agencies do not contribute to unfair distribution of environmental benefits to or environmental burdens on low-income, limited-English proficient, and BIPOC communities.

Sec. 2. 3 V.S.A. chapter 72 is added to read:

#### CHAPTER 72. ENVIRONMENTAL JUSTICE

##### § 6001. DEFINITIONS

As used in this chapter:

(1) “Environmental benefits” means the assets and services that enhance the capability of communities and individuals to function and flourish in society, such as access to a healthy environment and clean natural resources, including air, water, land, green spaces, constructed playgrounds, and other outdoor recreational facilities and venues; affordable clean renewable energy

sources; public transportation; fulfilling and dignified green jobs; healthy homes and buildings; health care; nutritious food; Indigenous food and cultural resources; environmental enforcement, and training and funding disbursed or administered by governmental agencies.

(2) “Environmental burdens” means any significant impact to clean air, water, and land, including any destruction, damage, or impairment of natural resources resulting from intentional or reasonably foreseeable causes. Examples of environmental burdens include climate change; air and water pollution; improper sewage disposal; improper handling of solid wastes and other noxious substances; excessive noise; activities that limit access to green spaces, nutritious food, Indigenous food or cultural resources, or constructed outdoor playgrounds and other recreational facilities and venues; inadequate remediation of pollution; reduction of groundwater levels; increased flooding or stormwater flows; home and building health hazards, including lead paint, lead plumbing, asbestos, and mold; and damage to inland waterways and waterbodies, wetlands, forests, green spaces, or constructed playgrounds or other outdoor recreational facilities and venues from private, industrial, commercial, and government operations or other activity that contaminates or alters the quality of the environment and poses a risk to public health.

(3) “Environmental justice” means all individuals are afforded equitable access to and distribution of environmental benefits; equitable distribution of environmental burdens; fair and equitable treatment and meaningful participation in decision-making processes; and the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice recognizes the particular needs of individuals of every race, color, income, class, ability status, gender identity, sexual orientation, national origin, ethnicity or ancestry, religious belief, or English language proficiency level. Environmental justice redresses structural and institutional racism, colonialism, and other systems of oppression that result in the marginalization, degradation, disinvestment, and neglect of Black, Indigenous, and Persons of Color. Environmental justice requires prioritizing resources for community revitalization, ecological restoration, resilience planning, and a just recovery to communities most impacted by environmental burdens and natural disasters.

(4) “Environmental justice population” means any census block group in which:

(A) the annual median household income is not more than 80 percent of the State median household income;

(B) Persons of Color and Indigenous Peoples comprise at least six percent or more of the population; or



(C) at least one percent or more of households have limited English proficiency.

(5) “Limited English proficiency” means that a household does not have an adult who speaks English “very well” as defined by the U.S. Census Bureau.

(6) “Meaningful participation” means that all individuals have the opportunity to participate in energy, climate change, and environmental decision making, including needs assessments, planning, implementation, permitting, compliance and enforcement, and evaluation. Meaningful participation also integrates diverse knowledge systems, histories, traditions, languages, and cultures of Indigenous communities in decision-making processes. It requires that communities are enabled and administratively assisted to participate fully through education and training. Meaningful participation requires the State to operate in a transparent manner with regard to opportunities for community input and also encourages the development of environmental, energy, and climate change stewardship.

#### § 6002. ENVIRONMENTAL JUSTICE STATE POLICY

(a) It is the policy of the State of Vermont that no segment of the population of the State should, because of its racial, cultural, or economic makeup, bear a disproportionate share of environmental burdens or be denied an equitable share of environmental benefits. It is further the policy of the State of Vermont to provide the opportunity for the meaningful participation of all individuals, with particular attention to environmental justice populations, in the development, implementation, or enforcement of any law, regulation, or policy.

(b) The following State agencies, departments, and bodies shall consider cumulative environmental burdens, as defined by rule pursuant to subsection 6003(a) of this title, and access to environmental benefits when making decisions about the environment, energy, climate, and public health projects; facilities and infrastructure; and associated funding: the Agencies of Natural Resources, of Transportation, of Commerce and Community Development, of Agriculture, Food and Markets, and of Education; the Public Utility Commission; the Natural Resources Board; and the Departments of Health, of Public Safety, and of Public Service.

(c) On or before July 1, 2025, every State agency shall create and adopt a community engagement plan that describes how the agency will engage with environmental justice populations as it evaluates new and existing activities and programs. Community engagement plans shall align with the core principles developed by the Interagency Environmental Justice Committee

pursuant to subdivision 6004(c)(3)(B) of this title and take into consideration the recommendations of the Environmental Justice Advisory Council pursuant to subdivision 6004(c)(2)(B) of this title. Each plan shall describe how the agency plans to facilitate equitable participation and support meaningful and direct involvement of environmental justice populations in compliance with Title VI of the Civil Rights Act of 1964.

(d) Every State agency shall submit annual summaries to the Environmental Justice Advisory Council established pursuant to subdivision 6004(a)(1)(A) of this title, detailing all complaints alleging environmental justice issues or Title VI violations and any agency action taken to resolve such complaints. Agencies shall consider the recommendations of the Advisory Council pursuant to subdivision 6004(c)(2)(E) of this title and substantively respond in writing if an agency chooses not to implement any of the recommendations, within 90 days after receipt of the recommendations.

(e) The Agency of Natural Resources, in consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, shall review the definition of “environmental justice population” at least every five years and recommend revisions to the General Assembly to ensure the definition achieves the Environmental Justice State Policy.

(f) On or before July 1, 2023, the Agency of Natural Resources, in consultation with the Interagency Environmental Justice Committee and the Environmental Justice Advisory Council, shall issue guidance on how the agencies, departments, and bodies listed in subsection (b) of this section shall determine which investments provide environmental benefits to environmental justice populations. A draft version of the guidance shall be released for a 60-day public comment period before being finalized.

(g)(1) On or before January 15, 2024, all agencies, departments, and bodies listed in subsection (b) of this section shall, in accordance with the Agency of Natural Resources’s guidance document developed pursuant to subsection (f) of this section, review the past three years and generate baseline spending reports that include:

(A) where investments were made, if any, and which geographic areas, at the municipal level and census block group, where practicable, received environmental benefits from those investments; and

(B) the percentage of overall environmental benefits from those investments provided to environmental justice populations.

(2) The agencies, departments, and bodies shall publicly post the baseline spending reports on their respective websites.

(h) On or before July 1, 2024, the agencies, departments, and bodies listed in subsection (b) of this section shall direct investments to environmental justice populations with a goal that at least 55 percent of the overall benefits from those investments go to environmental justice populations.

(i)(1) On or before July 1, 2025, and annually thereafter, all agencies, departments, and bodies listed in subsection (b) of this section shall issue annual spending reports that include:

(A) where investments were made and which geographic areas, at the municipal level and census block group, where practicable, received environmental benefits from those investments; and

(B) the percentage of overall environmental benefits from those investments provided to environmental justice populations.

(2) The agencies, departments, and bodies shall publicly post the annual spending reports on their respective websites.

(j) On or before December 15, 2025, the Agency of Natural Resources shall submit a report to the General Assembly describing whether the baseline spending reports completed pursuant to subsection (g) of this section indicate if any municipalities or portions of municipalities are routinely underserved with respect to environmental benefits, taking into consideration whether those areas receive, averaged across three years, a significantly lower percentage of environmental benefits from State investments as compared to other municipalities or portions of municipalities in the State. This report shall include a recommendation as to whether a statutory definition of “underserved community” and any other revisions to this chapter are necessary to best carry out the Environmental Justice State Policy.

#### § 6003. RULEMAKING

(a) On or before July 1, 2024, the Agency of Natural Resources, in consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, shall adopt rules to:

(1) define cumulative environmental burdens;

(2) implement consideration of cumulative environmental burdens within the Agency of Natural Resources; and

(3) inform how the public and the State agencies, departments, and bodies specified in subsection 6002(b) of this title implement the consideration of cumulative environmental burdens and use the environmental justice mapping tool.

(b) On or before July 1, 2025 and as appropriate thereafter, the Agencies of Natural Resources, of Transportation, of Commerce and Community Development, of Agriculture, Food and Markets, and of Education; the Public Utility Commission; the Natural Resources Board; and the Departments of Health, of Public Safety, and of Public Service, in consultation with the Environmental Justice Advisory Council, shall adopt or amend policies and procedures, plans, guidance, and rules, where applicable, to implement this chapter.

(c)(1) Prior to drafting new rules required by this chapter, agencies shall consult with the Environmental Justice Advisory Council to discuss the scope and proposed content of rules to be developed. Agencies shall also submit draft rulemaking concepts to the Advisory Council for review and comment. Any proposed rule and draft Administrative Procedure Act filing forms shall be provided to the Advisory Council not less than 45 days prior to submitting the proposed rule or rules to the Interagency Committee on Administrative Rules (ICAR).

(2) The Advisory Council shall vote and record individual members' support or objection to any proposed rule before it is submitted to ICAR. The Advisory Council shall submit the results of their vote to both ICAR and the Legislative Committee on Administrative Rules (LCAR).

§ 6004. ENVIRONMENTAL JUSTICE ADVISORY COUNCIL AND INTERAGENCY ENVIRONMENTAL JUSTICE COMMITTEE

(a) Advisory Council and Interagency Committee.

(1) There is created:

(A) the Environmental Justice Advisory Council (Advisory Council) to provide independent advice and recommendations to State agencies and the General Assembly on matters relating to environmental justice, including the integration of environmental justice principles into State programs, policies, regulations, legislation, and activities; and

(B) the Interagency Environmental Justice Committee (Interagency Committee) to guide and coordinate State agency implementation of the Environmental Justice State Policy and provide recommendations to the General Assembly for amending the definitions and protections set forth in this chapter.

(2) Appointments to the groups created in this subsection shall be made on or before December 15, 2022.

(3) Both the Advisory Council and the Interagency Committee shall consider and incorporate the Guiding Principles for a Just Transition

developed by the Just Transitions Subcommittee of the Vermont Climate Council in their work.

(b) Meetings. The Advisory Council and Interagency Committee shall each meet at least nine times per year, with at least four meetings occurring jointly.

(c) Duties.

(1) The Advisory Council and the Interagency Committee shall jointly:

(A) consider and recommend to the General Assembly, on or before December 1, 2023, amendments to the terminology, thresholds, and criteria of the definition of environmental justice populations, including whether to include populations more likely to be at higher risk for poor health outcomes in response to environmental burdens; and

(B) examine existing data and studies on environmental justice and consult with State, federal, and local agencies and affected communities regarding the impact of current statutes, regulations, and policies on the achievement of environmental justice.

(2) The Advisory Council shall:

(A) advise State agencies on environmental justice issues and on how to incorporate environmental justice into agency procedures and decision making as required under subsection 6002(b) of this title and evaluate the potential for environmental burdens or disproportionate impacts on environmental justice populations as a result of State actions and the potential for environmental benefits to environmental justice populations;

(B) advise State agencies in the development of community engagement plans;

(C) advise State agencies on the use of the environmental justice mapping tool established pursuant to section 6005 of this title and on the enhancement of meaningful participation, reduction of environmental burdens, and equitable distribution of environmental benefits;

(D) review and provide feedback to the relevant State agency, pursuant to subsection 6003(c) of this title, on any proposed rules for implementing this chapter;

(E) receive and review annual State agency summaries of complaints alleging environmental justice issues, including Title VI complaints, and suggest options or alternatives to State agencies for the resolution of systemic issues raised in or by the complaints; and

(F) have the ability to accept funds from the federal government, a political subdivision of the State, an individual, a foundation, or a corporation and may use the funds for purposes that are consistent with this chapter, including reimbursing members for their time.

(3) The Interagency Committee shall:

(A) consult with the Agency of Natural Resources in the development of the guidance document required by in subsection 6002(f) of this title on how to determine which investments provide environmental benefits to environmental justice populations; and

(B) on or before July 1, 2023, develop, in consultation with the Agency of Natural Resources and the Environmental Justice Advisory Council, a set of core principles to guide and coordinate the development of the State agency community engagement plans required under subsection 6002(c) of this title.

(d) Membership.

(1) Advisory Council. Each member of the Advisory Council shall be well informed regarding environmental justice principles and committed to achieving environmental justice in Vermont and working collaboratively with other members of the Council. To the greatest extent practicable, Advisory Council members shall represent diversity in race, ethnicity, age, gender, urban and rural areas, and different regions of the State. The Advisory Council shall consist of the following 17 members, with more than 50 percent residing in environmental justice populations:

(A) the Director of Racial Equity or designee;

(B) one representative of municipal government, appointed by the Committee on Committees;

(C) two representatives who reside in a census block group that is designated as an environmental justice population, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(D) two representatives of social justice organizations, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(E) two representatives of organizations working on food security issues, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(F) two representatives of mobile home park issues, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(G) two representatives of a State-recognized Native American Indian tribe, recommended and appointed by the Vermont Commission on Native American Affairs;

(H) two representatives of immigrant communities in Vermont, one appointed by the Committee on Committees and one appointed by the Speaker of the House;

(I) one representative of a statewide environmental organization, appointed by the Speaker of the House;

(J) the Executive Director of the Vermont Housing and Conservation Board or designee; and

(K) the Chair of the Natural Resources Conservation Council or designee.

(2) Interagency Committee. The Interagency Committee shall consist of the following 12 members:

(A) the Secretary of Administration or designee;

(B) the Secretary of Natural Resources or designee;

(C) the Secretary of Transportation or designee;

(D) the Commissioner of Housing and Community Development or designee;

(E) the Secretary of Agriculture, Food and Markets or designee;

(F) the Secretary of Education or designee;

(G) the Commissioner of Health or designee;

(H) the Director of Emergency Management or designee;

(I) the Commissioner of Public Service or designee;

(J) the Chair of Public Utility Commission or designee;

(K) the Chair of the Natural Resources Board or designee; and

(L) the Director of Racial Equity or designee.

(3) The Advisory Council and the Interagency Committee may each elect two co-chairs and may hold public hearings.

(4) After initial appointments, all appointed members of the Advisory Council shall serve six-year terms and serve until a successor is appointed. The initial terms shall be staggered so that a third of the appointed members shall serve a two-year term, another third of the appointed members shall serve a four-year term, and the remaining members shall be appointed to a six-year term.

(5) Vacancies of the Advisory Council shall be appointed in the same manner as original appointments.

(6) The Advisory Council shall have the administrative, technical, and legal assistance of the Agency of Natural Resources.

(7) Members of the Advisory Council who are neither State nor municipal employees shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. Members may accept funds from the federal government, a political subdivision of the State, or a 501(c)(3) charitable organization and may expend funds for purposes that are consistent with this chapter. Any Council member who receives funds pursuant to this subdivision shall report to the Secretary of Natural Resources and disclose the source of the funds, the amount received, and the general purpose for which they were used. The Secretary shall post this disclosure information on its website or on the Advisory Council's own website if such a website exists.

#### § 6005. ENVIRONMENTAL JUSTICE MAPPING TOOL

(a) In consultation with the Environmental Justice Advisory Council and the Interagency Environmental Justice Committee, the Agency of Natural Resources shall determine indices and criteria to be included in a State mapping tool to depict environmental justice populations and measure environmental burdens at the smallest geographic level practicable. The Agency of Natural Resources shall maintain the mapping tool.

(b) The Agency of Natural Resources may cooperate and contract with other states or private organizations when developing the mapping tool. The mapping tool may incorporate federal environmental justice mapping tools, such as EJSCREEN, as well as existing State mapping tools such as the Vermont Social Vulnerability Index.

(c) On or before January 1, 2024, the mapping tool shall be available for use by the public as well as by the State government.

#### Sec. 3. ANNUAL REPORT

Beginning on January 15, 2024, the agencies, departments, and bodies listed in 3 V.S.A. § 6002(b) shall issue and publicly post an annual report summarizing all actions taken to incorporate environmental justice into the Agency's or Department's policies or determinations, rulemaking, permit proceedings, or project review.

#### Sec. 4. APPROPRIATION; POSITIONS

(a) There is appropriated the sum of \$3,000,000.00 in fiscal year 2023 from the General Fund. This sum shall be used to carry out the requirements



of this act by hiring the staff described in subsection (b) of this section, for the cost of developing the mapping tool required in 3 V.S.A. § 6005 and the per diem payments described in 3 V.S.A. § 6004.

(b) The following positions are created for the purpose performing the environmental justice work required by this act:

(1) 10 permanent exempt positions at the Agency of Natural Resources, including two permanent exempt analysts to support the development of the mapping tool;

(2) six permanent exempt positions at the Natural Resources Board;

(3) 1.5 permanent exempt positions at the Agency of Commerce and Community Development; and

(4) 2.5 permanent exempt positions at the Department of Public Service.

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

By striking out Sec. 4, appropriation; positions, in its entirety and inserting in lieu thereof the following:

#### Sec. 4. APPROPRIATIONS

(a) There is appropriated the sum of \$500,000.00 in fiscal year 2023 from the General Fund to the Agency of Natural Resources for the cost of developing the mapping tool required in 3 V.S.A. § 6005.

(b) There is appropriated the sum of \$200,000.00 in fiscal year 2023 from the General Fund to the Agency of Natural Resources to fund two positions to assist in the development of the environmental justice policy and support the Environmental Justice Advisory Council. This shall fund an existing position in the Agency and a second position which the Agency is authorized to repurpose from an existing vacant position.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, Senator Parent moved that the bill be committed to the Committee on Government Operations, which was disagreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended? was agreed to and third reading of the bill was ordered.

### **Bill Amended; Third Reading Ordered**

#### **S. 181.**

Senator Clarkson, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to authorizing miscellaneous regulatory authority for municipal governments.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Ordinance Authority Subject to Permissive Referendum \* \* \*

Sec. 1. 24 V.S.A. § 2291 is amended to read:

#### § 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

(1) To set off portions of public highways of the municipality for sidewalks and bicycle paths and to regulate their installation and use.

\* \* \*

(4) To regulate the operation and use of vehicles of every kind including the power: to erect traffic signs and signals; to regulate the speed of vehicles subject to 23 V.S.A. chapter 13, subchapter 12; to implement traffic-calming devices, to regulate or exclude the parking of all vehicles; and to provide for waiver of the right of appearance and arraignment in court by persons charged with parking violations by payment of specified fines within a stated period of time.

\* \* \*

(6) To regulate the location, installation, maintenance, repair, and removal of utility poles, wires and conduits, water pipes or mains, storm drains, or gas mains and sewers, upon, under, or above public highways or public property of the municipality.

\* \* \*

(13) To compel the cleaning or repair of any premises that in the judgment of the legislative body is dangerous to the health or safety of the public and to establish standards for the maintenance of all premises within the municipality to protect the health and safety of the public or to prevent injury to other properties in the vicinity.

\* \* \*

(24) Upon the determination by a municipal building inspector, health officer, or fire marshal that a building within the boundaries of the town, city, or incorporated village is uninhabitable or blighted, to recover all expenses incident to the maintenance of the uninhabitable or blighted building with the expenses to constitute a lien on the property in the same manner and to the same extent as taxes assessed on the grand list, and all procedures and remedies for the collection of taxes shall apply to the collection of those expenses; provided, however, that the town, city, or incorporated village has adopted rules to determine the habitability of a building, including provisions for notice in accordance with 32 V.S.A. § 5252(3) to the building's owner prior to incurring expenses and including provisions for an administrative appeals process.

\* \* \*

Sec. 2. 10 V.S.A. § 1420 is amended to read:

§ 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND  
DISPOSITION OF ABANDONED VESSELS

\* \* \*

(c) Abandonment of vessels prohibited.

(1) Civil violation. A person shall not abandon a vessel on public waters or immediately adjacent land. A person who violates this subdivision shall be subject to civil enforcement under chapters 201 and 211 of this title and, in any such enforcement action, the Secretary or municipality may obtain an order to recover costs specified in subdivision (d)(1) of this section incurred by the Agency of Natural Resources or the municipality.

\* \* \*

(d)(1)(A) Removal of abandoned vessel. Upon request from a law enforcement officer or at ~~his or her~~ the Secretary's own initiative, the Secretary shall promptly cause the removal and safe storage of a vessel that is abandoned as described in subdivision (a)(1) of this section, unless the vessel is to be removed by a federal agency. If removal is requested by a law

enforcement officer, the Secretary shall make reasonable efforts to determine if the vessel qualifies as abandoned. In addition, the Secretary shall have the authority to take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

(B) A municipality shall have the authority granted to the Secretary in subdivision (A) of this subdivision (d)(1) and may remove a damaged and leaking vessel from public waters, provided that:

(i) the municipality reports the presence of the abandoned vessel to the Secretary; and

(ii) the municipality reports the presence of the abandoned vessel to the owner of the vessel, if possible.

(C) A municipality shall have the authority to issue civil penalties and impound a vessel when exercising the authority granted pursuant to subdivision (B) of this subdivision (d)(1).

\* \* \*

\* \* \* Municipal Authority Subject to Voter Approval \* \* \*

Sec. 3. 17 V.S.A. § 2645a is added to read:

§ 2645a. CHARTERED MUNICIPALITIES; VOTE TO SUSPEND  
CHARTER AUTHORITY AND RELY ON GENERAL  
MUNICIPAL LAW

(a) A municipality may propose to suspend for 3 years specific authority granted in the municipality's charter and instead use later-enacted general municipal authority granted to all Vermont municipalities by the General Assembly, provided that the proposal is approved by the voters at any annual or special meeting warned for that purpose.

(b) The proposal may be made by the legislative body of the municipality or by petition of five percent of the voters of the municipality. The proposal shall specifically identify and contain the later-enacted general law that the municipality proposes to use in lieu of the charter provision.

(c) If the proposal is approved by a majority of voters at an annual or special meeting warned for that purpose, then the municipal clerk shall certify the results of the vote to the House and Senate Committees on Government Operations.

(d) Annually on or before November 15, the Office of Legislative Counsel shall prepare a list of the charter provisions that are subject to a repeal review pursuant to this section.

Sec. 4. 17 V.S.A. § 2646a is added to read:

§ 2646a. TOWN OFFICERS; TOWN VOTE TO ALLOW ELECTION OF  
NONRESIDENTS

(a)(1) Notwithstanding section 2646 of this subchapter, a municipality may propose to allow nonresidents to be elected or appointed town officers, except for members of the legislative body of the municipality. For all of the municipality's boards, commissions, and other public bodies, the majority of the members of the municipal bodies shall be residents of the municipality.

(2) The proposal must be approved by the voters at any annual or special meeting warned for that purpose.

(b) The proposal may be made by the legislative body of the municipality or by petition of five percent of the voters of the municipality. The proposal shall identify the town office that may be filled by a nonresident.

Sec. 5. 17 V.S.A. § 2651a is amended to read:

§ 2651a. CONSTABLES; APPOINTMENT; REMOVAL; ELIMINATION  
OF OFFICE

\* \* \*

(d)(1) A town may vote at an annual meeting to eliminate the office of constable.

(2) If a town votes to eliminate the office of constable, the selectboard shall appoint a town officer to discharge the constable's duties, if any, subject to 24 V.S.A. § 1936a. The town officer shall proceed in the discharge of the constable's duties in the same manner and be subject to the same liabilities as are established by law for constables.

(3) A vote to eliminate the office of constable shall remain in effect until rescinded by majority vote of the registered voters present and voting at an annual meeting warned for that purpose.

(4) The term of office of any constable in office on the date a town votes to eliminate that office shall expire on the 45th day after the vote or on the date upon which the selectboard appoints a law enforcement officer under this subsection, whichever occurs first.

Sec. 6. 17 V.S.A. § 2668 is added to read:

§ 2668. RECALL OF LOCAL OFFICIALS

(a) Any elected municipal officer may be removed from office subject to the procedure for voter-initiated petition contained in this section.

(b) A petition for a vote on the question of recalling an elected municipal officer shall be signed by not less than 25 percent of the active registered voters of the municipality and presented to the legislative body or the clerk of the municipality.

(c) When a petition is submitted in accordance with subsection (b) of this section, the legislative body shall call a special meeting within 60 days from the date of receipt of the petition or include an article in the warning for the next annual meeting of the municipality if the annual meeting falls within the 60-day period, to determine whether the voters will remove the elected municipal officer.

(d) When the petition is approved by the voters at the special or annual meeting, the elected municipal officer named in the petition shall cease to hold the office.

(e) A vacancy resulting from the recall of an elected municipal officer shall be filled pursuant to 24 V.S.A. chapter 33, subchapter 6.

(f) A recall petition shall not be brought against an individual elected municipal officer more than once within any 12-month period.

Sec. 7. 24 V.S.A. § 138 is amended to read:

§ 138. LOCAL OPTION TAXES

~~(a) Local option taxes are authorized under this section for the purpose of affording municipalities an alternative method of raising municipal revenues to facilitate the transition and reduce the dislocations in those municipalities that may be caused by reforms to the method of financing public education under the Equal Educational Opportunity Act of 1997. Accordingly:~~

~~(1) the local option taxes authorized under this section may be imposed by a municipality;~~

~~(2) a municipality opting to impose a local option tax may do so prior to July 1, 1998 to be effective beginning January 1, 1999, and anytime after December 1, 1998 a local option tax shall be effective beginning on the next tax quarter following 90 days' notice to the Department of Taxes of the imposition; and~~

~~(3) a local option tax may only be adopted by a municipality in which:~~

~~(A) the education property tax rate in 1997 was less than \$1.10 per \$100.00 of equalized education property value; or~~

~~(B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list as reported in the 1998 Annual Report of the Division of Property Valuation and Review; or~~

~~(C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year. [Repealed.]~~

(b) If the legislative body of a municipality by a majority vote recommends, the voters of a municipality may, at an annual or special meeting warned for that purpose, by a majority vote of those present and voting, assess any or all of the following:

- (1) a one percent sales tax;
- (2) a one percent meals and alcoholic beverages tax;
- (3) a one percent rooms tax.

\* \* \*

Sec. 8. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

\* \* \*

(c) In the case of an urban municipality or of a rural town where the planning commission does not serve as the board of adjustment or the development review board, members of the board of adjustment or the development review board shall be appointed by the legislative body, the number and terms of office of which shall be determined by the legislative body subject to the provisions of subsection ~~(a)~~(b) of this section. The municipal legislative body may appoint alternates to a planning commission, a board of adjustment, or a development review board for a term to be determined by the legislative body. Alternates may be assigned by the legislative body to serve on the planning commission, the board of adjustment, or the development review board in situations when one or more members of the board are disqualified or are otherwise unable to serve. Vacancies shall be filled by the legislative body for the unexpired terms and upon the expiration of such terms. Each member of a board of adjustment or a development review board may be removed for cause by the legislative body upon written charges and after public hearing. If a development review board is created, provisions of this subsection regarding removal of members of the board of adjustment shall not apply.

\* \* \*

(f) Notwithstanding subsections (b) and (c) of this section, a municipality may vote at an annual or special meeting to change the number of members that may be appointed to a board of adjustment or development review board.

(1) The proposal to change the number of members serving on a board may be brought by the legislative body or by petition of five percent of the voters of the municipality.

(2) If the number of members on a board is reduced, the legislative body shall determine which of the appointed members shall remain in office.

\* \* \* Authority of Legislative Body without Voter Approval \* \* \*

Sec. 9. 18 V.S.A. § 5361 is amended to read:

§ 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

A town may vote sums of money necessary for purchasing, holding, improving, and keeping in repair suitable grounds and other conveniences for burying the dead. The selectboard may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Sec. 10. 23 V.S.A. § 1007 is amended to read:

§ 1007. LOCAL SPEED LIMITS

(a)(1) The legislative body of a municipality may establish, on the basis of an engineering and traffic investigation, a speed limit on all or a part of any city, town, or village highway within its jurisdiction, which:

(A) is not more than 50 miles per hour; however, after considering neighborhood character, abutting land use, bicycle and pedestrian use, and physical characteristics of the highways, the legislative body of a municipality may vote to set the maximum speed limit, without an engineering and traffic investigation, at not more than 50 miles per hour nor less than 35 miles per hour, on all or a portion of unpaved town highways within its boundaries, unless otherwise posted in accordance with the provisions of this section; or

(B) is not less than ~~25~~ 15 miles per hour.

\* \* \*

Sec. 11. 24 V.S.A. § 961 is amended to read:

§ 961. VACANCY OR SUSPENSION OF OFFICER'S DUTIES

\* \* \*

(e) When a member of a municipal legislative body fails to attend within a one-year period the minimum number of meetings established by the legislative body in an annual attendance policy, the legislative body may deem the member's office vacant. The legislative body shall afford the member the opportunity to demonstrate that the absences were due to a reasonable basis established in the attendance policy. An annual attendance policy may only be established by unanimous resolution of the legislative body and shall be renewed by the legislative body annually.



Sec. 12. 18 V.S.A. § 5361 is amended to read:

§ 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

A town may vote sums of money necessary for purchasing, holding, improving, and keeping in repair suitable grounds and other conveniences for burying the dead. The selectboard may make necessary regulations concerning public burial grounds and for fencing and keeping the same in proper order.

Sec. 13. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

(a) Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

\* \* \*

(b) A municipality may adopt a bylaw that:

(1) prohibits the initiation of construction under a zoning permit unless and until all required municipal permits have been issued; or

(2) establishes an application process for a zoning or subdivision permit, under which an applicant may submit a permit application for municipal review, and the municipality may condition the issuance of a final permit upon the issuance of all other required municipal permits.

\* \* \* Emergency Provisions for the Operation of Government \* \* \*

Sec. 14. 1 V.S.A. § 312a is added to read:

§ 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

(a) As used in this section:

(1) “Affected public body” means a public body:

(A) whose regular meeting location is located in an area affected by a hazard; and

(B) that cannot meet in a designated physical meeting location due to a declared state of emergency pursuant to 20 V.S.A. chapter 1.

(2) “Hazard” means an “all-hazards” as defined in 20 V.S.A. § 2(1).

(b) Notwithstanding subdivisions 312(a)(2)(D) and (c)(2) of this title, during a declared state of emergency under 20 V.S.A. chapter 1:

(1) A quorum or more of an affected public body may attend a regular, special, or emergency meeting by electronic or other means without designating a physical meeting location where the public may attend.

(2) The members and staff of an affected public body shall not be required to be physically present at a designated meeting location.

(3) An affected public body of a municipality may post any meeting agenda or notice of a special meeting in two publicly accessible designated electronic locations in lieu of the two designated public places in the municipality, or in a combination of a designated electronic location and a designated public place.

(c) When an affected public body meets electronically under subsection (b) of this section, the affected public body shall:

(1) use technology that permits the attendance and participation of the public through electronic or other means;

(2) whenever feasible, allow the public to access the meeting by telephone; and

(3) post information that enables the public to directly access and participate in meetings electronically and shall include this information in the published agenda for each meeting.

(d) Unless unusual circumstances make it impossible for them to do so, the legislative body of each municipality and each school board shall record any meetings held pursuant to this section.

(e) An affected public body of a municipality shall continue to post notices and agendas in or near the municipal clerk's office pursuant to subdivision 312(c)(2) of this title and shall provide a copy of each notice or agenda to the newspapers of general circulation for the municipality.

Sec. 15. 32 V.S.A. § 4404 is amended to read:

§ 4404. APPEALS FROM LISTERS AS TO GRAND LIST

\* \* \*

(c)(1) The board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine such appeals until all questions and objections are heard and decided. Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board who shall report to the board within 30 days from the hearing on the appeal and before the final decision pertaining to the property is given. If, after notice, the appellant refuses to allow an inspection of the property as required under this subsection, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn. The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises,

and shall file ~~such~~ the notice with the town clerk who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of such board, by certified mail. If the board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value that will produce a tax liability equal to the tax liability for the preceding year. The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of ~~such~~ the action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of ~~such~~ the person.

(2) During a declared state of emergency under 20 V.S.A. chapter 1, a board of civil authority within a municipality affected by an all-hazards event shall not be required to physically inspect any property that is the subject of an appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, a member or members of the board shall conduct the inspection through electronic means. If the appellant does not facilitate the inspection through electronic means, then the appeal shall be deemed withdrawn.

(3) As used in this subsection, "electronic means" means the transmittal of video or photographic evidence by the appellant at the direction of the board members conducting the inspection.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine such appeals nor shall an appellant, ~~his or her~~ the appellant's servant, agent, or attorney be eligible to serve as a member of the board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

Sec. 16. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

(a) Upon appeal to the Director or the court, the hearing officer or court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in

which the appeal is taken. The hearing officer or court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States.

(b) If the hearing officer or court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the hearing officer or court shall set ~~said~~ the property in the list at a corresponding value. The findings and determinations of the hearing officer shall be made in writing and shall be available to the appellant.

(c)(1) If the appeal is taken to the Director, the hearing officer may inspect the property prior to making a determination, unless one of the parties requests an inspection, in which case the hearing officer shall inspect the property prior to making a determination. Within 10 days of the appeal being filed with the Director, the Director shall notify the property owner in writing of ~~his or her~~ the Director's option to request an inspection under this section.

(2) During a declared state of emergency under 20 V.S.A. chapter 1, a hearing officer shall not be required to physically inspect any property that is the subject of an appeal. If the appellant requests in writing that the property be inspected for purposes of the appeal, the hearing officer shall conduct the inspection through electronic means. If the appellant does not facilitate the inspection through electronic means, then the appeal shall be deemed withdrawn.

(3) As used in this subsection, "electronic means" means the transmittal of video or photographic evidence by the appellant at the direction of the hearing officer conducting the inspection.

Sec. 17. 24 V.S.A. § 5152 is added to read:

§ 5152. DISCONNECTIONS PROHIBITED; STATE OF EMERGENCY

(a) Notwithstanding this chapter or any provision of law to the contrary, a municipality; a person who is permitted as a public water system pursuant to 10 V.S.A. chapter 56 and who provides another person water as a part of the operation of that public water system; or a company engaged in the collecting, sale, and distribution of water for domestic, industrial, business, or fire protection purposes that is regulated by the Public Utility Commission under 30 V.S.A. § 203(3) shall be prohibited from disconnecting any person from services during a declared state of emergency under 20 V.S.A. chapter 1, provided that:

(1) the state of emergency is declared in response to an all-hazards event that will cause financial hardship and the inability of ratepayers to pay for water or sewer services; and

(2) the all-hazards event does not require the water or sewer service provider to disconnect services to protect the health and safety of the public.

(b)(1) A violation of subsection (a) of this section by a municipality or a person who is permitted as a public water system pursuant to 10 V.S.A. chapter 56 may be enforced by the Agency of Natural Resources pursuant to 10 V.S.A. chapter 201.

(2) A violation of subsection (a) of this section by a company engaged in the collecting, sale, and distribution of water for domestic, industrial, business, or fire protection purposes that is regulated by the Public Utility Commission under 30 V.S.A. § 203(3) may be enforced by the Public Utility Commission pursuant to 30 V.S.A. § 30.

(c) A ratepayer shall remain obligated for any amounts due to a water or sewer service provider subject to this section. The ratepayer shall have a minimum of 90 days after the end of the declared state of emergency to pay the amounts due.

Sec. 18. 20 V.S.A. § 47 is added to read:

§ 47. MUNICIPAL DEADLINES, PLANS, AND LICENSES; EXTENSION

(a) During a state of emergency declared under this chapter, a municipal corporation may:

(1) extend any statutory deadline applicable to municipal corporations, provided that the deadline does not relate to a license, permit, program, or plan issued or administered by the State or federal government; and

(2) extend or waive deadlines applicable to licenses, permits, programs, or plans that are issued by the municipal corporation.

(b) During a state of emergency declared under this chapter, any expiring license, permit, program, or plan issued by a municipal corporation that is due for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.

\* \* \* Repeal \* \* \*

Sec. 19. REPEAL

19 V.S.A. § 312 (use of town highway funds) is repealed.

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

Sec. 20. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto:

In Sec. 7, 24 V.S.A. § 138, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

~~(a) Local option taxes are authorized under this section for the purpose of affording municipalities an alternative method of raising municipal revenues to facilitate the transition and reduce the dislocations in those municipalities that may be caused by reforms to the method of financing public education under the Equal Educational Opportunity Act of 1997. Accordingly:~~

~~(1) the local option taxes authorized under this section may be imposed by a municipality;~~

~~(2) a municipality opting to impose a local option tax may do so prior to July 1, 1998 to be effective beginning January 1, 1999, and anytime after December 1, 1998 a~~ A local option tax adopted pursuant to this section shall be effective beginning on the next tax quarter following 90 days' notice to the Department of Taxes of the imposition of the tax;~~and~~

~~(3) a local option tax may only be adopted by a municipality in which:~~

~~(A) the education property tax rate in 1997 was less than \$1.10 per \$100.00 of equalized education property value; or~~

~~(B) the equalized grand list value of personal property, business machinery, inventory, and equipment is at least ten percent of the equalized education grand list as reported in the 1998 Annual Report of the Division of Property Valuation and Review; or~~

~~(C) the combined education tax rate of the municipality will increase by 20 percent or more in fiscal year 1999 or in fiscal year 2000 over the rate of the combined education property tax in the previous fiscal year.~~

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended? was agreed to and third reading of the bill was ordered.

### **Bill Amended; Third Reading Ordered**

#### **S. 195.**

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

An act relating to the certification of mental health peer support specialists.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Certification of Mental Health Peer Support Specialists \* \* \*

#### Sec. 1. FINDINGS

The General Assembly finds:

(1) The Centers for Medicare and Medicaid Services (CMS) recognizes that the experiences of peer support specialists, as part of an evidence-based model of care, can be an important component in a state's delivery of effective mental health treatment. CMS encourages states to offer comprehensive programs.

(2) Research studies have demonstrated that peer supports improve an individual's functioning, increase an individual's satisfaction, alleviate symptoms, reduce hospitalizations and hospital days, increase an individual's satisfaction with treatment, and enhance an individual's self-advocacy.

(3) Certification can encourage an increase in the number, diversity, and availability of peer support specialists.

(4) The U.S. Department of Veterans Affairs, more than 46 states, and the District of Columbia have created statewide mental health peer certification programs.

(5) Mental health peers in Vermont are currently providing individualized support, coaching facilitation, and education to individuals with mental health needs, in a variety of settings, yet no statewide scope of practice, standardized curriculum, training standards, supervision standards, or certification protocols are available.

#### Sec. 2. PROGRAM DEVELOPMENT; MENTAL HEALTH PEER SUPPORT SPECIALIST CERTIFICATION PROGRAM

(a) On or before September 1, 2022, the Department of Mental Health shall enter into an agreement with a peer-run or peer-led entity to develop a

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statewide certification program for peer support specialists in accordance with guidance issued by the Centers for Medicare and Medicaid Services for the purpose of enabling a certified mental health peer support specialist to receive Medicaid reimbursement for the individual's services. The selected peer-run or peer-led entity shall:

(1) Define the range of responsibilities, practice guidelines, and supervision standards for peer support specialists using leading practice materials and the opinions of peer experts in the field.

(2) Determine the curriculum and core competencies required for certification as a peer support specialist, including curriculum that may be offered in areas of specialization, such as veterans affairs, gender identity, sexual orientation, and any other area of specialization recognized by the certifying body. The core competencies curriculum shall include, at a minimum, training related to the following elements:

(A) peer support values and orientation, including authentic and mutual relationships;

(B) lived experience;

(C) the concepts of resilience, recovery, and wellness;

(D) self-determination;

(E) trauma-informed practice;

(F) human rights-based approach and advocacy;

(G) cultural competence;

(H) group facilitation skills, including communication, dialogue, and active listening;

(I) self-awareness and self-care;

(J) conflict resolution;

(K) professional boundaries and ethics;

(L) collaborative documentation skills and standards; and

(M) confidentiality.

(3) Establish a code of ethics for peer support specialists.

(4) Determine the process and continuing education requirements for biennial certification renewal.



(5) Determine the process for investigating complaints and taking corrective action, which may include suspension and revocation of certification.

(6) Determine a process for an individual employed as a peer support specialist on and after December 31, 2021 to obtain a certification pursuant to 18 V.S.A. chapter 199, which shall include, at a minimum, a passing certification examination specifically created for this purpose.

(b) In developing a statewide certification program for peer support specialists pursuant to this section, the selected peer-run or peer-led entity shall:

(1) regularly seek advice and work collaboratively with the Office of Professional Regulation and the Departments of Mental Health and of Vermont Health Access; and

(2) seek feedback and recommendations from mental health peer-run and family organizations, hospitals, and mental health treatment providers and organizations by convening not fewer than four stakeholder meetings.

(c) As used in this section:

(1) “Certification,” “core competencies,” “peer-led,” “peer-run,” “peer support,” and “peer support specialist” have the same meaning as in 18 V.S.A. chapter 199.

(2) “Collaborative documentation” means a model in which peer support specialists and recipients of peer support services collaborate in periodically creating intake and assessment summaries, service plans, progress notes, or tallies of services rendered, or any combination of these tasks. Collaborative documentation may be completed at weekly or monthly intervals rather than at every encounter.

Sec. 3. 18 V.S.A. chapter 199 is added to read:

#### CHAPTER 199. PEER SUPPORT SPECIALISTS

##### § 8501. PURPOSE

It is the intent of the General Assembly that the peer support specialist certification program established in this chapter achieve the following:

(1) support the ongoing provision of services by certified peer support specialists for individuals experiencing a mental health challenge or for caregivers parenting children, youth, or emerging adults who are experiencing a mental health challenge;

(2) support coaching, skill building, and fostering social connections among individuals experiencing a mental health challenge or caregivers parenting children, youth, or emerging adults who are experiencing a mental health challenge;

(3) provide one part in a continuum of services, in conjunction with other community mental health and recovery services;

(4) collaborate with others providing care or support to an individual experiencing a mental health challenge;

(5) assist individuals experiencing a mental health challenge in developing coping mechanisms and problem-solving skills;

(6) promote skill building for individuals with regard to socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, and maintenance of skills learned in other support services; and

(7) encourage employment of peer support specialists.

#### § 8502. DEFINITIONS

As used in this chapter:

(1) “Certification” means the activities of the certifying body related to the verification that an individual has met all the requirements under this chapter and that the individual may provide mental health support pursuant to this chapter, including the subspecialty of family-to-family peer support.

(2) “Certified” means all federal and State requirements have been satisfied by an individual who is seeking designation pursuant to this chapter, including completion of curriculum and training requirements, testing, and agreement to uphold and abide by the code of ethics.

(3) “Code of ethics” means the standards to which a peer support specialist is required to adhere.

(4) “Core competencies” means the foundational and essential knowledge, skills, and abilities required for peer support specialists.

(5) “Department” means the Department of Mental Health.

(6) “Peer-led” means an entity, program, or service whose executive director, chief operating officer, or the individual responsible for the day-to-day service identifies publicly as a person with lived experience of mental health challenges and the entity, program, or service operates as an alternative to traditional mental health services and treatment.

(7) “Peer-run” means an entity, program, or service that is controlled and operated by individuals with lived experience of the mental health system or a mental health condition.

(8) “Peer support” means an approach to relationships that recognizes each individual as the expert of their own experience, fosters connection through shared or similar experiences, centers mutuality and mutual support, preserves autonomy, and creates opportunity for meaningful connections and exploring possibilities.

(9) “Peer support specialist” means an individual who is at least 18 years of age and who self-identifies as having lived experience with the process of recovery from a mental health challenge or an individual with lived experience of parenting a child, youth, or emerging adult who is experiencing a mental health challenge.

(10) “Recovery” means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential. This process of change honors the different routes to recovery based on the individual.

#### § 8503. PEER SUPPORT SPECIALIST CERTIFICATION

(a) Eligibility determination and training. The Department shall maintain an agreement with a peer-run or peer-led entity to:

(1) determine the eligibility of each prospective peer support specialist seeking certification under this chapter; and

(2) train eligible applicants consistent with the curriculum and core competencies developed by an entity selected by the Department.

(b) Certification. The Department shall maintain an agreement with a peer-run or peer-led entity to serve as the certifying entity for peer support specialists. This peer-run or peer-led entity shall:

(1) determine whether an applicant has met the requirements for certification established by an entity selected by the Department through the administration of an examination;

(2) adhere to the processes for certification, recertification, certification revocation, and appeals as established by an entity selected by the Department; and

(3) maintain a public-facing website that includes, at a minimum, a roster of certified peer support specialists and the procedure for filing a complaint against a certified peer support specialist.

(c) Exemption. Individuals providing peer support services as employees or volunteers of a peer-run or peer-led organization shall not be required to obtain peer support specialist certification.

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§ 8504. APPLICANTS FOR CERTIFICATION

(a) An applicant for certification pursuant to this chapter shall:

- (1) be at least 18 years of age;
- (2) be self-identified as having first-hand experience with the process of recovery from mental illness or be the family member of such an individual;
- (3) be willing to share personal experiences;
- (4) agree, in writing, to the code of ethics developed pursuant to section 8502 of this title;
- (5) successfully complete the curriculum and training requirements for peer support specialists; and
- (6) pass a certification examination approved by the certifying body for peer support specialists.

(b) To maintain certification pursuant to this act, a peer support specialist shall:

- (1) adhere to the code of ethics developed pursuant to section 8502 of this title and sign a biennial affirmation to that effect; and
- (2) complete any required continuing education, training, and recertification requirements developed by the certifying body.

§ 8505. CERTIFICATION FEE SCHEDULE

Any fees required for the administration of the peer support specialist certification program set forth in this chapter shall be requested pursuant to the process set forth in 32 V.S.A. chapter 7, subchapter 6.

Sec. 4. MEDICAID; STATE PLAN AMENDMENT

(a) The Agency of Human Services shall seek approval from the Centers for Medicare and Medicaid Services to amend Vermont's Medicaid state plan to do the following:

- (1) include a certified peer support specialist pursuant to 18 V.S.A. chapter 199 as a provider type;
- (2) include peer support specialist services as a Medicaid covered service;
- (3) allow beneficiaries to self-refer for peer support specialist services;
- (4) allow for collaborative documentation of peer support specialist services; and

(5) allow reimbursement for peer support specialist services for a range of Healthcare Common Procedure Coding System codes.

(b) As used in this section:

(1) “Collaborative documentation” means a model in which peer support specialists and recipients of peer support services collaborate in periodically creating intake and assessment summaries, service plans, progress notes, or tallies of services rendered, or any combination of these tasks. Collaborative documentation may be completed at weekly or monthly intervals rather than at every encounter.

(2) “Peer support specialist services” means services provided by a peer support specialist as defined in 18 V.S.A. chapter 199 that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services.

Sec. 5. 33 V.S.A. § 1901k is added to read:

§ 1901k. MEDICAID REIMBURSEMENT FOR PEER SUPPORT  
SPECIALIST SERVICES

(a) As used in this section, “peer support specialist services” means services provided by a peer support specialist as defined in 18 V.S.A. chapter 199 that promote engagement, socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, identification of strengths, and maintenance of skills learned in other support services.

(b) The Department of Vermont Health Access shall reimburse peer support specialists in accordance with Vermont’s Medicaid state plan.

Sec. 6. APPROPRIATION

In fiscal year 2023, \$525,000.00 is appropriated to the Agency of Human Services from the General Fund for the development and operation of the peer support specialist certification program pursuant to 18 V.S.A. chapter 199. The Agency shall seek to maximize federal financial participation in funding these administrative costs.

\* \* \* Peer-Operated Respite Centers \* \* \*

Sec. 7. FINDINGS

The General Assembly finds:

(1) Peer-operated respite centers can serve as alternative care settings for patients with psychiatric diagnoses who do not require inpatient admission.

(2) Peer-operated respite centers can serve as a step-down alternative for individuals leaving the hospital who no longer need hospital care but are not yet ready to return home. Currently, many patients seeking mental health treatment are unable to leave the hospital because there are not suitable step-down facilities available.

(3) In control group research studies, guests of peer-operated respite centers were 70 percent less likely to use inpatient or emergency services. Respite days were associated with significantly fewer inpatient or emergency service hours. Respite guests showed statistically significant improvements in healing, empowerment, and satisfaction. Average psychiatric hospital costs were \$1,075.00 for respite users compared to \$3,187.00 for nonusers. Respite guests also experienced greater improvements in self-esteem, self-rated mental health symptoms, and social activity functioning compared to individuals in inpatient facilities.

(4) Vermont currently has one two-bed peer-operated respite center, named Alyssum. Located in Rochester, Alyssum operated at 93 percent capacity in fiscal year 2018, had five-day wait times for a bed, and drew guests from every Vermont county save Essex, Lamoille, and Grand Isle. In contrast, crisis respites run by designated agencies operated at 75 percent capacity in fiscal year 2018, below the Department of Mental Health's targeted 80 percent occupancy rate.

(5) Peer-operated respite centers are also more cost-effective than alternatives. A peer-operated respite center bed in 2018 cost \$634.00 per night, whereas a designated crisis bed cost \$693.00 per night, a designated hospital bed cost \$1,425.00 per night, and a bed at the Vermont Psychiatric Care Hospital cost \$2,537.00 per night.

(6) Use of peer-operated respite centers results in lowered rates of Medicaid-funded hospitalizations and health expenditures for participants.

(7) There are currently two peer-run community centers in Vermont: Another Way, located in Montpelier, and Pathways Community Center, located in Burlington. In fiscal year 2018, Another Way had 8,481 visitors (616 unique visitors) and Pathways Community Center had 3,616 visitors.

Sec. 8. 18 V.S.A. chapter 200 is added to read:

#### CHAPTER 200. PEER-OPERATED RESPITE CENTERS

##### § 8551. LEGISLATIVE INTENT

It is the intent of the General Assembly that peer-operated respite centers established pursuant to this chapter achieve:

(1) a reduction in wait times at emergency departments for patients seeking mental health care;

(2) an increase in community-based, recovery-oriented, and geographically diverse mental health resources;

(3) an increase in employment opportunities for individuals who have experienced one or more mental health conditions; and

(4) better outcomes for Vermonters experiencing mental health conditions.

#### § 8552. DEFINITIONS

As used in this chapter:

(1) “Department” means the Department of Mental Health.

(2) “Peer” has the same meaning as in section 7101 of this title.

(3) “Peer-operated respite center” means a voluntary, short-term, overnight program that is staffed and operated by a peer-led or peer-run entity and that provides community-based, trauma-informed, and person-centered crisis support and prevention 24 hours a day in a homelike environment to individuals with mental conditions who are experiencing acute distress, anxiety, or emotional pain that if left unaddressed may lead to the need for inpatient hospital services.

(4) “Peer-led” has the same meaning as in section 8502 of this title.

(5) “Peer-run” has the same meaning as in section 8502 of this title.

#### § 8553. PEER-OPERATED RESPITE CENTERS

(a) Annually, the Department shall distribute funds to a total of six geographically distinct peer-run or peer-led organizations to ensure that a peer-operated respite center, operating singly or in collaboration with a peer-run or peer-led community center, is established and maintained.

(b) The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 that address:

(1) the application process for peer-run or peer-led organizations seeking to maintain and operate a peer-operated respite center, operating singly or in collaboration with a peer-run or peer-led community center;

(2) the Department’s criteria for selecting successful applicants;

(3) operational standards for peer-operated respite centers; and

(4) annual reporting requirements for successful applicants.

(c) Annually on or before January 1, the Department shall submit a report to the House Committee on Health Care and to the Senate Committee on Health and Welfare summarizing the annual activities of the peer-operated respite centers, including any challenges that may be addressed through legislative action.

#### Sec. 9. APPROPRIATION

In fiscal year 2023, up to \$2,000,000.00 is appropriated from the General Fund to the Department of Mental Health for the purpose of distributing \$500,000.00 to establish and operate each of the four new peer-operated respite centers, whether operating singly or in collaboration with a peer-run or peer-led community center, established pursuant to 18 V.S.A. chapter 200.

\* \* \* Additional Peer-Operated Respite Centers Effective July 1, 2025 \* \* \*

Sec. 10. 18 V.S.A. § 8553(a) is amended to read:

(a) Annually, the Department shall distribute funds to a total of ~~six~~ nine geographically distinct peer-run or peer-led organizations to ensure that a peer-operated respite center, operating singly or in collaboration with a peer-run or peer-led community center, is established and maintained.

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

#### Sec. 11. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that:

(1) Sec. 5 (Medicaid reimbursement for peer support specialist services) shall take effect upon approval of the Medicaid state plan amendment in Sec. 4 by the Centers for Medicare and Medicaid Services; and

(2) Sec. 10 (peer-operated respite centers) shall take effect on July 1, 2025.

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

An act relating to the certification of mental health peer support specialists and the expansion of peer-operated respite centers.

And that when so amended the bill ought to pass.

Senator Pearson, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:



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

Sec. 1. FINDINGS

The General Assembly finds:

(1) The Centers for Medicare and Medicaid Services (CMS) recognizes that the experiences of peer support specialists, as part of an evidence-based model of care, can be an important component in a state's delivery of effective mental health treatment. CMS encourages states to offer comprehensive programs.

(2) Research studies have demonstrated that peer supports improve an individual's functioning, increase an individual's satisfaction, alleviate symptoms, reduce hospitalizations and hospital days, increase an individual's satisfaction with treatment, and enhance an individual's self-advocacy.

(3) Certification can encourage an increase in the number, diversity, and availability of peer support specialists.

(4) The U.S. Department of Veterans Affairs, more than 46 states, and the District of Columbia have created statewide mental health peer certification programs.

(5) Mental health peers in Vermont are currently providing individualized support, coaching facilitation, and education to individuals with mental health needs, in a variety of settings, yet no statewide scope of practice, standardized curriculum, training standards, supervision standards, or certification protocols are available.

Sec. 2. PROGRAM DEVELOPMENT; MENTAL HEALTH PEER  
SUPPORT SPECIALIST CERTIFICATION PROGRAM

(a) On or before September 1, 2022, the Department of Mental Health shall enter into an agreement with a peer-run or peer-led entity to develop a statewide certification program for peer support specialists in accordance with guidance issued by the Centers for Medicare and Medicaid Services for the purpose of enabling a certified mental health peer support specialist to receive Medicaid reimbursement for the individual's services. The selected peer-run or peer-led entity shall:

(1) Define the range of responsibilities, practice guidelines, and supervision standards for peer support specialists using leading practice materials and the opinions of peer experts in the field.

(2) Determine the curriculum and core competencies required for certification as a peer support specialist, including curriculum that may be

offered in areas of specialization, such as veterans affairs, gender identity, sexual orientation, and any other area of specialization recognized by the certifying body. The core competencies curriculum shall include, at a minimum, training related to the following elements:

(A) peer support values and orientation, including authentic and mutual relationships;

(B) lived experience;

(C) the concepts of resilience, recovery, and wellness;

(D) self-determination;

(E) trauma-informed practice;

(F) human rights-based approach and advocacy;

(G) cultural competence;

(H) group facilitation skills, including communication, dialogue, and active listening;

(I) self-awareness and self-care;

(J) conflict resolution;

(K) professional boundaries and ethics;

(L) collaborative documentation skills and standards; and

(M) confidentiality.

(3) Establish a code of ethics for peer support specialists.

(4) Determine the process and continuing education requirements for biennial certification renewal.

(5) Determine the process for investigating complaints and taking corrective action, which may include suspension and revocation of certification.

(6) Determine a process for an individual employed as a peer support specialist on and after December 31, 2021 to obtain a certification pursuant to 18 V.S.A. chapter 199, which shall include, at a minimum, a passing certification examination specifically created for this purpose.

(b) In developing a statewide certification program for peer support specialists pursuant to this section, the selected peer-run or peer-led entity shall:

(1) regularly seek advice and work collaboratively with the Office of Professional Regulation and the Departments of Mental Health and of Vermont Health Access; and

(2) seek feedback and recommendations from mental health peer-run and family organizations, hospitals, and mental health treatment providers and organizations by convening not fewer than four stakeholder meetings.

(c) As used in this section:

(1) “Certification,” “core competencies,” “peer-led,” “peer-run,” “peer support,” and “peer support specialist” have the same meaning as in 18 V.S.A. chapter 199.

(2) “Collaborative documentation” means a model in which peer support specialists and recipients of peer support services collaborate in periodically creating intake and assessment summaries, service plans, progress notes, or tallies of services rendered, or any combination of these tasks. Collaborative documentation may be completed at weekly or monthly intervals rather than at every encounter.

Sec. 3. 18 V.S.A. chapter 199 is added to read:

#### CHAPTER 199. PEER SUPPORT SPECIALISTS

##### § 8501. PURPOSE

It is the intent of the General Assembly that the peer support specialist certification program established in this chapter achieve the following:

(1) support the ongoing provision of services by certified peer support specialists for individuals experiencing a mental health challenge or for caregivers parenting children, youth, or emerging adults who are experiencing a mental health challenge;

(2) support coaching, skill building, and fostering social connections among individuals experiencing a mental health challenge or caregivers parenting children, youth, or emerging adults who are experiencing a mental health challenge;

(3) provide one part in a continuum of services, in conjunction with other community mental health and recovery services;

(4) collaborate with others providing care or support to an individual experiencing a mental health challenge;

(5) assist individuals experiencing a mental health challenge in developing coping mechanisms and problem-solving skills;

(6) promote skill building for individuals with regard to socialization, recovery, self-sufficiency, self-advocacy, development of natural supports, and maintenance of skills learned in other support services; and

(7) encourage employment of peer support specialists.

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§ 8502. DEFINITIONS

As used in this chapter:

(1) “Certification” means the activities of the certifying body related to the verification that an individual has met all the requirements under this chapter and that the individual may provide mental health support pursuant to this chapter, including the subspecialty of family-to-family peer support.

(2) “Certified” means all federal and State requirements have been satisfied by an individual who is seeking designation pursuant to this chapter, including completion of curriculum and training requirements, testing, and agreement to uphold and abide by the code of ethics.

(3) “Code of ethics” means the standards to which a peer support specialist is required to adhere.

(4) “Core competencies” means the foundational and essential knowledge, skills, and abilities required for peer support specialists.

(5) “Department” means the Department of Mental Health.

(6) “Peer-led” means an entity, program, or service whose executive director, chief operating officer, or the individual responsible for the day-to-day service identifies publicly as a person with lived experience of mental health challenges and the entity, program, or service operates as an alternative to traditional mental health services and treatment.

(7) “Peer-run” means an entity, program, or service that is controlled and operated by individuals with lived experience of the mental health system or a mental health condition.

(8) “Peer support” means an approach to relationships that recognizes each individual as the expert of their own experience, fosters connection through shared or similar experiences, centers on mutuality and mutual support, preserves autonomy, and creates the opportunity for meaningful connections and exploring possibilities.

(9) “Peer support specialist” means an individual who is at least 18 years of age and who self-identifies as having lived experience with the process of recovery from a mental health challenge or an individual with lived experience of parenting a child, youth, or emerging adult who is experiencing a mental health challenge.

(10) “Recovery” means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential. This process of change honors the different routes to recovery based on the individual.

§ 8503. PEER SUPPORT SPECIALIST CERTIFICATION

(a) Eligibility determination and training. The Department shall maintain an agreement with a peer-run or peer-led entity to:

(1) determine the eligibility of each prospective peer support specialist seeking certification under this chapter; and

(2) train eligible applicants consistent with the curriculum and core competencies developed by an entity selected by the Department.

(b) Certification. The Department shall maintain an agreement with a peer-run or peer-led entity to serve as the certifying entity for peer support specialists. This peer-run or peer-led entity shall:

(1) determine whether an applicant has met the requirements for certification established by an entity selected by the Department through the administration of an examination;

(2) adhere to the processes for certification, recertification, certification revocation, and appeals as established by an entity selected by the Department; and

(3) maintain a public-facing website that includes, at a minimum, a roster of certified peer support specialists and the procedure for filing a complaint against a certified peer support specialist.

(c) Exemption. Individuals providing peer support services as employees or volunteers of a peer-run or peer-led organization shall not be required to obtain peer support specialist certification.

§ 8504. APPLICANTS FOR CERTIFICATION

(a) An applicant for certification pursuant to this chapter shall:

(1) be at least 18 years of age;

(2) be self-identified as having first-hand experience with the process of recovery from mental illness or be the family member of such an individual;

(3) be willing to share personal experiences;

(4) agree, in writing, to the code of ethics developed pursuant to section 8502 of this title;

(5) successfully complete the curriculum and training requirements for peer support specialists; and

(6) pass a certification examination approved by the certifying body for peer support specialists.

(b) To maintain certification pursuant to this act, a peer support specialist shall:

(1) adhere to the code of ethics developed pursuant to section 8502 of this title and sign a biennial affirmation to that effect; and

(2) complete any required continuing education, training, and recertification requirements developed by the certifying body.

#### § 8505. CERTIFICATION FEE SCHEDULE

Any fees required for the administration of the peer support specialist certification program set forth in this chapter shall be requested pursuant to the process set forth in 32 V.S.A. chapter 7, subchapter 6.

#### Sec. 4. PEER-OPERATED RESPITE AND COMMUNITY CENTERS; MODEL

(a) The General Assembly finds that:

(1) peer-operated respite models and community centers, such as Alyssum, located in Rochester; Another Way, located in Montpelier; and Pathways Community Center, located in Burlington, can serve as alternative care settings for patients with psychiatric diagnoses who do not require inpatient admission; and

(2) peer-operated respite models and community centers provide residential or community-based services that can result in lowered rates of Medicaid-funded hospitalizations and health expenditures for participants.

(b) To the extent that the Agency of Human Services finds the following, it shall include a funding request for peer-operated respite models and community centers in subsequent budget proposals:

(1) that additional peer-operated respite centers and community centers should be developed with State Medicaid matching funds to provide necessary program capacity; and

(2) that viable proposals with demonstrable community support are advanced and the Agency finds that these proposals will reduce other State program costs.

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended? was agreed to and third reading of the bill was ordered.

**Bill Amended; Third Reading Ordered**

**S. 239.**

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

An act relating to enrollment in Medicare supplemental insurance policies.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4080e is amended to read:

§ 4080e. MEDICARE SUPPLEMENTAL HEALTH INSURANCE  
POLICIES; COMMUNITY RATING; DISABILITY

\* \* \*

(d)(1) A health insurance company, hospital or medical service corporation, or health maintenance organization offering a Medicare supplemental insurance policy shall guarantee acceptance of an individual's application for coverage during the six-month period following the individual's 65th birthday and during an annual open enrollment period that shall coincide with the federal open enrollment period for Medicare Advantage plans. A health insurance company, hospital or medical service corporation, or health maintenance organization offering a Medicare supplemental insurance policy shall not make any premium rate distinctions or charge any additional fees or penalty amounts based on an applicant's failure to enroll in a Medicare supplemental insurance policy during the applicant's initial open enrollment period upon attaining 65 years of age.

(2) A health insurance company, hospital or medical service corporation, or health maintenance organization offering a Medicare supplemental insurance policy shall allow an enrollee to change at any time from one Medicare supplemental insurance policy to another policy offering comparable or lesser benefits.

(e) The Department of Financial Regulation shall collaborate with health insurers, advocates for older Vermonters and for other Medicare-eligible adults, and the Office of the Health Care Advocate to educate the public about the benefits and limitations of Medicare supplemental insurance policies and Medicare Advantage plans, including information to help the public understand issues relating to coverage, costs, and provider networks.

Sec. 2. MEDICARE SUPPLEMENTAL COVERAGE; MEDICARE ADVANTAGE PLANS; DEPARTMENT OF FINANCIAL REGULATION; REPORT

(a) The Department of Financial Regulation shall convene a group of interested stakeholders, including representatives of the Community of Vermont Elders, the area agencies on aging, and the Office of the Health Care Advocate, to consider issues relating to the availability of, enrollment in, and use of supplemental coverage by individuals enrolled in Medicare or a Medicare Advantage plan. A majority of the stakeholders shall not have a financial stake in any Medicare supplemental coverage or Medicare Advantage product.

(b) The stakeholder group shall examine:

(1) the options available to older Vermonters, Vermonters under 65 years of age with end stage renal disease, and Vermonters under 65 years of age whose disabilities make them eligible for Medicare, through Medicare supplement and Medicare Advantage plans, the affordability of these options, and the extent to which the State may regulate or otherwise affect the options offered to Medicare beneficiaries in Vermont, including the marketing and advertising of these products;

(2) the effects of annual or continuous open enrollment periods for Medicare supplemental coverage available in other states, including whether they have led to adverse selection or higher rate increases, or both, and the extent to which an open enrollment change for Medicare supplemental coverage would be likely to increase access to affordable coverage for eligible individuals and to reduce medical debt;

(3) whether Vermont residents are receiving accurate information about Medicare supplemental coverage and Medicare Advantage plan options and sufficient assistance with selecting products that are in their best interests and, if not, how to best remedy the situation; and

(4) the reasons that some Medicare beneficiaries do not have secondary coverage and the policy options available to increase their access.

(c) On or before January 15, 2023, the Department of Financial Regulation shall provide its findings and recommendations regarding Medicare supplemental coverage and Medicare Advantage plans, including any recommendations for changes to Vermont law, to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.



## Sec. 3. EFFECTIVE DATES

(a) Sec. 1 (8 V.S.A. § 4080e) shall take effect on July 1, 2023.

(b) Sec. 2 (Medicare supplemental coverage; Medicare Advantage plans; Department of Financial Regulation; report) and this section shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Pearson, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, 8 V.S.A. § 4080e, by striking out subsection (d) in its entirety and by relettering subsection (e) to be subsection (d)

Second: In Sec. 2, Medicare supplemental coverage; Medicare Advantage Plan; Department of Financial Regulation; report, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The stakeholder group shall examine:

(1) the options available to older Vermonters, Vermonters under 65 years of age with end stage renal disease, and Vermonters under 65 years of age whose disabilities make them eligible for Medicare, through Medicare supplement and Medicare Advantage plans, the affordability of these options, and the extent to which the State may regulate or otherwise affect the options offered to Medicare beneficiaries in Vermont, including the marketing and advertising of these products;

(2) the effects of annual or continuous open enrollment periods for Medicare supplemental coverage available in other states, including whether they have led to adverse selection or higher rate increases, or both; other options for enabling Vermont residents to enroll in Medicare supplemental coverage after their initial open enrollment period ends without experiencing higher premiums or financial penalties; and the extent to which an open enrollment change for Medicare supplemental coverage would be likely to increase access to affordable coverage for eligible individuals and to reduce medical debt;

(3) whether Vermont residents are receiving accurate information about Medicare supplemental coverage and Medicare Advantage plan options and sufficient assistance with selecting products that are in their best interests and, if not, how to best remedy the situation;

(4) the reasons that some Medicare beneficiaries do not have secondary coverage and the policy options available to increase their access; and

(5) any other issues that the Department deems appropriate relating to the availability of, enrollment in, and use of supplemental coverage by individuals enrolled in Medicare or in a Medicare Advantage plan.

Third: By striking out Sec. 3, effective dates, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended? was agreed to and third reading of the bill was ordered.

**Recess**

On motion of Senator Balint the Senate recessed until the fall of the gavel.

**Called to Order**

The Senate was called to order by the President.

**Bill Passed**

**S. 220.**

Senate bill of the following title was read the third time and passed:

An act relating to State-paid deputy sheriffs.

**Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged**

**H. 722.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Balint, the rules were suspended and House bill entitled:

An act relating to final reapportionment of the House of Representatives.

Was placed on all remaining stages of its passage in concurrence with proposals of amendment forthwith.

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

Thereupon, on motion of Senator Balint, the rules were suspended and the bill was ordered messaged to the House forthwith.

### **Appointments Confirmed**

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Waples, Nancy Jear of Hinesburg - Associate Justice of the Supreme Court - March 2, 2022 to March 31, 2023.

Was confirmed by the Senate on a roll call, Yeas 27, Nays 0.

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

### **Roll Call**

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

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

**Those Senators absent and not voting were:** Benning, Sears, Terenzini.

The nomination of

Jiron, Justin Patrick of Underhill - Superior Judge - January 3, 2022 to March 31, 2023.

Was confirmed by the Senate on a roll call, Yeas 27, Nays 0.

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

### **Roll Call**

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

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

**Those Senators absent and not voting were:** Benning, Sears, Terenzini.

**Bill Amended; Bill Passed**

**S. 234.**

Senate bill entitled:

An act relating to changes to Act 250.

Was taken up.

Thereupon, pending third reading of the bill, Senators Brock, Ingalls and Starr moved to amend the bill by striking out Sec. 11, 10 V.S.A. § 6001, and its reader assistance heading in their entirety

And by renumbering the remaining sections to be numerically correct.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senators Bray, Campion, MacDonald, McCormack and Westman moved to amend the bill in Sec. 4, 10 V.S.A. § 6001, by striking out subdivision (3)(D)(IV) in its entirety.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Parent moved to amend the bill by striking out Secs. 7-10, forest blocks, and their reader assistance heading in their entirety and by renumbering the remaining sections to be numerically correct.

Thereupon, pending the question Shall the bill be amended as recommended by Senator Parent?, Senator Parent requested and was granted leave to withdraw the amendment.

Thereupon, the bill was read the third time and passed.

**Bill Passed**

**S. 287.**

Senate bill of the following title was read the third time and passed:

An act relating to improving student equity by adjusting the school funding formula and providing education quality and funding oversight.

**Message from the House No. 38**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 96.** An act relating to creating the Truth and Reconciliation Commission.

**H. 293.** An act relating to creating the State Youth Council.

**H. 410.** An act relating to the use and oversight of artificial intelligence in State government.

**H. 553.** An act relating to eligibility of domestic partners for reimbursement from the Victims Compensation Program.

**H. 661.** An act relating to licensure of mental health professionals.

**H. 718.** An act relating to approval of the dissolution of Colchester Fire District No. 1.

**H. 729.** An act relating to miscellaneous judiciary procedures.

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

**H. 737.** An act relating to setting the homestead property tax yields and the nonhomestead property tax rate.

**H. 738.** An act relating to technical and administrative changes to Vermont's tax laws.

In the passage of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 122.** House concurrent resolution congratulating the 2022 Blue Mountain Union School Bucks Division IV championship boys' basketball team.

**H.C.R. 123.** House concurrent resolution congratulating the 2022 Champlain Valley Union High School Redhawks State championship girls' Alpine skiing team.

**H.C.R. 124.** House concurrent resolution congratulating Anna Chandler of Orange on her centennial birthday.

**H.C.R. 125.** House concurrent resolution honoring Gill Coates for a half century of exemplary community leadership in Hinesburg.

**H.C.R. 126.** House concurrent resolution commemorating Thomas Davenport, electrical inventor.

**H.C.R. 127.** House concurrent resolution congratulating the 2022 Champlain Valley Union High School Redhawks boys' Alpine ski team on winning a second consecutive State championship.

In the adoption of which the concurrence of the Senate is requested.

### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Rep. Parsons,

By Senators Benning and Kitchel,

### **H.C.R. 122.**

House concurrent resolution congratulating the 2022 Blue Mountain Union School Bucks Division IV championship boys' basketball team.

By Reps. Yantachka and others,

### **H.C.R. 123.**

House concurrent resolution congratulating the 2022 Champlain Valley Union High School Redhawks State championship girls' Alpine skiing team.

By Reps. Lefebvre and Graham,

### **H.C.R. 124.**

House concurrent resolution congratulating Anna Chandler of Orange on her centennial birthday.

By Reps. Lippert and Yantachka,

### **H.C.R. 125.**

House concurrent resolution honoring Gill Coates for a half century of exemplary community leadership in Hinesburg.

By Reps. Jerome and others,

### **H.C.R. 126.**

House concurrent resolution commemorating Thomas Davenport, electrical inventor.

By Reps. Yantachka and others,

**H.C.R. 127.**

House concurrent resolution congratulating the 2022 Champlain Valley Union High School Redhawks boys' Alpine ski team on winning a second consecutive State championship.

**Message from the Governor**

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

Madam President:

I am directed by the Governor to inform the Senate that on the twenty-fifth day of March, 2022 he approved and signed a bill originating in the Senate of the following title:

**S. 4.** An act relating to procedures involving firearms.

**Adjournment**

On motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, March 29, 2022, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 47.

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**TUESDAY, MARCH 29, 2022**

The Senate was called to order by the President *pro tempore*.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Pledge of Allegiance**

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

**Joint Senate Resolution Adopted on the Part of the Senate**

**J.R.S. 48.**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Balint,

**J.R.S. 48.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

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That when the two Houses adjourn on Friday, April 1, 2022, it be to meet again no later than Tuesday, April 5, 2022.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 96.**

An act relating to creating the Truth and Reconciliation Commission.

To the Committee on Government Operations.

**H. 293.**

An act relating to creating the State Youth Council.

To the Committee on Government Operations.

**H. 410.**

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

To the Committee on Government Operations.

**H. 553.**

An act relating to eligibility of domestic partners for reimbursement from the Victims Compensation Program.

To the Committee on Judiciary.

**H. 661.**

An act relating to licensure of mental health professionals.

To the Committee on Government Operations.

**Bill Referred**

House bill of the following title was read the first time:

**H. 718.** An act relating to approval of the dissolution of Colchester Fire District No. 1.

And pursuant to Temporary Rule 44A was referred to the Committee on Rules.

**Bills Referred**

House bills of the following titles were severally read the first time and referred:



**H. 729.**

An act relating to miscellaneous judiciary procedures.

To the Committee on Judiciary.

**H. 730.**

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

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

**H. 737.**

An act relating to setting the homestead property tax yields and the nonhomestead property tax rate.

To the Committee on Finance.

**Bill Referred**

House bill of the following title was read the first time:

**H. 738.** An act relating to technical and administrative changes to Vermont's tax laws.

And pursuant to Temporary Rule 44A was referred to the Committee on Rules.

**Bill Passed****S. 148.**

Senate bill of the following title:

An act relating to environmental justice in Vermont.

Was read the third time and passed on a roll call, Yeas 28, Nays 1

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

**Roll Call**

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

**The Senator who voted in the negative was:** Ingalls.

**The Senator absent or not voting was:** Balint (presiding).

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**Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 195.** An act relating to the certification of mental health peer support specialists.

**S. 239.** An act relating to enrollment in Medicare supplemental insurance policies.

**Bill Amended; Third Reading Ordered****S. 281.**

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

An act relating to hunting coyotes with dogs.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. §§ 5008 and 5009 are added to read:

§ 5008. HUNTING COYOTE WITH AID OF DOGS; PERMIT

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

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

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

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

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

(2) The application fee for a nonresident permit issued under this section shall be \$10.00, and the fee for a nonresident permit issued under this section shall be \$200.00 for a successful applicant.

§ 5009. PURSUING COYOTE WITH AID OF DOGS; LANDOWNER PERMISSION

(a) A person shall not release a dog onto land posted in accordance with section 5201 of this title for the purpose of pursuing coyote with the aid of dogs unless the dog owner or handler of the hunting dog has obtained a courtesy permission card from the landowner or landowner's agent allowing the pursuit of coyote with the aid of dogs on the land.

(b) A person shall not release onto land a dog for the purpose of pursuing coyote with the aid of dogs if in the previous 365 days a dog had been previously found on the land, and the dog owner, a handler of the dog, or a person participating in the hunt has been personally informed by law enforcement that hunting dogs are not permitted on the property.

(c)(1) For a first offense, a person who violates this section shall have committed a minor fish and wildlife violation and shall be assessed a five-point violation under subdivision 4502(b)(1) of this title.

(2) For a second or subsequent violation of this section, a person shall be assessed a 10-point violation under subdivision 4502(b)(2) of this title and shall be fined under section 4515 of this title.

Sec. 2. MORATORIUM ON HUNTING COYOTE WITH AID OF DOGS

(a) A person shall not pursue coyote with the aid of dogs, either for the training of dogs or for the taking of coyote, except that a person may pursue coyote with the aid of dogs in defense of a person or property if the person pursuing coyote with the aid of dogs:

(1) is the landowner; or

(2) has obtained a courtesy permission card from the landowner or landowner's agent allowing the release of a dog onto the land for the purpose of pursuing coyote with the aid of dogs.

(b) This section shall be repealed on the effective date of the Fish and Wildlife Board rules required by Sec. 3 of this act.

Sec. 3. FISH AND WILDLIFE BOARD RULES; PURSUING COYOTE WITH THE AID OF DOGS

(a) The General Assembly through the rules required under this section intends to reduce conflicts between landowners and persons pursuing coyote with the aid of dogs by reducing the frequency that dogs or persons pursuing coyote enter onto land that is posted against hunting or land where pursuit of coyote with dogs is not authorized. In addition, the General Assembly intends that the rules required under this section support the humane taking of coyote,

the management of the population in concert with sound ecological principles, and the development of reasonable and effective means of control.

(b) The Fish and Wildlife Board shall adopt a rule regarding the pursuit of coyote with the aid of dogs, either for the training of dogs or for the taking of coyote. The rule shall include at least the following provisions:

(1) a limit on the number of dogs that may be used to pursue coyote;

(2) a prohibition on the substitution of any new dog for another dog during pursuit of a coyote;

(3) the legal method of taking coyote pursued with the aid of dogs, such as rifle, muzzle loader, crossbow, or bow and arrow;

(4) a definition of control to minimize the likelihood that dogs pursuing coyote enter onto land that is posted against hunting or onto land where pursuit of coyote with dogs is not authorized;

(5) provisions to encourage persons pursuing coyote with the aid of dogs to seek landowner permission before entering or releasing dogs onto land that is not posted in accordance with 10 V.S.A. § 5201; and

(6) required reporting of every coyote killed during pursuit with the aid of dogs.

(c) The Board shall consider whether to include within the rule required by this section provisions related to seasonal restrictions and baiting.

#### Sec. 4. EFFECTIVE DATES

(a) This section and Secs. 2 (moratorium on pursuing coyote with aid of dogs) and 3 (Fish and Wildlife Board Rules) shall take effect on passage.

(b) Sec. 1 (permit requirement and prohibition on pursuing coyote with aid of dogs) shall take effect on the effective date of the Fish and Wildlife Board rules required under Sec. 3 of this act.

And that when so amended the bill ought to pass.

Senator Bray, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

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

### **Bill Amended; Third Reading Ordered**

#### **S. 285.**

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

An act relating to expanding the Blueprint for Health and access to home- and community-based services.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Payment and Delivery System Reform \* \* \*

Sec. 1. HOSPITAL VALUE-BASED PAYMENT DESIGN; DATA COLLECTION AND ANALYSIS; APPROPRIATIONS; REPORT

(a) The sum of \$1,400,000.00 is appropriated from the General Fund to the Green Mountain Care Board in fiscal year 2023 to engage one or more consultants to assist the Board to:

(1) develop a process, consistent with 18 V.S.A. § 9375(b)(1) and including the meaningful participation of health care providers, payers, and other stakeholders in all stages of the development, for establishing and distributing value-based payments, including global payments, from all payers to Vermont hospitals that will:

(A) help move the hospitals away from a fee-for-service model;

(B) provide hospitals with predictable, sustainable funding that is aligned across multiple payers, consistent with the principles set forth in 18 V.S.A. § 9371, and sufficient to enable the hospitals to deliver high-quality, affordable health care services to patients; and

(C) take into consideration the necessary costs and operating expenses of providing services and not be based on historical charges;

(2) determine how best to incorporate value-based payments, including hospital global payments, into the Board's hospital budget review, accountable care organization certification and budget review, and other regulatory processes, including assessing the impacts of regulatory processes on the financial sustainability of Vermont hospitals and identifying potential opportunities to use regulatory processes to improve hospitals' financial health; and

(3) recommend a methodology for determining the allowable rate of growth in Vermont hospital budgets, which may include the use of national and regional indicators of growth in the health care economy and other appropriate benchmarks, such as the Hospital Producer Price Index, Medical Consumer Price Index, bond-rating metrics, and labor cost indicators.

(b)(1) On or before November 1, 2022, the Green Mountain Care Board shall provide an update on its use of the funds appropriated in this section to the Health Reform Oversight Committee.

(2) On or before January 15, 2023, the Green Mountain Care Board shall report on its use of the funds appropriated in this section to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 2. HEALTH CARE DELIVERY SYSTEM TRANSFORMATION;  
COMMUNITY ENGAGEMENT; APPROPRIATIONS; REPORT

(a) The sum of \$2,500,000.00 is appropriated from the General Fund to the Green Mountain Care Board in fiscal year 2023 to engage one or more consultants with expertise in community engagement, preferably with experience in working with a diverse, rural population, and one or more consultants with expertise in health system design to assist the Board, in consultation with the Director of Health Care Reform in the Agency of Human Services, to build on successful health care delivery system reform efforts by:

(1) facilitating a patient-focused, community-inclusive plan for Vermont's health care delivery system to reduce inefficiencies, lower costs, improve population health outcomes, and increase access to essential services, including both providing the analytics to support delivery system transformation and leading the broad-based community engagement process; and

(2) providing support and technical assistance to hospitals and communities to facilitate planning for delivery system reform and transformation initiatives.

(b) The community engagement process shall:

(1) include hearing from and sharing information, trends, and insights with communities about the current state of the health care providers in their hospital service area, unmet health care needs in their community, and opportunities to address those needs; and

(2) provide opportunities at all stages of the process for meaningful participation by employers; consumers; health care professionals and health care providers, including those providing primary care services; Vermonters who have direct experience with all aspects of Vermont's health care system; and Vermonters who are diverse with respect to race, income, age, and disability status.

(c) The Green Mountain Care Board shall use a portion of the funds appropriated in subsection (a) of this section to contract with a current or recently retired primary care provider to assist the Board in assessing and strengthening the role of primary care in its regulatory processes and to inform the Board's efforts in payment reform and delivery system transformation from a primary care perspective.

(d)(1) In developing a plan for delivery system transformation pursuant to this section, the Green Mountain Care Board and the Director of Health Care Reform in the Agency of Human Services shall consider the capacity of Vermont’s community-based health care and social service providers to effectively implement the plan as it relates to community providers while providing the appropriate level of services to consumers.

(2) For purposes of this section, “community-based health care and social service providers” includes federally qualified health centers, designated and specialized service agencies, home health agencies, area agencies on aging, adult day providers, residential care homes, nursing homes, providers of services addressing homelessness, and community action agencies.

(e)(1) On or before November 1, 2022, the Green Mountain Care Board shall provide an update on its use of the funds appropriated in this section to the Health Reform Oversight Committee.

(2) On or before January 15, 2023, the Green Mountain Care Board shall report on its use of the funds appropriated in this section to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 3. DEVELOPMENT OF PROPOSAL FOR SUBSEQUENT  
ALL-PAYER MODEL AGREEMENT; APPROPRIATION

(a)(1) The Director of Health Care Reform in the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall design and develop a proposal for a subsequent agreement with the Centers for Medicare and Medicaid Innovation to secure Medicare’s continued participation in multi-payer alternative payment models in Vermont. The proposal shall be informed by the community- and provider-inclusive process set forth in Sec. 2 of this act and designed to reduce inefficiencies, lower costs, improve population health outcomes, and increase access to essential services.

(2) The design and development of the proposal shall include consideration of alternative payment and delivery system approaches for hospital services and community-based providers such as primary care providers, mental health providers, substance use disorder treatment providers, skilled nursing facilities, home health agencies, and providers of long-term services and supports.

(3)(A) The alternative payment models to be explored shall include, at a minimum:

(i) global payments for hospitals;

(ii) geographically or regionally based global budgets for health care services;

(iii) existing federal value-based payment models; and

(iv) broader total cost of care and risk-sharing models to address patient migration patterns across systems of care.

(B) The alternative payment models shall:

(i) include appropriate mechanisms to convert fee-for-service reimbursements to predictable payments for multiple provider types, including those described in subdivision (2) of this subsection (a);

(ii) include a process to ensure reasonable and adequate rates of payment and a reasonable and predictable schedule for rate updates; and

(iii) meaningfully impact health equity and address inequities in terms of access, quality, and health outcomes.

(b) To support the design and development of a proposed agreement with the Centers for Medicare and Medicaid Innovation for Medicare's participation in multi-payer initiatives, which may include engaging consulting and analytic support, the following sums are appropriated from the General Fund in fiscal year 2023:

(1) \$550,000.00 to the Agency of Human Services; and

(2) \$550,000.00 to the Green Mountain Care Board.

#### Sec. 4. HEALTH INFORMATION EXCHANGE STEERING COMMITTEE; DATA STRATEGY

The Health Information Exchange (HIE) Steering Committee shall continue its work to create one health record for each person that integrates data types to include health care claims data; clinical, mental health, and substance use disorder services data; and social determinants of health data. In furtherance of these goals, the HIE Steering Committee shall include a data integration strategy in its 2023 HIE Strategic Plan to merge and consolidate claims data in the Vermont Health Care Uniform Reporting and Evaluation System (VHCURES) with the clinical data in the HIE.

Sec. 5. 18 V.S.A. § 9410 is amended to read:

#### § 9410. HEALTH CARE DATABASE

(a)(1) The Board shall establish and maintain a unified health care database to enable the Board to carry out its duties under this chapter, chapter 220 of this title, and Title 8, including:



- (A) determining the capacity and distribution of existing resources;
- (B) identifying health care needs and informing health care policy;
- (C) evaluating the effectiveness of intervention programs on improving patient outcomes;
- (D) comparing costs between various treatment settings and approaches;
- (E) providing information to consumers and purchasers of health care; and
- (F) improving the quality and affordability of patient health care and health care coverage.

(2) [Repealed.]

(b) The database shall contain unique patient and provider identifiers and a uniform coding system, and shall reflect all health care utilization, costs, and resources in this State, and health care utilization and costs for services provided to Vermont residents in another state.

\* \* \*

~~(e) Records or information protected by the provisions of the physician-patient privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential, shall be filed in a manner that does not disclose the identity of the protected person. [Repealed.]~~

(f) The Board shall adopt a confidentiality code to ensure that information obtained under this section is handled in an ethical manner.

\* \* \*

(h)(1) All health insurers shall electronically provide to the Board in accordance with standards and procedures adopted by the Board by rule:

(A) their health insurance claims data, provided that the Board may exempt from all or a portion of the filing requirements of this subsection data reflecting utilization and costs for services provided in this State to residents of other states;

(B) cross-matched claims data on requested members, subscribers, or policyholders; and

(C) member, subscriber, or policyholder information necessary to determine ~~third party~~ third-party liability for benefits provided.

(2) The collection, storage, and release of health care data and statistical information that are subject to the federal requirements of the Health Insurance

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Portability and Accountability Act (HIPAA) shall be governed exclusively by the regulations adopted thereunder in 45 C.F.R. Parts 160 and 164.

\* \* \*

(3)(A) The Board shall collaborate with the Agency of Human Services and participants in the Agency's initiatives in the development of a comprehensive health care information system. The collaboration is intended to address the formulation of a description of the data sets that will be included in the comprehensive health care information system, the criteria and procedures for the development of limited-use data sets, the criteria and procedures to ensure that HIPAA compliant limited-use data sets are accessible, and a proposed time frame for the creation of a comprehensive health care information system.

(B) To the extent allowed by HIPAA, the data shall be available as a resource for insurers, employers, providers, purchasers of health care, and State agencies to continuously review health care utilization, expenditures, and performance in Vermont. In presenting data for public access, comparative considerations shall be made regarding geography, demographics, general economic factors, and institutional size.

(C) Consistent with the dictates of HIPAA, and subject to such terms and conditions as the Board may prescribe by rule, the Vermont Program for Quality in Health Care shall have access to the unified health care database for use in improving the quality of health care services in Vermont. In using the database, the Vermont Program for Quality in Health Care shall agree to abide by the rules and procedures established by the Board for access to the data. The Board's rules may limit access to the database to limited-use sets of data as necessary to carry out the purposes of this section.

(D) Notwithstanding HIPAA or any other provision of law, the comprehensive health care information system shall not publicly disclose any data that contain direct personal identifiers. For the purposes of this section, "direct personal identifiers" include information relating to an individual that contains primary or obvious identifiers, such as the individual's name, street address, e-mail address, telephone number, and Social Security number.

\* \* \*

\* \* \* Blueprint for Health \* \* \*

Sec. 6. 18 V.S.A. § 702(d) is amended to read:

(d) The Blueprint for Health shall include the following initiatives:

\* \* \*

(8) The use of quality improvement facilitators and other means to support quality improvement activities, including using clinical and claims data to evaluate patient outcomes and promoting best practices regarding patient referrals and care distribution between primary and specialty care.

Sec. 7. BLUEPRINT FOR HEALTH; COMMUNITY HEALTH TEAMS;  
QUALITY IMPROVEMENT FACILITATORS; REPORT

On or before September 1, 2022, the Director of Health Care Reform in the Agency of Human Services shall recommend to the Health Reform Oversight Committee the amounts by which health insurers and Vermont Medicaid should increase the amount of the per-person, per month payments they make toward the shared costs of operating the Blueprint for Health community health teams and quality improvement facilitators in furtherance of the goal of providing additional resources necessary for delivery of comprehensive primary care services to Vermonters and to sustain access to primary care services in Vermont. Such increases shall be reflected in health insurers' plan year 2024 rate filings if the increases cannot be implemented in a rate-neutral manner. The Agency shall also provide an estimate of the State funding that would be needed to support the increase for Medicaid, both with and without federal financial participation.

\* \* \* Options for Extending Moderate Needs Supports \* \* \*

Sec. 8. OPTIONS FOR EXTENDING MODERATE NEEDS SUPPORTS;  
WORKING GROUP; GLOBAL COMMITMENT WAIVER;  
REPORT

(a) The Department of Disabilities, Aging, and Independent Living shall convene a working group comprising representatives of older Vermonters, home- and community-based service providers, the Office of the Long-Term Care Ombudsman, the Agency of Human Services, and other interested stakeholders to consider extending access to long-term home- and community-based services and supports to a broader cohort of Vermonters who would benefit from them, and their family caregivers, including:

(1) the types of services, such as those addressing activities of daily living, falls prevention, social isolation, medication management, and case management that many older Vermonters need but for which many older Vermonters may not be financially eligible or that are not covered under many standard health insurance plans;

(2) the most promising opportunities to extend supports to additional Vermonters, such as expanding the use of flexible funding options that enable beneficiaries and their families to manage their own services and caregivers within a defined budget and allowing case management to be provided to

beneficiaries who do not require other services;

(3) how to set clinical and financial eligibility criteria for the extended supports, including ways to avoid requiring applicants to spend down their assets in order to qualify;

(4) how to fund the extended supports, including identifying the options with the greatest potential for federal financial participation;

(5) how to proactively identify Vermonters across all payers who have the greatest need for extended supports;

(6) how best to support family caregivers, such as through training, respite, home modifications, payments for services, and other methods; and

(7) the feasibility of extending access to long-term home- and community-based services and supports and the impact on existing services.

(b) The working group shall also make recommendations regarding changes to service delivery for persons who are dually eligible for Medicaid and Medicare in order to improve care, expand options, and reduce unnecessary cost shifting and duplication.

(c) The Department shall collaborate with others in the Agency of Human Services as needed in order to incorporate the working group's recommendations on extending access to long-term home- and community-based services and supports into the Agency's proposals to and negotiations with the Centers for Medicare and Medicaid Services for the iteration of Vermont's Global Commitment to Health Section 1115 demonstration that will take effect following the expiration of the demonstration currently under negotiation.

(d) On or before January 15, 2023, the Department shall report to the House Committees on Human Services, on Health Care, and on Appropriations and the Senate Committees on Health and Welfare and on Appropriations regarding the working group's findings and recommendations, including its recommendations regarding service delivery for dually eligible individuals, and an estimate of any funding that would be needed to implement the working group's recommendations.

\* \* \* Summaries of Green Mountain Care Board Reports \* \* \*

Sec. 9. 18 V.S.A. § 9375 is amended to read:

§ 9375. DUTIES

\* \* \*

(e) The Board shall summarize and synthesize the key findings and recommendations from reports prepared by and for the Board, including its expenditure analyses and focused studies. All reports and summaries prepared by the Board shall be available to and understandable by the public and shall be posted on the Board's website.

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

#### Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

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

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

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, hospital value-based payment design; data collection and analysis; appropriations; report, by striking out the lead-in language in subsection (a) and inserting in lieu thereof the following:

(a) It is the intent of the General Assembly that, to the extent funds are allocated for this purpose, the Green Mountain Care Board shall:

Second: In Sec. 1, hospital value-based payment design; data collection and analysis; appropriations; report, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1) On or before November 1, 2022, the Green Mountain Care Board shall provide an update on its progress in completing the responsibilities set forth in subsection (a) of this section to the Health Reform Oversight Committee.

(2) On or before January 15, 2023, the Green Mountain Care Board shall report on its activities pursuant to subsection (a) of this section to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Third: In Sec. 2, health care delivery system transformation; community engagement; appropriations; report, by striking out the lead-in language in subsection (a) and inserting in lieu thereof the following:

(a) It is the intent of the General Assembly that the Green Mountain Care Board, in consultation with the Director of Health Care Reform in the Agency

of Human Services and to the extent funds are allocated for this purpose, shall build on successful health care delivery system reform efforts by:

Fourth: In Sec. 2, health care delivery system transformation; community engagement; appropriations; report, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) It is the intent of the General Assembly that, to the extent funds are allocated for this purpose, Green Mountain Care Board shall contract with a current or recently retired primary care provider to assist the Board in assessing and strengthening the role of primary care in its regulatory processes and to inform the Board's efforts in payment reform and delivery system transformation from a primary care perspective.

Fifth: In Sec. 2, health care delivery system transformation; community engagement; appropriations; report, by striking out subsection (e) in its entirety and inserting in lieu thereof the following:

(e)(1) On or before November 1, 2022, the Green Mountain Care Board shall provide an update on its progress in completing the duties set forth in this section to the Health Reform Oversight Committee.

(2) On or before January 15, 2023, the Green Mountain Care Board shall report on its activities pursuant to this section to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sixth: By striking out Sec. 3, development of proposal for subsequent all-payer model agreement; appropriation, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

### Sec. 3. DEVELOPMENT OF PROPOSAL FOR SUBSEQUENT ALL-PAYER MODEL AGREEMENT

(a) The Director of Health Care Reform in the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall design and develop a proposal for a subsequent agreement with the Centers for Medicare and Medicaid Innovation to secure Medicare's continued participation in multi-payer alternative payment models in Vermont. The proposal shall be informed by the community- and provider-inclusive process set forth in Sec. 2 of this act and designed to reduce inefficiencies, lower costs, improve population health outcomes, and increase access to essential services.

(b) The design and development of the proposal shall include consideration of alternative payment and delivery system approaches for hospital services and community-based providers such as primary care providers, mental health

providers, substance use disorder treatment providers, skilled nursing facilities, home health agencies, and providers of long-term services and supports.

(c)(1) The alternative payment models to be explored shall include, at a minimum:

(A) global payments for hospitals;

(B) geographically or regionally based global budgets for health care services;

(C) existing federal value-based payment models; and

(D) broader total cost of care and risk-sharing models to address patient migration patterns across systems of care.

(2) The alternative payment models shall:

(A) include appropriate mechanisms to convert fee-for-service reimbursements to predictable payments for multiple provider types, including those described in subsection (b) of this section;

(B) include a process to ensure reasonable and adequate rates of payment and a reasonable and predictable schedule for rate updates; and

(C) meaningfully impact health equity and address inequities in terms of access, quality, and health outcomes.

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

\* \* \* Appropriations \* \* \*

Sec. 10. PAYMENT AND DELIVERY SYTEM REFORM;  
APPROPRIATIONS

(a) The sum of \$1,000,000.00 is appropriated from the General Fund to the Green Mountain Care Board in fiscal year 2023 to begin the work described in Secs. 1–3 of this act.

(b) The sum of \$550,000.00 is appropriated from the General Fund to the Agency of Human Services in fiscal year 2023 to support the work of the Director of Health Care Reform in designing and developing a proposed agreement with the Centers for Medicare and Medicaid Innovation as set forth in Sec. 3 of this act.

(c) The sum of \$3,450,000.00 is appropriated from the General Fund to the Green Mountain Care Board in fiscal year 2023 to further execute the initiatives set forth in Secs. 1–3 of this act; provided, however, that the Board shall not expend the funds until the Health Reform Oversight Committee has

reviewed and approved the Board's proposed plan and timeline in accordance with subdivision (3) of this subsection.

(1) In order to provide the greatest likelihood of achieving meaningful results from the initiatives set forth in Secs. 1–3 of this act, the work of the Green Mountain Care Board will require sequencing coordination and collaboration with the Director of Health Care Reform in the Agency of Human Services. This is especially true in light of the potential changes to the State's Global Commitment to Health Section 1115 demonstration; the All-Payer Model agreement requirement for accountability for total cost of care; the scale of Medicare participation in the All-Payer Model agreement; the need for collaboration across the continuum of services in the health care and human services systems to enable the delivery of high-quality care and services in the most appropriate settings; and the short-, mid-, and longer-term strategies to address significant workforce challenges in the health care and human services systems.

(2) The Green Mountain Care Board shall develop a plan and timeline for pursuing hospital valued-based payment design in accordance with Sec. 1 of this act, for developing a patient-focused, community-inclusive plan for health care delivery system transformation as set forth in Sec. 2 of this act, and for the Board's role in designing and developing a proposal for a subsequent agreement with the federal government as set forth in Sec. 3 of this act. The Board shall collaborate with the Director of Health Care Reform in developing its plan and timeline to ensure appropriate alignment with the State's health care reform goals and with the timing of waiver negotiations with the federal government.

(3) On or before October 1, 2022, the Green Mountain Care Board shall provide its plan and timeline to the Health Reform Oversight Committee. If the Committee is satisfied that the plan and timeline are achievable and are appropriately aligned with the work of the Director of Health Care Reform, the Committee shall, by majority vote of the members present, authorize the Board to expend the funds appropriated by this subsection. If the Committee determines that the plan and timeline are not achievable or are not appropriately aligned with the work of the Director of Health Care Reform, or both, the Committee shall recommend appropriate modifications and, when satisfied with the plan and timeline, shall authorize the Board to expend the funds.

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

#### Sec. 11. EFFECTIVE DATES

(a) Sec. 10 (appropriations) shall take effect on July 1, 2022.



(b) The remainder of this act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended? was agreed to and third reading of the bill was ordered on a roll call, Yeas 27, Nays 2.

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

### **Roll Call**

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

**Those Senators who voted in the negative were:** Parent, Pollina.

**The Senator absent or not voting was:** Balint (presiding).

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

#### **H. 447.**

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

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

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2, 24 App. V.S.A. chapter 149, section 3, subdivision (b)(1), by striking out subdivision (B) in its entirety and inserting in lieu thereof a new subdivision (B) to read as follows:

(B) is injurious to other property in the vicinity; or

Second: In Sec. 2, 24 App. V.S.A. chapter 149, section 3, subsection (b), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) Not less than 30 days before any action taken under this subsection, the Town shall provide to the property owner and any recorded lienholders a notice of the Town's intent to issue civil penalties; clean or repair the premises; or remove rubbish, waste, or objectionable material. The Town shall provide to the property owner and any recorded lienholders reasonable opportunity and information to appeal the proposed action or to clean or repair the premises before the Town takes any final action.

Third: In Sec. 2, 24 App. V.S.A. chapter 149, in section 11, in subsection (c), in the last sentence, immediately following the words "may not be petitioned again for a period of", by striking out the words "one year" and inserting in lieu thereof the words three years

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

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

### **Message from the House No. 39**

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 703.** An act relating to promoting workforce development.

**H. 728.** An act relating to opioid overdose response services.

**H. 736.** An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

**H. 740.** An act relating to making appropriations for the support of government.

In the passage of which the concurrence of the Senate is requested.

The Governor has informed the House that on March 25, 2022, he approved and signed a bill originating in the House of the following title:

**H. 701.** An act relating to cannabis license fees and the regulation of the medical cannabis registry.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 30, 2022.

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**WEDNESDAY, MARCH 30, 2022**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Jeff Fuller of Waterbury Center.

**Senate Resolution; Consideration Interrupted by Recess****S.R. 22.**

Senate resolution of the following title was offered, read the first time and is as follows:

By the Committee on Rules,

**S.R. 22.** Senate resolution amending temporary Rule 10A.

***Resolved by the Senate:***

That Rule 10A is amended to read as follows:

Rule 10A. (a) A Senator physically entering the Senate Chamber or Senate committee room is strongly encouraged to wear a facial covering (mask) meeting the minimal requirements set by the Rules Committee.

(b) A Senator physically entering a committee room when the Centers for Disease Control and Prevention rates Washington County to be at a High COVID-19 community level shall wear a facial covering (mask) meeting the minimal requirements set by the Rules Committee. If a Senator is unable or refuses to wear a facial covering when required, the Senator shall be denied physical access to committee rooms but shall be provided with alternative electronic means to fulfil the Senator's duties.

(c) This Temporary Rule 10A shall expire on the convening of the 2023 Biennial session.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

Thereupon, pending entry on the Calendar for action, Senator Balint moved that the rules be suspended and that the Senate resolution be taken up for immediate consideration.

Which was agreed to.

Thereupon, pending the question, Shall the Senate resolution be adopted?, on motion of Senator Pearson the Senate recess until the fall of the gavel.

### **Called to Order**

The Senate was called to order by the President.

### **Consideration Resumed; Senate Resolution Adopted**

#### **S.R. 22.**

Consideration was resumed on Senate resolution entitled:

Senate resolution amending temporary Rule 10A.

Thereupon, the recurring question, Shall the Senate resolution be adopted?, was decided in the affirmative.

### **Bill Referred to Committee on Rules**

#### **S. 170.**

Senate bill of the following title, appearing on the Calendar for notice, under Temporary Rule 44A, was referred to the Committee on Rules:

An act relating to membership in the Municipal Employees' Retirement System for certain county sheriff department employees.

### **Bills Referred**

Pursuant to Temporary Rule 44A the following bills having failed to meet cross-over and being released by the Committee on Rules were referred to their respective committees of jurisdictions:

#### **H. 718.**

An act relating to approval of the dissolution of Colchester Fire District No. 1.

To the Committee on Government Operations.

#### **H. 738.**

An act relating to technical and administrative changes to Vermont's tax laws.

To the Committee on Finance.

### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 703.**

An act relating to promoting workforce development.

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

**H. 728.**

An act relating to opioid overdose response services.

To the Committee on Health and Welfare.

**H. 736.**

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

To the Committee on Transportation.

**H. 740.**

An act relating to making appropriations for the support of government.

To the Committee on Appropriations.

**Bill Amended; Third Reading Ordered****S. 204.**

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

An act relating to licensure of freestanding birth centers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 53 is added to read:

CHAPTER 53. BIRTH CENTER LICENSING

§ 2351. DEFINITION

As used in this chapter, "birth center" means a facility:

(1) that is not a hospital or part of a hospital;

(2) at which births are planned to occur away from the pregnant individual's residence following a low-risk pregnancy; and

(3) that provides prenatal, labor and delivery, or postpartum care, or a combination of these, as well as other related services in accordance with the scopes of practice of the health care professionals practicing at the birth center.

§ 2352. LICENSE

No person shall establish, maintain, or operate a birth center in this State without first obtaining a license for the birth center in accordance with this chapter.

§ 2353. APPLICATION; FEE

(a) An application for licensure of a birth center shall be made to the Department of Health on forms provided by the Department and shall include all information required by the Department.

(b)(1) Each application for a license shall be accompanied by a licensing fee of \$300.00.

(2) Fees collected under this section shall be credited to the Hospital Licensing Fees Special Fund and shall be available to the Department of Health to offset the costs of licensing birth centers.

(c) Notwithstanding any provision of this chapter to the contrary, for an application for renewal of a birth center's license, the Department of Health shall deem a licensed birth center that is currently accredited by the Commission for the Accreditation of Birth Centers or by another accrediting entity that complies with the national birth center standards published by the American Association of Birth Centers as satisfying the requirements for renewal of the birth center's license, upon submission of a copy of the birth center's official accreditation certificate and payment of the application fee.

§ 2354. LICENSE REQUIREMENTS

(a) Upon receipt of an application for a license and the licensing fee, the Department of Health shall issue a license if it determines that the applicant and the birth center facilities meet the following minimum standards:

(1) The applicant shall demonstrate the capacity to operate a birth center in accordance with rules adopted by the Department.

(2) The applicant shall demonstrate that its facilities comply fully with standards for health, safety, and sanitation as required by State law, including standards set forth by the State Fire Marshal and the Department of Health, and municipal ordinance.

(3) The applicant shall have a clear process for responding to patient complaints.

(4) The applicant shall participate in the Patient Safety Surveillance and Improvement System established pursuant to chapter 43A of this title.

(5) The birth center facilities, including the buildings and grounds, shall be subject to inspection by the Department, its designees, and other authorized entities at all times.

(b) A license is not transferable or assignable and shall be issued only for the premises and persons named in the application.

#### § 2355. REVOCATION OF LICENSE; HEARING

The Department of Health, after notice and opportunity for hearing to the applicant or licensee, is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this chapter. Such notice shall be served by registered mail or by personal service, shall set forth the reasons for the proposed action, and shall set a date not less than 60 days from the date of the mailing or service on which the applicant or licensee shall be given opportunity for a hearing. After the hearing, or upon default of the applicant or licensee, the Department shall file its findings of fact and conclusions of law. A copy of the findings and decision shall be sent by registered mail or served personally upon the applicant or licensee. The procedure governing hearings authorized by this section shall be in accordance with the usual and customary rules provided for such hearings.

#### § 2356. APPEAL

Any applicant or licensee, or the State acting through the Attorney General, aggrieved by the decision of the Department of Health after a hearing may, within 30 days after entry of the decision as provided in section 2355 of this title, appeal to the Superior Court for the district in which the appellant is located. The court may affirm, modify, or reverse the Department's decision, and either the applicant or licensee or the Department or State may appeal to the Vermont Supreme Court for such further review as is provided by law. Pending final disposition of the matter, the status quo of the applicant or licensee shall be preserved, except as the court otherwise orders in the public interest.

#### § 2357. INSPECTIONS

The Department of Health shall make or cause to be made such inspections and investigations as it deems necessary. If the Department finds a violation as the result of an inspection or investigation, the Department shall post a report on the Department's website summarizing the violation and any corrective action required.

§ 2358. RECORDS

(a) Information received by the Department of Health through filed reports, inspections, or as otherwise authorized by law shall:

(1) not be disclosed publicly in a manner that identifies or may lead to the identification of one or more individuals or birth centers;

(2) be exempt from public inspection and copying under the Public Records Act; and

(3) be kept confidential except as it relates to a proceeding regarding licensure of a birth center.

(b) The provisions of subsection (a) of this section shall not apply to the summary reports of violations required to be posted on the Department's website pursuant to section 2357 of this chapter.

§ 2359. RULES

The Department of Health shall adopt rules in accordance with 3 V.S.A. chapter 25 as needed to carry out the purposes of this chapter. The rules shall regulate birth centers in accordance with national birth center standards published by the American Association of Birth Centers and may include provisions regarding:

(1) the scope of services that may be provided at a birth center;

(2) appropriate staffing for a birth center, including the types of licensed health care professionals who may practice at a birth center; and

(3) a requirement for written practice guidelines and policies that include procedures for transferring a patient to a hospital if circumstances warrant.

Sec. 2. 8 V.S.A. § 4099d is amended to read:

§ 4099d. MIDWIFERY COVERAGE; HOME BIRTHS

(a) A health insurance plan or health benefit plan providing maternity benefits shall also provide coverage;

(1) for services rendered by a midwife licensed pursuant to 26 V.S.A. chapter 85 or an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28 who is certified as a nurse midwife for services within the licensed midwife's or certified nurse midwife's scope of practice and provided in a hospital, birth center, or other health care facility or at home; and

(2) for prenatal, maternity, postpartum, and newborn services provided at a birth center licensed pursuant to 18 V.S.A. chapter 53.



\* \* \*

Sec. 3. 18 V.S.A. § 9432 is amended to read:

§ 9432. DEFINITIONS

As used in this subchapter:

\* \* \*

(15) “Freestanding birth center” has the same meaning as “birth center” in section 2351 of this title.

Sec. 4. 18 V.S.A. § 9434 is amended to read:

§ 9434. CERTIFICATE OF NEED; GENERAL RULES

(a) A health care facility other than a hospital shall not develop or have developed on its behalf a new health care project without issuance of a certificate of need by the Board. For purposes of this subsection, a “new health care project” includes the following:

\* \* \*

(6) The construction, development, purchase, lease, or other establishment of an ambulatory surgical center or a freestanding birth center.

\* \* \*

Sec. 5. GREEN MOUNTAIN CARE BOARD; NEEDS ASSESSMENT;  
HEALTH RESOURCE ALLOCATION PLAN; REPORT

(a) In connection with its responsibility for developing and maintaining the State’s Health Resource Allocation Plan pursuant to 18 V.S.A. § 9405, the Green Mountain Care Board, in consultation with the Department of Health’s Maternal and Child Health Division and the Blueprint for Health’s Women’s Health Initiative, shall conduct an assessment of the need in this State for the obstetric and midwifery services offered by freestanding birth centers. The assessment shall include evaluating the need for the services in particular regions of the State and for certain populations of Vermont residents.

(b) On or before April 1, 2023, the Board shall provide to the House Committee on Health Care and the Senate Committee on Health and Welfare its findings and recommendations regarding the need for the services of freestanding birth centers in Vermont, along with a recommendation for whether persons seeking to establish a birth center should be required to obtain a certificate of need pursuant to 18 V.S.A. chapter 221, subchapter 5.

Sec. 6. AGENCY OF HUMAN SERVICES; MEDICAID; REQUEST FOR FEDERAL APPROVAL

The Agency of Human Services shall seek approval from the Centers for Medicare and Medicaid Services to allow Vermont Medicaid to cover prenatal, maternity, postpartum, and newborn services provided at a licensed birth center and to allow Vermont Medicaid to reimburse separately for birth center services and for professional services.

Sec. 7. EFFECTIVE DATES

(a) Secs. 1 (18 V.S.A. chapter 53) and 2 (8 V.S.A. § 4099d) shall take effect on January 1, 2024.

(b) Secs. 3 and 4 (18 V.S.A. §§ 9432 and 9434) shall take effect on July 1, 2023.

(c) Sec. 5 (Green Mountain Care Board; needs assessment; Health Resource Allocation Plan; report) and this section shall take effect on passage.

(d) Sec. 6 (Agency of Human Services; Medicaid; request for federal approval) shall take effect on January 1, 2023 for Medicaid coverage beginning on January 1, 2024.

And that when so amended the bill ought to pass.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

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

**Bill Amended; Third Reading Ordered; Consideration Interrupted by Recess**

**S. 226.**

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to expanding access to safe and affordable housing.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Housing; Permit Reform \* \* \*

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Prosperous, sustainable, and inclusive communities are critical to Vermont's economic health and the well-being of its residents.

(2) Housing affordability and availability challenges require elected officials, community leaders, and developers making community investments to consider all options to increase the supply of housing.

(3) The State designation programs underpin Vermont's land use goals and provide numerous economic, health, quality of life, and environmental benefits.

(4) Increased housing choices in State designated centers advance statewide goals to encourage housing affordability, inclusion, and equity; conserve energy; decrease greenhouse gas emissions; provide a variety of transportation choices; promote the efficient use of transportation and other public infrastructure and services; protect the working landscape and natural areas from fragmentation; and foster healthy lifestyles.

(5) Small-scale and infill developers are critical to rural and community revitalization in locations where development is not occurring and is necessary to meet the full range of Vermont's housing needs.

(6) Strategies, policies, programs, and investments that advance Vermont's smart growth principles, complete streets principles, and planning and development goals pursuant to 24 V.S.A. § 4302 make communities more equitable and sustainable and improve the long-term fiscal, economic, and environmental viability of the State.

Sec. 2. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF  
NEIGHBORHOOD DEVELOPMENT AREAS

(a) Purpose. This section is intended to encourage a municipality to plan for new and infill housing in the area including and immediately encircling its designated downtown, village center, new town center, or within its designated growth center in order to provide needed housing and to further support the commercial establishments in the designated center. To support this goal, this section sets out a two-component process.

\* \* \*

(b) Definitions.

(1) "Neighborhood planning area" means an automatically delineated area including and encircling a downtown, village center, or new town center designated under this chapter or within a growth center designated under this chapter. A neighborhood planning area is used for the purpose of identifying

locations suitable for new and infill housing that will support a development pattern that is compact, oriented to pedestrians, and consistent with smart growth principles. To ensure a compact settlement pattern, the outer boundary of a neighborhood planning area shall be located entirely within the boundaries of the applicant municipality, unless a joint application is submitted by more than one municipality, and shall be determined:

\* \* \*

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

\* \* \*

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas, except those areas containing preexisting development in areas suitable for infill development as defined in §29-201 of the Vermont Flood Hazard Area and River Corridor Rule. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or ~~that~~ minimizes to the extent feasible the inclusion of “important natural resources” as defined in subdivision 2791(14) of this title. If an “important natural resource” is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized. If the neighborhood development area includes flood hazard areas or river corridors, the local bylaws shall contain provisions consistent with the Agency of Natural Resources’ rules required under 10 V.S.A. § 754(a) to ensure that new infill development within a neighborhood development area occurs outside the flood hazard area and will not cause or contribute to fluvial erosion hazards within the river corridor. If the neighborhood development area includes flood hazard areas or river corridors, local bylaws shall also contain provisions to protect river corridors outside the neighborhood development area consistent with the Agency of Natural Resources’ rules required under 10 V.S.A. § 754(a).

\* \* \*

(6) ~~The neighborhood development area is served by:~~

~~(A) municipal sewer infrastructure; or~~

~~(B) a community or alternative wastewater system approved by the Agency of Natural Resources. [Repealed.]~~

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four ~~single-family detached~~ dwelling units per acre for all identified residential uses or residential building types, exclusive of accessory dwelling units, or ~~no~~ not fewer than the average existing density of the surrounding neighborhood, whichever is greater. The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

\* \* \*

Sec. 3. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

\* \* \*

(b) Within 45 days of receipt of a completed application, the State Board shall designate a new town center development district if the State Board finds, with respect to that district, the municipality has:

\* \* \*

(2) Provided a community investment agreement that has been executed by authorized representatives of the municipal government, businesses and property owners within the district, and community groups with an articulated purpose of supporting downtown interests, and contains the following:

\* \* \*

(B) Regulations enabling ~~high~~ densities that are ~~greater~~ not less than four dwelling units, including all identified residential uses or residential building types, per acre and not less than those allowed in any other part of the municipality not within an area designated under this chapter.

\* \* \*

Sec. 4. 24 V.S.A. § 4449 is amended to read:

§ 4449. ZONING PERMIT, CERTIFICATE OF OCCUPANCY, AND MUNICIPAL LAND USE PERMIT

(a) Within any municipality in which any bylaws have been adopted:

\* \* \*

(4) No municipal land use permit issued by an appropriate municipal panel or administrative officer, as applicable, for a site plan or conditional use shall be considered abandoned or expired unless more than two years has passed since the permit approval was issued.

\* \* \*

Sec. 5. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

As used in this chapter:

\* \* \*

(3)(A) “Development” means each of the following:

\* \* \*

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) [Repealed.]

(bb) [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000.

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000.

(ee) ~~25 or more, in a municipality with a population of less than 3,000.~~ [Repealed.]

(ff) Notwithstanding subdivisions (cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision (ff) if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

\* \* \*

(27) “Mixed income housing” means a housing project in which the following apply:

(A) Owner-occupied housing. ~~At the option of the applicant, owner-occupied housing may be characterized by either of the following:~~

~~(i) at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

~~(ii) at least 20 percent of the housing units have a purchase price that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency meet the requirements of affordable owner-occupied housing under subdivision (29)(A) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

(B) Rental housing. ~~At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of For~~ not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.

\* \* \*

(35) “Priority housing project” means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

~~(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or~~

~~(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.~~

\* \* \*

Sec. 6. 10 V.S.A. § 6081(p) is amended to read:

~~(p)(1) No permit or permit amendment is required for any change to a~~

~~project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after May 28, 2002, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.~~

~~(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.~~

\* \* \* First-Generation Homebuyers \* \* \*

Sec. 7. 32 V.S.A. 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

\* \* \*

(b) Eligible tax credit allocations.

\* \* \*

(3) Down Payment Assistance Program.

(A) The Vermont Housing Finance Agency shall have the authority to allocate affordable housing tax credits to finance down payment assistance loans that meet the following requirements:

(i) the loan is made in connection with a mortgage through an Agency program;

(ii) the borrower is a first-time home buyer of an owner-occupied primary residence; and

(iii) the borrower uses the loan for the borrower's down payment or closing costs, or both.

(B) The Agency shall require the borrower to repay the loan upon the transfer or refinance of the residence.

(C) The Agency shall use the proceeds of loans made under the Program for future down payment assistance.



(D) The Agency may reserve funding and adopt guidelines to provide grants to first-time homebuyers who are also first-generation homebuyers.

\* \* \*

\* \* \* Manufactured Home Relocation Incentives \* \* \*

Sec. 8. MANUFACTURED HOME IMPROVEMENT AND REPLACEMENT PROGRAM

Of the amounts available from federal COVID-19 relief funds, the following amounts are appropriated to the Department of Housing and Community Development for the purposes specified:

(1) \$3,000,000.00 for manufacture home community small-scale capital grants, through which the Department may award not more than \$20,000.00 for owners of manufactured housing communities to complete small-scale capital needs to help infill vacant lots with homes, which may include projects such as disposal of abandoned homes, lot grading/preparation, site electrical box issues/upgrades, E911 safety issues, legal fees, transporting homes out of flood zones, individual septic system, and marketing to help make it easier for home-seekers to find vacant lots around the State.

(2) \$1,000,000.00 for manufactured home repair grants, through which the Department may award funding for minor rehab or accessibility projects, coordinated as possible with existing programs, for between 250 and 400 existing homes where the home is otherwise in good condition or in situations where the owner is unable to replace the home and the repair will keep them housed.

(3) \$1,000,000.00 for new manufactured home foundation grants, through which the Department may award not more than \$15,000.00 per grant for a homeowner to pay for a foundation or HUD-approved slab, site preparation, skirting, tie-downs, and utility connections on vacant lots within manufactured home communities.

Sec. 9. 32 V.S.A. § 5930u(g) is amended to read:

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

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

(B) ~~\$425,000.00~~ \$675,000.00 in total first-year credit allocations for loans or grants for owner-occupied unit financing or down payment loans as provided in subdivision (b)(2) of this section consistent with the allocation

plan, including for new construction and manufactured housing, for an aggregate limit of ~~\$2,125,000.00~~ \$3,375,000.00 over any given five-year period that credits are available under this subdivision (B). Of the total first-year credit allocations made under this subdivision (B), \$250,000.00 shall be used each fiscal year for manufactured home purchase and replacement.

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

\* \* \* Large Employer Housing; Commercial Property Conversion; Multi-Agency Coordination \* \* \*

Sec. 10. VERMONT HOUSING CONSERVATION BOARD; LARGE EMPLOYER HOUSING; COMMERCIAL PROPERTY CONVERSION; COMMUNITY PARTNERSHIP FOR NEIGHBORHOOD DEVELOPMENT

(a) Authorization. Of the amounts appropriated to the Vermont Housing Conservation Board in fiscal year 2023, the Board is authorized to use up to \$5,000,000.00 for the following activities:

(1) housing created through the Community Partnership for Neighborhood Development created in subsection (b) of this section;

(2) funding for matching grants, which for each unit shall not exceed the lesser of \$50,000.00 or 20 percent of the employer cost, for large employers with 50 or more full time equivalent employees that provide housing for their employees; and

(3) funding for matching grants, which for each unit shall not exceed the lesser of \$50,000.00 or 20 percent of the developer cost, for projects that convert commercial properties to residential use.

(b) Community Partnership for Neighborhood Development.

(1) The Department of Housing and Community Development shall lead a cross-agency program to encourage and support local partnerships between municipalities, nonprofit and for-profit developers, employers, the Vermont Housing and Conservation Board, and local planning officials, by enhancing density and reducing or eliminating the cost of land and infrastructure from housing development while enhancing density, walkability, inclusiveness, and climate-sensitive, smart growth development.

(2) The Department shall lead an effort involving the Vermont Housing Finance Agency, the Agency of Natural Resources, the Agency of Transportation, the Department of Public Service, and the Vermont Housing

Conservation Board to integrate resources for housing, land, and down payment assistance that also makes available funding for critical infrastructure, including funding from the American Rescue Plan Act and the Infrastructure Investment and Jobs Act.

(3) Participating municipalities may bring resources to the table by planning for and permitting dense housing development in smart growth locations, thereby reducing permitting risk for developers.

(b) Program goals. The Program shall seek to achieve the following goals:

(1) development of new denser neighborhoods in 5–10 communities of mixed income and mixed tenure of homeownership and rental opportunities, which, over time, will land bank and make available smart growth sites for 500–1000 energy efficient homes and apartments;

(2) financial and planning commitment and participation of municipalities and cooperation in siting and permitting development;

(3) enhanced construction of modestly sized homes, at least half of which should be single-family homes under 1600 sq ft. on small lots;

(4) opportunities for site development and skill building participation by technical education centers, Youth Build, Vermont Works for Women, and community volunteers such as Habitat for Humanity;

(5) reservation of 25 percent of single family lots for permanently affordable homes, including Habitat for Humanity, Youth Build, or Tech Center programs, at no cost for acquisition or infrastructure and only modest fees for all small homes; and

(6) reservation of 35 percent of multifamily rentals for Vermonters within income below 80 percent of median with no cost for publicly funded infrastructure.

\* \* \* Municipal Bylaw Grants \* \* \*

Sec. 11. 24 V.S.A. § 4306 is amended to read:

§ 4306. MUNICIPAL AND REGIONAL PLANNING FUND

(a)(1) The Municipal and Regional Planning Fund for the purpose of assisting municipal and regional planning commissions to carry out the intent of this chapter is hereby created in the State Treasury.

(2) The Fund shall be composed of 17 percent of the revenue from the property transfer tax under 32 V.S.A. chapter 231 and any monies from time to time appropriated to the Fund by the General Assembly or received from any other source, private or public. All balances at the end of any fiscal year shall

be carried forward and remain in the Fund. Interest earned by the Fund shall be deposited in the Fund.

(3) Of the revenues in the Fund, each year:

(A) 10 percent shall be disbursed to the Vermont Center for Geographic Information;

(B) 70 percent shall be disbursed to the Secretary of Commerce and Community Development for performance contracts with regional planning commissions to provide regional planning services pursuant to section 4341a of this title; and

(C) 20 percent shall be disbursed to municipalities.

\* \* \*

(c) Funds allocated to municipalities shall be used for the purposes of:

\* \* \*

(4) The Fund shall be available to the Department of Housing and Community Development for the reasonable and necessary costs of administering the Fund, not to exceed six percent of total program funds.

(d) New funds allocated to municipalities under this section may take the form of special purpose grants in accordance with section 4307 of this title.

Sec. 12. 24 V.S.A. § 4307 is added to read:

§ 4307. MUNICIPAL BYLAW MODERNIZATION GRANTS

(a) There is created Municipal Bylaw Modernization Grants to assist municipalities in updating their land use and development bylaws. Bylaws updated under this section shall increase housing choice, affordability, and opportunity in areas planned for smart growth. The Grants shall be funded by monies allocated from the municipality allocation of the Municipal and Regional Planning Funds established in subdivision 4306(a)(3)(C) of this title and any other monies appropriated for this purpose.

(b) Disbursement to municipalities shall be administered by the Department of Housing and Community Development through a competitive process providing the opportunity for all regions and any eligible municipality to compete regardless of size.

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

(d) Funding may be used for the cost of regional planning commission staff or consultant time and any other purpose approved by the Department.

(e) A municipality grantee shall use the funds to prepare amendments to bylaws to increase housing choice, affordability, and opportunity and that support a neighborhood development pattern that is pedestrian oriented in areas planned for smart growth consistent with the smart growth principles established in section 2791 of this title and that prioritize projects in designated areas in accordance with chapter 76A of this title.

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

(1) identify municipal water and wastewater disposal infrastructure, municipal water and sewer service areas, and the constraints on that infrastructure based on the best available data;

(2) increase allowed housing types and uses, which may include duplexes to the same extent as single-family homes;

(3) include parking waiver provisions in areas planned for smart growth consistent with smart growth principles as defined in section 2791 of this title and appropriate situations;

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

(5) reduce nonconformities by making the allowed standards principally conform to the existing settlement within any area designated under chapter 76A of this title and increase allowed lot/building/dwelling unit density by adopting dimensional, use, parking, and other standards that allow compact neighborhood form and support walkable lot and dwelling unit density, which may be achieved with a standard allowing at least four units per acre or allowing the receipt of a State or municipal water and wastewater permit to determine allowable density or by other means established in guidelines issued by the Department.

(6) restrict development of and minimize impact to important natural resources, including new development in flood hazard areas, undeveloped floodplains, and river corridor areas, unless lawfully allowed for infill development in §29-201 of the Vermont Flood Hazard Area and River Corridor Rule;

(7) update the municipal plan's housing element as provided in subdivision 4382(a)(10) of this title related to addressing lower- and moderate-income housing needs and implement that element of the plan including through the bylaw amendments;

(8) comply with State and Federal Fair Housing Act, including the fair housing provisions of Vermont's Planning and Development Act; and

(9) demonstrate how the bylaws support implementation of the housing element of its municipal plan as provided in subdivision 4282(a)(10) of this title related to addressing lower- and moderate-income housing needs.

(g) On or before September 1, 2022, the Department shall adopt guidelines to assist municipalities applying for grants under this section.

#### Sec. 13. APPROPRIATION

In fiscal year 2023 the amount of \$650,000.00 is appropriated from the General Fund to the Municipal Planning and Regional Planning Fund to be used for Municipal Bylaw Modernization Grants established in 24 V.S.A. § 4307.

\* \* \* Tax Credits \* \* \*

Sec. 14. 32 V.S.A. § 5930ee is amended to read:

#### § 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed \$3,000,000.00 \$5,000,000.00 with up to \$1,000,000.00 awarded to qualified projects in neighborhood development areas;

\* \* \*

Sec. 15. 32 V.S.A. § 5930aa is amended to read:

#### § 5930aa. DEFINITIONS

As used in this subchapter:

(1) “Qualified applicant” means an owner or lessee of a qualified building involving a qualified project; but does not include a State or federal agency or a political subdivision of either; or an instrumentality of the United States.

(2) “Qualified building” means a building built at least 30 years before the date of application, located within a designated downtown or village center, or neighborhood development area, which, upon completion of the project supported by the tax credit, will be an income-producing building not used solely as a single-family residence. Churches and other buildings owned by religious organization may be qualified buildings, but in no event shall tax credits be used for religious worship.

(3) “Qualified code improvement project” means a project:

(A) to install or improve platform lifts suitable for transporting personal mobility devices, limited use or limited application elevators, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the Department of Public Safety;

(B) to abate lead paint conditions or other substances hazardous to human health or safety in a qualified building; or

(C) to redevelop a contaminated property in a designated downtown ~~or~~, village center, or neighborhood development area under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

(4) “Qualified expenditures” means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) “Qualified façade improvement project” means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown ~~or~~, designated village center. Façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont Division for Historic Preservation.

(6) “Qualified Flood Mitigation Project” means any combination of structural and nonstructural changes to a building located within the flood hazard area as mapped by the Federal Emergency Management Agency that reduces or eliminates flood damage to the building or its contents. The project shall comply with the municipality’s adopted flood hazard bylaw, if applicable, and a certificate of completion shall be submitted by a registered engineer, architect, qualified contractor, or qualified local official to the State Board. Improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places shall be consistent with Secretary of the Interior’s Standards for Rehabilitation, as determined by the Vermont Division for Historic Preservation.

(7) “Qualified historic rehabilitation project” means an historic rehabilitation project that has received federal certification for the rehabilitation project.

~~(7)~~(8) “Qualified project” means a qualified code improvement, qualified façade improvement, or qualified historic rehabilitation project as defined by this subchapter.

~~(8)~~(9) “State Board” means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.

Sec. 16. 32 V.S.A. § 5930bb is amended to read:

§ 5930bb. ELIGIBILITY AND ADMINISTRATION

\* \* \*

(e) Sunset of Neighborhood Development Area tax credits. Effective on July 1, 2027, under this subchapter no new tax credit may be allocated by the State Board to a qualified building in a neighborhood development area.

Sec. 17. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

\* \* \*

(c) A village center designated by the State Board pursuant to subsection (a) of this section is eligible for the following development incentives and benefits:

\* \* \*

~~(4) The following State tax credits for projects located in a designated village center:~~

~~(A) A State historic rehabilitation tax credit of ten percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.~~

~~(B) A State façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).~~

~~(C) A State code improvement tax credit of 50 percent under 32 V.S.A. § 5930cc(e) The Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.~~

\* \* \*

Sec. 18. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF NEIGHBORHOOD DEVELOPMENT AREAS

\* \* \*

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, any proposed development within that area shall be eligible for each of the benefits



listed in this subsection. These benefits shall accrue upon approval by the district coordinator, who shall review the density requirements set forth in subdivision (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met. These benefits are:

(1) ~~The~~ the application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D);

(2) ~~The~~ the application fee reduction for residential development stated in 10 V.S.A. § 6083a(d);

(3) ~~The~~ the exclusion from the land gains tax provided by 32 V.S.A. § 10002(p); and

(4) eligibility for the Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.

\* \* \*

Sec. 19. 24 V.S.A. § 2794 is amended to read:

§ 2794. INCENTIVES FOR PROGRAM DESIGNEES

(a) Upon designation by the Vermont Downtown Development Board under section 2793 of this title, a downtown development district and projects in a downtown development district shall be eligible for the following:

(1) Priority consideration by any agency of the State administering any State or federal assistance program providing funding or other aid to a municipal downtown area with consideration given to such factors as the costs and benefits provided and the immediacy of those benefits, provided the project is eligible for the assistance program.

(2) ~~The following State tax credits:~~

~~(A) A State historic rehabilitation tax credit of 10 percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.~~

~~(B) A State façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).~~

~~(C) A State code improvement tax credit of 50 percent under 32 V.S.A. § 5930cc(e) The Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.~~

\* \* \*

Sec. 20. 32 V.S.A. § 5930cc is amended to read:

§ 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX CREDITS

\* \* \*

(d) Flood Mitigation Tax Credit. The qualified applicant of a qualified flood mitigation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$75,000.00.

\* \* \* Wastewater Connection Permits \* \* \*

Sec. 21. 10 V.S.A. § 1974 is amended to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

\* \* \*

(9) A project completed by a person who receives an authorization from a municipality that administers a program registered with the Secretary pursuant to section 1983 of this title.

Sec. 22. 10 V.S.A. § 1983 is added to read:

§ 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM AND POTABLE WATER SUPPLY CONNECTIONS

(a) A municipality may issue an authorization for a connection or an existing connection with a change in use to the municipal sanitary sewer collection line via a sanitary sewer service line or a connection to a water main via a new water service line in lieu of permits issued under this chapter, provided that the municipality documents the following in a form prescribed by the Secretary:

(1) The municipality owns or has legal control over connections to a public community water system permitted pursuant to chapter 56 of this title and over connections to a wastewater treatment facility permitted pursuant to chapter 47 of this title.

(2) The municipality shall only issue authorizations for:

(A) a sanitary sewer service line that connects to the sanitary sewer collection line; and

(B) a water service line that connects to the water main.

(3) The building or structure authorized under this section connects to both the sanitary sewer collection line and public community water system.

(4) The authorizations from the municipality comply with the technical standards for sanitary sewer service lines and water service lines in the Wastewater System and Potable Water Supply Rules.

(5) The municipality requires documentation issued by a professional engineer or licensed designer that is filed in the land records that the connection authorized by the municipality was installed in accordance with the technical standards.

(6) The municipality requires the retention of plans that show the location and design of authorized connections.

(b) The municipality shall notify the Secretary 30 days in advance of terminating any authorization. The municipality shall provide all authorizations and plans to the Secretary as a part of this termination notice.

(c) A municipality issuing an authorization under this section shall require the person to whom the authorization is issued to post notice of the authorization as part of the notice required for a permit issued under 24 V.S.A. § 4449 or other bylaw authorized under this chapter.

\* \* \* Accessory Dwelling Units \* \* \*

Sec. 23. 24 V.S.A. § 4414 amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

\* \* \*

(4) Parking and loading facilities. A municipality may adopt provisions setting forth standards for permitted and required facilities for off-street parking and loading which may vary by district and by uses within each district. These bylaws may also include provisions covering the location, size, design, access, landscaping, and screening of those facilities. In determining the number and size of parking spaces required under these regulations, the appropriate municipal panel may take into account the existence or availability of employer “transit pass” and rideshare programs, public transit routes, and public parking spaces in the vicinity of the development. However, a municipality shall not require an accessory dwelling unit to have more than one parking space per bedroom.

\* \* \*

\* \* \* Missing Middle Housing \* \* \*

Sec. 24. MISSING MIDDLE-INCOME HOME OWNERSHIP  
DEVELOPMENT PROGRAM

(a) The following amounts are appropriated from the America Rescue Plan Act (ARPA) – Coronavirus State Fiscal Recovery Funds to the Department of Housing and Community Development to grant to the Vermont Housing Finance Agency to establish the Missing Middle-Income Home Ownership Development Program:

(1) \$5,000,000 in fiscal year 2022.

(2) \$10,000,000 in fiscal year 2023.

(b) As used in this section:

(1) “Affordable owner-occupied housing” means owner-occupied housing identified in 26 U.S.C. § 143(c)(1) or that qualifies under Vermont Housing Finance Agency criteria governing owner-occupied housing.

(2) “Income-eligible homebuyer” means a Vermont household with annual income that does not exceed 120 percent of area median income.

(c) The Agency shall use the funds appropriated in this section to provide subsidies for new construction or acquisition and substantial rehabilitation of affordable owner-occupied housing for purchase by income-eligible homebuyers.

(d) The total amount of subsidies for a project shall not exceed 35 percent of eligible development costs, as determined by the Agency, which the Agency may allocate between the developer and the income-eligible homebuyer, consistent with the following:

(1) Developer subsidy. The Agency may provide a direct subsidy to the developer, which shall not exceed the difference between the cost of development and the assessed value of the home as completed.

(2) Homebuyer subsidy. Of any remaining amounts available for the project after the developer subsidy, the Agency may provide a subsidy to the income-eligible homebuyer to reduce the cost of purchasing the home, provided that:

(A) the Agency includes conditions in the subsidy, or uses another legal mechanism, to ensure that the value of the subsidy remains with the home to offset the cost to future income-eligible homebuyers; or

(B) the Agency uses a shared equity model that requires the Agency to retain not less than 75 percent of any increased equity in the home.

(3) The Agency shall adopt one or more legal mechanisms to ensure that subsequent sales of a home that is subsidized through the Program are limited to income-eligible homebuyers.

(e) The Agency shall adopt a Program plan that establishes an application and selection process for developer and income-eligible homebuyer applicants, eligible development costs, and project selection criteria, including:

(1) project location;

(2) geographic distribution;

(3) leveraging of other programs;

(4) housing market needs;

(5) project characteristics, including whether the project includes the use of existing housing as part of a community revitalization plan;

(6) construction standards, including considerations for size;

(7) priority for plans with deeper affordability and longer duration of affordability requirements;

(8) sponsor characteristics;

(9) energy efficiency of the development; and

(10) historic nature of the project.

(f) The Agency may assign its rights under any investment or grant made under this section to the Vermont Housing and Conservation Board or any State agency or nonprofit organization qualifying under 26 U.S.C. § 501(c)(3), provided such assignee acknowledges and agrees to comply with the provisions of this section.

(g) The Agency shall ensure that initial investments made under this program are obligated by December 31, 2024 and expended by December 31, 2026.

(h) The Department shall report to the House Committee on Housing, General, and Military Affairs and Senate Committee on Economic Development, Housing and General Affairs on the status of the program annually, on or before January 15, through 2026.

\* \* \* Residential Construction Contractors \* \* \*

## Sec. 25. FINDINGS

The General Assembly finds that:

(1) There is currently no master list of residential construction contractors operating in the State.

(2) There is no standard process for determining or adjudicating construction contract fraud complaints either on the part of contractors or consumers.

(3) Public authorities have no mechanism to contact all contractors when necessary to provide updates to public health requirements, safe working protocols, codes and standards, available trainings and certifications, or building incentives or construction subsidies.

(4) Wide dissemination of information on codes, standards, and trainings is vital to improving construction techniques throughout the State's construction industry. Since building thermal conditioning represents over one-quarter of the State's greenhouse gas emissions, improving energy performance is a key strategy for meeting the requirements of the Global Warming Solutions Act, 2020 Acts and Resolves No. 153.

(5) While registration is not licensure and confers no assurance of competence, consumers have no way of knowing whether a contractor is operating legally or has been subject to civil claims or disciplinary actions.

(6) A noncommercial, standardized public listing will provide contractors an opportunity to include in their record optional third-party, State-sanctioned certifications.

Sec. 26. 3 V.S.A. § 122 is amended to read:

#### § 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office of Professional Regulation shall have a director who ~~shall be~~ is an exempt employee appointed by the Secretary of State ~~and shall be an exempt employee.~~ The following boards or professions are attached to the Office of Professional Regulation:

\* \* \*

#### (51) Residential Contractors

Sec. 27. 26 V.S.A. chapter 106 is added to read:

### CHAPTER 106. RESIDENTIAL CONTRACTORS

#### Subchapter 1. General Provisions

#### § 5501. REGISTRATION REQUIRED

(a) A person shall register with the Office of Professional Regulation prior to contracting with a homeowner to perform residential construction in

exchange for consideration of more than \$5,000.00, including labor and materials.

(b) Unless otherwise exempt under section 5502 of this title, as used in this chapter, "residential construction" means to build, demolish, or alter a residential dwelling unit, or a building or premises with four or fewer residential dwelling units, in this State, and includes interior and exterior construction, renovation, and repair; painting; paving; roofing; weatherization; installation or repair of heating, plumbing, solar, electrical, water, or wastewater systems; and other activities the Office specifies by rule consistent with this chapter.

#### § 5502. EXEMPTIONS

This chapter does not apply to:

(1) an employee acting within the scope of his or her employment for a business organization registered under this chapter;

(2)(A) a professional engineer, licensed architect, or a tradesperson licensed, registered, or certified by the Department of Public Safety acting within the scope of his or her license, registration, or certification; or

(B) a business that performs residential construction if the work is performed primarily by or under the direct supervision of one or more employees who are individually exempt from registration under subdivision (2)(A) of this section;

(3) delivery or installation of consumer appliances, audio-visual equipment, telephone equipment, or computer network equipment;

(4) landscaping;

(5) work on a structure that is not attached to a residential building; or

(6) work that would otherwise require registration that a person performs in response to an emergency, provided the person applies for registration within a reasonable time after performing the work.

#### § 5503. MANDATORY REGISTRATION AND VOLUNTARY CERTIFICATION DISTINGUISHED

(a)(1) The system of mandatory registration established by this chapter is intended to protect against fraud, deception, breach of contract, and violations of law, but is not intended to establish standards for professional qualifications or workmanship that is otherwise lawful.

(2) The provisions of 3 V.S.A. § 129a, with respect to a registration, shall be construed in a manner consistent with the limitations of this subsection.

(b) The system of voluntary certification established in this chapter is intended to provide consumers and contractors with a publicly available, noncommercial venue for contractors to list optional approved certifications. The Director of Professional Regulation, in consultation with public safety officials and recognized associations or boards of builders, remodelers, architects, and engineers, may:

(1) adopt rules providing for the issuance of voluntary certifications, as defined in subdivision 3101a(1) of this title, that signify demonstrated competence in particular subfields and specialties related to residential construction;

(2) establish minimum qualifications, and standards for performance and conduct, necessary for certification; and

(3) discipline a certificant for violating adopted standards or other law, with or without affecting the underlying registration.

#### Subchapter 2. Administration

#### § 5505. DUTIES OF THE DIRECTOR

(a) The Director of Professional Regulation shall:

(1) provide information to the public concerning registration, certification, appeal procedures, and complaint procedures;

(2) administer fees established under this chapter;

(3) receive applications for registration or certification, issue registrations and certifications to applicants qualified under this chapter, deny or renew registrations or certifications, and issue, revoke, suspend, condition, and reinstate registrations and certifications as ordered by an administrative law officer;

(4) prepare and maintain a registry of registrants and certificants; and

(5) use the registry to timely communicate with registrants and certificants concerning issues of health and safety, building codes, environmental and energy issues, and State and federal incentive programs.

(b) The Director, after consultation with an advisor appointed pursuant to section 5506 of this title, may adopt rules to implement this chapter.

#### § 5506. ADVISORS

(a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A. § 129b to serve as advisors in matters relating to residential contractors and construction.

(b) To be eligible to serve, an advisor shall:



- (1) register under this chapter;
  - (2) have at least three years' experience in residential construction immediately preceding appointment; and
  - (3) remain active in the profession during his or her service.
- (c) The Director of Professional Regulation shall seek the advice of the advisors in implementing this chapter.

#### § 5507. FEES

A person regulated under this chapter shall pay the following fees at initial application and biennial renewal:

- (1) Registration, individual: \$75.00.
- (2) Registration, business organization: \$250.00.
- (3) State certifications: \$75.00 for a first certification and \$25.00 for each additional certification.

#### Subchapter 3. Registrations

#### § 5508. ELIGIBILITY

To be eligible for registration, the Director of Professional Regulation shall find that the applicant is in compliance with the provisions of this chapter and applicable State law and has satisfied any judgment order related to the provision of professional services to a homeowner.

#### § 5509. REQUIREMENTS OF REGISTRANTS

(a) Insurance. A person registered under this chapter shall maintain minimum liability insurance coverage in the amount of \$300,000.00 per claim and \$1,000,000.00 aggregate, evidence of which may be required as a precondition to issuance or renewal of a registration.

(b) Writing.

(1) A person registered under this chapter shall execute a written contract prior to receiving a deposit or commencing residential construction work if the estimated value of the labor and materials exceeds \$5,000.00.

(2) A contract shall specify:

(A) Price. One of the following provisions for the price of the contract:

- (i) a maximum price for all work and materials;
- (ii) a statement that billing and payment will be made on a time and materials basis, not to exceed a maximum price; or

(iii) a statement that billing and payment will be made on a time and materials basis and that there is no maximum price.

(B) Work dates. Estimated start and completion dates.

(C) Scope of work. A description of the services to be performed and a description of the materials to be used.

(D) Change order provision. A description of how and when amendments to the contract may be approved and documented, as agreed by the parties.

(3) The parties shall document an amendment to the contract in a signed writing.

(c) Down payment.

(1) If a contract specifies a maximum price for all work and materials or a statement that billing and payment will be made on a time and materials basis, not to exceed a maximum price, the contract may require a down payment of up to one-half of the cost of labor to the consumer, or one-half of the price of materials, whichever is greater.

(2) If a contract specifies that billing and payment will be made on a time and materials basis and that there is no maximum price, the contract may require a down payment as negotiated by the parties.

#### § 5510. PROHIBITIONS AND REMEDIES

(a) A person who does not register as required pursuant to this chapter may be subject to an injunction or a civil penalty, or both, for unauthorized practice as provided in 3 V.S.A. § 127(b).

(b) The Office of Professional Regulation may discipline a registrant or certificant for unprofessional conduct as provided in 3 V.S.A. § 129a, except that 3 V.S.A. § 129a(b) does not apply to a registrant.

(c) The following conduct by a registrant, certificant, applicant, or person who later becomes an applicant constitutes unprofessional conduct:

(1) failure to enter into a written contract when required by this chapter;

(2) failure to maintain liability or workers' compensation insurance as required by law;

(3) committing a deceptive act in commerce in violation of 9 V.S.A. § 2453;

(4) falsely claiming certification under this chapter, provided that this subdivision does not prevent accurate and nonmisleading advertising or statements related to credentials that are not offered by this State; and

(5) selling or fraudulently obtaining or furnishing a certificate of registration, certification, license, or any other related document or record, or assisting another person in doing so, including by reincorporating or altering a trade name for the purpose or with the effect of evading or masking revocation, suspension, or discipline against a registration issued under this chapter.

Sec. 28. IMPLEMENTATION

(a) Notwithstanding any contrary provision of 26 V.S.A. chapter 106:

(1) The initial biennial registration term for residential contractors pursuant to 26 V.S.A. chapter 106 shall begin on April 1, 2023.

(2) The Secretary of State may begin receiving applications for the initial registration term on December 1, 2022.

(3)(A) The registration fee for individuals who submit complete registration requests between December 1, 2022 and March 31, 2023 is \$25.00 and between April 1, 2023 and March 31, 2024, the fee is \$50.00.

(B) The registration fee for business organizations that submit complete registration requests between December 1, 2022 and March 31, 2023 is \$175.00 and between April 1, 2023 and March 31, 2024, the fee is \$200.00.

(4) Prior to April 1, 2024, the Office of Professional Regulation shall not take any enforcement action for unauthorized practice under 26 V.S.A. § 5510(a) against a residential contractor who fails to register as required by this act.

(b) On or before July 1, 2023, the Director of Professional Regulation shall establish an initial set of voluntary certifications, to include at minimum OSHA standards on construction projects and components of energy-efficient “green” building for insulators, carpenters, and heating and ventilation installers.

Sec. 29. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING

(a) There are created within the Secretary of State’s Office of Professional Regulation one new position in licensing and one new position in enforcement.

(b) In fiscal year 2023, the amount of \$200,000.00 in Office of Professional Regulation special funds is appropriated to the Secretary of State to fund the positions created in subsection (a) of this section.

Sec. 30. SECRETARY OF STATE; STATUS REPORT

On or before January 15, 2024, the Office of Professional Regulation shall report to the House Committees on General, Housing, and Military Affairs and on Government Operations and to the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations concerning the implementation of 26 V.S.A. chapter 106, including:

- (1) the number of registrations and certifications;
- (2) the resources necessary to implement the chapter;
- (3) the number and nature of any complaints or enforcement actions;
- (4) the potential design and implementation of a one-stop portal for contractors and consumers; and
- (5) any other issues the Office deems appropriate.

\* \* \* Vermont Rental Housing Investment Program;  
Accessory Dwelling Units \* \* \*

Sec. 31. Sec. 9 of S.210 (2022), as enacted, is amended to read:

Subchapter 3. Housing; Investments

§ 699. VERMONT RENTAL HOUSING INVESTMENT PROGRAM

\* \* \*

(b) Eligible rental housing units. The following units are eligible for a grant or forgivable loan through the Program:

(1) Non-code compliant. The unit does not comply with the requirements of applicable building, housing, or health laws.

(2) New accessory dwelling. The unit will be a newly created accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E), provided that the unit is not used as a short-term rental, as defined in 18 V.S.A. § 4301.

\* \* \*

(d) Program requirements applicable to grants and forgivable loans.

(1) A grant or loan shall not exceed ~~\$30,000.00 per unit;~~

(A) \$30,000.00 to rehabilitate an existing unit; or

(B) \$50,000 to create a new accessory dwelling unit.

\* \* \*

Sec. 32. Sec. 15(b)(3) of S.210 (2022), as enacted, is amended to read:

(3) ~~\$20,000,000.00~~ to the Department of Housing and Community

Development to implement the Vermont Rental Housing Investment Program created in 10 V.S.A. § 699, provided that the Department shall allocate 25 percent of the funds for accessory dwelling units as follows:

(A) the Department may use not more than 20 percent of the funding available for accessory dwelling units to facilitate a statewide education and navigation system to assist homeowners with designing, financing, permitting, and constructing accessory dwelling units; and

(B) the Department shall use any remaining funds for accessory dwelling units for financial incentives or other financial supports to homeowners developing accessory dwelling units.

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

### Sec. 33. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 24(a)(1) (missing middle housing; FY 22 funding) shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: By striking out Sec. 9, 32 V.S.A. § 5930u(g), in its entirety

Second: By striking out Sec. 13, appropriation, in its entirety and inserting in lieu thereof the following:

### Sec. 13. APPROPRIATION

To the extent that increased funding is provided in fiscal year 2023 to the Municipal and Regional Planning Fund, \$650,000.00 shall be used for Municipal Bylaw Modernization Grants established in 24 V.S.A. § 4307.

Third: By striking out Sec. 14, 32 V.S.A. § 5930ee, in its entirety

Fourth: In Sec. 33, effective dates, by striking out “Sec. 24(a)(1)” and inserting in lieu thereof Sec. 22(a)(1)

And by renumbering the remaining sections to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Economic

Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, Senators Sirotkin, Clarkson, Balint, Brock and Ram Hinsdale moved to amend the recommendation of the Committee on Economic Development, Housing and General Affairs, as amended as follows:

First: In Sec. 27, 26 V.S.A. chapter 106, in section 5501, subsection (a) (requirement to register), and section 5509, subsection (b) (requirement for written contract), by striking out “\$5,000.00” and inserting in lieu thereof \$10,000.00

Second: By adding a Sec. 29a to read:

Sec. 29a. ATTORNEY GENERAL; CONSUMER ASSISTANCE;  
POSITION; APPROPRIATION

(a) The Office of the Attorney General is authorized to create one classified, two-year full-time limited-service position within the Consumer Assistance Program, whose duties shall include:

(1) reducing, resolving, and assisting with consumer complaints concerning residential construction projects with a value of less than \$10,000.00; and

(2) coordinating and facilitating information sharing concerning complaints with the Office of Professional Regulation.

(b) In fiscal year 2023, the amount of \$200,000.00 is appropriated from the General Fund to the Office of the Attorney General to create the position and perform the duties provided in this section.

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, on motion of Senator Sirotkin the Senate recessed until the fall of the gavel.

### **Called to Order**

The Senate was called to order by the President.

**Consideration Resumed; Bill Amended; Third Reading Ordered**

**S. 226.**

Consideration was resumed on Senate bill entitled:

An act relating to expanding access to safe and affordable housing.

Thereupon, the recurring question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was decided in the affirmative and third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

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

### **Roll Call**

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

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

**Those Senators absent and not voting were:** Sears, Starr.

### **Bill Amended; Bill Passed**

#### **S. 281.**

Senate bill entitled:

An act relating to hunting coyotes with dogs.

Was taken up.

Thereupon, pending third reading of the bill, Senator Bray moved to amend the bill by striking out Sec. 4, effective dates, in its entirety and inserting in lieu thereof the following:

#### **Sec. 4. EFFECTIVE DATES**

(a) This section and Sec. 3 (Fish and Wildlife Board rules) shall take effect on passage.

(b) Sec. 2 (moratorium on hunting coyote with aid of dogs) shall take effect on July 1, 2022.

(c) Sec. 1 (permit requirement and prohibition on pursuing coyote with aid of dogs) shall take effect on the effective date of the Fish and Wildlife Board rules required under Sec. 3 of this act.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

---

**Bill Passed****S. 285.**

Senate bill of the following title was read the third time and passed:

An act relating to expanding the Blueprint for Health and access to home- and community-based services.

**Bill Passed in Concurrence with Proposals of Amendment****H. 447.**

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

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

**Message from the House No. 40**

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

Madam President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 739.** An act relating to capital construction and State bonding budget adjustment.

In the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to the following House bill:

**H. 722.** An act relating to reapportioning the final representative districts of the House of Representatives and the senatorial districts of the Senate.

And has severally concurred therein.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Thursday, March 31, 2022.

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**THURSDAY, MARCH 31, 2022**

The Senate was called to order by the President.



**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Bill Referred**

House bill of the following title was read the first time and referred:

**H. 739.**

An act relating to capital construction and State bonding budget adjustment.

To the Committee on Institutions.

**Governor's Veto Sustained**

House Bill entitled:

**H. 361.** An act relating to approval of amendments to the charter of the Town of Brattleboro.

Was taken up.

Thereupon, the pending question, Shall the bill pass, notwithstanding the refusal of the Governor to approve it?, was decided in the negative on a roll call required by the Vermont Constitution, Yeas 15, Nays 12. (the necessary *override* two-thirds vote *not* having been attained).

**Roll Call**

**Those Senators who voted in the affirmative were:** Baruth, Bray, Champion, Clarkson, Cummings, Hardy, Hooker, Kitchel, Lyons, Pearson, Perchlik, Pollina, Ram Hinsdale, Sirotkin, \*White.

**Those Senators who voted in the negative were:** Benning, Brock, Chittenden, Collamore, Ingalls, MacDonald, Mazza, McCormack, Nitka, Starr, Terenzini, Westman.

**Those Senators absent or not voting were:** Balint (presiding), Parent, Sears.

\*Senator White explained her vote as follows:

“Thank you Madam President. I voted yes but understand that there have been some concerns raised that were not addressed. The issues concern the ability of those under 18 to sign contracts. State law says that only those over 18 can sign contracts. Signing contracts is a responsibility of a select board member. I will work with the Town of Brattleboro to address these issues over the next year.”

**Third Reading Ordered****S. 286.**

Senate committee bill entitled:

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

Having appeared on the Calendar for notice for one day, was taken up.

Senator Kitchel, for the Committee on Appropriations, moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. § 311a is added to read:

\* \* \*

§ 311a. PUBLIC RETIREMENT BENEFITS; UNFUNDED LIABILITY;  
FINDINGS; PURPOSE; INTENT

(a) Findings. The General Assembly finds that:

(1) The actuarially determined employer contribution (ADEC) for the Vermont State Employees' Retirement System (VSERS) has increased by an annual growth rate of 12.1 percent between FY 2009 and FY 2023, and the funded ratio of the VSERS has declined from 94.1 percent from FY 2008 to 67.6 percent by year-end FY 2021.

(2) The ADEC for the Vermont State Teachers' Retirement System (VSTRS) has increased by an annual growth rate of 13 percent between FY 2009 and FY 2023, and the funded ratio of the VSTRS has declined from 80.9 percent from FY 2008 to 52.9 percent by year-end FY 2021.

(3) The General Assembly has appropriated sufficient funds to fully pay the ADEC for both VSERS and VSTRS at the recommended amounts since FY 2007 and throughout the current amortization period.

(4) Since FY 2009, the accrued liabilities of VSERS and VSTRS have grown faster than the assets of each plan, resulting in a gap between the expected payout of future benefits and the assets VSERS and VSTRS have to pay out those benefits to retired State employees and teachers. This gap is also known as the unfunded liabilities for VSERS and VSTRS.

(5) In FY 2015, the General Assembly created the Retired Teachers' Health and Medical Benefits Fund, and health care premiums are paid for on a pay-as-you go basis from this Fund.

(6) The FY 2022 State budget expense for retiree healthcare benefits, known as other postemployment benefits (OPEB), for State employees was approximately \$37.2 million and \$35.1 million for teachers.

(7) As of the beginning of FY 2022, the State's unfunded liabilities for healthcare benefits for retired State employees and teachers is \$2.75 billion.

(b) Purpose. The purpose of this section is to provide economic stability for retired State employees and teachers by maintaining the financial health of VSERS and VSTRS, while also addressing the unfunded liabilities in the State's pension and OPEB plans and the decline in the funded ratios of those retirement systems.

(c) Intent.

(1) It is the intent of the General Assembly to address the unfunded liabilities and decline in funded ratios of VSERS and VSTRS by implementing several measures, including:

(A) continuing the General Assembly's policy since FY 2007 to fully fund the actuarially determined employer contributions rates for the VSERS and VSTRS at the amounts recommended by the respective boards of each retirement system to the General Assembly each year; and

(B) beginning in FY 2024, annually funding an additional payment to the actuarially recommended unfunded liability amortization payments for VSERS and VSTRS that will increase to not more than \$15,000,000.00 each year to each retirement system and remain until the VSERS plan and the VSTRS plan respectively reach a 90 percent funded ratio.

(2) It is also the intent of the General Assembly to prefund other postemployment benefits to create more security and predictability in health care benefits for retired State employees and teachers.

(3)(A) Nothing in this subdivision (3) shall be construed as a commitment by the General Assembly to enacting a specific level of future benefit enhancements that would require prefunding.

(B)(i) It is the intent of the General Assembly that VSTRS members who paid additional contributions in active service as part of a broader effort to improve the health of the retirement system should receive postretirement adjustment allowances that will more fully reflect the net percentage increase in the Consumer Price Index once the retirement system is in a healthier financial position.

(ii) The General Assembly recognizes that a discrepancy exists between members of other State retirement systems who receive postretirement adjustment allowances equal to 100 percent of the net

percentage increase in the Consumer Price Index and VSTRS members who receive postretirement adjustment allowances equal to 50 percent of the net percentage increase.

(iii) It is the intent of the General Assembly that, once the VSTRS system is at least 80 percent funded, or in conjunction with proposed modifications to the unfunded liability amortization schedule or policy, there should be consideration of establishing a path to incrementally increase the postretirement adjustment allowance formula to an ultimate goal of 100 percent of the net percentage increase in the Consumer Price Index to create parity amount retirement systems to the benefit of VSTRS Group C members who paid higher contribution rates in active service to help improve the health of the VSTRS system.

(iv) It is the intent of the General Assembly that, prior to enacting any statutory changes to the postretirement adjustment allowance formula, the General Assembly, in consultation with the Retirement Board and employee groups, should evaluate the impact of any proposed changes on the normal cost, unfunded actuarial accrued liability, funded ratio, and actuarially determined employer contribution.

(v) It is the intent of the General Assembly that the evaluation of any future changes to the postretirement adjustment allowance formula should also include developing a strategy for amortizing any anticipated growth in the unfunded actuarial accrued liability attributed to any potential increases in the formula.

(vi) It is the intent of the General Assembly that no future modifications should be made to the postretirement adjustment allowance formula if those changes are projected to result in the funded ratio of the retirement system decreasing below 80 percent funded on an actuarial value basis.

\* \* \* Vermont State Employees' Retirement System \* \* \*

\* \* \* Pension Benefits \* \* \*

Sec. 2. 3 V.S.A. § 455 is amended to read:

§ 455. DEFINITIONS

(a) As used in this subchapter:

\* \* \*

(4) "Average final compensation" shall mean:

\* \* \*

(F) For a Group D member:

(i) Who retires on or before June 30, 2022, the member's final salary.

(ii) Who retires on or after July 1, 2022, but who, on or before June 30, 2022, has five years or more of service as a Supreme Court Justice, a Superior judge, an Environmental judge, a District judge, or a Probate judge or any combination thereof and has attained 57 years of age or older, or is a Group D member on or before June 30, 2022 and has 15 years or more of creditable service, the member's final salary.

(iii) Who retires on or after July 1, 2022 and who does not meet the requirements set forth in subdivisions (i) and (ii) of this subdivision (F), the average annual earnable compensation of a member during the two consecutive fiscal years beginning on July 1 and ending on June 30 of creditable service affording the highest such average, or during all of the years in the member's creditable service if fewer than two years. If the member separates prior to the end of a fiscal year, average final compensation shall be determined by adding:

(I) The actual earnable compensation earned in the fiscal year of separation through the date of separation and the service credit to correspond with the last pay date.

(II) The earnable compensation and service credit earned in the preceding fiscal year.

(III) The remaining service credit that is needed to complete the two full years, which shall be factored from the fiscal year preceding the fiscal year described in subdivision (II) of this subdivision (F)(iii). The earnable compensation associated with this remaining service credit shall be calculated by multiplying the annual earnable compensation reported by the remaining service credit that is needed.

\* \* \*

(13) "Normal retirement date" shall mean:

(A) with respect to a Group A member, the first day of the calendar month next following (i) attainment of age 65, and following completion of five years of creditable service for those members hired on or after July 1, 2004, or (ii) attainment of age 62 and completion of 20 years of creditable service, whichever is earlier;

(B) with respect to a Group C member, the first day of the calendar month next following attainment of age 55 years of age, and following completion of five years of creditable service for those members hired on or after July 1, 2004, or completion of 30 years of service, whichever is earlier;

(C) with respect to a Group D member;

(i) for those members first appointed or elected on or before June 30, 2022, the first day of the calendar month next following attainment of age 62 years of age and completion of five years of creditable service; or

(ii) for those members first appointed or elected on or after July 1, 2022, the first day of the calendar month next following attainment of 65 years of age and completion of five years of creditable service; and

(D) with respect to a Group F member, the first day of the calendar month next following attainment of age 62, and following completion of five years of creditable service for those members hired on or after July 1, 2004, or completion of 30 years of creditable service, whichever is earlier; and with respect to a Group F member first included in the membership of the system on or after July 1, 2008, the first day of the calendar month next following attainment of age 65 and following completion of five years of creditable service, or attainment of 87 points reflecting a combination of the age of the member and number of years of service, whichever is earlier.

\* \* \*

Sec. 3. 3 V.S.A. § 459 is amended to read:

§ 459. NORMAL AND EARLY RETIREMENT

(a) Normal retirement.

\* \* \*

(2) Group C members. Any ~~group~~ Group C member who is an officer or employee of the Department of Public Safety assigned to police and law enforcement duties, including the Commissioner of Public Safety appointed before July 1, 2000, and who has reached his or her normal retirement date may retire on a normal retirement allowance, on the first day of any month after he or she may have separated from service, by filing an application in the manner outlined in subdivision (3) of this subsection. Any ~~group~~ Group C member in service shall be retired on a normal retirement allowance on the first day of the calendar month next following attainment of ~~age 55~~ 57 years of age. Notwithstanding, it is provided that any such member who is an official appointed for a term of years may remain in service until the end of ~~his or her~~ the member's term of office or any extension thereto, resulting from reappointment.

\* \* \*

(b) Normal retirement allowance.

(1) Upon normal retirement, a ~~group~~ Group A member shall receive a normal retirement allowance which shall be equal to 50 percent of ~~his or her~~ the member's average final compensation; provided, however, that if the member has not completed 30 years of creditable service at retirement, or, if earlier, the date of attainment of such age as may be applicable under the provisions of subdivision (a)(4) of this section, his or her allowance shall be multiplied by the ratio that the number of his or her years of creditable service at retirement, or such earlier date, bears to 30.

(2)(A) Upon normal retirement, a ~~group~~ Group C member shall receive a normal retirement allowance which shall be equal to 50 percent of ~~his or her~~ the member's average final compensation; provided, however, that if the member has not completed 20 years of creditable service at retirement, or, if earlier, the date of attainment of such age as may be applicable under the provisions of subdivision (a)(4) of this section, the member's allowance shall be multiplied by the ratio that the number of ~~his or her~~ the member's years of creditable service at retirement, or such earlier date, bears to 20.

(B) For a Group C member, for each year of service that is completed on or after July 1, 2022 after attaining the later of 50 years of age or completing 20 years of service, a member's maximum normal retirement allowance shall increase by an amount equal to one and one-half percent of the member's average final compensation.

(3)(A) ~~Group D members who are Justices of the Supreme Court, Superior judges, Environmental judges, and District judges; additional retirement allowance. Justices of the Supreme Court, Superior judges, Environmental judges, and District judges, upon normal retirement under this section, shall receive a normal retirement allowance equal to one and two-thirds percent of the member's average final compensation times the years of Group D membership service up to 12 years. Group D members shall receive an additional retirement allowance according to years of service as a Supreme Court Justice, a Superior judge, an Environmental judge, or a District judge, or a Probate judge or any combination thereof as follows:~~

(i) ~~After 12 years of service, an additional retirement allowance of an amount which that, together with the normal service retirement allowance for the first 12 years, will make the total equal to two-fifths of their salary at retirement average final compensation.~~

(ii) ~~For each year of service in excess of 12 years, an amount equal to 3-1/3 three and one-third percent of their salary at retirement average final compensation shall be added to the retirement allowance as computed in subsection (a) subdivision (b)(3)(A)(i) of this section subdivision (b)(3)(A). However, at no time shall the total retirement allowance exceed their salary at~~

~~retirement. Such In addition to the normal retirement allowance, such additional retirement allowance shall be treated as the normal retirement allowance for all purposes of the retirement act.~~

~~(B) In order to qualify for the benefits provided by this title each Justice or judge shall have the maximum employee contribution in accordance with the requirements of the State Employees' Retirement System. These provisions shall apply to surviving Justices and judges retired before its enactment, but only from the effective date of its enactment, and not retroactively. The total retirement allowance for Group D members shall be as follows:~~

~~(i) For a Group D member who retires on or before June 30, 2022, the total retirement allowance shall not exceed the member's salary at retirement.~~

~~(ii) For a Group D member who, on or before June 30, 2022, has five years or more of service as a Supreme Court Justice, a Superior judge, an Environmental judge, a District judge, or a Probate judge, or any combination thereof, and has attained 57 years of age or older, or is a Group D member on or before June 30, 2022 and has 15 years or more of creditable service, the total retirement allowance shall not exceed the member's salary at retirement.~~

~~(iii) For a Group D member who retires on or after July 1, 2022, and who does not meet the requirements set forth in subdivision (i) or (ii) of this subdivision (B), the member's total retirement allowance shall not exceed 80 percent of the member's average final compensation.~~

~~(C) For the purposes of this section, years of service as a municipal judge are to be counted as years of service in determining the additional retirement allowance, insofar as they represent years of membership service. [Repealed.]~~

~~(4) Group D members who are Probate judges; additional retirement allowance. Probate judges, having retired under this section, shall be entitled to an additional retirement allowance according to their years in service as follows:~~

~~(A) Upon completion of 12 years of service an amount which with service retirement allowance will equal two-fifths of the salary at retirement.~~

~~(B) For each additional year of service, an amount equal to 3 1/3 percent of the salary at retirement shall be added to the retirement allowance as computed in subsection (a) of this section. Such additional retirement allowance shall be treated as the normal retirement allowance for all purposes of the retirement act. [Repealed.]~~



\* \* \*

Sec. 4. 3 V.S.A. § 459a is amended to read:

§ 459a RESTORATION OF SERVICE

\* \* \*

(b)(1) Upon the subsequent retirement of an employee who once again became a member under subsection (a) of this section, the employee shall once again become a beneficiary whose former retirement allowance shall be restored under the same plan provisions applicable at the time of the initial retirement, but the beneficiary shall not be entitled to cost of living adjustments for the period during which he or she was restored to service. In addition to the former retirement allowance, a beneficiary shall be entitled to a retirement allowance separately computed for the period beginning with his or her last restoration to service for which the member has made a contribution. If the beneficiary is not vested in the system since he or she was last restored to service, the member's contributions plus accumulated interest shall be returned to him or her.

(2) Notwithstanding subdivision (1) of this subsection, for a Group C member who has attained the later of 50 years of age and has completed 20 years or more of service, in no event shall the member's separately computed retirement allowance increase by an amount equal to more than one and one-half percent of the member's average final compensation per year of restored service actually performed.

Sec. 5. 3 V.S.A. § 470 is amended to read:

§ 470. POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

~~(a) For Group A, Group C, and Group D members, as of June 30th in each year, commencing June 30, 1972, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of said index for the month ending on June 30, 1971, or the month ending on June 30th of the most recent year subsequent thereto. In the event of an increase, and provided that the net increase following the application of any offset as provided in this subsection equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased by an equal percentage. Such increase shall commence on the January 1st immediately following such December 31st. Such percentage increase shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the~~

~~allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31st. In the event of a decrease of the Consumer Price Index as of June 30th for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1st; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index when such increase equals or exceeds one percent, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Postretirement adjustments to retirement allowance. On January 1 of each year, the retirement allowance of each beneficiary of the System who is in receipt of a retirement allowance and who meets the eligibility criteria set forth in this section shall be adjusted by the amount described in subsection (d) of this section. In no event shall a beneficiary receive a negative adjustment to the beneficiary's retirement allowance.~~

~~(b) For Group F members, as of June 30th in each year, commencing January 1, 1991, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. In the event of an increase, and provided that there exists a net increase following the application of any offset as provided in this subsection, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31st shall be increased by an amount equal to one-half of the net percentage increase. Commencing January 1, 2014, the retirement allowance of each beneficiary who was an active contributing member of the Group F plan on or after June 30, 2008, and who retires on or after July 1, 2008, shall be increased by an amount equal to the net percentage increase. The increase shall commence on the January 1st immediately following such December 31st. The increase shall apply to Group F members receiving an early retirement allowance only in the year following attainment of normal retirement age, provided the member has received benefits for at least 12 months as of December 31st of the year preceding any January adjustment. In the event of a decrease of the Consumer Price Index as of June 30th for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1st; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Calculation of Net Percentage Increase.~~

(1) Consumer Price Index; maximum and minimum amounts. Prior to October 1 of each year, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent, in the Consumer Price Index for the month ending on June 30 of that year to the average of said index for the month ending on June 30 of the previous year. Any increase or decrease in the Consumer Price Index shall be subject to adjustment so as to remain within the following maximum and minimum amounts:

(A) For Group A members, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent.

(B) For Group C members who are first eligible for normal retirement or unreduced early retirement on or before June 30, 2022, or who are vested deferred members as of June 30, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent.

(C) For Group C members who are first eligible for normal retirement or unreduced early retirement on or after July 1, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be four percent.

(D) For Group D members, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent.

(E) For Group F members who are first eligible for normal retirement or unreduced early retirement on or before June 30, 2022, or who are vested deferred members as of June 30, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be five percent, and any increase or decrease of less than one percent shall be assigned a value of one percent.

(F) For Group F members who are first eligible for normal retirement or unreduced early retirement on or after July 1, 2022, the maximum amount of any increase or decrease used to determine the net percentage increase shall be four percent.

(2) Consumer Price Index; decreases. In the event of a decrease in the Consumer Price Index, there shall be no adjustment to retirement allowances for the subsequent year beginning January 1; provided, however, that:

(A) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index, up to the full amount of such increase; and

(B) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset.

(3) Consumer Price Index; increases. In the event of an increase in the Consumer Price Index, and provided there remains an increase following the application of any offset as in subdivision (2) of this subsection, that amount shall be identified as the net percentage increase and used to determine the members' postretirement adjustment as described herein.

(c) For purposes of subsection (a) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent. For purposes of subsection (b) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent, and any increase or decrease of less than one percent shall be assigned a value of one percent. Eligibility for postretirement adjustment. In order for a beneficiary to receive a postretirement adjustment to the beneficiary's retirement allowance, the beneficiary must meet the following eligibility requirements:

(1) For all members who are retired or vested deferred on or before June 30, 2022; for Group A, C, and F members who are first eligible for normal retirement or unreduced early retirement on or before June 30, 2022; and for Group D members first appointed or elected on or before June 30, 2022, the member must be in receipt of a retirement allowance for at least 12 months prior to the January 1 effective date of any postretirement adjustment.

(2) For all Group A, C, and F members who are first eligible for normal retirement or unreduced early retirement on or after July 1, 2022, and for Group D members first appointed or elected on or after July 1, 2022, the member must be in receipt of a retirement allowance for at least 24 months prior to the January 1 effective date of any postretirement adjustment.

(3) Special rule for Group F early retirement. A Group F member in receipt of an early retirement allowance shall not receive a postretirement adjustment to the member's retirement allowance until such time as the

member has reached normal retirement age, provided the member has also met the other eligibility criteria set forth in this subsection.

(d) For purposed of this section, Consumer Price Index shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics. Amount of postretirement adjustment. The postretirement adjustment for each member who meets the eligibility criteria set forth in subsection (c) of this section shall be as follows:

(1) The full amount of the net percentage increase calculated in subsection (b) of this section for the following:

(A) Group A and C members;

(B) Group D members first appointed or elected on or before June 30, 2022; and

(C) Commencing January 1, 2014, any active contributing member of the Group F plan on or after June 30, 2008, and who retires as a Group F member on or after July 1, 2008.

(2) One-half of the net percentage increase calculated in subsection (b) of this section for Group F members who retired on or before June 30, 2008.

(3) For Group D members first appointed or elected on or after July 1, 2022, the full amount of the net percentage increase calculated in subsection (b) of this section for amounts equal to or less than \$75,000.00 of annual retirement allowance and one-half the net percentage increase calculated in subsection (b) of this section for amounts \$75,000.01 or greater of annual retirement allowance.

(e) Definition. For purposes of this section:

(1) "Consumer Price Index" means the Northeast Region Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(2) "Vested deferred" means a member who receives a vested deferred allowance payable pursuant to subsection 465(a) of this title.

(f) Deferred vested allowance. No increase shall be made pursuant to this section in a deferred vested allowance payable pursuant to subsection 465(a) of this title prior to its commencement.

Sec. 6. 3 V.S.A. § 473 is amended to read:

§ 473. FUNDS

(a) Assets. All of the assets of the Retirement System shall be credited to the Vermont State Retirement Fund.

(b) Member contributions.

(1)(A) Allocations. Contributions deducted from the compensation of members together with any member contributions transferred thereto from the predecessor systems shall be accumulated in the Fund and separately recorded for each member. The amounts so transferred on account of Group A members shall be allocated between regular and additional contributions. The amounts so allocated as regular contributions shall be determined as if the rate of contribution of four percent has been continuously in effect in the predecessor system from which such amounts were transferred and the balance of any amount so transferred on account of any Group A member shall be deemed additional contributions. In the case of Group C members who were members as of the date of establishment and Group D members, all contributions transferred from predecessor systems shall be deemed regular contributions. Those members who, prior to the date of establishment of this system, had been contributing at a rate less than four percent shall have any benefit otherwise payable on their behalf actuarially reduced to reflect such prior contribution rate of less than four percent. Upon a member's retirement or other withdrawal from service on the basis of which a retirement allowance is payable, the member's additional contributions, with interest thereon, shall be paid as an additional allowance equal to an annuity which is the actuarial equivalent of such amount, in the same manner as the benefit otherwise payable under the System.

(B) Periodic review. When the State Employees' Retirement System has been determined by the actuary to have assets at least equal to its accrued liability, contribution rates will be reevaluated by the actuary with a subsequent recommendation to the General Assembly. In determining the amount earnable by a member in a payroll period, the Retirement Board may consider the annual or other periodic rate of earnable compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as, on an annual basis, shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is to be made. Each of the amounts shall be deducted until the member retires or otherwise withdraws

from service, and when deducted shall be paid into the Annuity Savings Fund, and shall be credited to the individual account of the member from whose compensation the deduction was made.

~~(2)(A) Group A members. Commencing on July 1, 2016, contributions shall be 6.55 percent of compensation for Group A, D, and F members and 8.43 percent of compensation for Group C members. When the State Employees' Retirement System has been determined by the actuary to have assets at least equal to its accrued liability, contribution rates will be reevaluated by the actuary with a subsequent recommendation to the General Assembly. In determining the amount earnable by a member in a payroll period, the Retirement Board may consider the annual or other periodic rate of earnable compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as, on an annual basis, shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is to be made. Each of the amounts shall be deducted until the member retires or otherwise withdraws from service, and when deducted shall be paid into the Annuity Savings Fund, and shall be credited to the individual account of the member from whose compensation the deduction was made.~~

(B) Group C members.

(i) Commencing the first full pay period in fiscal year 2023, the contribution rate for Group C members shall be 9.03 percent of compensation;

(ii) Commencing the first full pay period in fiscal year 2024, the contribution rate for Group C members shall be 9.53 percent of compensation.

(iii) Commencing the first full pay period in fiscal year 2025 and annually thereafter, the contribution rate for Group C members shall be 10.03 percent of compensation.

(C) Group D members. Commencing on July 1, 2022, the contribution rate for Group D members shall be based on the quartile in which a member's hourly rate of pay falls. Quartiles shall be determined annually in the first full pay period of each fiscal year by the Department of Human Resources based on the hourly rate of pay by all Group D members. The contribution rates shall be based on the schedule set forth below:

(i) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who

have an hourly rate of pay in any pay period, below the 25th percentile of Group D member hourly rates of pay, the contribution rate shall be 6.65 percent of compensation.

(ii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 25th percentile and below the 50th percentile of Group D member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.15 percent of compensation;

(II) commencing in fiscal year 2024, 7.65 percent of compensation; and

(III) commencing in fiscal year 2025 and annually thereafter, 8.15 percent of compensation.

(iii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 50th percentile and below the 75th percentile of Group D member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.15 percent of compensation;

(II) commencing in fiscal year 2024, 7.65 percent of compensation;

(III) commencing in fiscal year 2025, 8.15 percent of compensation; and

(IV) commencing in fiscal year 2026 and annually thereafter, 8.65 percent of compensation.

(iv) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at or above the 75th percentile of Group D member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.15 percent of compensation;

(II) commencing in fiscal year 2024, 7.65 percent of compensation;



(III) commencing in fiscal year 2025, 8.15 percent of compensation;

(IV) commencing in fiscal year 2026, 8.65 percent of compensation; and

(V) commencing in fiscal year 2027 and annually thereafter, 9.15 percent of compensation.

(D) Group F members. Commencing on July 1, 2022, the contribution rate for Group F members shall be based on the quartile in which a member's hourly rate of pay falls. Quartiles shall be determined annually in the first full pay period of each fiscal year, by the Department of Human Resources based on the hourly rate of pay of all Group F members. The contribution rates shall be based on the schedule set forth below:

(i) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period below the 25th percentile of Group F member hourly rate of pay, the contribution rate shall be 6.65 percent of compensation.

(ii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 25th percentile and below the 50th percentile of Group F member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.15 percent of compensation;

(II) commencing in fiscal year 2024, 7.65 percent of compensation; and

(III) commencing in fiscal year 2025 and annually thereafter, 8.15 percent of compensation.

(iii) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at the 50th percentile and below the 75th percentile of Group F member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.15 percent of compensation;

(II) commencing in fiscal year 2024, 7.65 percent of compensation;

(III) commencing in fiscal year 2025, 8.15 percent of compensation; and

(IV) commencing in fiscal year 2026 and annually thereafter, 8.65 percent of compensation.

(iv) Based on the quartiles for the first full pay period of each fiscal year and effective the first full pay period in that fiscal year, for members who have an hourly rate of pay in any pay period at or above the 75th percentile of Group F member hourly rates of pay, the contribution rate shall be as follows:

(I) commencing in fiscal year 2023, 7.15 percent of compensation;

(II) commencing in fiscal year 2024, 7.65 percent of compensation;

(III) commencing in fiscal year 2025, 8.15 percent of compensation;

(IV) commencing in fiscal year 2026, 8.65 percent of compensation; and

(V) commencing in fiscal year 2027 and annually thereafter, 9.15 percent of compensation.

(3) Deductions. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided herein and shall receipt for full compensation, and payment of compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this subchapter.

(4) Additional contributions. Subject to the approval of the Retirement Board, in addition to the contributions deducted from compensation as hereinbefore provided, any member may redeposit in the Fund by a single payment or by an increased rate of contribution an amount equal to the total amount which the member previously withdrew from this System or one of the predecessor systems; or any member may deposit therein by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity ~~which that~~, together with prospective retirement allowance, will provide for the member a total retirement allowance not in excess of one-half of average final compensation at normal retirement date, with the exception of Group D members for whom creditable service shall be

restored upon redeposits of amounts previously withdrawn from the System, or for whom creditable service shall be granted upon deposit of amounts equal to what would have been paid if payment had been made during any period of service during which such a member did not contribute. Such additional amounts so deposited shall become a part of the member's accumulated contributions as additional contributions.

(5) Beneficiaries. The contributions of a member and such interest as may be allowed thereon ~~which~~ that are withdrawn by the member or paid to the member estate or to a designated beneficiary in event of the member's death, shall be paid from the Fund.

(6) Scope. Contributions required under this subsection shall be limited to contributions from Group A, Group C, Group D, and Group F members.

(7) [Repealed.]

(c) Employer contributions, earnings, and payments.

\* \* \*

(8) Annually, the Board shall certify an amount to pay the annual actuarially determined employer contribution, as calculated in this subsection, and additional amounts as follows:

(A) in fiscal year 2024, the amount of \$9,000,000.00;

(B) in fiscal year 2025, the amount of \$12,000,000.00; and

(C) in fiscal year 2026 and in any year thereafter until the Fund is calculated to have a funded ratio of at least 90 percent, the amount of \$15,000,000.00.

\* \* \* Other Postemployment Benefits \* \* \*

Sec. 7. 3 V.S.A. § 479a is amended to read:

§ 479a. STATE EMPLOYEES' POSTEMPLOYMENT BENEFITS TRUST  
FUND

\* \* \*

(b) Into the Benefits Fund shall be deposited:

(1) all assets remitted to the State as a subsidy on behalf of the members of the Vermont State Employees' Retirement System for employer-sponsored qualified prescription drug plans pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003, except that any subsidy received from an Employer Group Waiver Program is not subject to this requirement;

(2) any appropriations by the General Assembly for the purposes of paying current and future retiree postemployment benefits for members of the Vermont State Employees' Retirement System; ~~and~~

(3) amounts contributed or otherwise made available by members of the System or their beneficiaries for the purpose of paying current or future postemployment benefits costs; and

(4) any monies pursuant to subsection (e) of this section.

(c) The Benefits Fund shall be administered by the State Treasurer. The Treasurer may invest monies in the Benefits Fund in accordance with the provisions of 32 V.S.A. § 434 or, in the alternative, may enter into an agreement with the Commission to invest such monies in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, in a manner similar to the ~~Committee's~~ Commission's investment of ~~retirements~~ retirement system monies. All balances in the Benefits Fund at the end of the fiscal year shall be carried forward. Interest earned shall remain in the Benefits Fund. The Treasurer's annual financial report to the Governor and the General Assembly shall contain an accounting of receipts, disbursements, and earnings of the Benefits Fund.

\* \* \*

(e) State Contribution.

(1) Beginning on July 1, 2022 and annually thereafter, the State shall make annual contributions to the Benefits Fund known as the "normal contribution" and the "accrued liability contribution," each of which shall be fixed on the basis of the liabilities of the System as shown by the most recent actuarial valuation and made by the payroll assessment included in annual agency and department budgets:

(A) The "normal contribution" shall be the amount that, if contributed over each member's prospective period of service, will be sufficient to provide for the payment of all future retiree postemployment benefits after subtracting the unfunded actuarial liability and the total assets of the Benefits Fund. The "normal contribution" shall be identified using the actuarial cost method known as "projected unit credit" and applying a rate of return equal to the most recently adopted actuarial rate of return pursuant to section 523 of this title.

(B) The "accrued liability contribution" shall be the annual payment set forth in the most recent actuarial valuation that is necessary to liquidate the unfunded accrued liability over a closed period of 26 years and determined based on the funding schedule set forth in this section.

(i) It is the policy of the State of Vermont to liquidate fully the unfunded accrued liability for the payment of retiree health and medical benefits.

(ii) Beginning on July 1, 2022, until the unfunded accrued liability is liquidated, the accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a closed period of 26 years ending on June 30, 2048, provided that the amount of each annual basic accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 26-year period in installments.

(2) Any variation in the contribution of normal or accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the closed 26-year period.

(3) The Board shall review annually the amount of State contributions recommended by the actuary. Based on this review, the Board shall determine the amount of State contribution necessary for the next fiscal year to achieve and preserve the financial integrity of the funds and certify a statement of the percentage of the payroll of all members sufficient to fund the normal cost and the accrued liability contribution. On or before December 15 of each year, the Board shall inform the Governor and the House and Senate Committees on Government Operations and on Appropriations in writing about the amount needed. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

\* \* \* VSERS Actuarial Studies \* \* \*

Sec. 8. 3 V.S.A. § 523 is amended to read:

§ 523. VERMONT PENSION INVESTMENT COMMISSION; DUTIES

\* \* \*

(f) Asset and liability study. Beginning on July 1, ~~2022~~ 2023, and every three years thereafter, based on the most recent actuarial valuations of each Plan, the Commission shall study the assets and liabilities of each Plan over a 20-year period. The study shall:

(1) project the expected path of the key indicators of each Plan's financial health based on all current actuarial and investment assumptions; current contribution and benefit policies, including the Plans' mark-to-market funded ratio; actuarially required contributions by source; payout ratio; and related liquidity obligations; and

(2) project the effect on each Plan's financial health resulting from:

(A) possible material deviations from Plan assumptions in investment assumptions, including returns versus those expected and embedded in the actuary's estimate of actuarially required contributions and any material changes in capital markets volatility; and

(B) possible material deviations from key plan actuarial assumptions, including retiree longevity, potential benefit increases, and inflation.

\* \* \*

Sec. 9. 3 V.S.A. § 471 is amended to read:

§ 471. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

\* \* \*

(j) The Retirement Board shall designate an actuary who shall be the technical advisor of the Board on matters regarding the operation of the Fund of the Retirement System, and shall perform such other duties as are required in connection therewith. Immediately after the establishment of the Retirement System, the Retirement Board shall adopt for the Retirement System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this subchapter. At Beginning July 1, 2023, at least once in each three-year period every three fiscal years following the establishment of the System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and taking into account the results of such investigation, the Retirement Board shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this subchapter.

\* \* \*

\* \* \* Vermont State Teachers' Retirement System \* \* \*

\* \* \* VSTRS Actuarial Studies \* \* \*

Sec. 10. 16 V.S.A. § 1942 is amended to read:

§ 1942. BOARD OF TRUSTEES; MEDICAL BOARD; ACTUARY; RATE OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

\* \* \*

(m) Immediately after the establishment of the System, the actuary shall make such investigation of the mortality, service, and compensation experience of the members of the System, as the actuary shall recommend and the Board

shall authorize, for the purpose of determining the proper mortality and service tables to be prepared and submitted to the Board for adoption. Having regard to such investigation and recommendation, the Board shall adopt for the System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter. ~~At least once in each three-year period~~ Beginning July 1, 2023, at least once every three fiscal years following the establishment of the System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the System, and taking into account the results of such investigation, the Board shall adopt for the System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

\* \* \*

\* \* \* Pension Benefits \* \* \*

Sec. 11. 16 V.S.A. § 1944 is amended to read:

§ 1944. VERMONT TEACHERS' RETIREMENT FUND

(a) Pension Fund. All of the assets of the System shall be credited to the Vermont Teachers' Retirement Fund.

(b) Member contributions.

(1) Contributions deducted from the compensation of members shall be accumulated in the Pension Fund and separately recorded for each member.

(2) The proper authority or officer responsible for making up each employer payroll shall cause to be deducted from the compensation:

(A) of each Group A member five and one-half percent of the member's total earnable compensation, including compensation paid for absence as provided by subsection 1933(d) of this title; and

(B) ~~from of each Group C member with at least five years of membership service as of July 1, 2014, five percent of the member's earnable compensation; and from each Group C member with less than five years of membership service as of July 1, 2014, six percent of the member's earnable compensation, an effective rate that is calculated based on the member's base salary as of July 1 each year. The effective rate shall be rounded to the nearest hundredth of a percent and levied on the member's total earnable compensation for the fiscal year, unless a teacher's full-time equivalency status changes during the fiscal year, in which case the teacher's effective rate will be recalculated and the new rate will be applied going forward. A member's total earnable compensation for the fiscal year shall also including— include~~

compensation paid for absence as provided by subsection 1933(d) of this title, and shall be calculated according to the following marginal rates and income brackets:

(i) Beginning on July 1, 2022:

(I) if a member's base salary is at or below \$40,000.00, the rate is 6.0 percent;

(II) if a member's base salary is \$40,000.01 or more but not more than \$60,000.00, the rate is the equivalent of \$2,400.00 on \$40,000.00 of the member's base salary and 6.50 percent of the member's salary that is \$40,000.01 or more;

(III) if a member's base salary of \$60,000.01 or more but not more than \$80,000.00, the rate is the equivalent of \$3,700.00 on \$60,000.00 and 6.75 percent of the member's salary that is \$60,000.01 or more;

(IV) if a member's base salary is \$80,000.01 or more but not more than \$100,000.00, the rate is the equivalent of \$5,050.00 on \$80,000.00 and 7.00 percent of the member's salary that is \$80,000.01 or more;

(V) if a member's base salary is \$100,000.01 or more, the rate is the equivalent of \$6,450.00 on \$100,000.00 and 7.25 percent of the member's salary that is \$100,000.01 or more.

(ii) Beginning on July 1, 2023:

(I) if a member's base salary is at or below \$40,000.00, the rate is 6.25 percent;

(II) if a member's base salary is \$40,000.01 or more but not more than \$60,000.00, the rate is the equivalent of \$2,500.00 on \$40,000.00 and 6.75 percent of the member's salary that is \$40,000.01 or more;

(III) if a member's base salary of \$60,000.01 or more but not more than \$80,000.00, the rate is the equivalent of \$3,850.00 on \$60,000.00 and 7.0 percent of the member's salary that is \$60,000.01 or more;

(IV) if a member's base salary is \$80,000.01 or more but not more than \$100,000.00, the rate is the equivalent of \$5,250.00 on \$80,000.00 and 7.50 percent of the member's salary that is \$80,000.01 or more;

(V) if a member's base salary is \$100,000.01 or more, the rate is the equivalent of \$6,750.00 on \$100,000.00 and 8.0 percent of the member's salary that is \$100,000.01 or more.

(iii) Beginning on July 1, 2024 and annually thereafter:



(I) if a member's base salary is at or below \$40,000.00, the rate is 6.25 percent;

(II) if a member's base salary is \$40,000.01 or more but not more than \$60,000.00, the rate is the equivalent of \$2,900.00 on \$40,000.00 and 6.75 percent of the member's salary that is \$40,000.01 or more;

(III) if a member's base salary of \$60,000.01 or more but not more than \$80,000.00, the rate is the equivalent of \$3,850.00 on \$60,000.00 and 7.5 percent of the member's salary that is \$60,000.01 or more;

(IV) if a member's base salary is \$80,000.01 or more but not more than \$100,000.00, the rate is the equivalent of \$5,350.00 on \$80,000.00 and 8.25 percent of the member's salary that is \$80,000.01 or more;

(V) if a member's base salary is \$100,000.01 or more, the rate is the equivalent of \$7,000.00 on \$100,000.00 and 9.0 percent of the member's salary that is \$100,000.01 or more.

(C) In determining the amount earnable by a member set forth in this subdivision (2) in a payroll period, the Board may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period, and it may omit deduction from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one percent of the annual earnable compensation upon the basis of which such deduction is made. The actuary shall make annual valuations of the reduction to the recommended State contribution attributable to the increase from five to six percent, and the Board shall include the amount of this reduction in its written report pursuant to subsection 1942(r) of this title.

\* \* \*

(c) State contributions, earnings, and payments.

(1) All State appropriations and all reserves for the payment for all pensions including all interest and dividends earned on the assets of the Retirement System shall be accumulated in the Pension Fund. All benefits payable under the System, except for retired teacher health and medical benefits, shall be paid from the Pension Fund. Annually, the Retirement Board shall allow regular interest on the individual accounts of members in the Pension Fund ~~which~~ that shall be credited to each member's account.

(2) Beginning with the actuarial valuation as of June 30, 2006, the contributions to be made to the Pension Fund by the State shall be determined

on the basis of the actuarial cost method known as “entry age normal.” On account of each member, there shall be paid annually by the State into the Pension Fund a percentage of the earnable compensation of each member to be known as the “normal contribution” and an additional percentage of the member’s earnable compensation to be known as the “accrued liability contribution.” The percentage rate of such contributions shall be fixed on the basis of the liabilities of the System as shown by actuarial valuation. “Normal contributions” and “accrued liability contributions” shall be by separate appropriation in the annual budget enacted by the General Assembly.

(3) The normal contribution shall be the uniform percentage of the total compensation of members that, if contributed over each member’s prospective period of service and added to such member’s prospective contributions, if any, will be sufficient to provide for the payment of all future pension benefits after subtracting the sum of the unfunded accrued liability and the total assets of the Pension Fund.

(4) It is the policy of the State of Vermont to liquidate fully the unfunded accrued liability to the System. Beginning on July 1, 2008, until the unfunded accrued liability is liquidated, the accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a closed period of 30 years ending on June 30, 2038, provided that:

(A) From July 1, 2009 to June 30, 2019, the amount of each annual basic accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 30-year period in installments increasing at a rate of five percent per year.

(B) Beginning on July 1, 2019 and annually thereafter, the amount of each annual basic accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 30-year period in installments increasing at a rate of three percent per year.

(C) Any variation in the contribution of normal or unfunded accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the closed 30-year period.

\* \* \*

(13) Annually, the Board shall certify an amount to pay the annual actuarially determined employer contribution, as calculated in this subsection, and additional amounts as follows:

(A) in fiscal year 2024, the amount of \$9,000,000.00;

(B) in fiscal year 2025, the amount of \$12,000,000.00; and

(C) in fiscal year 2026 and in any year thereafter until the Fund is calculated to have a funded ratio of at least 90 percent, the amount of \$15,000,000.00.

\* \* \*

Sec. 12. 16 V.S.A. § 1949 is amended to read:

§ 1949. POSTRETIREMENT ADJUSTMENTS TO RETIREMENT ALLOWANCES

~~(a) For all Group A members, as of June 30 in each year, beginning June 30, 1972, the Board shall determine any increase or decrease, to the nearest one-tenth of one percent, in the ratio of the average of the Consumer Price Index for the month ending on that date to the average of the Index for the month ending on June 30, 1971, or the month ending on June 30 of the most recent year thereafter. In the event of an increase, and provided that the net increase following the application of any offset as provided in this subsection equals or exceeds one percent, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased by an equal percentage. Such increase shall begin on the January 1 immediately following that December 31. An equivalent percentage increase shall also be made in the retirement allowance payable to a beneficiary in receipt of an allowance under an optional election, provided the member on whose account the allowance is payable and such other person shall have received a total of at least 12 monthly payments by such December 31. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index when such increase equals or exceeds one percent, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Postretirement Adjustments to Retirement allowance. On January 1 of each year, the retirement allowance of each beneficiary of the System who is in receipt of a retirement allowance for at least a one-year period as of December 31 in the previous year, and who meets the eligibility criteria set forth in this section, shall be adjusted by the amount described in subsection (b) of this section. In no event shall a beneficiary receive a negative adjustment to the beneficiary's retirement allowance.~~

~~(b) For Group C members, as of June 30 in each year, commencing June 30, 1981, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent of the Consumer Price Index for the preceding fiscal year. In the event of an increase, and provided that there exists a net increase following the application of any offset as provided in this subsection, the retirement allowance of each beneficiary in receipt of an allowance for at least one year on the next following December 31 shall be increased by an amount equal to one-half of the net percentage increase. The increase shall commence on the January 1 immediately following that December 31. The increase shall apply to Group C members having attained 57 years of age or completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following attainment of age 62, and shall apply to Group C members not having attained 57 years of age or having completed at least 25 years of creditable service as of June 30, 2010, and receiving an early retirement allowance only in the year following the member's attainment of 65 years of age, provided the member has received benefits for at least 12 months as of December 31 of the year preceding any January adjustment. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, the retirement allowance of a beneficiary shall not be subject to any adjustment on the next following January 1; provided, however, that:~~

~~(1) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index, up to the full amount of such increase; and~~

~~(2) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset. Calculation of Net Percentage Increase. Each year, a determination shall be made of any increase or decrease, to the nearest one-tenth of a percent, in the Consumer Price Index for the month ending on June 30 of that year to the average of the Consumer Price Index for the month ending on June 30 of the previous year.~~

~~(1) Consumer Price Index; maximum and minimum amounts. Any increase or decrease in the Consumer Price Index shall be subject to adjustment so as to remain within the following maximum and minimum amounts:~~

~~(A) For Group A members and Group C members who are eligible for normal retirement or unreduced early retirement on or before June 30, 2022, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent.~~

(B) For Group C members who are eligible for retirement and leave active service on or after July 1, 2022, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be four percent.

(2) Consumer Price Index; decreases. In the event of a decrease of the Consumer Price Index as of June 30 for the preceding year, there shall be no adjustment to the retirement allowance of a beneficiary for the subsequent year beginning January 1; provided, however, that:

(A) such decrease shall be applied as an offset against the first subsequent year's increase of the Consumer Price Index up to the full amount of such increase; and

(B) to the extent that such decrease is greater than such subsequent year's increase, such decrease shall be offset in the same manner against two or more years of such increases, for up to but not exceeding five subsequent years of such increases, until fully offset.

(3) Consumer Price Index; increases. Subject to the maximum and minimum amounts set forth in subdivision (1) of this subsection, in the event of an increase in the Consumer Price Index, and provided there remains an increase following the application of any offset as in subdivision (2) of this subsection, that amount shall be identified as the net percentage increase and used to determine the members' postretirement adjustment as set forth in subsection (d) of this section.

~~(c) For purposes of subsection (a) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent. For purposes of subsection (b) of this section, the maximum amount of any increase or decrease utilized to determine the net percentage increase shall be five percent, and any increase or decrease less than one percent shall be assigned a value of one percent. Eligibility for postretirement adjustment. In order for a beneficiary to receive a postretirement adjustment allowance, the beneficiary must meet the following eligibility requirements:~~

(1) for any Group A or Group C member eligible for retirement on or before June 30, 2022, the member must be in receipt of a retirement allowance for at least 12 months prior to the January 1 effective date of any postretirement adjustment; and

(2) for any Group C member who is eligible for retirement and leaves active service on or after July 1, 2022, the member must be in receipt of a retirement allowance for at least 24 months prior to the January 1 effective date of any postretirement adjustment.

(d) As used in this section, "Consumer Price Index" shall mean the Northeast Region Consumer Price Index for all urban consumers, designated as "CPI-U," in the northeast region, as published by the U.S. Department of Labor, Bureau of Labor Statistics.

\* \* \* Other Postemployment Benefits \* \* \*

Sec. 13. 16 V.S.A. § 1944b is amended to read:

§ 1944b. RETIRED TEACHERS' HEALTH AND MEDICAL BENEFITS  
FUND

(a) There is established the Retired Teachers' Health and Medical Benefits Fund (Benefits Fund) to pay ~~retired teacher health and medical~~ retiree postemployment benefits, ~~including prescription drug benefits~~, when due in accordance with the terms established by the Board of Trustees of the State Teachers' Retirement System of Vermont pursuant to subsection 1942(p) and section 1944e of this title. The Benefits Fund is intended to comply with and be a tax exempt governmental trust under Section 115 of the Internal Revenue Code of 1986, as amended. The Benefits Fund shall be administered by the Treasurer.

(b) The Benefits Fund shall consist of:

(1) all monies remitted to the State on behalf of the members of the State Teachers' Retirement System of Vermont for prescription drug plans, including manufacturer rebates, as well as monies pursuant to the Employer Group Waiver Plan with Wrap pursuant to the Medicare Prescription Drug Improvement and Modernization Act of 2003;

(2) any monies appropriated by the General Assembly for the purpose of paying ~~the health and medical~~ postemployment benefits for retired members and their dependents provided by subsection 1942(p) and section 1944e of this title;

(3) any monies pursuant to subsection ~~(e)~~ (h) of this section; and

(4) [Repealed.]

(5) any monies pursuant to section 1944d of this title.

(c) No employee contributions shall be deposited in the Benefits Fund.

(d) The Treasurer may invest monies in the Benefits Fund in accordance with the provisions of 32 V.S.A. § 434 or, in the alternative, may enter into an agreement with the Vermont Pension Investment ~~Committee~~ Commission to invest such monies in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, in a manner similar to the ~~Committee's~~ Commission's investment of retirement system monies. Interest

earned shall remain in the Benefits Fund, and all balances remaining at the end of a fiscal year shall be carried over to the following year. The Treasurer's annual financial report to the Governor and the General Assembly shall contain an accounting of receipts, disbursements, and earnings of the Benefits Fund.

(e) [Repealed.]

(f) Contributions to the Benefits Fund shall be irrevocable and it shall be impossible at any time prior to the satisfaction of all liabilities, with respect to employees and their beneficiaries, for any part of the corpus or income of the Benefits Fund to be used for, or diverted to, purposes other than the payment of retiree postemployment benefits to members and their beneficiaries and reasonable expenses of administering the Benefits Fund and related benefit plans.

(g) [Repealed.]

(h) State contribution.

(1) Beginning on July 1, 2022, and annually thereafter, the State shall make annual contributions to the Benefits Fund known as the "normal contribution" and the "accrued liability contribution," each of which shall be fixed on the basis of the liabilities of the System as shown by the most recent actuarial valuation and made by separate appropriation in the annual budget enacted by the General Assembly:

(A) The "normal contribution" shall be the amount that, if contributed over each member's prospective period of service, will be sufficient to provide for the payment of all future retiree postemployment benefits after subtracting the unfunded actuarial liability and the total assets of the Benefits Fund. The "normal cost" shall be identified using the actuarial cost method known as "projected unit credit" and applying a rate of return equal to the most recently adopted actuarial rate of return pursuant to 3 V.S.A. § 523.

(B) The "accrued liability contribution" shall be the annual payment set forth in the most recent actuarial valuation that is necessary to liquidate the unfunded accrued liability over a closed period of 26 years and determined based on the funding schedule set forth in this section.

(i) It is the policy of the State of Vermont to liquidate fully the unfunded accrued liability for the payment of retiree postemployment benefits.

(ii) Beginning on July 1, 2022, until the unfunded accrued liability is liquidated, the accrued liability contribution shall be the annual payment required to liquidate the unfunded accrued liability over a closed period of

26 years ending on June 30, 2048, provided that the amount of each annual basic accrued liability contribution shall be determined by amortization of the unfunded liability over the remainder of the closed 26-year period in installments.

(2) Any variation in the contribution of normal or accrued liability contributions from those recommended by the actuary and any actuarial gains and losses shall be added or subtracted to the unfunded accrued liability and amortized over the remainder of the closed 26-year period.

(3) The Board shall review annually the amount of State contributions recommended by the actuary of the Retirement System. Based on this review, the Board shall determine the amount of State contribution necessary for the next fiscal year to achieve and preserve the financial integrity of the funds. On or before December 15 of each year, the Board shall inform the Governor and the House and Senate Committees on Government Operations and on Appropriations in writing about the amount needed. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 14. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

\* \* \*

(b) Monies in the Education Fund shall be used for the following:

\* \* \*

(4) To make payments to the Vermont Teachers' Retirement Fund and the Retired Teachers' Health and Medical Benefits Fund for the normal contribution contributions in accordance with subsection subsections 1944(c) of this title and 1994b(h) of this title.

\* \* \*

Sec. 15. VERMONT TEACHERS' RETIREMENT SYSTEM; REPEAL OF PRIOR SUNSET AND REPORTING PROVISIONS

2018 (Sp. Sess.) Acts and Resolves No.11, Secs. E.515.3 and E.515.4 are hereby repealed.

\* \* \* Vermont Municipal Employees' Retirement System \* \* \*

Sec. 16. 24 V.S.A. § 5062 is amended to read:

§ 5062. RETIREMENT BOARD; MEDICAL BOARD; ACTUARY; RATES OF CONTRIBUTION; SAFEKEEPING OF SECURITIES

\* \* \*



(k) Immediately after the establishment of the Retirement System, the Retirement Board shall adopt for the Retirement System such mortality and service tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter. ~~At least once in each three-year period~~ Beginning July 1, 2023, at least once every three fiscal years following the establishment of the System, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the Retirement System, and taking into account the results of such investigation, the Retirement Board shall adopt for the Retirement System such mortality, service, and other tables as shall be deemed necessary and shall certify the rates of contribution payable under the provisions of this chapter.

\* \* \*

\* \* \* Funding \* \* \*

Sec. 17. FY 2022; APPROPRIATION; STATE EMPLOYEES' POSTEMPLOYMENT BENEFITS TRUST FUND; RETIRED TEACHERS' HEALTH AND MEDICAL BENEFITS FUND

(a) In FY 2022, of the amount of General Funds reserved in 2021 Acts and Resolves No. 74, Sec. C.101(a) is unreserved as follows:

(1) the sum of \$75,000,000.00 is appropriated to the Vermont State Retirement Fund, established in 3 V.S.A. § 473, to address the unfunded accrued liability in pension benefits; and

(2) the sum of \$75,000,000.00 is appropriated to the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944, to address the unfunded accrued liability in pension benefits.

(b) In FY 2022, the amount of \$50,000,000.00 in General Funds shall be appropriated to the to the Vermont Teachers' Retirement Fund, established in 16 V.S.A. § 1944, to address the unfunded accrued liability in pension benefits.

(c) In FY 2022, of the amount of Education Funds reserved in 2021 Acts and Resolves No. 74, Sec. C.101(a) is unreserved and the sum of \$13,300,000.00 is appropriated to the Retired Teachers' Health and Medical Benefits Fund, established in 16 V.S.A. § 1944b, to support the normal cost of other postemployment benefits as set forth in 16 V.S.A. § 1944f.

(d) The appropriations in subsections (a) and (b) of this section shall not be included for the purposes of calculating the reserve total for fiscal year 2023 pursuant to 32 V.S.A. § 308 (General Fund budget stabilization reserve).

Sec. 18. 32 V.S.A. § 308c is amended to read:

§ 308c. GENERAL FUND AND TRANSPORTATION FUND BALANCE RESERVES

(a) There is hereby created within the General Fund a General Fund Balance Reserve, also known as the “Rainy Day Reserve.” After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year General Fund surplus shall be reserved in the General Fund Balance Reserve. The General Fund Balance Reserve shall not exceed five percent of the appropriations from the General Fund for the prior fiscal year without legislative authorization.

(1), (2) [Repealed.]

(3) Of the funds that would otherwise be reserved in the General Fund Balance Reserve under this subsection, 50 percent of any such funds the following amounts shall be reserved as necessary and transferred from the General Fund ~~to the Vermont State Employees’ Postemployment Benefits Trust Fund established by 3 V.S.A. § 479a~~ as follows:

(A) 25 percent to the Vermont State Retirement Fund established by 3 V.S.A. § 473; and

(B) 25 percent to the Vermont Teachers’ Retirement Fund established by 16 V.S.A. § 1944.

\* \* \*

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

Sec. 19. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 17 (FY 2022 appropriation) shall take effect on passage.

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

Thereupon, pending the question, Shall the bill be read the third time?, Senator Brock moved to amend the bill by striking out Sec. 17 and all remaining sections of the bill and inserting in lieu thereof new Secs. 17 and 18 to read as follows:

Sec. 17. 3 V.S.A. § 500 is amended to read:

§ 500. DEFINED CONTRIBUTION RETIREMENT PLAN

(a) The State Treasurer shall offer a retirement plan ~~for State employees who are not members of the classified system.~~ The Plan shall qualify that

qualifies as a defined contribution plan under the U.S. Internal Revenue Code, as amended, for eligible State employees as set forth in subsection (b) of this section. Participation in such plan shall be in lieu of the retirement plans established under chapter 16 of this title.

(b)(1) Employees who are not members of the classified system who are first employed by the State on and after January 1, 1999, and would otherwise be members of Group A, B, C, D, or F of the Vermont State Retirement System, shall be eligible to participate in the Defined Contribution Retirement Plan.

(2) Employees who are members of the classified system who are first employed by the State on and after January 1, 2023, and who would otherwise be members of Group A, B, C, D, or F of the Vermont State Retirement System, shall be eligible to participate in the Defined Contribution Retirement Plan.

\* \* \*

(d) Election to participate in the Defined Contribution Retirement Plan is irrevocable, unless:

(1) the employee who is eligible for this plan under the conditions of subdivision (b)(1) of this section becomes a classified employee and elects to transfer his or her membership and the full actuarial value of the accrued benefit calculated on a cost neutral basis to the Vermont State Retirement System; or

(2) the employee is appointed to a position that is eligible for membership in the Group D plan. Within 60 days of after appointment, the employee may choose to participate in the Group D plan and cease participation in the defined contribution plan. Upon an election to participate in the Group D plan, the State Treasurer shall apply the funds accumulated in the employee's defined contribution account toward purchasing retirement credit in the Group D plan by first applying the funds toward purchasing any Group D eligible credit earned from the date of the judicial appointment and then applying the funds toward purchasing credit in the retirement group plan or plans for which the employee would have formerly been eligible.

\* \* \*

#### Sec. 18. EFFECTIVE DATES

This act shall take effect on July 1, 2022, except that Sec. 16 (FY 2022 appropriation) shall take effect on passage.

Which was disagreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

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

### **Roll Call**

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

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

**Those Senators absent or not voting were:** Balint (presiding), Parent.

### **Bill Passed**

#### **S. 204.**

Senate bill of the following title was read the third time and passed:

An act relating to licensure of freestanding birth centers.

### **Bill Amended; Bill Passed**

#### **S. 226.**

Senate bill entitled:

An act relating to expanding access to safe and affordable housing.

Was taken up.

Thereupon, pending third reading of the bill, Senators Perchlik and Pearson moved to amend the bill as follows:

First: In Sec. 9, Vermont housing conservation board; large employer housing; commercial property conversion; community partnership for neighborhood development, subdivision (b)(1), by striking out “climate-sensitive,” and inserting the words that reduces greenhouse gas emissions after the words “smart growth development”

Second: In Sec. 11, 24 V.S.A. § 4307, by striking out subdivisions (f)(8) and (9) in their entireties and inserting in lieu thereof the following:

(8) comply with State and Federal Fair Housing Act, including the fair housing provisions of Vermont’s Planning and Development Act;

(9) demonstrate how the bylaws support implementation of the housing element of its municipal plan as provided in subdivision 4282(a)(10) of this title related to addressing lower- and moderate-income housing needs; and

(10) update the bylaws to comply with its municipal energy plan.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Perchlik and Pearson?, Senator Perchlik moved that the question be divided.

Thereupon, the question, Shall the bill be amended as recommended by Senator Perchlik and Pearson in the *first* recommendation of amendment?, was decided in the affirmative.

Thereupon, the question, Shall the bill be amended as recommended by Senators Perchlik and Pearson in the *second* recommendation of amendment?, was decided in the negative.

Thereupon, the bill was read the third time and passed, on a roll call, Yeas 28, Nays 0.

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

#### **Roll Call**

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

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

**Those Senators absent or not voting were:** Balint (presiding), Parent.

Thereupon, on motion of Senator Sirotkin, the rules were suspended and the bill was ordered messaged to the House forthwith.

#### **Bill Amended; Bill Passed**

#### **S. 181.**

Senate bill entitled:

An act relating to authorizing miscellaneous regulatory authority for municipal governments.

Was taken up.

Thereupon, pending third reading of the bill, Senators Clarkson, Collamore, Pollina and White moved to amend the bill as follows:

First: In Sec. 8, 24 V.S.A. § 4460, subdivision (f)(2), immediately following “If the number of members on a board is reduced,” by striking out all of the words before the period and inserting in lieu thereof the words the legislative body shall use a lottery system to determine the members that remain in office

Second: By adding a Sec. 8a to read as follows:

Sec. 8a. 24 V.S.A. § 4322 is amended to read:

§ 4322. PLANNING COMMISSION; MEMBERSHIP

(a) A planning commission shall have not less than three nor more than nine voting members. All members may be compensated and reimbursed by the municipality for necessary and reasonable expenses. At least a majority of the members of a planning commission shall be residents of the municipality.

(b) ~~The selectboard~~ legislative body of a rural town, or not more than two elected or appointed officials of an urban municipality who are chosen by the legislative body of the urban municipality, shall be nonvoting ex officio members of a planning commission. If a municipality has an energy coordinator under chapter 33, subchapter 12 of this title, the energy coordinator may be a nonvoting ex officio member of the planning commission.

(c) Notwithstanding subsection (a) of this section:

(1) for an appointed planning commission, the legislative body may change the number of members that may be appointed to the commission; and

(2) for an elected planning commission, a municipality may vote at an annual or special meeting to change the number of members that may be elected to the commission.

(d) Notwithstanding subsection 4323(c) of this subchapter, if the number of members on an appointed or elected planning commission is reduced, the legislative body shall use a lottery system to determine the members that remain in office.

Third: By striking out Sec. 12, 18 V.S.A. § 5361, in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. [Deleted.]

Which was agreed to.

Thereupon, the bill was read the third time and passed.