

# Journal of the Senate

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FRIDAY, MARCH 31, 2017

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Rabbi Tobie Weisman of Montpelier.

## Message from the House No. 38

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

- H. 85.** An act relating to captive insurance companies.
  - H. 216.** An act relating to establishment of the Vermont Lifeline program.
  - H. 386.** An act relating to home health agency provider taxes.
  - H. 424.** An act relating to the Commission on Act 250: the Next 50 Years.
  - H. 508.** An act relating to building resilience for individuals experiencing adverse childhood experiences.
  - H. 509.** An act relating to calculating statewide education tax rates.
  - H. 510.** An act relating to the cost share for State agricultural water quality financial assistance grants.
  - H. 511.** An act relating to highway safety.
  - H. 512.** An act relating to the procedure for conducting recounts.
  - H. 513.** An act relating to making miscellaneous changes to education law.
  - H. 514.** An act relating to elections corrections.
  - H. 515.** An act relating to Executive Branch and Judiciary fees.
- In the passage of which the concurrence of the Senate is requested.

**Pages Honored**

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Nina Belliveau of Brattleboro  
Aiden Casey of Worcester  
Ayla Fidel of Waitsfield  
Dylan Haskins of Morrisville  
Theresa Hoar of Northfield  
Jordan Holmes of Hinesburg  
Jaden Jagemann of Barre  
Emma Steever of Wallingford  
Cassandra Summarsell of Woodstock  
Sylvan Zeitlyn of Burlington

**Joint Resolution Referred****J.R.S. 28.**

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

By Senators Lyons, Cummings, Ingram, and Pollina,

**J.R.S. 28.** Joint resolution demanding that Congress abolish daylight saving time.

*Whereas*, the natural rhythm of daily life is set in accordance with the rising and setting of the sun, and

*Whereas*, before the 20th century, time in the United States was at the discretion of local communities, but they usually devised a time framework that was solar based, and

*Whereas*, as the nation entered the second decade of the 20th century, interstate passenger and freight rail service faced a plethora of local time changes as the trains steamed across the countryside, and

*Whereas*, to bring sanity to their daily operations, in 1912, the railroads established time zones for their operational purposes, and

*Whereas*, the Standard Time Act of 1918, 15 U.S.C. § 260, mandated time zones and unfortunately also included daylight saving time, but recognizing the error of its ways, Congress wisely repealed this second element of the law in 1919, and

*Whereas*, year-round daylight saving time was introduced in the War Time Act of 1942, 56 Stat. 9, and then promptly repealed late in 1945, and

*Whereas*, Congress, having not learned from past experience, enacted seasonal daylight saving time in 1966 with the Uniform Time Act, 15 U.S.C. § 260a, for a time-span lasting from the last Sunday in April to the last Sunday in October, extended it in 1986 to start on the first Sunday in April, and in 2007 this ill-advised practice was illogically lengthened to begin on the second Sunday in March and end on the first Sunday in November, and

*Whereas*, by extending daylight saving time to start before the arrival of the vernal equinox and end after the autumnal equinox, Congress made a colossal mistake, and

*Whereas*, farmers are forced to change their routines as dairy cows are oblivious to a change in the artificial human clock, and

*Whereas*, the delayed sunrise in March forces more children to travel to school in the dark, and

*Whereas*, the supposed energy savings that would result in the 2007 extension have not proven accurate, and

*Whereas*, daylight saving time is an unnecessary intrusion on nature's clock, and its drawbacks far outweigh any alleged advantages, *now therefore be it*

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

That the General Assembly demands that Congress abolish daylight saving time and return the nation's clocks to the auspices of the world's premiere timekeeper, the sun, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Economic Development, Housing and General Affairs.

**Bills Introduced**

Senate bills of the following titles were severally introduced, read the first time and referred:

**S. 144.**

By Westman,

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

To the Committee on Government Operations.

**S. 145.**

By Senator Campion,

An act relating to remedies for unfair insurance trade practices.

To the Committee on Finance.

**Bills Referred**

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

**H. 85.**

An act relating to captive insurance companies.

To the Committee on Finance.

**H. 216.**

An act relating to Lifeline benefits.

To the Committee on Finance.

**H. 386.**

An act relating to home health agency provider taxes.

To the Committee on Rules.

**H. 424.**

An act relating to the Commission on Act 250: the Next 50 Years.

To the Committee on Natural Resources and Energy.

**H. 508.**

An act relating to building resilience for individuals experiencing adverse childhood experiences.

To the Committee on Health and Welfare.

**H. 509.**

An act relating to calculating statewide education tax rates.

To the Committee on Finance.

**H. 510.**

An act relating to the cost share for State agricultural water quality financial assistance grants.

To the Committee on Natural Resources and Energy.

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**H. 511.**

An act relating to highway safety.

To the Committee on Judiciary.

**H. 512.**

An act relating to the procedure for conducting recounts.

To the Committee on Government Operations.

**H. 513.**

An act relating to making miscellaneous changes to education law.

To the Committee on Education.

**H. 514.**

An act relating to elections corrections.

To the Committee on Rules.

**H. 515.**

An act relating to Executive Branch and Judiciary fees.

To the Committee on Finance.

**Consideration Resumed; Bill Amended; Third Reading Ordered; Rules  
Suspended; Bill Passed**

**S. 136.**

Consideration was resumed on Senate bill entitled:

An act relating to miscellaneous consumer protection provisions.

Thereupon, pending the question, Shall the bill be read the third time? Senators Sirotkin, Balint, Baruth, Clarkson and Mullin moved to amend as follows:

First: In Sec. 1, in 9 V.S.A. § 4001, in subdivision (9), by striking out “\$5,000.00” and inserting in lieu thereof \$10,000.00

Second: In Sec. 1, in 9 V.S.A. § 4010, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Emergency work. If an owner requests a contractor to perform work in an emergency, the parties shall execute a residential home improvement contract not less than five days after the date on which the contractor completes the work.

Third: In Sec. 1, in 9 V.S.A. § 4010, by inserting a subsection (e) to read:

(e) Sample contract. The Attorney General shall adopt and make available on its website a sample residential home improvement contract, which a contractor may or may not use, that is consistent with the provisions of this section.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator White moved to amend the bill by striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Which was disagreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Rodgers moved to amend the bill in Sec. 1, in 9 V.S.A. § 4010, by adding a new subsection to be lettered subsection (f) to read as follows:

(f) Notwithstanding any provision of this section to the contrary, an owner and contractor may waive the requirements of this section in writing.

Which was disagreed to on a roll call, Yeas 12, Nays 16.

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

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Branagan, Collamore, Degree, Kitchel, Mazza, Nitka, Pearson, Rodgers, Starr, Westman, White.

**Those Senators who voted in the negative were:** Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons, MacDonald, McCormack, Mullin, Sears, Sirotkin.

**Those Senators absent and not voting were:** Flory, Pollina.

Thereupon, pending the question, Shall the bill be read third time?, Senators Nitka and Kitchel moved to amend the bill as follows:

First: In Sec. 1, 9 V.S.A. § 4001(9) by striking out the following: “where the estimated value of the work and materials exceeds \$5,000.00”

Second: In Sec. 1, 9 V.S.A. § 4010, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) When written contract required; waiver in emergency.

(1) If the estimated or actual value of work and materials benefitting residential real estate is less than \$15,000.00, a written residential home improvement contract is not required by this section.

(2) If the estimated or actual value of work and materials benefitting residential real estate is more than \$15,000.00, a written residential home improvement contract that complies with the provisions of this section is required.

(3) If an owner requests a contractor to provide labor in an emergency, the parties may waive the requirements of this chapter in a writing within a reasonable time, not to exceed five days, of the date on which the contractor completes the work.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Nitka and Kitchel?, Senator Nitka requested and was granted leave to withdraw the amendment.

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative.

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

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

### **Third Reading Ordered**

#### **H. 4.**

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to calculating time periods in court proceedings.

Reported that the bill ought to pass in concurrence.

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

\*\*\*\*During debate of the measure, Senator Benning addressed the Chair in proposing his report to the bill, and on motion of Senator Degree, his remarks were ordered enter in the Journal, and are as follows:

“Mr. President:

I rise to report House bill #4

Which just last week arrived on our door.

A problem arose, with lawyers perplexed

Some statutes with dates had days all a mess.

So we’ve answered the question of how do we say

In really clear terms a day means a day.

We align several statutes with rules of law true  
It's a lot of drudge work, so much we could do.  
The bill it might scare you with pages forty-one  
But in just a short moment my speech will be done.  
We change upper and lower case forty-seven times  
To make language consistent and looking sublime.  
We add "business" before "days" to make short time quite clear  
But if more than ten, it's calendar year.  
Then ten we did change to the number 14  
To avoid any weekends that fall in between.  
We strike out "aforesaid" and send it to heaven  
You'll find how we did that in the 17th Section.  
On thirteen occasions we add "her or she"  
Every place where connected to a "him or a he."  
In Section 25 we eliminate a space  
To make "non" and "frivolous" tightly embrace.  
"Not earlier" goes away three times you will see  
To become "not sooner," sounds corrector to me.  
Now 72 hours is 3 business days  
On two different pages we cut through that haze.  
And the word "subdivision" in Section 61  
Will now say "subsection," effective date July 1.  
Leg Council Fitzpatrick gave us a report  
And Emily Wetherell from our Supreme Court  
Then followed Allen Keyes who chairs Civil Rules  
And with Judge Grearson, we had all the tools.  
So feeling quite confident we voted all five  
We'll be technically correct if this bill stays alive.  
Therefore Mr. President, your committee doth ask  
That H.4 be supported, that completes my task."

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**Third Readings Ordered****H. 42.**

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

An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

Reported that the bill ought to pass in concurrence.

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

**H. 379.**

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

An act relating to providing an extension for the repeal of the Search and Rescue Council.

Reported that the bill ought to pass in concurrence.

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

**Bill Passed****S. 103.**

Senate bill of the following title:

An act relating to the regulation of toxic substances and hazardous materials.

Was taken up.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 27, Nays 0.

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

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, Westman, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent and not voting were:** Flory, Pollina, Starr.

**Bill Amended; Bill Passed****S. 122.**

Senate bill entitled:

An act relating to increased flexibility for school district mergers.

Was taken up.

Thereupon, pending third reading of the bill, Senator Degree moved to amend the bill by striking out Sec. 10 in its entirety and inserting in lieu thereof the following:

Sec. 10. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;  
MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

\* \* \*

Which was agreed to.

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

**Bills Passed**

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

**S. 130.** An act relating to miscellaneous changes to education laws.

**S. 131.** An act relating to State's Attorneys and sheriffs.

**S. 133.** An act relating to examining mental health care and care coordination.

**Bill Amended; Bill Passed****S. 135.**

Senate bill entitled:

An act relating to promoting economic development.

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Was taken up.

Thereupon, pending third reading of the bill, Senators Balint, Baruth, Clarkson, Cummings, Mullin and Sirotkin move to amend the bill by striking out Secs. H.1–J.1 in their entirety and inserting in lieu thereof Secs. H.1–K.1 to read:

\* \* \* Municipal Outreach; Sewerage and Water Service Connections \* \* \*

Sec. H.1. AGENCY OF NATURAL RESOURCES; EDUCATION AND  
OUTREACH; DELEGATION; SEWERAGE AND WATER  
SERVICE CONNECTIONS

(a) The Secretary of Natural Resources, after consultation with the Vermont League of Cities and Towns, shall conduct outreach and education for municipalities regarding the ability of a municipality under 10 V.S.A. § 1976 to be delegated the authority to permit the connection of a municipal sewer or water service line to subdivided land, a building, or a campground.

(b) The education and outreach shall specify the conditions or requirements for delegation, how a municipality can seek delegation, and contact information or other resource to provide additional information regarding delegation. The education and outreach may include educational materials, workshops, or classes regarding the ability of a municipality to be delegated under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

(c) On or before January 15, 2018, the Secretary of Natural Resources shall submit a report to the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife and on Commerce and Economic Development summarizing the education and outreach conducted or planned by the Secretary under the requirements of this section and whether any municipality has sought delegation of sewer and water service connection permitting under 10 V.S.A. § 1976 since the effective date of this act.

\* \* \* Municipal Land Use and Development; Affordable Housing \* \* \*

Sec. H.2. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

(1) “Affordable housing” means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the~~

~~municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~

Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

~~(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:~~

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

\* \* \*

\* \* \* Act 250; Priority Housing Projects \* \* \*

Sec. H.3. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

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\* \* \*

(3)(A) "Development" means each of the following:

\* \* \*

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) ~~275 or more, in a municipality with a population of 15,000 or more;~~ [Repealed.]

(bb) ~~150 or more, in a municipality with a population of 10,000 or more but less than 15,000;~~ [Repealed.]

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000;

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000;

(ee) 25 or more, in a municipality with a population of less than 3,000; and

(ff) ~~notwithstanding~~ Notwithstanding subdivisions (aa)(cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

\* \* \*

(D) The word “development” does not include:

\* \* \*

(viii) The construction of a priority housing project in a municipality with a population of 10,000 or more. However, if the construction of the project involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

\* \* \*

(27) “Mixed income housing” means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency;

(B) Rental Housing housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of ~~no~~ not less than 20 15 years.

(28) “Mixed use” means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. “Mixed use” does not include industrial use.

(29) “Affordable housing” means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing,~~

~~including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income. Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:~~

~~(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;~~

~~(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~

~~(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.~~

~~(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:~~

~~(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;~~

~~(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~

~~(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.~~

\* \* \*

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

\* \* \*

Sec. H.4. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

\* \* \*

(o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A. ~~§ 2793~~ chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the basis of that designation.

(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below ~~the~~ any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

\* \* \*

Sec. H.5. 10 V.S.A. § 6084 is amended to read:

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

\* \* \*

(f) This subsection concerns an application for a permit amendment to change the conditions of an existing permit or permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the permit or permit amendment or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party retained party status.

(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions proposed to be changed, the applicant shall file a permit application pursuant to this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

Sec. H.6. 30 V.S.A. § 55 is added to read:

§ 55. PRIORITY HOUSING PROJECTS; STRETCH CODE

A priority housing project as defined in 10 V.S.A. § 6001 shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

\* \* \* ACCD; Publication of Median Household Income and Qualifying Costs for Affordable Housing \* \* \*

Sec. H.7. 3 V.S.A. § 2472 is amended to read:

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

(a) The Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The Department shall:

\* \* \*

(5) In conjunction with the Vermont Housing Finance Agency, annually publish data and information to enable the public to determine income levels and costs for owner-occupied and rental housing to qualify as affordable housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

(A) the median income for each Vermont county, as defined by the U.S. Department of Housing and Urban Development;

(B) the standard metropolitan statistical area median income for each municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; and

(C) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

\* \* \*

\* \* \* Downtown Tax Credits \* \* \*

Sec. H.8. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~\$2,200,000.00~~ \$2,400,000.00;

\* \* \*

\* \* \* Tax Credit for Affordable Housing; Captive Insurance Companies \* \* \*

Sec. H.9. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

\* \* \*

(5) “Credit certificate” means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer’s individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

\* \* \*

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer’s individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer’s credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

\* \* \*

\* \* \* Vermont State Housing Authority; Powers \* \* \*

Sec. H.10. 24 V.S.A. § 4005 is amended to read:

§ 4005. VERMONT STATE HOUSING AUTHORITY; ESTABLISHMENT,  
MEMBERS, POWERS

\* \* \*

(e) Notwithstanding any provision of law, no person, ~~domestic or foreign~~, shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

- (1) ~~a subcontractor of the State Authority; or~~
- (2) a State public body authorized by law to administer such allocations;
- (3) a person authorized to administer such allocations pursuant to an agreement with the State Authority; or
- (4) an organization, of which the State Authority is a promoter, member, associate, owner, or manager, that is authorized by a federal agency to administer such allocations in this State.

(f) In addition to the powers granted by this chapter, the State Authority shall have all the powers necessary or convenient for the administration of federal monies pursuant to subsection (e) of this section, including the power:

- (1) to enter into one or more agreements for the administration of federal monies;
- (2) to be a promoter, partner, member, associate, owner, or manager of any partnership, limited liability company, joint venture, association, trust, or other organization;
- (3) to conduct its activities, locate offices, and exercise the powers granted by this title within or outside this State;
- (4) to carry on a business in the furtherance of its purposes; and
- (5) to do all things necessary or convenient, consistent with law, to further the activities and affairs of the Authority.

\* \* \* Repeal of Sunset on Sales and Use Tax Exemption;

Airplanes and Airplane Parts \* \* \*

Sec. I.1. REPEALS

The following are repealed:

(1) 2007 Acts and Resolve No. 81, Secs. 7a (amendment to sales tax exemption for aircraft parts) and 7b (effective date).

(2) 2008 Acts and Resolve No. 190, Sec. 43 (effective date).

Sec. J.1. 24 V.S.A. chapter 53, subchapter 5 is amended to read:

Subchapter 5. Tax Increment Financing

\* \* \*

§ 1892. CREATION OF DISTRICT

\* \* \*

(d) ~~The following municipalities have been authorized to use education tax increment financing for a tax increment financing district, and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter:~~

- (1) the City of Burlington, Downtown;
- (2) the City of Burlington, Waterfront;
- (3) the Town of Milton, North and South;
- (4) the City of Newport;
- (5) the City of Winooski;
- (6) the Town of Colchester;
- (7) the Town of Hartford;
- (8) the City of St. Albans;
- (9) the City of Barre; ~~and~~
- (10) the Town of Milton, Town Core; and
- (11) the City of South Burlington, New Town Center.

\* \* \*

§ 1894. POWER AND LIFE OF DISTRICT

\* \* \*

(c) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, not less than an equal share plus five percent of the municipal tax increment pursuant to subsection (f) of this section shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

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\* \* \*

(f) Equal share required. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), no more than 75 percent of the State property tax increment and no less than an equal percent, plus five percent, of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

\* \* \*

Sec. J.2. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

\* \* \*

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply up to 75 percent of the State education property tax increment, and not less than an equal share plus five percent of the municipal tax increment, as defined in 24 V.S.A. § 1896, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than two districts in a single county, and not more than an additional 14 districts in the State, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the 14-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the 14-district limit.

(3)(A) A municipality shall immediately notify the Council if it resolves not to incur debt for an approved district within five years of approval or a five-year extension period as required in 24 V.S.A. § 1894.

(B) Upon receiving notification pursuant to subdivision (3)(A) of this subsection, the Council shall terminate the district and may approve a new district, subject to the provisions of this section and 24 V.S.A. chapter 53, subchapter 5.

(4) The Council shall not approve any additional districts on or after July 1, 2024.

\* \* \*

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

(1) Review each application to determine that the ~~new real property proposed infrastructure improvements and the proposed development~~ would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. The review shall take into account:

(A) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(B) how the proposed development components and size would differ, if at all, without education property tax increment financing, including, if applicable to the development, the number of units of affordable housing, as defined in 24 V.S.A. § 4303; and

(C) the amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the education fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.

(2) Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

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(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont Economic Progress Council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements.

(3) Location criteria. Determine that each application meets one of the following criteria:

(A) The development or redevelopment is compact, high density, and located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, ~~or~~ new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the ~~area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values~~ municipality in which the area is located has at least one of the following:

(i) a median family income that is 80 percent or less of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data is available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is 80 percent or less than the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least ~~three~~ two of the following ~~five~~ four criteria:

~~(A)~~ The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

~~(B)~~ The development includes new or rehabilitated affordable housing that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. "Affordable" has the same meaning as in 10 V.S.A. § 6001(29), as defined in 24 V.S.A. § 4303.

~~(C)~~(B) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

~~(D)~~(C) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

~~(E)~~(D) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

\* \* \*

### Sec. J.3. IMPLEMENTATION

Secs. J.1 and J.2 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

### Sec. K.1. EFFECTIVE DATES

(a) This section and Secs. J.1–J.3 (tax increment financing districts) shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2017.

Which was agreed to on a roll call, Yeas 24, Nays 3.

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

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**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Ingram, Kitchel, Lyons, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, White.

**Those Senators who voted in the negative were:** Branagan, MacDonald, Westman.

**Those Senators absent and not voting were:** Flory, Pollina, Starr.

Thereupon, pending the question, Shall the bill be read third time?, Senator Bray moved to amend the bill in Sec. E.1, in 10 V.S.A. § 540(a)(2)(D), following the word “description” by inserting the following: , including the gender of the trainees

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 26, Nays 1.

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

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, White.

**The Senator who voted in the negative was:** Westman.

**Those Senators absent and not voting were:** Flory, Pollina, Starr.

**Message from the House No. 39**

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

Mr. President:

I am directed to inform the Senate that:

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

**H. 111.** An act relating to vital records.

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

The House has adopted joint resolutions of the following titles:

**H.C.R. 89.** House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I girls' ice hockey championship team.

**H.C.R. 90.** House concurrent resolution congratulating the 2017 Bellows Free Academy-St. Albans Bobwhites Division I boys' ice hockey championship team.

**H.C.R. 91.** House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I boys' basketball championship team.

**H.C.R. 92.** House concurrent resolution congratulating the 2017 Lyndon Institute Vikings Division II championship girls' basketball team.

**H.C.R. 93.** House concurrent resolution designating April 26, 2017 as Vermont Lions Day.

**H.C.R. 94.** House concurrent resolution designating March 29, 2017 as Turkish Cultural Day at the State House.

**H.C.R. 95.** House concurrent resolution commending U.S. Armed Forces veterans honored at the Burlington Elks Lodge on Veterans Day 2016.

**H.C.R. 96.** House concurrent resolution congratulating the 2017 Rutland High School National and State championship cheerleading team.

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

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

**S.C.R. 11.** Senate concurrent resolution in memory of Springfield civic leader and consummate volunteer Jean Muriel (Follett) Willard.

And has adopted the same in concurrence.

#### **Senate Concurrent Resolution**

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

By Reps. Bock and others,

By Senators McCormack, Clarkson and Nitka,

#### **S.C.R. 11.**

Senate concurrent resolution in memory of Springfield civic leader and consummate volunteer Jean Muriel (Follett) Willard.

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**House Concurrent Resolutions**

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

By Reps. Fagan and others,

By Senators Collamore, Flory and Mullin,

**H.C.R. 89.**

House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I girls' ice hockey championship team.

By Reps. Parent and others,

By Senators Degree and Branagan,

**H.C.R. 90.**

House concurrent resolution congratulating the 2017 Bellows Free Academy-St. Albans Bobwhites Division I boys' ice hockey championship team.

By Reps. Fagan and others,

By Senators Collamore, Flory and Mullin,

**H.C.R. 91.**

House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I boys' basketball championship team.

By Reps. Lawrence and Feltus,

By Senators Benning and Kitchel,

**H.C.R. 92.**

House concurrent resolution congratulating the 2017 Lyndon Institute Vikings Division II championship girls' basketball team.

By Reps. Walz and others,

**H.C.R. 93.**

House concurrent resolution designating April 26, 2017 as Vermont Lions Day.

By Reps. McCormack and others,

**H.C.R. 94.**

House concurrent resolution designating March 29, 2017 as Turkish Cultural Day at the State House.

By Reps. O'Sullivan and others,

By Senators Baruth, Ingram and Lyons,

**H.C.R. 95.**

House concurrent resolution commending U.S. Armed Forces veterans honored at the Burlington Elks Lodge on Veterans Day 2016.

By Reps. Fagan and others,

By Senators Collamore, Flory and Mullin,

**H.C.R. 96.**

House concurrent resolution congratulating the 2017 Rutland High School National and State championship cheerleading team.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, April 4, 2017, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 27.