

# Journal of the House

Tuesday, March 22, 2022

At ten o'clock in the forenoon the Speaker called the House to order.

## Message from the Senate No. 37

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

**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.

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

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

**S. 53.** An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has on its part adopted Senate concurrent resolution 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.

The Senate has on its part adopted concurrent resolutions originating in the House 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.

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Anthony Union High School Patriots State championship wrestling team.

### **Seating Ceremony of New Members**

A formal seating ceremony was held for new members who joined the Legislature during its period of remote operation. Members were seated in the House Chamber pursuant to House Rule 5.

### **Devotional Exercises**

A moment of silence was observed in lieu of a devotion.

### **Pledge of Allegiance**

Page Madelyn Morris of Williston led the House in the Pledge of Allegiance.

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

#### **H. 739**

By the Committee on Corrections and Institutions

House bill, entitled

An act relating to capital construction and State bonding budget adjustment

Was read the first time and, pursuant to House Rule 35(a), carrying an appropriation, was referred to the Committee on Appropriations.

### **Committee Bill Introduced**

#### **H. 740**

By the Committee on Appropriations,

House bill, entitled

An act relating to making appropriations for the support of government

Was read the first time, and pursuant to House Rule 48, placed on the Notice Calendar.

### **Senate Bills Referred**

Senate bills of the following titles were severally taken up, read the first time, and referred as follows:

#### **S. 188**

Senate bill, entitled

An act relating to regulating licensed small cannabis cultivation as farming  
To the Committee on Agriculture and Forestry.

**S. 247**

Senate bill, entitled

An act relating to prohibiting discrimination based on genetic information  
To the Committee on Health Care.

**Second Reading; Bill Amended; Third Reading Ordered**

**H. 353**

**Rep. Cordes of Lincoln**, for the Committee on Health Care, to which had  
been referred House bill, entitled

An act relating to pharmacy benefit management

Reported in favor of its passage when amended by striking all after the  
enacting clause and inserting in lieu thereof the following:

Sec. 1. INTENT

It is the intent of the General Assembly to increase access to needed medications by making prescription drugs more affordable and accessible to Vermonters by increasing State regulation of pharmacy benefit managers and pharmacy benefit management. It is also the intent of the General Assembly to stabilize and safeguard against the loss of more independent and community pharmacies, where pharmacists provide personalized care to Vermonters and help them with their health care needs, including medication management, medication adherence, and health screenings.

Sec. 2. 18 V.S.A. chapter 221, subchapter 9 is amended to read:

Subchapter 9. Pharmacy Benefit Managers

§ 9471. DEFINITIONS

As used in this subchapter:

\* \* \*

(2) “Health insurer” is defined by section 9402 of this title and shall include:

(A) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(B) an employer, labor union, or other group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont; and

(C) the State of Vermont and any agent or instrumentality of the State that offers, administers, or provides financial support to State government; ~~and~~

~~(D) Medicaid, and any other public health care assistance program.~~

\* \* \*

§ 9472. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES  
WITH RESPECT TO HEALTH INSURERS AND COVERED  
PERSONS

(a) A pharmacy benefit manager that provides pharmacy benefit management for a health plan ~~shall discharge its duties with reasonable care and diligence and be fair and truthful under the circumstances then prevailing that a pharmacy benefit manager acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims~~ has a fiduciary duty to its health insurer client that includes a duty to be fair and truthful toward the health insurer, to act in the health insurer's best interests, and to perform its duties with care, skill, prudence, and diligence. In the case of a health benefit plan offered by a health insurer as defined by subdivision 9471(2)(A) of this title, the health insurer shall remain responsible for administering the health benefit plan in accordance with the health insurance policy or subscriber contract or plan and in compliance with all applicable provisions of Title 8 and this title.

(b) A pharmacy benefit manager shall provide notice to the health insurer that the terms contained in subsection (c) of this section may be included in the contract between the pharmacy benefit manager and the health insurer.

(c) A pharmacy benefit manager that provides pharmacy benefit management for a health plan shall do all of the following:

(1) Provide all financial and utilization information requested by a health insurer relating to the provision of benefits to beneficiaries through that health insurer's health plan and all financial and utilization information relating to services to that health insurer. A pharmacy benefit manager providing information under this subsection may designate that material as confidential. Information designated as confidential by a pharmacy benefit manager and provided to a health insurer under this subsection ~~may~~ shall not be disclosed by the health insurer to any person without the consent of the

pharmacy benefit manager, except that disclosure may be made by the health insurer:

(A) in a court filing under the consumer protection provisions of 9 V.S.A. chapter 63, provided that the information shall be filed under seal and that prior to the information being unsealed, the court shall give notice and an opportunity to be heard to the pharmacy benefit manager on why the information should remain confidential;

(B) to State and federal government officials;

(C) when authorized by 9 V.S.A. chapter 63;

~~(C)~~(D) when ordered by a court for good cause shown; or

~~(D)~~(E) when ordered by the Commissioner as to a health insurer as defined in subdivision 9471(2)(A) of this title pursuant to the provisions of Title 8 and this title.

(2) Notify a health insurer in writing of any proposed or ongoing activity, policy, or practice of the pharmacy benefit manager that presents, directly or indirectly, any conflict of interest with the requirements of this section.

(3) With regard to the dispensation of a substitute prescription drug for a prescribed drug to a beneficiary in which the substitute drug costs more than the prescribed drug and the pharmacy benefit manager receives a benefit or payment directly or indirectly, disclose to the health insurer the cost of both drugs and the benefit or payment directly or indirectly accruing to the pharmacy benefit manager as a result of the substitution.

(4) ~~Unless the contract provides otherwise, if~~ If the pharmacy benefit manager derives any payment or benefit for the dispensation of prescription drugs within the State based on volume of sales for certain prescription drugs or classes or brands of drugs within the State, pass that payment or benefit on in full to the health insurer.

(5) Disclose to the health insurer all financial terms and arrangements for remuneration of any kind that apply between the pharmacy benefit manager and any prescription drug manufacturer that relate to benefits provided to beneficiaries under or services to the health insurer's health plan, including formulary management and drug-switch programs, educational support, claims processing, and pharmacy network fees charged from retail pharmacies and data sales fees. A pharmacy benefit manager providing information under this subsection may designate that material as confidential. Information designated as confidential by a pharmacy benefit manager and provided to a health insurer under this subsection ~~may~~ shall not be disclosed

by the health insurer to any person without the consent of the pharmacy benefit manager, except that disclosure may be made by the health insurer:

(A) in a court filing under the consumer protection provisions of 9 V.S.A. chapter 63, provided that the information shall be filed under seal and that prior to the information being unsealed, the court shall give notice and an opportunity to be heard to the pharmacy benefit manager on why the information should remain confidential;

(B) when authorized by 9 V.S.A. chapter 63;

(C) when ordered by a court for good cause shown; or

(D) when ordered by the Commissioner as to a health insurer as defined in subdivision 9471(2)(A) of this title pursuant to the provisions of Title 8 and this title.

(d) At least annually, a pharmacy benefit manager that provides pharmacy benefit management for a health plan shall disclose to the health insurer, the Department of Financial Regulation, and the Green Mountain Care Board the aggregate amount the pharmacy benefit manager retained on all claims charged to the health insurer for prescriptions filled during the preceding calendar year in excess of the amount the pharmacy benefit manager reimbursed pharmacies.

(e) A pharmacy benefit manager contract with a health insurer shall not contain any provision purporting to reserve discretion to the pharmacy benefit manager to move a drug to a higher tier or remove a drug from its drug formulary any more frequently than two times per year.

(f)(1) A pharmacy benefit manager shall not require a covered person purchasing a covered prescription drug to pay an amount greater than the lesser of:

(A) the cost-sharing amount under the terms of the health benefit plan;

(B) the maximum allowable cost for the drug; or

(C) the amount the covered person would pay for the drug, after application of any known discounts, if the covered person were paying the cash price.

(2) Any amount paid by a covered person under subdivision (1) of this subsection shall be attributed toward any deductible and, to the extent consistent with Sec. 2707 of the Public Health Service Act (42 U.S.C. § 300gg-6), the annual out-of-pocket maximums under the covered person's health benefit plan.

(g) Compliance with the requirements of this section is required for pharmacy benefit managers entering into contracts with a health insurer in this State for pharmacy benefit management in this State.

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES  
WITH RESPECT TO PHARMACIES

(a) Within 14 calendar days following receipt of a pharmacy claim, a pharmacy benefit manager or other entity paying pharmacy claims shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the pharmacy in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the pharmacy benefit manager or other payer to determine liability for the claim.

(b) A participation contract between a pharmacy benefit manager and a pharmacist shall not prohibit, restrict, or penalize a pharmacy or pharmacist in any way from disclosing to any covered person any health care information that the pharmacy or pharmacist deems appropriate, including:

(1) the nature of treatment, risks, or alternatives to treatment;

(2) the availability of alternate therapies, consultations, or tests;

(3) the decision of utilization reviewers or similar persons to authorize or deny services;

(4) the process that is used to authorize or deny health care services; or

(5) information on finance incentives and structures used by the health insurer.

~~(b)~~(c) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

~~(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;~~

~~(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug;~~

~~(3) require a pharmacy to pass through any portion of the insured's co-payment, or patient responsibility, to the pharmacy benefit manager or other payer;~~

(2) prohibit a pharmacy or pharmacist from discussing information regarding the total cost for pharmacist services for a prescription drug;

(4)(3) prohibit or penalize a pharmacy or pharmacist for providing information to an insured regarding the insured's cost-sharing amount for a prescription drug; or

(5)(4) prohibit or penalize a pharmacy or pharmacist for the pharmacist or other pharmacy employee disclosing to an insured the cash price for a prescription drug or selling a lower cost drug to the insured if one is available.

(d) A pharmacy benefit manager contract with a participating pharmacist or pharmacy shall not prohibit, restrict, or limit disclosure of information to the Commissioner, law enforcement, or State and federal government officials, provided that:

(1) the recipient of the information represents that the recipient has the authority, to the extent provided by State or federal law, to maintain proprietary information as confidential; and

(2) prior to disclosure of information designated as confidential, the pharmacist or pharmacy:

(A) marks as confidential any document in which the information appears; and

(B) requests confidential treatment for any oral communication of the information.

(e) A pharmacy benefit manager shall not terminate a contract with or penalize a pharmacist or pharmacy due to the pharmacist or pharmacy:

(1) disclosing information about pharmacy benefit manager practices, except for information determined to be a trade secret under State law or by the Commissioner, when disclosed in a manner other than in accordance with subsection (d) of this section; or

(2) sharing any portion of the pharmacy benefit manager contract with the Commissioner pursuant to a complaint or query regarding the contract's compliance with the provisions of this chapter.

(e)(f) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost, which

shall not be dependent upon individual beneficiary identification or benefit stage.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4)(A) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that, except as provided in subdivision (B) of this subdivision (4), a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

(B) A pharmacy benefit manager shall allow a dispensing pharmacy provider to appeal after the 10-calendar-day appeal period set forth in subdivision (A) of this subdivision (4) if the prescription claim is subject to an audit initiated by the pharmacy benefit manager or its auditing agent.

(5) For a denied appeal, provide the reason for the denial and identify the national drug code and a Vermont-licensed wholesaler of an equivalent drug product that may be purchased by contracted pharmacies at or below the maximum allowable cost.

(6) For an appeal in which the appealing pharmacy is successful:

(A) make the change in the maximum allowable cost within 30 business days after the redetermination; and

(B) allow the appealing pharmacy or pharmacist to reverse and rebill the claim in question.

~~(d)~~(g) A pharmacy benefit manager shall not:

(1) require a claim for a drug to include a modifier or supplemental transmission, or both, to indicate that the drug is a 340B drug unless the claim is for payment, directly or indirectly, by Medicaid; or

(2) restrict access to a pharmacy network or adjust reimbursement rates based on a pharmacy's participation in a 340B contract pharmacy arrangement.

(h)(1) A pharmacy benefit manager or other third party that reimburses a 340B covered entity for drugs that are subject to an agreement under 42 U.S.C.

§ 256b through the 340B drug pricing program shall not reimburse the 340B covered entity for pharmacy-dispensed drugs at a rate lower than that paid for the same drug to pharmacies that are not 340B covered entities, and the pharmacy benefit manager shall not assess any fee, charge-back, or other adjustment on the 340B covered entity on the basis that the covered entity participates in the 340B program as set forth in 42 U.S.C. § 256b.

(2) With respect to a patient who is eligible to receive drugs that are subject to an agreement under 42 U.S.C. § 256b through the 340B drug pricing program, a pharmacy benefit manager or other third party that makes payment for the drugs shall not discriminate against a 340B covered entity in a manner that prevents or interferes with the patient's choice to receive the drugs from the 340B covered entity.

(i) A pharmacy benefit manager shall not reimburse a pharmacy or pharmacist in this State an amount less than the amount the pharmacy benefit manager reimburses a pharmacy benefit manager affiliate for providing the same pharmacist services.

(j) A pharmacy benefit manager shall not restrict, limit, or impose requirements on a licensed pharmacy in excess of those set forth by the Vermont Board of Pharmacy or by other State or federal law, nor shall it withhold reimbursement for services on the basis of noncompliance with participation requirements.

(k) A pharmacy benefit manager shall provide notice to all participating pharmacies prior to changing its drug formulary.

Sec. 3. 18 V.S.A. § 3802 is amended to read:

#### § 3802. PHARMACY RIGHTS DURING AN AUDIT

Notwithstanding any provision of law to the contrary, whenever a health insurer, a third-party payer, or an entity representing a responsible party conducts an audit of the records of a pharmacy, the pharmacy shall have a right to all of the following:

\* \* \*

(2) If an audit is to be conducted on-site at a pharmacy, the entity conducting the audit:

(A) shall give the pharmacy at least 14 days' advance written notice of the audit and the specific prescriptions to be included in the audit; and

(B) ~~may~~ shall not audit a pharmacy on Mondays or on weeks containing a federal holiday, unless the pharmacy agrees to alternative timing for the audit; and

~~(3) Not to have an entity~~

~~(C) shall not audit claims that:~~

~~(A)(i) were submitted to the pharmacy benefit manager more than 18 months prior to the date of the audit, unless:~~

~~(i)(I) required by federal law; or~~

~~(ii)(II) the originating prescription was dated within the 24-month period preceding the date of the audit; or~~

~~(B)(ii) exceed 200 selected prescription claims.~~

(3) If any audit is to be conducted remotely, the entity conducting the audit:

(A) shall give the pharmacy at least seven business days following the pharmacy's confirmation of receipt of the notice of the audit to respond to the audit; and

(B) shall not audit claims that:

(i) were submitted to the pharmacy benefit manager more than three months prior to the date of the audit or on a date earlier than that for which the pharmacy could electronically retransmit a corrected claim; or

(ii) exceed five selected prescription claims.

\* \* \*

(19) To have the preliminary audit report delivered to the pharmacy within ~~60~~ 30 days following the ~~conclusion of the audit~~ pharmacy's preliminary response.

\* \* \*

(21) To have a final audit report delivered to the pharmacy within ~~120~~ 30 days after the end of the appeals period, as required by section 3803 of this title.

\* \* \*

(24) To have all payment data related to audited claims, including:

(A) payment amount;

(B) any direct and indirect remuneration (DIR) or generic effective rate (GER) fees assessed or other financial offsets;

(C) date of electronic payment or check date and number;

(D) the specific contracted reimbursement basis for each claim, including its basis, such as maximum allowable cost (MAC), wholesale acquisition cost (WAC), average wholesale price (AWP), or average manufacturer price (AMP); and

(E) the respective values used to calculate each claim payment.

Sec. 4. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

\* \* \*

(d)(1) A health insurer or pharmacy benefit manager shall permit a beneficiary of a plan offered by the health insurer to fill a prescription at the in-network pharmacy of the beneficiary's choice and, except with respect to pharmacies owned or operated, or both, by a health care facility, as defined in 18 V.S.A. § 9432, shall not impose differential cost-sharing requirements based on the choice of pharmacy or otherwise promote the use of one pharmacy over another.

(2) A health insurer or pharmacy benefit manager shall permit a participating network pharmacy to perform all pharmacy services within the lawful scope of the profession of pharmacy as set forth in 26 V.S.A. chapter 36.

(3) A health insurer or pharmacy benefit manager shall adhere to the definitions of prescription drugs and the requirements and guidance regarding the pharmacy profession established by State and federal law and the Vermont Board of Pharmacy and shall not establish classifications of or distinctions between prescription drugs, impose penalties on prescription drug claims, attempt to dictate the behavior of pharmacies or pharmacists, or place restrictions on pharmacies or pharmacists that are more restrictive than or inconsistent with State or federal law or with rules adopted or guidance provided by the Board of Pharmacy.

(4) The provisions of this subsection shall not apply to Medicaid.

Sec. 5. DEPARTMENT OF FINANCIAL REGULATION; PHARMACY  
BENEFIT MANAGEMENT; REPORT

(a) The Department of Financial Regulation, in consultation with interested stakeholders, shall consider:

(1) whether pharmacy benefit managers should be required to be licensed to operate in this State;

(2) whether pharmacy benefit managers should be prohibited from conducting or participating in spread pricing;

(3) in collaboration with the Board of Pharmacy, whether any amendments to the Board's rules are needed to reflect necessary distinctions or appropriate limitations on pharmacist scope of practice;

(4) whether there should be a minimum dispensing fee that pharmacy benefit managers and health insurers must pay to pharmacies and pharmacists for dispensing prescription drugs;

(5) how a pharmacy should be reimbursed for a claim if a pharmacy benefit manager denies a pharmacy's appeal in whole or in part, including whether the pharmacy should be allowed to submit a claim to the health insurer for the balance between the pharmacy benefit manager's reimbursement and the pharmacy's reasonable acquisition cost plus a dispensing fee;

(6) whether there is a problem in Vermont of pharmacies soliciting health insurance plan beneficiaries directly to market the pharmacy's services and, if so, how best to address the problem; and

(7) other issues relating to pharmacy benefit management and its effects on Vermonters, on pharmacies and pharmacists, and on health insurance in this State.

(b) On or before January 15, 2023, the Department of Financial Regulation shall provide its findings and recommendations regarding the issues described in subsection (a) of this section to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

#### Sec. 6. APPLICABILITY

(a) The provisions of Sec. 1 of this act (18 V.S.A. chapter 221, subchapter 9, pharmacy benefit managers) shall apply to a contract or health plan issued, offered, renewed, recredentialed, amended, or extended on or after the effective date of this act, including any health insurer that performs claims processing or other prescription drug or device services through a third party.

(b) A person doing business in this State as a pharmacy benefit manager on or before the effective date of this act shall have six months following the effective date of this act to come into compliance with the provisions of Sec. 1 of this act (18 V.S.A. chapter 221, subchapter 9, pharmacy benefit managers).

Sec. 7. 2021 Acts and Resolves No. 74, Sec. E.227.2 is amended to read:

Sec. E.227.2 REPEAL

18 V.S.A. § 9473(~~d~~)(g) (pharmacy benefit managers; 340B entities) is repealed on ~~January 1, 2023~~ April 1, 2024.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

**Rep. Durfee of Shaftsbury**, for the Committee on Ways and Means, recommended the bill ought to pass when amended by the Committee on Health Care.

The bill, having appeared on the Notice Calendar, was taken up, read second time, the report of the Committee on Health Care agreed to, and third reading was ordered.

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

#### **H. 492**

**Rep. Bongartz of Manchester**, for the Committee on Natural Resources, Fish, and Wildlife, to which had been referred House bill, entitled

An act relating to the structure of the Natural Resources Board

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Natural Resources Board \* \* \*

Sec. 1. PURPOSE

The purpose of this act is to strengthen the administration of the Act 250 program by changing the structure, function, and name of the Natural Resources Board. This act requires that appeals of Act 250 permit decisions be heard by a five-member board called the Environmental Review Board. The Environmental Division of the Superior Court would continue to hear the other types of cases within its jurisdiction. The Environmental Review Board would keep the current duties of the Natural Resources Board in addition to hearing appeals. This change would allow the Act 250 program to return to how it was originally envisioned when enacted by being a citizen-friendly process. The Board would provide oversight, management, and training to the Act 250 program staff and District Commissions and develop Act 250 program policy through permit decisions and rulemaking.

Sec. 2. 10 V.S.A. § 6021 is amended to read:

§ 6021. BOARD; VACANCY; REMOVAL

(a) ~~A Natural Resources Board established. The Environmental Review Board is created to administer the Act 250 program and hear appeals.~~

(1) ~~The Board shall consist of five members appointed by the Governor, after review and approval by the Environmental Review Board Nominating Committee in accordance with subdivision (2) of this section and confirmed with the advice and consent of the Senate, so that one appointment expires in each year. The Chair shall be a full-time position, and the other four members shall be half-time positions. In making these appointments, the Governor and the Senate shall give consideration to candidates who have experience, expertise, or skills relating to the environment or land use one or more of the following areas: environmental science, natural resources law and policy, land use planning, community planning, or environmental justice.~~

(A) ~~The Governor shall appoint a chair of the Board, a position that shall be a full-time position. The Governor shall ensure Board membership shall reflect, to the extent possible, the racial, ethnic, gender, and geographic diversity of the State. The Board shall not contain two members who reside in the same county.~~

(B) ~~Following initial appointments, the members, except for the Chair, shall be appointed for terms of four five years. All terms shall begin on July 1 and expire on June 30. A member may continue serving until a successor is appointed. The initial appointments shall be for staggered terms.~~

(2) ~~The Governor shall appoint up to five persons, with preference given to former Environmental Board, Natural Resources Board, or District Commission members, with the advice and consent of the Senate, to serve as alternates for Board members.~~

(A) ~~Alternates shall be appointed for terms of four years, with initial appointments being staggered. The Environmental Review Board Nominating Committee shall advertise the position when a vacancy will occur on the Environmental Review Board.~~

(B) ~~The Chair of the Board may assign alternates to sit on specific matters before the Board in situations where fewer than five members are available to serve. The Nominating Committee shall review the applicants to determine which are well-qualified for appointment to the Board and shall recommend those candidates to the Governor. The names of candidates shall be confidential.~~

(C) The Governor shall appoint, with the advice and consent of the Senate, a chair and four members of the Board from the list of well-qualified candidates sent to the Governor by the Committee.

(b) Any vacancy occurring in the membership of the Board shall be filled by the Governor for the unexpired portion of the term Terms; vacancy; succession. The term of each appointment subsequent to the initial appointments described in subsection (a) of this section shall be five years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member may seek reappointment by informing the Governor. If the Governor decides not to reappoint the member, the Nominating Committee shall advertise the vacancy.

(c) Removal. Notwithstanding the provisions of 3 V.S.A. § 2004, members shall only be removable for cause only, except the Chair, who shall serve at the pleasure of the Governor by the remaining members of the Board in accordance with the Vermont Administrative Procedures Act. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for removal.

(d) Disqualified members. The Chair of the Board, upon request of the Chair of a District Commission, may appoint and assign former Commission members to sit on specific Commission cases when some or all of the regular members and alternates of the District Commission are disqualified or otherwise unable to serve.

(e) Retirement from office. When a Board member who hears all or a substantial part of a case retires from office before the case is completed, the member may remain a member of the Board, at the member's discretion, for the purpose of concluding and deciding that case and signing the findings and judgments involved. A retiring Chair shall also remain a member for the purpose of certifying questions of law if a party appeals to the Supreme Court. For the service, the member shall receive a reasonable compensation to be fixed by the remaining members of the Board and necessary expenses while on official business.

Sec. 3. 10 V.S.A. § 6032 is added to read:

§ 6032. ENVIRONMENTAL REVIEW BOARD NOMINATING  
COMMITTEE

(a) Creation. The Environmental Review Board Nominating Committee is created for the purpose of assessing the qualifications of applicants for appointment to the Environmental Review Board in accordance with section 6021 of this title.

(b) Members. The Committee shall consist of seven members who shall be appointed as follows:

(1) The Governor shall appoint three members from the Executive Branch, with at least one being an employee of the Department of Human Resources.

(2) The Speaker of the House of Representatives shall appoint two members from the House of Representatives.

(3) The Senate Committee on Committees shall appoint two members from the Senate.

(c) Terms. The members of the Committee shall serve for terms of two years. Members shall serve until their successors are appointed. Members shall serve not more than three consecutive terms in any capacity. A legislative member who is appointed as a member of the Committee shall retain the position for the term appointed to the Committee even if the member is subsequently not reelected to the General Assembly during the member's term on the Committee.

(d) Chair. The members shall elect their own chair.

(e) Quorum. A quorum of the Committee shall consist of four members.

(f) Staff and services. The Committee is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants.

(g) Confidentiality. Except as provided in subsection (h) of this section, proceedings of the Committee, including the names of candidates considered by the Committee and information about any candidate submitted to the Governor, shall be confidential. The provisions of 1 V.S.A. § 317(e) (expiration of Public Records Act exemptions) shall not apply to the exemptions or confidentiality provisions in this subsection.

(h) Public information. The following shall be public:

(1) operating procedures of the Committee;

(2) standard application forms and any other forms used by the Committee, provided they do not contain personal information about a candidate or confidential proceedings;

(3) all proceedings of the Committee prior to the receipt of the first candidate's completed application; and

(4) at the time the Committee sends the names of the candidates to the Governor, the total number of applicants for the vacancies and the total number of candidates sent to the Governor.

(i) Reimbursement. Legislative members of the Committee shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 23. Compensation and reimbursement shall be paid from the legislative appropriation.

(j) Duties.

(1) When a vacancy occurs, the Committee shall review applicants to determine which are well-qualified for the Board and submit those names to the Governor. The Committee shall submit to the Governor a summary of the qualifications and experience of each candidate whose name is submitted to the Governor, together with any further information relevant to the matter.

(2) An applicant for the position of member of the Environmental Review Board shall not be required to be an attorney. If the candidate is admitted to practice law in Vermont or practices a profession requiring licensure, certification, or other professional regulation by the State, the Committee shall submit the candidate's name to the Court Administrator or the applicable State professional regulatory entity, and that entity shall disclose to the Committee any professional disciplinary action taken or pending concerning the candidate.

(3) Candidates shall be sought who have experience, expertise, or skills relating to one or more of the following areas: environmental science, natural resources law and policy, land use planning, community planning, or environmental justice.

(4) The Committee shall ensure a candidate possesses the following attributes:

(A) Integrity. A candidate shall possess a record and reputation for excellent character and integrity.

(B) Impartiality. A candidate shall exhibit an ability to make judicial determinations in a manner free of bias.

(C) Work ethic. A candidate shall demonstrate diligence.

(D) Availability. A candidate shall have adequate time to dedicate to the position.

Sec. 4. 10 V.S.A. § 6025 is amended to read:

§ 6025. RULES

(a) The Board may adopt rules of procedure for itself and the District Commissions. The Board shall adopt rules of procedure that govern appeals and other contested cases before it that are consistent with this chapter.

\* \* \*

Sec. 5. 10 V.S.A. § 6027 is amended to read:

§ 6027. POWERS

(a) The Board and District Commissions ~~each~~ shall have supervisory authority in environmental matters respecting projects within their jurisdiction and shall apply their independent judgment in determining facts and interpreting law. Each shall have the power, with respect to any matter within its jurisdiction, to:

(1) administer oaths, take depositions, subpoena and compel the attendance of witnesses, and require the production of evidence;

(2) allow parties to enter upon lands of other parties for the purposes of inspecting and investigating conditions related to the matter before the Board or Commission;

(3) enter upon lands for the purpose of conducting inspections, investigations, examinations, tests, and site evaluations as it deems necessary to verify information presented in any matter within its jurisdiction; and

(4) apply for and receive grants from the federal government and from other sources.

(b) The powers granted under this chapter are additional to any other powers ~~which~~ that may be granted by other legislation.

(c) ~~The Natural Resources Board may designate or establish such regional offices as it deems necessary to implement the provisions of this chapter and the rules adopted hereunder.~~ The Natural Resources Board may designate or require a regional planning commission to receive applications, provide administrative assistance, perform investigations, and make recommendations.

(d) At the request of a District Commission, if the Board Chair determines that the workload in the requesting district is likely to result in unreasonable delays or that the requesting District Commission is disqualified to hear a case, the Chair may authorize the District Commission of another district to sit in the requesting district to consider one or more applications.

(e) ~~The Natural Resources Board may by rule allow joint hearings to be conducted with specified State agencies or specified municipalities.~~

(f) The Board shall publish its decisions online. The Board may publish online or contract to publish annotations and indices of its decisions, the decisions of the Environmental Division of the Superior Court and the Supreme Court, and the text of those decisions. The published product shall be available at a reasonable rate to the general public and at a reduced rate to libraries and governmental bodies within the State.

(g) ~~The Natural Resources Board shall manage the process by which land use permits are issued under section 6086 of this title, may initiate enforcement on related matters under the provisions of chapters 201 and 211 of this title, and may petition the Environmental Division~~ initiate and hear petitions for revocation of land use permits issued under this chapter. Grounds for revocation are:

(1) noncompliance with this chapter, rules adopted under this chapter, or an order that is issued that relates to this chapter;

(2) noncompliance with any permit or permit condition;

(3) failure to disclose all relevant and material facts in the application or during the permitting process;

(4) misrepresentation of any relevant and material fact at any time;

(5) failure to pay a penalty or other sums owed pursuant to, or other failure to comply with, court order, stipulation agreement, schedule of compliance, or other order issued under Vermont statutes and related to the permit; or

(6) failure to provide certification of construction costs, as required under subsection 6083a(a) of this title, or failure to pay supplemental fees as required under that section.

(h) ~~The Natural Resources Board may hear appeals of fee refund requests under section 6083a of this title.~~ The Board shall hear appeals of decisions made by District Commissions and district coordinators.

(i) The Chair, subject to the direction of the Board, shall have general charge of the offices and employees of the Board and the offices and employees of the District Commissions.

(j) ~~The Natural Resources Board may participate as a party in all matters before the Environmental Division that relate to land use permits issued under this chapter.~~ [Repealed.]

Sec. 6. 10 V.S.A. § 6028 is amended to read:

§ 6028. COMPENSATION

Members of the Board and District Commissions shall receive per diem pay of \$100.00 and all necessary and actual expenses in accordance with 32 V.S.A. § 1010. Per diem pay shall be available for time spent reviewing permit applications and for time spent making decisions on permit applications. Per diem requests shall be approved or denied by the Executive Director.

Sec. 7. 10 V.S.A. § 6022 is amended to read:

§ 6022. PERSONNEL

(a) Regular personnel. The Board may appoint legal counsel, scientists, engineers, experts, investigators, temporary employees, and administrative personnel as it finds necessary in carrying out its duties, unless the Governor shall otherwise provide in providing personnel to assist the District Commissions and in investigating matters within its jurisdiction.

(b) Personnel for particular proceedings.

(1) Retention.

(A) The Board may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

(i) to assist the Board in any proceeding before it under this chapter; and

(ii) to monitor compliance with any formal opinion of the Board or a District Commission.

(B) The personnel authorized by this section shall be in addition to the regular personnel of the Board. The Board shall fix the amount of compensation and expenses to be paid to such additional personnel.

(2) Assessment of costs.

(A) The Board may allocate to an applicant the portion of its expenses incurred by retaining additional personnel for a proceeding. On petition of an applicant to which costs are proposed to be allocated, the Board shall review and determine, after opportunity for hearing, the necessity and reasonableness of those costs, having due regard for the size and complexity of the project, and may amend or revise an allocation.

(B) Prior to allocating costs, the Board shall make a determination of the purpose and use of the funds to be raised under this section, identify the recipient of the funds, provide for allocation of costs among applicants to be

assessed, indicate an estimated duration of the proceedings, and estimate the total costs to be imposed. With the approval of the Board, estimates may be revised as necessary. From time to time during the progress of the work, the Board shall render to the applicant detailed statements showing the amount of money expended or contracted for in the work of additional personnel, which statements shall be paid into the State Treasury at the time and in the manner as the Board may reasonably direct.

(C) All payments for costs allocated pursuant to this section shall be deposited into the fund created under section 6029 of this title.

(c) Executive Director. The Board shall appoint an Executive Director. The Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the Board. The Director shall be responsible for:

(1) supervising and administering the operation and implementation of this chapter and the rules adopted by the Board as directed by the Board;

(2) assisting the Board in its duties and administering the requirements of this chapter;

(3) employing such staff as may be required to carry out the functions of the Board; and

(4) preparing an annual budget for submission to the Board.

Sec. 8. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

~~(a) On or before the date of~~ Upon the filing of an application with the District Commission, the ~~applicant~~ District Commission shall send, ~~by electronic means, notice and a copy of the initial application to the owner of the land if the applicant is not the owner; the municipality in which the land is located; the municipal and regional planning commissions for the municipality in which the land is located; the Vermont Agency of Natural Resources; and any adjacent Vermont municipality and municipal and regional planning commission if the land is located on a municipal or regional boundary. The applicant shall furnish to the District Commission the names of those furnished notice by affidavit, and shall post send by electronic means a copy of the notice in~~ to the town clerk's office of the town or towns in which the project lies. The town clerk shall post the notice in the town office. The applicant shall also provide a list of adjoining landowners to the District Commission. Upon request and for good cause, the District Commission may authorize the

applicant to provide a partial list of adjoining landowners in accordance with Board rules.

\* \* \*

(e) Any notice for a major or minor application, as required by this section, shall also be published by the District Commission in a local newspaper generally circulating in the area where the development or subdivision is located and on the Board's website not more than ten days after receipt of a complete application.

\* \* \*

Sec. 9. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

~~Appeals of any act or decision of a District Commission under this chapter or a district coordinator under subsection 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the Chair of a District Commission under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the District Commission.~~

(a)(1) An appeal of any act or decision of a District Commission shall be to the Board and shall be accompanied by a fee prescribed by section 6083a of this title.

(2) Participation before District Commission. A person shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the District Commission, and retained party status at the end of the District Commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status. However, notwithstanding these limitations, a person may appeal an act or decision of the District Commission if the Board determines that:

(A) there was a procedural defect that prevented the person from obtaining party status or participating in the proceeding;

(B) the decision being appealed is the grant or denial of party status;  
or

(C) some other condition exists that would result in manifest injustice if the person's right to appeal was disallowed.

(3) An appellant to the Board, under this section, shall file with the notice of appeal a statement of the issues to be addressed in the appeal, a summary of the evidence that will be presented, and a preliminary list of witnesses who will testify on behalf of the appellant.

(4) The Board shall hold a de novo hearing on all findings requested by any party that files an appeal or cross appeal, according to the rules of the Board. The hearing shall be held in the municipality where the project subject to the appeal is located, if possible, or as close as possible.

(5) Notice of appeal shall be filed with the Board within 30 days following the act or decision by the District Commission. The Board shall notify the parties who had party status before the District Commission of the filing of any appeal.

(6) Prehearing discovery.

(A) A party may obtain discovery of expert witnesses who may provide testimony relevant to the appeal. Expert witness prefiled testimony shall be in accordance with the Vermont Rules of Evidence. The use of discovery for experts shall comply with the requirements in the Vermont Rules of Civil Procedure 26–37.

(B) Interrogatories served on nonexpert witnesses shall be limited to discovery of the identity of witnesses and a summary of each witness' testimony, except by order of the Board for cause shown. Interrogatories served on expert witnesses shall be in accordance with the Vermont Rules of Civil Procedure.

(C) Parties may submit requests to produce and requests to enter upon land pursuant to the Vermont Rule of Civil Procedure 34.

(D) Parties may not take depositions of witnesses, except by order of the Board for cause shown.

(E) The Board may require a party to supplement, as necessary, any prehearing testimony that is provided.

(b) Prior decisions of the former Environmental Board, Water Resources Board, Waste Facilities Panel, and Environmental Division of the Superior Court shall be given the same weight and consideration as prior decisions of the Environmental Review Board.

(c) An appeal from a decision of the Board under subsection (a) of this section shall be to the Supreme Court by a party as set forth in subsection 6085(c) of this title.

(d) No objection that has not been raised before the Board may be considered by the Supreme Court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

(e) An appeal of a decision by the Board shall be allowed pursuant to 3 V.S.A. § 815, including the unreasonableness or insufficiency of the conditions attached to a permit. An appeal from the District Commission shall be allowed for any reason, except no appeal shall be allowed when an application has been granted and no hearing was requested.

(f) Precedent from the former Environmental Board and of the Environmental Review Board that interpret Act 250 shall be provided the same deference by the Supreme Court as precedents accorded to other Executive Branch agencies charged with administering their enabling act. On appeal to the Supreme Court from the Environmental Review Board, decisions of the Environmental Review Board interpreting this act also shall be accorded that deference.

(g) Upon appeal to the Supreme Court, the Board's findings of fact shall be accepted unless clearly erroneous.

(h) Completion of case. A case shall be deemed completed when the Board enters a final decision even though that decision is appealed to the Supreme Court and remanded by that Court.

(i) Court of record; jurisdiction. The Board shall have the powers of a court of record in the determination and adjudication of all matters within its jurisdiction. It may initiate proceedings on any matter within its jurisdiction. It may render judgments and enforce the same by any suitable process issuable by courts in this State. An order issued by the Board on any matter within its jurisdiction shall have the effect of a judicial order. The Board's jurisdiction shall include:

(1) the issuance of declaratory rulings on the applicability of this chapter and rules or orders issued under this chapter, pursuant to 3 V.S.A. § 808; and

(2) the issuance of decisions on appeals pursuant to sections 6007 and 6089 of this title.

Sec. 10. 10 V.S.A. § 6007 is amended to read:

§ 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL  
DETERMINATION

\* \* \*

(c) With respect to the partition or division of land, or with respect to an activity that might or might not constitute development, any person may submit to the district coordinator an “Act 250 Disclosure Statement” and other information required by the rules of the Board and may request a jurisdictional opinion from the district coordinator concerning the applicability of this chapter. If a requestor wishes a final determination to be rendered on the question, the district coordinator, at the expense of the requestor and in accordance with rules of the Board, shall publish notice of the issuance of the opinion in a local newspaper generally circulating in the area where the land that is the subject of the opinion is located and shall serve the opinion on all persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In addition, the requestor who is seeking a final determination shall consult with the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list of persons who shall be notified by the district coordinator because they are adjoining property owners or other persons who would be likely to be able to demonstrate a particularized interest protected by this chapter that may be affected by an act or decision by a District Commission.

(d) A person who seeks review of a jurisdictional opinion issued by a district coordinator may bring to the Board an appeal of issues addressed in the opinion.

(1) The appellant shall provide notice of the filing of an appeal to each person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this title and to each person on an approved subdivision 6085(c)(1)(E) list.

(2) Failure to appeal within 30 days following the issuance of the jurisdictional opinion shall render the decision of the district coordinator under subsection (c) of this section the final determination regarding jurisdiction unless the underlying jurisdictional opinion was not properly served on persons listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved under subsection (c) of this section.

Sec. 11. 10 V.S.A. § 6083a is amended to read:

§ 6083a. ACT 250 FEES

\* \* \*

(i) All persons filing an appeal, cross appeal, or petition from a District Commission decision or jurisdictional determination shall pay a fee of \$295.00, plus publication costs.

## \* \* \* Appeals \* \* \*

Sec. 12. 10 V.S.A. chapter 220 is amended to read:

## CHAPTER 220. CONSOLIDATED ENVIRONMENTAL APPEALS

## § 8501. PURPOSE

It is the purpose of this chapter to:

(1) consolidate existing appeal routes for municipal zoning and subdivision decisions and acts or decisions of the Secretary of Natural Resources, ~~district environmental coordinators, and District Commissions,~~ excluding enforcement actions brought pursuant to chapters 201 and 211 of this title and the adoption of rules under 3 V.S.A. chapter 25;

(2) standardize the appeal periods, the parties who may appeal these acts or decisions, and the ability to stay any act or decision upon appeal, taking into account the nature of the different programs affected;

(3) ~~encourage people to get involved in the Act 250 permitting process at the initial stages of review by a District Commission by requiring participation as a prerequisite for an appeal of a District Commission decision to the Environmental Division;~~

(4) ~~assure~~ ensure that clear appeal routes exist for acts and decisions of the Secretary of Natural Resources; and

~~(5)~~(4) consolidate appeals of decisions related to renewable energy generation plants and telecommunications facilities with review under, respectively, 30 V.S.A. §§ 248 and 248a, with appeals and consolidation of proceedings pertaining to telecommunications facilities occurring only while 30 V.S.A. § 248a remains in effect.

## § 8502. DEFINITIONS

As used in this chapter:

(1) ~~“District Commission” means a District Environmental Commission established under chapter 151 of this title. [Repealed.]~~

(2) ~~“District coordinator” means a district environmental coordinator attached to a District Commission established under chapter 151 of this title. [Repealed.]~~

(3) “Environmental Court” or “Environmental Division” means the Environmental Division of the Superior Court established by 4 V.S.A. § 30.

(4) ~~“Natural Resourees~~ Environmental Review Board” or “Board” means the Board established under chapter 151 of this title.

(5) "Party by right" means the following:

(A) the applicant;

(B) the landowner, if the applicant is not the landowner;

(C) the municipality in which the project site is located and the municipal and regional planning commissions for that municipality;

(D) if the project site is located on a boundary, any Vermont municipality adjacent to that border and the municipal and regional planning commissions for that municipality;

(E) the solid waste management district in which the land is located, if the development or subdivision constitutes a facility pursuant to subdivision 6602(10) of this title;

(F) any State agency affected by the proposed project.

(6) "Person" means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the State of Vermont or any agency, department, or subdivision of the State; any federal agency; or any other legal or commercial entity.

(7) "Person aggrieved" means a person who alleges an injury to a particularized interest protected by the provisions of law listed in section 8503 of this title, attributable to an act or decision by a ~~district coordinator, District Commission,~~ the Secretary, or the Environmental Division that can be redressed by the Environmental Division or the Supreme Court.

(8) "Secretary" means the Secretary of Natural Resources or the Secretary's duly authorized representative. As used in this chapter, "Secretary" shall also mean the Commissioner of Environmental Conservation, the Commissioner of Forests, Parks and Recreation, and the Commissioner of Fish and Wildlife, with respect to those statutes that refer to the authority of that commissioner or department.

#### § 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

\* \* \*

(b) ~~This chapter shall govern:~~

~~(1) all appeals from an act or decision of a District Commission under chapter 151 of this title, excluding appeals of application fee refund requests;~~

~~(2) appeals from an act or decision of a district coordinator under subsection 6007(c) of this title;~~

~~(3) appeals from findings of fact and conclusions of law issued by the Natural Resources Board in its review of a designated growth center for conformance with the criteria of subsection 6086(a) of this title, pursuant to authority granted at 24 V.S.A. § 2793e(f). [Repealed.]~~

(c) This chapter shall govern all appeals arising under 24 V.S.A. chapter 117, the planning and zoning chapter.

(d) This chapter shall govern all appeals from an act or decision of the Environmental Division under this chapter.

(e) This chapter shall not govern appeals from rulemaking decisions by the ~~Natural Resources~~ Environmental Review Board under chapter 151 of this title or enforcement actions under chapters 201 and 211 of this title.

(f) This chapter shall govern all appeals of acts or decisions of the legislative body of a municipality arising under 24 V.S.A. chapter 61, subchapter 10, relating to the municipal certificate of approved location for salvage yards.

(g) This chapter shall govern all appeals of an act or decision of the Secretary of Natural Resources that a solid waste implementation plan for a municipality proposed under 24 V.S.A. § 2202a conforms with the State Solid Waste Implementation Plan adopted pursuant to section 6604 of this title.

#### § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

(a) ~~Act 250 and Agency~~ appeals. Within 30 days of the date of following the act or decision, any person aggrieved by an act or decision of the Secretary, ~~a District Commission, or a district coordinator~~ under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary under subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

\* \* \*

(c) Notice of the filing of an appeal.

~~(1) Upon filing an appeal from an act or decision of the District Commission, the appellant shall notify all parties who had party status as of the end of the District Commission proceeding, all friends of the Commission, and the Natural Resources Board that an appeal is being filed. In addition, the appellant shall publish notice not more than 10 days after providing notice as required under this subsection, at the appellant's expense, in a newspaper of~~

~~general circulation in the area of the project that is the subject of the decision. [Repealed.]~~

\* \* \*

~~(d) Requirement to participate before the District Commission or the Secretary.~~

~~(1) Participation before District Commission. An aggrieved person shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the District Commission, and retained party status at the end of the District Commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status. However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the District Commission if the Environmental judge determines that:~~

~~(A) there was a procedural defect that prevented the person from obtaining party status or participating in the proceeding;~~

~~(B) the decision being appealed is the grant or denial of party status;~~  
or

~~(C) some other condition exists that would result in manifest injustice if the person's right to appeal was disallowed. [Repealed.]~~

~~(2) Participation before the Secretary.~~

\* \* \*

~~(e) Act 250 jurisdictional determinations by a district coordinator.~~

~~(1) The appellant shall provide notice of the filing of an appeal to each person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this title, to each person on an approved subdivision 6085(c)(1)(E) list, and to the Natural Resources Board.~~

~~(2) Failure to appeal within the time required under subsection (a) of this section shall render the decision of the district coordinator under subsection 6007(c) of this title the final determination regarding jurisdiction under chapter 151 of this title unless the underlying jurisdictional opinion was not properly served on persons listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved under subsection 6007(c) of this title. [Repealed.]~~

\* \* \*

(g) Consolidated appeals. The Environmental Division may consolidate or coordinate different appeals where those appeals all relate to the same project.

\* \* \*

~~(i) Deference to Agency technical determinations. In the adjudication of appeals relating to land use permits under chapter 151 of this title, technical determinations of the Secretary shall be accorded the same deference as they are accorded by a District Commission under subsection 6086(d) of this title. [Repealed.]~~

\* \* \*

(k) Limitations on appeals. Notwithstanding any other provision of this section:

~~(1) there shall be no appeal from a District Commission decision when the Commission has issued a permit and no hearing was requested or held, or no motion to alter was filed following the issuance of an administrative amendment;~~

(2) a municipal decision regarding whether a particular application qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject to appeal;

~~(3) if a District Commission issues a partial decision under subsection 6086(b) of this title, any appeal of that decision must be taken within 30 days of the date of that decision.~~

(l) Representation. The Secretary may represent the Agency of Natural Resources in all appeals under this section. ~~The Chair of the Natural Resources Board may represent the Board in any appeal under this section, unless the Board directs otherwise. If more than one State agency, other than the Board, either appeals or seeks to intervene in an appeal under this section, only the Attorney General may represent the interests of those agencies of the State in the appeal.~~

(m) Precedent. Prior decisions of the Environmental Board, Water Resources Board, and Waste Facilities Panel shall be given the same weight and consideration as prior decisions of the Environmental Division.

(n) Intervention. Any person may intervene in a pending appeal if that person:

(1) appeared as a party in the action appealed from and retained party status;

(2) is a party by right;

- (3) ~~is the Natural Resources Board; [Repealed.]~~
- (4) is a person aggrieved, as defined in this chapter;
- (5) qualifies as an “interested person,” as established in 24 V.S.A. § 4465, with respect to appeals under 24 V.S.A. chapter 117; or
- (6) meets the standard for intervention established in the Vermont Rules of Civil Procedure.

(o) With respect to review of an act or decision of the Secretary pursuant to 3 V.S.A. § 2809, the Division may reverse the act or decision or amend an allocation of costs to an applicant only if the Division determines that the act, decision, or allocation was arbitrary, capricious, or an abuse of discretion. In the absence of such a determination, the Division shall require the applicant to pay the Secretary all costs assessed pursuant to 3 V.S.A. § 2809.

(p) Administrative record. The Secretary shall certify the administrative record as defined in chapter 170 of this title and shall transfer a certified copy of that record to the Environmental Division when:

~~(1) there is an appeal of an act or decision of the Secretary that is based on that record; or~~

~~(2) there is an appeal of a decision of a District Commission, and the applicant used a decision of the Secretary based on that record to create a presumption under a criterion of subsection 6086(a) of this title that is at issue in the appeal.~~

#### § 8505. APPEALS TO THE SUPREME COURT

(a) Any person aggrieved by a decision of the Environmental Division pursuant to this subchapter, any party by right, or any person aggrieved by a decision of the Environmental Review Board may appeal to the Supreme Court within 30 days ~~of~~ following the date of the entry of the order or judgment appealed from, provided that:

(1) the person was a party to the proceeding before the Environmental Division; ~~or~~

(2) the decision being appealed is the denial of party status; or

(3) the Supreme Court determines that:

(A) there was a procedural defect that prevented the person from participating in the proceeding; or

(B) some other condition exists that would result in manifest injustice if the person’s right to appeal were disallowed.

\* \* \*

\* \* \* Environmental Division \* \* \*

Sec. 13. 4 V.S.A. § 34 is amended to read:

§ 34. JURISDICTION; ENVIRONMENTAL DIVISION

The Environmental Division shall have:

(1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220;  
and

(2) jurisdiction of matters arising under 24 V.S.A. chapter 61,  
subchapter 12 and 24 V.S.A. chapter 117; and

~~(3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151.~~

\* \* \* Report; Transition; Revision Authority; Effective Dates \* \* \*

Sec. 14. ENVIRONMENTAL REVIEW BOARD POSITIONS;

APPROPRIATION

(a) The following new positions are created at the Environmental Review Board for the purposes of carrying out this act:

(1) one Staff Attorney 1; and

(2) four half-time Environmental Review Board members.

(b) The sum of \$300,000.00 is appropriated to the Environmental Review Board from the General Fund in fiscal year 2023 for the positions established in subsection (a) of this section and for additional operating costs required to implement the appeals process established in this act.

Sec. 15. NATURAL RESOURCES BOARD TRANSITION

(a) The Governor shall appoint the members of Environmental Review Board on or before July 1, 2023, and the terms of any Natural Resources Board member not appointed consistent with the requirements of 10 V.S.A. § 6021(a)(1)(A) or (B) shall expire on that day.

(b) As of July 1, 2023, all appropriations and employee positions of the Natural Resources Board are transferred to the Environmental Review Board.

(c) The Environmental Review Board shall adopt rules of procedure for its hearing process pursuant to 10 V.S.A. § 6025(a) on or before July 1, 2024.

Sec. 16. ENVIRONMENTAL DIVISION; CONTINUED JURISDICTION

Notwithstanding the repeal of its jurisdictional authority to hear appeals relative to land use permits under Sec. 12 of this act, the Environmental Division of the Superior Court shall continue to have jurisdiction to complete its consideration of any appeal that is pending before it as of July 1, 2024 if the

act or appeal has been filed. The Environmental Review Board shall have authority to be a party in any appeals pending under this section until July 1, 2024.

Sec. 17. REPORT; ENVIRONMENTAL REVIEW BOARD

(a) On or before December 31, 2023, the Chair of the Environmental Review Board shall report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy on necessary updates to the Act 250 program.

(b) The report shall include:

(1) how to transition to a system in which Act 250 jurisdiction is based on location, which shall encourage development in appropriate locations and protect natural resources of statewide significance including biodiversity;

(2) how to use the Capability and Development Plan to meet the statewide planning goals;

(3) the effectiveness of the current permit fee structure; and

(4) an assessment of the current level of staffing of the Board and District Commissions, including whether there should be a district coordinator located in every district.

Sec. 18. REVISION AUTHORITY

In preparing the Vermont Statutes Annotated for publication in 2022, the Office of Legislative Counsel shall replace all references to the “Natural Resources Board” with the “Environmental Review Board” in Title 3, Title 10, Title 24, Title 29, Title 30, and Title 32.

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

Sec. 19. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 12 and 13 (10 V.S.A. chapter 220; 4 V.S.A. § 34) shall take effect on July 1, 2024.

**Rep. Ancel of Calais**, for the Committee on Ways and Means, recommended that the bill ought to pass as recommended by the Committee on Natural Resources, Fish, and Wildlife when the report of the Committee on Natural Resources, Fish, and Wildlife is amended as follows:

First: In Sec. 7, 10 V.S.A. § 6022, by striking out subsection (b) in its entirety and relettering the remaining subsection to be alphabetically correct.

Second: In Sec. 14, environmental review board positions; appropriation, in subsection (b), by striking out “\$300,000.00” and inserting “\$384,000.00”

Third: By striking out Sec. 17, report; environmental review board, in its entirety and inserting in lieu thereof the following:

Sec. 17. REPORT; ENVIRONMENTAL REVIEW BOARD

(a) On or before December 31, 2023, the Chair of the Environmental Review Board shall report to the House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate Committees on Finance and on Natural Resources and Energy on necessary updates to the Act 250 program.

(b) The report shall include:

(1) how to transition to a system in which Act 250 jurisdiction is based on location, which shall encourage development in appropriate locations and protect natural resources of statewide significance, including biodiversity;

(2) how to use the Capability and Development Plan to meet the statewide planning goals;

(3) an assessment of the current level of staffing of the Board and District Commissions, including whether there should be a district coordinator located in every district;

(4) whether the permit fees are sufficient to cover the costs of the program and, if not, a recommendation for a source of revenue to supplement the fees;

(5) whether the permit fees are effective in providing appropriate incentives; and

(6) whether the Board should be able to assess their costs on applicants.

**Rep. Squirrel of Underhill**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committees on Natural Resources, Fish, and Wildlife and on Ways and Means, and when further amended as follows:

By striking out Sec. 6, 10 V.S.A. § 6028, in its entirety and by renumbering the remaining sections to be numerically correct.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Natural Resources, Fish, and Wildlife was amended as recommended by the Committees on Ways and Means and on Appropriations.

Pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources, Fish, and Wildlife, as amended?, **Rep.**

**McCoy of Poultney** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as recommended by the Committee on Natural Resources, Fish, and Wildlife, as amended?, was decided in the affirmative. Yeas, 92. Nays, 49.

Those who voted in the affirmative are:

Ancel of Calais	Donnally of Hyde Park	Nigro of Bennington
Anthony of Barre City	Durfee of Shaftsbury	Notte of Rutland City
Arrison of Weathersfield	Emmons of Springfield	Noyes of Wolcott
Austin of Colchester	Gannon of Wilmington	O'Brien of Tunbridge
Bartholomew of Hartland	Garofano of Essex	Ode of Burlington
Beck of St. Johnsbury	Goldman of Rockingham	Pajala of Londonderry
Birong of Vergennes	Grad of Moretown	Partridge of Windham
Black of Essex	Hooper of Montpelier	Pugh of South Burlington
Bock of Chester	Hooper of Randolph	Rachelson of Burlington
Bongartz of Manchester	Hooper of Burlington	Rogers of Waterville
Bos-Lun of Westminster	Houghton of Essex	Satcowitz of Randolph
Brady of Williston	Howard of Rutland City	Scheu of Middlebury
Briglin of Thetford	James of Manchester	Sheldon of Middlebury
Brown of Richmond	Jerome of Brandon	Sibilia of Dover
Brownell of Pownal	Jessup of Middlesex	Squirrell of Underhill
Brumsted of Shelburne	Killacky of South Burlington	Stebbins of Burlington
Burke of Brattleboro	Kimbell of Woodstock	Stevens of Waterbury
Burrows of West Windsor	Kitzmiller of Montpelier	Taylor of Colchester
Campbell of St. Johnsbury	Kornheiser of Brattleboro	Till of Jericho
Chase of Colchester	LaLonde of South Burlington	Toleno of Brattleboro
Christie of Hartford	Lanpher of Vergennes	Townsend of South Burlington
Cina of Burlington	Lefebvre of Newark	Troiano of Stannard
Coffey of Guilford	Lippert of Hinesburg	Walz of Barre City
Colburn of Burlington	Long of Newfane	Webb of Shelburne
Colston of Winooski	Masland of Thetford	White of Bethel
Conlon of Cornwall	McCarthy of St. Albans City	White of Hartford
Copeland Hanzas of Bradford	McCormack of Burlington	Whitman of Bennington
Corcoran of Bennington	McCullough of Williston	Wood of Waterbury
Cordes of Lincoln	Morris of Springfield	Yacovone of Morristown
Dolan of Essex	Mrowicki of Putney	Yantachka of Charlotte
Dolan of Waitsfield	Nicoll of Ludlow	

Those who voted in the negative are:

Brennan of Colchester	Labor of Morgan	Page of Newport City
Burditt of West Rutland	LaClair of Barre Town	Parsons of Newbury
Canfield of Fair Haven	Laroche of Franklin	Pearl of Danville
Cupoli of Rutland City	Lefebvre of Orange	Peterson of Clarendon
Dickinson of St. Albans Town	Marcotte of Coventry	Rosenquist of Georgia
Donahue of Northfield	Martel of Waterford	Scheuermann of Stowe
Fagan of Rutland City	Mattos of Milton	Shaw of Pittsford
	McCoy of Poultney	Sims of Craftsbury

Feltus of Lyndon	McFaun of Barre Town	Small of Winooski
Goslant of Northfield	Morgan, L. of Milton	Smith of Derby
Graham of Williamstown	Morgan, M. of Milton	Smith of New Haven
Gregoire of Fairfield	Morrissey of Bennington	Strong of Albany
Hango of Berkshire	Mulvaney-Stanak of Burlington	Terenzini of Rutland Town
Harrison of Chittenden	Murphy of Fairfax	Toof of St. Albans Town
Helm of Fair Haven	Norris of Sheldon	Vyhovsky of Essex
Higley of Lowell	Norris of Shoreham	Walker of Swanton
Kascenska of Burke		Williams of Granby

Those members absent with leave of the House and not voting are:

Achey of Middletown	Elder of Starksboro	Patt of Worcester
Springs	Leffler of Enosburgh	Sullivan of Dorset
Bluemle of Burlington	Palasik of Milton	Surprenant of Barnard

Thereupon, third reading was ordered.

### Recess

At twelve o'clock and nineteen minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At one o'clock and six minutes in the afternoon, the Speaker called the House to order.

### Second Reading; Bill Amended; Third Reading Ordered

#### H. 635

**Rep. Colston of Winooski**, for the Committee on Government Operations, to which had been referred House bill, entitled

An act relating to secondary enforcement of minor traffic offenses

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REPEAL OF CERTAIN MOTOR VEHICLE OFFENSES; REPORT

(a)(1) The Commissioner of Public Safety shall examine the following motor vehicle violations for the purpose of making recommendations as to whether the statutes should be repealed, modified, or limited to secondary enforcement:

(A) 23 V.S.A. § 307 (failure to carry a registration certificate);

(B) 23 V.S.A. § 511(c) (failure to display registration sticker or failure to display unobstructed license numbers);

(C) 23 V.S.A. § 512 (failure to display number plate on trailer or semi-trailer);

(D) 23 V.S.A. § 615 (operation by an individual with a learner's permit);

(E) 23 V.S.A. § 1023 (pedestrian-control signals);

(F) 23 V.S.A. §§ 1052 (crossing except at crosswalks), 1054 (pedestrians to use right half of crosswalks), 1055 (pedestrians on roadways), 1056 (highway solicitations), and 1058 (duties of pedestrians);

(G) 23 V.S.A. § 1125 (obstructing windshield or windows);

(H) 23 V.S.A. §§ 1134 (possession or consumption of alcohol or cannabis by operator), 1134a (possession or consumption of alcohol or cannabis by passenger) and 1134b(a) (using tobacco in a motor vehicle with child present);

(I) 23 V.S.A. § 1221 (condition of vehicle);

(J) 23 V.S.A. §§ 1243 (headlights), 1244 (illumination required), 1245 (illumination required on motorcycles), 1248 (taillights), and 1249 (directional signal lights); and

(K) 23 V.S.A. § 1259 (safety belts; persons 18 years of age or older).

(2) The Commissioner may make recommendations for repeal, modification, or designation for secondary enforcement of other motor vehicle violations at the Commissioner's discretion.

(b) The Commissioner shall report the recommendations to the House and Senate Committees on Government Operations and on Transportation not later than October 1, 2022.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, report of the Committee on Government Operations agreed to, and third reading ordered.

**Bill Amended; Read Third Time; Bill Passed**

### H. 505

House bill, entitled

An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug

Was taken up and, pending third reading of the bill, **Rep. Murphy of Fairfax** moved to amend the bill as follows:

By renumbering Sec. 21a to be Sec. 22 and by renumbering the remaining sections to be numerically correct.

Which was agreed to. Thereupon, the bill was read the third time and passed.

### **Third Reading; Bills Passed**

House bills of the following titles were severally taken up, read the third time, and passed:

#### **H. 546**

House bill, entitled  
An act relating to racial justice statistics

#### **H. 626**

House bill, entitled  
An act relating to the sale, use, or application of neonicotinoid pesticides

#### **H. 720**

House bill, entitled  
An act relating to the system of care for individuals with developmental disabilities

### **Action on Bill Postponed**

#### **H. 96**

House bill, entitled  
An act relating to creating the Truth and Reconciliation Commission Development Task Force

Was taken up and, pending the reading of the report of the Committee on General, Housing, and Military Affairs, on motion of **Rep. Stevens of Waterbury**, action on the bill was postponed until March 23, 2022.

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

#### **H. 464**

**Rep. Brumsted of Shelburne**, for the Committee on Human Services, to which had been referred House bill, entitled

An act relating to the medical review process in the Reach Up program and Postsecondary Education Program eligibility

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

\* \* \*

(10) “Dependent child” means a child who is a resident of this State and:

(A) is under 18 years of age; or

(B) is 18 years of age or older who is a full-time student in a secondary school, or attending an equivalent level of vocational or technical training, and is reasonably expected to complete the educational program before reaching ~~19~~ 22 years of age or is not expected to complete the educational program before reaching ~~19~~ 22 years of age solely due to a documented disability.

\* \* \*

Sec. 2. 33 V.S.A. § 1103 is amended to read:

§ 1103. ELIGIBILITY AND BENEFIT LEVELS

\* \* \*

(c) The Commissioner shall adopt rules for the determination of eligibility for the Reach Up program and benefit levels for all participating families that include the following provisions:

(1) ~~No~~ Not less than the first ~~\$250.00~~ \$350.00 per month of earnings from an unsubsidized or subsidized job and 25 percent of the remaining ~~unsubsidized~~ earnings shall be disregarded in determining the amount of the family’s financial assistance grant. The family shall receive the difference between countable income and the Reach Up payment standard in a partial financial assistance grant.

~~(2) No less than the first \$90.00 per month of earnings from a subsidized job shall be disregarded in determining the amount of the family’s financial assistance grant. The family shall receive the difference between countable income and the Reach Up payment standard in a partial financial assistance grant. Earnings from subsidized jobs shall qualify for federal and State earned income credit if the family is otherwise eligible for such credit.~~

\* \* \*

(f) The Commissioner shall disregard ~~no~~ not less than ~~\$50.00~~ \$100.00 per month of child support payments in determining eligibility and benefit levels for participating families.

\* \* \*

Sec. 3. 33 V.S.A. § 1105 is amended to read:

§ 1105. CHILD SUPPORT PAYMENTS

(a) A financial assistance case shall not be closed until child support payments, minus the first ~~\$50.00~~ \$100.00 per month in such payments received on behalf of the family, in combination with other countable income, have exceeded the financial assistance payment standard in 12 consecutive calendar months.

(b) Notwithstanding any other provision of law, if financial assistance to a participating family is terminated due to receipt of child support, minus the first ~~\$50.00~~ \$100.00 per month in such payments, that in combination with other countable income is in excess of the financial assistance cash payment standard, and the family again becomes eligible for financial assistance within the following 12 calendar months solely because the family no longer receives excess child support, financial assistance shall be paid as of the date of the family's reapplication.

Sec. 4. 33 V.S.A. § 1107 is amended to read:

§ 1107. CASE MANAGEMENT; FAMILY DEVELOPMENT PLANS;

COORDINATED SERVICES

(a)(1) The Commissioner shall provide all Reach Up services to participating families through a case management model informed by knowledge of the family's goals and aspirations, circumstances, home, community, employment, and available resources. Services may be delivered in the district office, the family's home, or the community in a way that facilitates progress toward accomplishment of the family development plan consistent with research on best practices. Case management may be provided to other eligible families. The case manager, ~~with the full involvement of the family, and family together shall recommend, and the Commissioner shall modify as necessary, create a family development plan established under the Reach First or Reach Up program~~ for each participating family, with a right of appeal as provided by section 1132 of this title. A case manager shall be assigned to each participating family as soon as the family begins to receive financial assistance. If administratively feasible and appropriate, the case manager shall be the same case manager the family was assigned in the Reach

~~First program. The applicant for or recipient of financial assistance under this chapter shall have the burden of demonstrating the existence of his or her condition.~~

(2) Each case manager shall utilize a universal engagement model that aims to engage each participating family, to the best of their ability, in improving the family's social, emotional, and economic well-being. The universal engagement model approaches work and workforce development as a continuum in which each participating adult who is able participates in work or the process of preparing for work, participates in training and education, and increases the participating family's income. A participating adult who is unable to participate due to extenuating personal or family challenges shall be excused from the program participation requirements until able to participate, in accordance with criteria established by rule pursuant to 3 V.S.A. chapter 25.

(3) The case manager shall meet with each participating family following any statutory or rule changes affecting the amount of the earned income disregard, asset limitations, or other eligibility or benefit criteria in the Reach Up program to inform the family of the changes and advise the family about ways to maximize the opportunities to achieve earned income without a corresponding loss of benefits.

\* \* \*

Sec. 5. 33 V.S.A. § 1108 is amended to read:

§ 1108. LIMITS ON FAMILY FINANCIAL ASSISTANCE

(a) Except for grants to children in the care of persons other than their parents, only participating families who have received fewer than 60 cumulative months of financial assistance in which the family was not granted a deferment, including those months in which any type of cash assistance funded by a TANF block grant was received in other states or territories of the United States, shall be eligible for benefits under the Reach Up program.

(b) Deferment granted for the following reasons The Department shall not count toward the Reach Up program's cumulative 60-month lifetime eligibility period any months in which:

(1) the participant is not able-to-work;

(2) the participant is a parent or caretaker who is caring for a child during the first year of a possible two-year deferment pursuant to subdivision 1114(b)(3) of this chapter under one year of age, in accordance with criteria established by rule pursuant to 3 V.S.A. chapter 25;

(3) ~~the participant is affected by domestic violence pursuant to subdivision 1114(b)(9) of this chapter~~ in accordance with criteria established by rule pursuant to 3 V.S.A. chapter 25; and

(4) ~~the participant is needed in the home on a full-time basis to care for an ill or disabled parent, spouse, or child pursuant to subdivision 1114(b)(5) of this chapter~~ in accordance with criteria established by rule pursuant to 3 V.S.A. chapter 25.

(c) ~~The cumulative 60-month lifetime eligibility period shall not begin to toll until the parent or parents of a participating family have reached the age of 18 years of age.~~

(d) ~~Notwithstanding subsection (a) of this section, a participating family that does not have a qualifying deferment~~ meet any of the criteria under section 1114 of this title subsection (b) of this section and that has exceeded the cumulative 60-month lifetime eligibility period set forth in subsection (a) of this section shall qualify for a hardship exemption that allows the adult member of the participating family to receive: continue to receive financial assistance if the participating adult is engaged in any of the work activities listed in subdivision 1101(2) of this chapter, with the exception of subdivision 1101(2)(L) of this chapter.

(1) ~~a wage equivalent to that of the participating family's cash benefit under the Reach Up program for participation in any of the work activities listed in subdivision 1101(28) of this title, with the exception of subdivision (28)(L); or~~

(2) ~~supplemental benefits to the wages of the adult member of the participating family if the work requirement is otherwise being met.~~

(e) A participating family that does not qualify for a hardship exemption pursuant to subsection (d) of this section may be eligible to continue receiving benefits under the Reach Up program if the program director, or the program director's designee, determines, on a monthly basis, that the participating adult is actively participating in the universal engagement model, including the process of planning and engaging in goal achievement related to employment, training, education, and addressing obstacles pursuant to subsection 1113(a) of this chapter.

Sec. 6. 33 V.S.A. § 1112 is amended to read:

#### § 1112. FAMILY DEVELOPMENT PLAN REQUIREMENTS

(a)(1) Each participating adult in a family applying for or receiving financial assistance shall comply with each Reach Up family development plan

requirement provided for in the family development plan, unless good cause exists for such noncompliance as defined by the Commissioner by rule.

(2) The process of developing a family development plan shall include planning and engaging in goal achievement related to employment, training, and education; addressing obstacles to employment; following through with established steps to achieve goals; reviewing and revising goals as necessary; and setting new goals as each existing goal is achieved.

\* \* \*

Sec. 7. 33 V.S.A. § 1113 is amended to read:

§ 1113. WORK REQUIREMENTS EMPLOYMENT PREPARATION, READINESS, AND PARTICIPATION

(a) ~~Each participating adult in a family receiving a financial assistance grant shall fulfill a work requirement in accordance with this section. Subject to the provisions of this chapter, and provided that all services required by this chapter are offered when appropriate and are available when needed to support fulfillment of the work requirement, an adult having a work requirement shall obtain employment or participate in one or more work activities, and shall work in accordance with the requirements of this section, in order to maintain continued eligibility for financial assistance and to avoid fiscal sanctions participate in the process of planning and engaging in goal achievement. These goals may be related to family well-being, financial stability, employment, training, education, and addressing obstacles to employment. Participating families shall participate in establishing goals and steps to achieve goals, reviewing and revising goals as necessary, and setting new goals as each goal is achieved.~~

~~(b)(1) The work requirement shall become effective as soon as the participating adult is work-ready, or upon the family's receipt of 12 cumulative months of financial assistance, whichever is sooner, unless at the end of the 12-cumulative-month period the participant's case manager concludes that the participant is unable to meet the hours of the applicable unmodified work requirement, as established in subsection (c) of this section. In such cases, the case manager shall prepare a written request on behalf of the participant for an extension of up to six months. The request shall identify the particular reasons why the participant is unable to meet the work requirement and the remedial actions and services to be provided to the recipient to enable fulfillment of the requirement. The request shall be submitted to the Commissioner or the Commissioner's designee for approval. The request shall be approved unless the participant is able to meet the work requirement or a modified work requirement established in accordance with section 1114 of this title.~~

~~(2) A participant may meet the work requirement through a combination of work activities until the participant has received 24 months of financial assistance. After that time, the participant shall meet the work requirement through employment Program participation requirements shall become effective as soon as the participating adult becomes eligible for financial assistance.~~

~~(c) A participating family shall be deemed to meet the work requirement if A participating adult may meet program participation requirements, including the following activities, through one or a combination of work, education, training, and other activities that address the family's goals and well-being:~~

~~(1) In two-parent families in which neither parent receives Supplemental Security Income (SSI), a combined total of at least 35 hours a week of employment or work activities or the number of hours the parents have been determined able to work by the Department is completed. One or both parents may contribute to the completion of the employment or work activities required by this subdivision.~~

~~(2) In a two-parent family in which one parent receives SSI:~~

~~(A) If the family includes a child six years of age or older, the work-eligible parent shall participate in one or more work activities for at least 30 hours per week or the number of hours the parent has been determined able to work by the Department.~~

~~(B) If the family includes a child under six years of age, the work-eligible parent shall participate in one or more work activities for at least 20 hours per week or the number of hours the parent has been determined able to work by the Department.~~

~~(C) As used in this subdivision (c)(2), "work-eligible parent" means a parent who is not receiving SSI.~~

~~(3) In a single-parent family:~~

~~(A) If the family's youngest child is six years of age or older, the participant shall participate in one or more work activities for at least 30 hours per week or the number of hours the parent has been determined able to work by the Department.~~

~~(B) If the family's youngest child is under six years of age, the participant shall participate in one or more work activities for at least 20 hours per week or the number of hours the parent has been determined able to work by the Department.~~

~~(4) A pregnant individual who is employed shall continue such employment unless there has been a medical determination that the individual~~

~~is unable to work, or the individual is exempt from the work requirement based on other criteria established by the Commissioner by rule. A pregnant individual shall not be required to begin new employment employment, either full-time or part-time;~~

(2) activities that develop and enhance the skills employers need their employees to have in the workplace, including:

(A) career-specific training programs;

(B) English language learning;

(C) literacy and math skill courses; or

(D) credential programs;

(3) entrepreneurship and business development;

(4) job search and career exploration, including:

(A) engaging in work experience; or

(B) participating in job shadow opportunities;

(5) education, including obtaining:

(A) a high school diploma;

(B) technical training and vocation education; or

(C) career-specific education;

(6) building foundations for employment, including:

(A) housing search efforts;

(B) arranging transportation; or

(C) arranging child care;

(7) activities aimed at improving family and financial well-being, including:

(A) financial capability classes and coaching;

(B) mental health treatment;

(C) treatment for substance use disorder;

(D) working with children's health and school professionals;

(E) applying for Supplemental Security Income; or

(F) working with the Division of Family Services; or

(8) any other activity designated by the Commissioner in accordance with criteria established in rule pursuant to 3 V.S.A. chapter 25.

~~(d)(1) A participant required to fulfill a work requirement shall accept any unsubsidized job he or she is capable of performing, even if it pays wages that are less than the financial assistance grant. In cases in which monthly wages are less than the financial assistance grant and the family is otherwise eligible, the wages shall be supplemented with a partial financial assistance grant. The Commissioner shall establish by rule criteria for jobs that must be accepted if offered, including the criterion that each job must pay at least minimum wage.~~

~~(2) A participating adult who had wages in the three months prior to his or her application for financial assistance that, when annualized, equal or exceed 150 percent of the federal poverty level applicable to the participating adult's family shall not be required to accept employment with annualized earnings of less than 150 percent of the federal poverty level applicable to the participating adult's family for the three-month period after being deemed eligible for financial assistance, provided that the participant:~~

~~(A) has not been disqualified within the prior six months from receiving unemployment compensation benefits for failing, without good cause, either to apply for available, suitable work when so directed by the employment office or the Commissioner of Labor, or to accept suitable work when offered;~~

~~(B) is not sanctioned within the three-month period immediately following being deemed eligible for financial assistance;~~

~~(C) does not leave an unsubsidized job without good cause within the three-month period immediately following being deemed eligible for financial assistance;~~

~~(D) follows through in a satisfactory manner on all referrals to employment opportunities;~~

~~(E) is engaged in acceptable work activities in accordance with this section; and~~

~~(F) agrees to accept any unsubsidized job if still unemployed after completion of the three-month period immediately following the determination of eligibility to receive financial assistance.~~

~~(3) A postsecondary education program participant who has received a degree and any Reach Up participant who has recently completed specialized vocational training shall not be required to accept an unsubsidized job that is unrelated to his or her training or degree for the three-month period~~

~~immediately following completion of such education or training, provided that the participant:~~

~~(A) is not sanctioned within that three-month period;~~

~~(B) does not leave an unsubsidized job related to his or her training or degree without good cause within that three-month period;~~

~~(C) follows through in a satisfactory manner on all referrals to employment opportunities related to his or her training or degree;~~

~~(D) is engaged in acceptable work activities in accordance with this section; and~~

~~(E) agrees to accept any unsubsidized job if still unemployed after such three-month period. A participating adult shall be deemed to meet the program participation requirements if the adult is participating in activities that lead to employment based on goal setting and active universal engagement.~~

~~(e) The Commissioner may require a participant to participate in a job search, coordinated by the Commissioner, for the number of hours per week that corresponds to the participant's work requirement hours under subsection (e) of this section, or a lesser amount that in combination with the participant's unsubsidized employment equals the participant's work requirement hours under subsection (e) of this section.~~

~~(f) Notwithstanding any other provision of this chapter, a participant's hours of unpaid work activities unpaid work activities that are not primarily education, job search, job readiness, or training activities shall not exceed the levels established by the Fair Labor Standards Act. Adjustments required to conform with the Fair Labor Standards Act shall be made pursuant to calculation standards established by the Commissioner by rule.~~

Sec. 8. 33 V.S.A. § 1114 is amended to read:

§ 1114. DEFERMENTS, MODIFICATIONS, AND REFERRAL

~~(a) The Commissioner shall establish by rule criteria, standards, and procedures for granting deferments from or modifications to the work requirements established in section 1113 of this title, in accordance with the provisions of this section and for referring individuals with disabilities to the Office of Vocational Rehabilitation~~

~~(b) The work requirements shall be either modified or deferred for:~~

~~(1) A participant for whom no unsubsidized or subsidized job or other equivalent supervised work activity recognized by the Commissioner by rule is available.~~

(2) A participant for whom support services that are essential to employment and other work activities and identified in the family development plan cannot be arranged. Such services shall include case management, education and job training, child care, and transportation.

(3) A primary caretaker parent in a two-parent family in which one parent is able to work part-time or unable to work, a single parent, or a caretaker who is caring for a child who has not attained 24 months of age for no more than 24 months of the parent's or caretaker's lifetime receipt of financial assistance. To qualify for such deferment, a parent or caretaker of a child older than the age of six months but younger than 24 months shall cooperate in the development of and participate in a family development plan.

(4) An individual who has exhausted the 24 months of deferment provided for in subdivision (3) of this subsection and who is caring for a child who is not yet 13 weeks of age or a primary caretaker parent in a family with two parents who are able to work if the primary caretaker is caring for a child under 13 weeks of age and is otherwise subject to a work requirement because the other parent in the family is being sanctioned in accordance with section 1116 of this title.

(5) A participant who is needed in the home on a full- or part-time basis in order to care for an ill or disabled parent, spouse, or child. In granting deferments, the Department shall fully consider the participant's preference as to the number of hours the participant is able to leave home to participate in work activities. A deferral or modification of the work requirement exceeding 60 days due to the existence of illness or disability pursuant to this subdivision shall be confirmed by the independent medical review of one or more physicians, physician assistants, advanced practice registered nurses, or other health care providers designated by the Secretary of Human Services prior to receipt of continued financial assistance under the Reach Up program.

(6) A participant who is under 20 years of age, who is a single head of household or married, and who maintains satisfactory attendance at secondary school or the equivalent during the month, or participates in education directly related to employment for an average of 20 or more hours per week during the month.

(7) A participant who has attained 20 years of age and who is engaged in at least 15 hours per week of classes and related learning activities for the purpose of attaining a high school diploma or General Educational Development (GED) certificate or completing a literacy program approved by the Department; provided that the participant is making satisfactory progress toward the attainment of the diploma or certificate; and provided further that a deferment or modification granted for this purpose does not exceed 18 months.

~~(8) A participant who is enrolled in, attending, and making satisfactory progress toward the completion of a full-time vocational training program that has a normal duration of no more than two years and who is within 12 months of expected completion of such program. Such deferment or modification shall continue until he or she has completed the program, he or she is no longer attending the program, or the 12-month expected completion period has ended, whichever occurs first.~~

~~(9) A participant for whom, due to the effects of domestic violence, fulfillment of the work requirement can be reasonably anticipated to result in serious physical or emotional harm to the participant that significantly impairs his or her capacity either to fulfill the work requirement or to care for his or her child adequately, or can be reasonably anticipated to result in serious physical or emotional harm to the child.~~

~~(10) Any other participant designated by the Commissioner in accordance with criteria established by rule.~~

~~(e) A participant who is able to work part-time or is unable to work shall be referred for assessment of the individual's skills and strengths, accommodations and support services, and vocational and other services in accordance with the provisions of his or her family development plan. The work requirement hours shall reflect the individual's ability to work. Participants with disabilities that do not meet the standards used to determine disability under Title XVI of the Social Security Act shall participate in rehabilitation, education, or training programs as appropriate. A participant who qualifies for a deferment or modification and who is able to work part-time shall have his or her work requirement hours modified or deferred. In granting deferments, the Department shall fully consider the participant's estimation of the number of hours the participant is able to work.~~

~~(d) Absent an apparent condition or claimed physical, emotional, or mental condition, participants are presumed to be able to work. A participant shall have the burden of demonstrating the existence of the condition asserted as the basis for a deferral or modification of the work requirement. A deferral or modification of the work requirement exceeding 60 days due to the existence of conditions rendering the participant unable to work shall be confirmed by the independent medical review of one or more physicians, physician assistants, advanced practice registered nurses, or other health care providers designated by the Secretary of Human Services prior to receipt of continued financial assistance under the Reach Up program.~~

~~(e) Deferments and modifications granted pursuant to this section shall continue for as long as the grounds for the deferment or modification exist or~~

~~until expiration of a related time period specified in subsection (b) of this section, whichever occurs first.~~

~~(f) As used in this section, “health care provider” means a person, partnership, or corporation, other than a facility or institution, licensed or certified or authorized by law to provide professional health care service in this State to an individual during that individual’s medical care, treatment, or confinement. The program participation requirements established in section 1113 of this chapter shall be deferred when:~~

~~(1) a participating adult is 60 years of age or older;~~

~~(2) a participating adult is caring for a child under six weeks of age;~~

~~(3) a participating adult for whom, due to the effects of domestic violence, engaging in the program participation requirements can be reasonably anticipated to result in serious physical or emotional harm to the participating adult or child; or~~

~~(4) any other participant designated by the Commissioner in accordance with criteria established by the Commissioner in rule pursuant to 3 V.S.A. chapter 25.~~

Sec. 9. 33 V.S.A. § 1116 is amended to read:

#### § 1116. SANCTIONS

(a) The financial assistance grant of a participating family shall be reduced, in accordance with the provisions of this section, if a participating adult ~~fails to fully comply or continue to comply in full with the family development plan or work~~ program participation requirements in sections 1112 and 1113 of this title.

(b) Prior to the reduction in a family’s financial assistance grant resulting from a sanction imposed under this section, the Department shall provide an independent review of the participant’s circumstances and the basis for ~~his or her noncompliance~~ the participant’s nonengagement. The Commissioner or the Commissioner’s designee shall perform the review.

(c)(1) For a first, second, and third month in which a participating adult is not ~~in compliance~~ engaged with a family development plan or ~~work requirement~~ program participation requirements and has not demonstrated good cause for such ~~noncompliance~~ nonengagement, the family’s financial assistance grant shall be reduced by the amount of \$75.00 ~~for each adult sanctioned.~~

(2) For the fourth and any subsequent month not subject to the reduction required by subsection (e) of this section in which a participating adult is not

~~in compliance~~ engaged with a family development plan or ~~work requirement program participation requirements~~ and has not demonstrated good cause for such ~~noncompliance~~ nonengagement, the family's financial assistance grant shall be reduced by the amount of \$150.00 for each adult sanctioned.

(d) A participant may cure a sanction by ~~coming into compliance in accordance~~ engaging with the Department's rules. During the first 60 months of the family's receipt of financial assistance, a participating adult may have all previous sanctions forgiven by demonstrating 12 consecutive months of compliance with family development plan requirements or work requirements or any combination of the two. Subsequent acts of noncompliance after a sanctioned adult has completed a successful 12-month sanction forgiveness period will be treated in accordance with subdivisions (c)(1) and (2) of this section without consideration of the sanctions that have been forgiven.

\* \* \*

(h) To receive payments during the fiscal sanction period, an adult who is the subject of the sanction shall meet ~~no~~ not less than once each month to report ~~his or her~~ the adult's circumstances to the case manager or to participate in assessments as directed by the case manager. In addition, this meeting shall be for initial assessment and development of the family development plan when such tasks have not been completed; and reassessment or review and revision of the family development plan, if appropriate; ~~and to encourage the participant to fulfill the work requirement.~~ Meetings required under this section may take place in the district office, a community location, or in the participant's home. Facilitation of meeting the participant's family development plan goals shall be a primary consideration in determining the location of the meeting. The Commissioner may waive any meeting when extraordinary circumstances prevent a participant from attending. The Commissioner shall adopt rules to implement this subsection.

(i) ~~A family sanctioned under this section for failure to meet work or family development plan requirements shall remain eligible for Supplemental Nutrition Assistance Program benefits and shall not, because of such failure, be sanctioned under the Supplemental Nutrition Assistance Program for reasons of "failure to comply without good cause" and "voluntary quit without good cause," provided that such eligibility and waivers of such sanctions are consistent with federal law and regulations governing the Supplemental Nutrition Assistance Program. [Repealed.]~~

Sec. 10. 33 V.S.A. § 1122 is amended to read:

§ 1122. POSTSECONDARY EDUCATION PROGRAM

\* \* \*

(b) The Program authorized by this section shall be administered by the Commissioner or by a contractor designated by the Commissioner. The Program shall be supported with funds other than federal TANF block grant funds provided under Title IV-A of the Social Security Act, except that the Commissioner may fund financial assistance grants and support services of families participating in the Postsecondary Education Program with TANF block grant or State maintenance of effort funds when ~~the a~~ participating adult's parent's educational activities are a countable work activity under federal law and when it will further one or more of the purposes in subdivision 1121(c)(1) of this title.

\* \* \*

(d) To be financially eligible to participate in the Postsecondary Education Program, the family's gross income minus ~~the a~~ participating parent's earnings shall not exceed 150 percent of the federal poverty level for the appropriate family size.

(e) All financially eligible families who apply to participate in the Postsecondary Education Program ~~will~~ shall be considered for admission, provided that they meet all of the following criteria:

(1) ~~No more than one parent per family may participate at the same time.~~ [Repealed.]

(2) ~~If the participating parent is in a two-parent family, the nonparticipating parent shall, if able to work, be working full-time; if able to work part-time, shall be working at least the number of hours per week that he or she has been determined able to work part-time; or, if unable to work, may be unemployed.~~ [Repealed.]

(3)(A) ~~The A~~ participating parent has not already received a postsecondary undergraduate degree.

(B) ~~The A~~ participating parent has already received a postsecondary undergraduate degree, and the occupations for which it prepared ~~the that~~ participating parent are obsolete.

(C) ~~The A~~ participating parent, due to a disability, is no longer able to perform the occupations for which the degree prepared ~~him or her that~~ participating parent.

(D) The preparation for occupations that ~~the a~~ participating parent received through the postsecondary undergraduate degree is outdated and not marketable in the current labor market.

(4) ~~The~~ A participating parent shall be a matriculating student in a two-year or four-year degree program as provided for in the postsecondary education plan.

(5) ~~The~~ A participating parent has been determined to be eligible for financial assistance from the Vermont Student Assistance Corporation, and can demonstrate ~~that he or she has~~ the ability to cover tuition costs.

(6) ~~The~~ A participating parent agrees to limit employment to ~~no~~ not more than 20 hours per week when school is in session. The Department may establish exceptions by rule to allow ~~the~~ a participating parent to work more than 20 hours per week.

(7) The family and ~~the~~ a participating ~~adult~~ parent maintain financial eligibility for the program and uninterrupted residency in Vermont for the duration of participation in the Postsecondary Education Program.

(8) ~~The~~ A participating parent maintains good academic standing at the college.

\* \* \*

(g) Continued participation in the Postsecondary Education Program is contingent on ~~the~~ a participating parent:

\* \* \*

#### Sec. 11. EFFECTIVE DATES

This act shall take effect on January 1, 2023, except Sec. 1 (definitions), Sec. 2 (eligibility and benefit levels), and Sec. 3 (child support payments) shall take effect on July 1, 2023.

and that after passage the title of the bill be amended to read: “An act relating to miscellaneous changes to the Reach Up Program”

**Rep. Jessup of Middlesex**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Human Services and when further amended as follows:

By striking out Sec. 11, effective dates, in its entirety and inserting in lieu thereof a new Sec. 11 and Sec. 12 to read as follows:

#### Sec. 11. APPROPRIATION; INFORMATION TECHNOLOGY; REACH UP

In fiscal year 2023, \$500,000.00 is appropriated from the General Fund to the Department for Children and Families to make improvements to the Department’s information technology systems necessary to effect the changes to the Reach Up program required pursuant to this act.

## Sec. 12. EFFECTIVE DATES

This section and Sec. 11 (appropriation; information technology; Reach Up) shall take effect on July 1, 2022. All other sections shall take effect on January 1, 2024, except that the Commissioner for Children and Families shall adopt any rules necessary prior to that date in order to perform the Department's duties under this act.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Human Services was amended as recommended by the Committee on Appropriations. Report of the Committee on Human Services, as amended, agreed to and third reading ordered.

**Second Reading; Bill Amended; Third Reading Ordered****H. 512**

**Rep. Kimbell of Woodstock**, for the Committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to modernizing land records and notarial acts law

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

## Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds:

(1) Uniform laws, standards, and best practices provide desirable and practicable uniformity that:

(A) benefits core aspects of government operations and commerce;

(B) facilitates intrastate and interstate business transactions, commerce, and economic development; and

(C) provides consistency for individuals and businesses.

(2) Notarial acts and the recording of deeds and other property records are:

(A) core aspects of government operations and commerce that benefit from uniformity; and

(B) common intrastate and interstate business transactions that should be consistent and facilitated through the enactment of uniform laws and adoption of uniform standards and best practices.

(3) The Uniform Law Commission, also known as the National Conference of Commissioners on Uniform State Laws, has adopted uniform laws related to notarial acts and the recording of deeds and other property records that have been accepted and enacted into law by a substantial number of states, including:

(A) the Revised Uniform Law on Notarial Acts or “RULONA” of 2010, which was enacted by the General Assembly pursuant to 2018 Acts and Resolves No. 160 to govern actions by a notary public;

(B) the Uniform Electronic Transaction Act or “UETA” of 1999, which was enacted by the General Assembly pursuant to 2003 Acts and Resolves No. 46 to establish the legal equivalence of electronic records and signatures with paper records and manually signed signatures and remove barriers to electronic commerce; and

(C) the Uniform Real Property Electronic Recording Act or “URPERA” of 2004, which has not been enacted by the General Assembly to allow local recording offices to accept deeds and other property records in electronic form and to provide electronic access to recordings.

(4) The COVID-19 pandemic exacerbated the need to modernize:

(A) notarial acts to include those performed on electronic records and for remotely located individuals; and

(B) the acceptance, recording, and availability of deeds and other property records in electronic form.

(5) The COVID-19 pandemic underscored the need for approaches to modernization that are carefully planned; coordinated and comprehensive; multi-jurisdictional; and include fiscal, governance, and operational sustainability.

(b) Therefore, it is the intent of the General Assembly to provide a practical step forward to modernizing notarial acts and the recording of deeds and other property records in the State of Vermont through legislation that promotes uniformity within Vermont and with other states, specifically:

(1) uniform laws that have been accepted and enacted into law by a substantial number of states;

(2) uniform standards and best practices that have been accepted and adopted by a substantial number of states; and

(3) uniform approaches to modernization that are carefully planned; coordinated; comprehensive; multi-jurisdictional; and have fiscal, governance, and operational sustainability.

Sec. 2. 27 V.S.A. chapter 5, subchapter 8 is added to read:

Subchapter 8. Uniform Real Property Electronic Recording Act

§ 621. SHORT TITLE

This subchapter may be cited as the Uniform Real Property Electronic Recording Act.

§ 622. DEFINITIONS

For the purposes of this subchapter:

(1) “Document” means information that is:

(A) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) eligible to be recorded in the land records maintained by the recorder.

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

(3) “Electronic document” means a document that is received by the recorder in an electronic form.

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

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

(6) “Recorder” means a town clerk, pursuant to 24 V.S.A. § 1154, or a county clerk, pursuant to subchapter 3 of this chapter, responsible for recording deeds and other instruments or evidences respecting real estate.

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

§ 623. VALIDITY OF ELECTRONIC DOCUMENTS

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this subchapter.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

#### § 624. RECORDING OF DOCUMENTS

(a) In this section, “paper document” means a document that is received by the recorder in a form that is not electronic.

(b) A recorder:

(1) who implements any of the functions listed in this section shall do so in compliance with the most recent standards and best practices;

(2) may receive, index, store, transmit, and preserve electronic documents;

(3) may provide for access to, and for search and retrieval of, documents and information by electronic means;

(4) who accepts electronic documents for recording shall continue to accept paper documents as authorized by State law and shall place entries for both types of documents in the same index;

(5) may convert paper documents accepted for recording into electronic form;

(6) may convert into electronic form information recorded before the recorder began to record electronic documents;

(7) may accept electronically any fee the recorder is authorized to collect; and

(8) may agree with other officials of this State or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees.

#### § 625. STANDARDS AND BEST PRACTICES

To ensure consistency in the standards and best practices of, and the technologies used by, recorders in this State, recorders shall, so far as is consistent with the purposes, policies, and provisions of this subchapter, seek services from the Vermont State Archives and Records Administration pursuant to 3 V.S.A. § 117.

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

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

Sec. 3. VERMONT STATE ARCHIVES AND RECORDS  
ADMINISTRATION; REPORT

(a) On or before January 15, 2024, the Vermont State Archives and Records Administration, in consultation with the Joint Fiscal Office, the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, and other interested parties, shall submit a report to the House Committees on Commerce and Economic Development and Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and Government Operations concerning the fiscal, governance, and operational sustainability of uniform approaches to the modernization of the acceptance, recording, and availability of deeds and other property records in electronic form.

(b) The report shall be based on analyses of the following:

(1) services requested by recorders pursuant to 27 V.S.A. § 625 to achieve consistency and uniformity in standards and best practices;

(2) systems currently deployed by recorders and associated costs; and

(3) anticipated recorder costs to transition to electronic recording pursuant to 27 V.S.A. chapter 5, subchapter 8.

(c) On or before January 15, 2023, the Vermont State Archives and Records Administration shall prepare an interim report concerning the information and analyses required by this section and submit the interim report to the House Committees on Commerce and Economic Development and Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and Government Operations

Sec. 4. VERMONT STATE ARCHIVES AND RECORDS  
ADMINISTRATION; POSITION

There is created within Vermont State Archives and Records Administration one new permanent classified position to facilitate and provide the services described in 27 V.S.A. § 625. Any funding necessary to support the position

created in this section shall be derived from the Secretary of State Services Fund, with no General Fund dollars.

Sec. 5. 26 V.S.A. chapter 103 is amended to read:

CHAPTER 103. NOTARIES PUBLIC

\* \* \*

§ 5304. DEFINITIONS

As used in this chapter:

\* \* \*

(4) “Communication technology” means an electronic device or process operating in accordance with section 5380 of this chapter and any standards adopted by the Office pursuant to section 5323 of this chapter that:

(A) allows a notary public and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(B) when necessary and consistent with other applicable laws, facilitates communication with a remotely located individual who has a vision, hearing, or speech impairment.

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

~~(5)~~(6) “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(7) “Foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

(8) “Identity proofing” means a process or service operating in accordance with section 5380 of this chapter and any standards adopted by the Office pursuant to section 5323 of this chapter by which a third person provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources.

~~(6)~~(9) “In a representative capacity” means acting as:

\* \* \*

~~(7)~~(10)(A) “Notarial act” means an act, whether performed with respect to a tangible or an electronic record, that a notary public may perform under the law of this State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or

affirmation, attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

\* \* \*

~~(8)~~(11) “Notarial officer” means ~~an individual authorized to perform a notarial act under authority and within the jurisdiction of another state, under authority and within the jurisdiction of a federally recognized Indian tribe, under authority of federal law, under authority and within the jurisdiction of a foreign state or constituent unit of the foreign state, or under authority of a multinational or international governmental organization~~ a notary public or other individual authorized to perform a notarial act.

~~(9)~~(12) “Notary public” means an individual commissioned to perform a notarial act by the Office.

~~(10)~~(13) “Office” means the Office of Professional Regulation within the Office of the Secretary of State.

~~(11)~~(14) “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic ~~process, seal, or image or electronic information~~ attached to or logically associated with an electronic record.

(15) “Outside the United States” means a location outside the geographic boundaries of the United States; Puerto Rico; the U.S. Virgin Islands; and any territory, insular possession, or other location subject to the jurisdiction of the United States.

~~(12)~~(16) “Person” means an individual, corporation, business trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~(13)~~(17) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) “Remotely located individual” means an individual who is not in the physical presence of the notary public who performs a notarial act under section 5379 of this chapter.

~~(14)~~(19) “Sign” means, with present intent to authenticate or adopt a record:

\* \* \*

~~(15)~~(20) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

(16)(21) “Stamping device” means:

\* \* \*

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

(18)(23) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a record is true.

\* \* \*

### § 5323. RULES

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

\* \* \*

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking the commission or special commission endorsement of or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission or special commission endorsement as notary public;

(5) include provisions to prevent fraud or mistake in the performance of notarial acts; ~~and~~

(6) ~~prescribe standards for remote online notarization, including standards for credential analysis, the process through which a third person affirms the identity of an individual, the methods for communicating through a secure communication link, the means by which the remote notarization is certified, and the form of notice to be appended disclosing the fact that the notarization was completed remotely on any document acknowledged through remote online notarization~~ the means of performing a notarial act involving a remotely located individual using communication technology;

(7) establish standards for communication technology and identity proofing;

(8) establish standards and a period for the retention of an audiovisual recording created under section 5379 of this chapter; and

(9) prescribe methods for a notary public to confirm, under subsections 5379(c) and (d) of this chapter, the identity of a tangible record.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records and remote online notarization may not require, or accord

greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records and remote online notarization, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records ~~and remote online notarization~~ promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that have laws substantially enacted similar to this chapter; and

\* \* \*

~~(c) Neither electronic notarization nor remote online notarization shall be allowed until the Secretary of State has adopted rules and prescribed standards in these areas. [Repealed.]~~

#### § 5324. FEES

(a) For the issuance of a commission as a notary public, the Office shall collect a fee of ~~\$15.00~~ \$30.00.

(b) For issuance of a special endorsement authorizing the performance of electronic and remote notarial acts in accordance with subsection 5341(d) of this chapter, the Office shall collect a fee of \$30.00.

\* \* \*

#### § 5341. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY OR BENEFIT

\* \* \*

~~(d) Upon compliance with this section, the Office shall issue a commission as a notary public to an applicant, which shall be valid through the then current commission term end date~~ A notary public shall not perform a notarial act on an electronic record or for a remotely located individual without obtaining a special endorsement from the Office. A notary public shall hold a notary public commission to be eligible for a special endorsement to perform notarial acts on electronic records and for remotely located individuals. The Office shall adopt rules for obtaining and regulating a special commission endorsement authorizing a notary public to perform notarial acts on electronic records and for remotely located individuals. These rules shall require notaries public performing notarial acts on electronic records and for remotely located individuals to ensure the communication technology and identity proofing used for the performance of the notarial act on electronic records or for

remotely located individuals comply with the requirements of section 5380 of this chapter and any rules adopted by the Office in accordance with section 5323 of this chapter. A notary public shall apply for the special commission endorsement for the performance of notarial acts on electronic records and for remotely located individuals by filing with the Office an application provided by the Office accompanied by the required fees and evidence of eligibility, as required in rules adopted by the Office in accordance with section 5323 of this chapter.

(e) A commission to act as a notary public authorizes the notary public to perform notarial acts except for notarial acts on electronic records or for remotely located individuals. A commission with a special endorsement issued under subsection (d) of this section authorizes a notary public to perform notarial acts on electronic records and for remotely located individuals. The commission does not provide the notary public any immunity or benefit conferred by law of this State on public officials or employees.

\* \* \*

#### § 5362. AUTHORIZED NOTARIAL ACTS

(a) A notary public may perform a notarial act as authorized by and in accordance with the requirements of this chapter or otherwise by law of this State.

\* \* \*

(c) A notary public may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

#### § 5363. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

\* \* \*

(e) Copies. A notary public who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

#### § 5364. PERSONAL APPEARANCE REQUIRED

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) ~~The requirement for a personal appearance is satisfied if:~~

~~(1) the notary public and the person executing the signature are in the same physical place; or~~

~~(2) the notary public and the person are communicating through a secure communication link using protocols and standards prescribed in rules adopted by the Secretary of State pursuant to the rulemaking authority set forth in this chapter. [Repealed.]~~

\* \* \*

#### § 5368. SHORT-FORM CERTIFICATES

The following short-form certificates of notarial acts shall be sufficient for the purposes indicated, if completed with the information required by subsections 5367(a) and (b) of this chapter:

\* \* \*

(5) For certifying a copy of a record:

State of \_\_\_\_\_

County of \_\_\_\_\_

I certify that this is a true and correct copy of a record in the possession of

\_\_\_\_\_

Dated \_\_\_\_\_

Signature of notarial officer \_\_\_\_\_

Stamp \_\_\_\_\_

Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

\* \* \*

#### § 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD; SELECTION OF TECHNOLOGY

(a) A notary public holding a special commission endorsement pursuant to subsection 5341(d) of this title and who is thus authorized to perform notarial acts on electronic records may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records ~~from the tamper-evident technologies approved by the Office by rule.~~ A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) ~~Before a notary public performs the notary public's initial notarial act with respect to an electronic record, the notary public shall notify the Office that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use~~

~~from the list of technologies approved by the Office by rule. If the Office has established standards by rule for approval of technology pursuant to section 5323 of this chapter, the technology shall conform to the standards. If the technology conforms to the standards, the Office shall approve the use of the technology.~~ A recorder, as defined in 27 V.S.A. § 622, may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original, if the notary public executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

\* \* \*

§ 5379. NOTARIAL ACT PERFORMED FOR REMOTELY LOCATED  
INDIVIDUAL

(a) A remotely located individual may comply with section 5364 of this chapter by using communication technology to appear before a notary public with a special commission endorsement.

(b) A notary public located in this State may perform a notarial act using communication technology for a remotely located individual if:

(1) the notary public holds a special commission endorsement pursuant to subsection 5341(d) of this title;

(2) the notary public:

(A) has personal knowledge under subsection 5365(a) of this chapter of the identity of the individual;

(B) has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public under subsection 5365(b) of this chapter; or

(C) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(3) the notary public is reasonably able to confirm that a record before the notary public is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(4) the notary public, or a person acting on behalf of the notary public, creates an audiovisual recording of the performance of the notarial act; and

(5) for a remotely located individual located outside the United States:

(A) the record:

(i) is to be filed with or relates to a matter before a public official or court, governmental entity, or other entity subject to the jurisdiction of the United States; or

(ii) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(B) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

(c) A notary public in this State may use communication technology under subsection (b) of this section to take an acknowledgement of a signature on a tangible record physically present before the notary public if the record is displayed to and identified by the remotely located individual during the audiovisual recording under subdivision (b)(4) of this section.

(d) The requirement under subdivision (b)(3) of this section for the performance of a notarial act with respect to a tangible record not physically present before the notary public is satisfied if:

(1) the remotely located individual:

(A) during the audiovisual recording under subdivision (b)(4) of this section, signs:

(i) the record; and

(ii) a declaration, in substantially the following form, that is part of or securely attached to the record:

I declare under penalty of perjury that the record of which this declaration is part or to which it is attached is the same record on which (name of notary public), a notary public, performed a notarial act and before whom I appeared by means of communication technology on \_\_\_\_\_ (date).

Signature \_\_\_\_\_ of \_\_\_\_\_ remotely located individual

Printed name \_\_\_\_\_ of \_\_\_\_\_ remotely located individual \_\_\_\_\_; and

(B) sends the record and declaration to the notary public not later than three days after the notarial act was performed; and

(2) the notary public:

(A) in the audiovisual recording under subdivision (b)(4) of this section, records the individual signing the record and declaration; and

(B) after receipt of the record and declaration from the individual, executes a certificate of notarial act under section 5367 of this chapter, which must include a statement in substantially the following form:

I, (name of notary public), witnessed, by means of communication technology, (name of remotely located individual) sign the attached record and declaration on (date).

(e) A notarial act performed in compliance with subsection (d) of this section complies with subdivision 5367(a)(1) of this chapter and is effective on the date the remotely located individual signed the declaration under subdivision (d)(1)(A)(ii) of this section.

(f) Subsection (d) of this section does not preclude use of another procedure to satisfy subdivision (b)(3) of this section for a notarial act performed with respect to a tangible record.

(g) A notary public located in this State may use communication technology under subsection (b) of this section to administer an oath or affirmation to a remotely located individual if, except as otherwise provided by other law of this State, the notary public:

(1) identifies the individual under subdivision (b)(2) of this section;

(2) creates or causes the creation under subdivision (b)(4) of this section of an audiovisual recording of the individual taking the oath or affirmation; and

(3) retains or causes the retention under subsection (k) of this section of the recording.

(h) The notary public shall ensure that the communication technology and identity proofing used to perform a notarial act for a remotely located individual complies with section 5380 of this chapter and any standards adopted by the Office in accordance with section 5323 of this chapter.

(i) If a notarial act is performed under this section, the certificate of notarial act required by section 5367 of this chapter and the short-form certificate provided in section 5368 of this chapter must indicate that the notarial act was performed using communication technology.

(j) A short-form certificate provided in section 5368 of this chapter for a notarial act subject to this section is sufficient if it:

(1) complies with rules adopted under section 5323 of this chapter; or

(2) is in the form provided in section 5367 of this chapter and contains a statement substantially as follows: “This notarial act involved the use of communication technology.”

(k) A notary public, guardian, conservator, or agent of a notary public or a personal representative of a deceased notary public shall retain the audiovisual recording created under subdivision (b)(4) of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rules adopted under section 5323 of this chapter, the recording must be retained for a period of at least 10 years after the recording is made.

(l) Providers of the communication technologies, identity proofing, or storage must be registered with the Secretary of State to do business in Vermont and, by allowing communication technology or identity proofing to facilitate a notarial act of an electronic record or for a remotely located individual or by providing storage of the audiovisual recording under subdivision (b)(3) of this section, providers of the communication technology, identity proofing, or storage consent and agree that the service or process being provided is in compliance with the requirements set forth in this chapter and with any rules adopted by the Office.

#### § 5380. COMPUTER TECHNOLOGY AND IDENTITY PROOFING

##### PROVIDERS; MINIMUM STANDARDS

(a) Communication technology and identity proofing providers shall develop, maintain, and implement processes and services that are consistent with the requirements of this chapter and industry standards and best practices for the process or service provided. Providers must also comply with all applicable federal and State regulations, rules, and standards, including:

(1) with respect to communication technology, regulations, rules, and standards specific to simultaneous communication by sight and sound and information and communication technology for individuals with physical, sensory, and cognitive disabilities; and

(2) with respect to identity proofing, regulations, rules, and standards specific to the enrollment and verification of an identity used in digital authentication.

(b) A provider of communication technology or identity proofing shall provide evidence to the notary public’s satisfaction of the provider’s ability to satisfy the requirements of this chapter for the service or process being provided.

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**Sec. 5. EFFECTIVE DATE**

This act shall take effect on July 1, 2022.

**Rep. Canfield of Fair Haven**, for the Committee on Ways and Means, recommended the bill ought to pass when amended by the Committee on Commerce and Economic Development.

**Rep. Toleno of Brattleboro**, for the Committee on Appropriations, recommended the bill ought to pass when amended by the Committee on Commerce and Economic Development.

The bill, having appeared on the Notice Calendar, was taken up, read second time, the report of the Committee on Commerce and Economic Development agreed to, and third reading was ordered.

**Second Reading; Bill Amended; Third Reading Ordered****H. 624**

**Rep. Jerome of Brandon**, for the Committee on Commerce and Economic Development, to which had been referred House bill, entitled

An act relating to supporting creative sector businesses and cultural organizations

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. FINDINGS; PURPOSE**

(a) Findings. The General Assembly finds:

(1) The COVID-19 pandemic has profoundly jeopardized the economic viability of creative sector businesses, museums, theaters, galleries, studios, performing arts venues, and other cultural organizations.

(2) Creative sector businesses and nonprofits are important to Vermont's economic growth and community vitality, attracting tourists, boosting local sales, and generating more than nine percent of Vermont's jobs.

(3) These businesses and organizations were among the first to close to protect public health and are also among the last to fully reopen.

(4) Even as performances and cultural activities slowly return to operation, they are often are not able to operate at pre-pandemic capacity, and the public remains trepidatious to gather in close proximity with others, even if masked.

(5) Past financial support for creative sector businesses, performing arts venues, and other cultural organizations has provided a bridge to this point, but these entities continue to have significant need until vaccinations and other public health measures allow them to return to economic health.

(b) Purpose. The purpose of this act is to provide \$17.5 million in additional financial assistance to creative sector businesses and cultural organizations as follows:

(1) to provide direct financial assistance for COVID-19-safe equipment, marketing and re-engaging audiences, and covering operating costs;

(2) to support statewide promotion and marketing of Vermont's creative economy;

(3) to provide funding for the Vermont Arts Council to implement the CreateVT Action Plan; and

(4) to support both creative sector businesses and downtown growth and revitalization by expanding access to affordable studio, housing, performance, and exhibition space and opportunities for artists and other creative sector businesses.

## Sec. 2. CREATIVE ECONOMY RECOVERY PROGRAM

In fiscal year 2022, of the amounts remaining in the Economic Recovery Grant Program, the Agency of Commerce and Community Development shall subgrant the amount of \$17,500,000.00 to the Vermont Arts Council to administer consistent with the provisions of this section.

(1) Creative economy grants. The Council shall allocate funding for creative economy grants to theaters, community arts centers, galleries, museums, dance studios, and similarly situated entities as follows:

(A) \$10,000,000.00 to cover a portion of monthly operating costs for businesses and organizations that have sustained substantial losses due to the pandemic, including rent, mortgage, utilities, and insurance;

(B) \$2,000,000.00 for public health-related business and programming adaptations, including to purchase and implement touchless ticketing, online sales platforms, and COVID-19-related health and safety protocols; and

(C) \$4,000,000.00 for public health-related facility adaptations, including the purchase of air purification systems, hand-sanitizer dispensers, expanded outdoor seating, and HVAC assessments and upgrades.

(2) Statewide promotion and marketing of Vermont's creative sector. The Council shall allocate \$500,000.00 to support statewide and regional

marketing of arts and cultural events, venues, and creative sector businesses that are essential to revive consumer confidence and spending.

(3) Vermont Creative Network Coordinator and network support. The Council shall allocate \$250,000.00 to hire the Vermont Creative Network Coordinator and Zone Leader positions for two years to implement the CreateVT Action Plan.

(4) Creative sector space in vacant downtown storefronts. The Council shall allocate \$750,000.00 for creative spaces grants to restore vitality to vacant downtown buildings and other retail spaces and provide expanded access to affordable studio, housing, exhibition, and performance space for the creative sector.

(A) A creative sector business may apply for a grant to lease vacant downtown retail space for not more than three years.

(B) A grantee may also use funds to lease residential space in the same building.

(C) The Council shall pay grant funds directly to a landlord after the execution of a lease agreement.

### Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

**Rep. Toleno of Brattleboro**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development and when further amended as follows:

By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 and a Sec. 4 to read as follows:

### Sec. 3. FARMERS' NIGHT CONCERT SERIES; APPROPRIATION

In fiscal year 2022 the amount of \$10,000.00 is appropriated from the American Rescue Plan Act (ARPA) – Coronavirus State Fiscal Recovery Funds to the Office of the Sergeant at Arms to provide honoraria to speakers and performing groups who are invited to participate in the 2023 Farmers' Night Concert Series and are not otherwise sponsored or compensated for their participation.

### Sec. 4. EFFECTIVE DATES

This act shall take effect on passage.

Thereupon, **Reps. Toleno of Brattleboro, Fagan of Rutland City, Feltus of Lyndon, Harrison of Chittenden, Helm of Fair Haven, Hooper of Montpelier, Jessup of Middlesex, Scheu of Middlebury, Squirrell of Underhill, Townsend of South Burlington, and Yacovone of Morristown** moved to substitute an amendment for the report of the Committee on Appropriations to read as follows:

By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 and a Sec. 4 to read as follows:

**Sec. 3. FARMERS' NIGHT CONCERT SERIES; APPROPRIATION**

In fiscal year 2022, the Office of the Sergeant at Arms is authorized to use not more than \$10,000.00 from resources available within the General Assembly's budget to provide honoraria to speakers and performing groups who are invited to participate in the 2023 Farmers' Night Concert Series and who are not otherwise sponsored or compensated for their participation.

**Sec. 4. EFFECTIVE DATE**

This act shall take effect on passage.

Which was agreed to.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Commerce and Economic Development was amended as recommended by the Committee on Appropriations, as substituted. Report of the Committee on Commerce and Economic Development, as amended, was agreed to and third reading ordered.

**Action on Bill Postponed**

**H. 728**

House bill, entitled

An act relating to opioid overdose response services

Was taken up and, pending the reading of the report of the Committee on Human Services, on motion of **Rep. Whitman of Bennington**, action on the bill was postponed until March 24, 2022.

**Message from the Senate No. 38**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 47.** Joint resolution relating to weekend adjournment.

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

### **Adjournment**

At two o'clock and thirty-two minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at one o'clock in the afternoon.