

# House Calendar

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Friday, February 9, 2024

38th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Committee Bill for Second Reading**

**H. 849**

An act relating to technical corrections for the 2024 legislative session

**(Rep. Morgan of Milton** will speak for the Committee on Government Operations and Military Affairs.)

**Amendment to be offered by Rep. Morgan of Milton to H. 849**

First: In Sec. 72, 21 V.S.A. § 227, by striking out subdivision (a)(6)(B) in its entirety and inserting in lieu thereof a new subdivision (a)(6)(B) to read as follows:

(B) The Review Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it. If it does so, the Review Board shall file such the modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. New findings with respect to questions of fact that are filed by the Review Board shall be conclusive, if supported by substantial evidence on the record considered as a whole.

Second: In Sec. 93, 21 V.S.A. § 396, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Procedure. The Commissioner shall forward to the court the record of the decision on appeal. The court shall direct the record in the matter appealed from to be laid before it, hear the evidence, and make such order approving in whole or in part or setting aside in whole or in part the decision appealed from consider the record and any evidence presented; may approve or set aside the Commissioner's decision in whole or in part, as justice may require; and may refer any matter or issue arising in the proceedings to the Commissioner for further consideration. However, in In no case shall such an appeal operate as a supersedeas or stay unless the Commissioner or the court to which such the appeal is taken shall so order orders.

Third: By striking out Sec. 159, 21 V.S.A. § 1111, in its entirety and inserting in lieu thereof the following:

Sec. 159. 21 V.S.A. § 1111(26) is amended to read:

(26) “Pre-apprenticeship program” means a training model or program that prepares individuals for acceptance into an apprenticeship program and that is registered by the Department as provided in section 1123 of this chapter, pre-apprenticeship program, ~~of this title~~ or, as applicable, the federal Office of Apprenticeship.

Fourth: In Sec. 220, 21 V.S.A. § 1384, in newly designated subsection (b), by striking out “proclamation within 10 days ~~of~~ after the effective date of ~~said~~ the extension” and inserting in lieu thereof “proclamation within 10 days of the effective date of ~~said~~ the interpretation or extension”

Fifth: By striking out Sec. 382, 30 V.S.A. § 231a(e), in its entirety and inserting in lieu thereof the following:

Sec. 382. [Deleted.]

Sixth: In Sec. 456, 30 V.S.A. § 8008(c), by striking out the words “days ~~of~~ following” in their entireties and inserting in lieu thereof the words “days of”

## NOTICE CALENDAR

### Favorable with Amendment

#### H. 247

An act relating to Vermont’s adoption of the Occupational Therapy Licensure Compact

**Rep. Farlice-Rubio of Barnet**, for the Committee on Health Care, recommends the bill be amended as follows:

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2025.

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

**Rep. Andrews of Westford**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended by adding two new sections to be Secs. 3 and 4 to read as follows:

Sec. 3. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for license renewal of any Office-issued

credential, including a license, certification, registration, or specialty designation for the following professions:

\* \* \*

(I) speech-language pathologists licensed under 26 V.S.A. chapter 87; and

(J) occupational therapists licensed under 26 V.S.A. chapter 71; and

(K) individuals registered on the roster of psychotherapists who are nonlicensed and noncertified.

Sec. 4. 3 V.S.A. § 125(b) is amended to read:

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

\* \* \*

(4) Biennial renewal, \$275.00, except biennial renewal for:

\* \* \*

(B) Occupational therapists and assistants, \$180.00, except that a licensee of a remote state under the Occupational Therapy Licensure Compact established in 26 V.S.A. chapter 71, subchapter 2 shall pay a biennial \$50.00 privilege to practice fee.

\* \* \*

And by renumbering the existing Sec. 3, effective date, to be Sec. 5

**(Committee Vote: 12-0-0)**

**Rep. Toleno of Brattleboro**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Health Care and when further amended as recommended by the Committee on Ways and Means.

**(Committee Vote: 12-0-0)**

## **H. 563**

An act relating to attempted auto theft

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

Sec. 1. 13 V.S.A. § 2501 is amended to read:

§ 2501. GRAND LARCENY

(a) A person who steals from the actual or constructive possession of another, other than from ~~his or her~~ the person, money, goods, chattels, bank notes, bonds, promissory notes, bills of exchange or other bills, orders, or certificates, or a book of accounts for or concerning money, or goods due or to become due or to be delivered, or a deed or writing containing a conveyance of land, or any other valuable contract in force, or a receipt, release or defeasance, writ, process, or public record, shall be imprisoned not more than 10 years or fined not more than \$5,000.00, or both, if the money or other property stolen exceeds \$900.00 in value.

(b) Notwithstanding section 9 of this title, a person convicted of attempting to steal a motor vehicle in violation of this section shall be imprisoned not more than five years or fined not more than \$2,500.00, or both.

Sec. 2. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if, without legal authority or the consent of the person in lawful possession, ~~he or she~~ the person enters or remains on any land or in any place as to which notice against trespass is given by:

(A) actual communication by the person in lawful possession or ~~his or her~~ the person's agent or by a law enforcement officer acting on behalf of such person or ~~his or her~~ the person's agent;

(B) signs or placards so designed and situated as to give reasonable notice; or

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

(2) As used in this subsection, "abandoned property" means:

(A) real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which the municipality has by first-class mail to the owner's last known address provided the owner with notice and an opportunity to be heard; and

(i) property taxes have been delinquent for six months or more; or

(ii) one or more utility services have been disconnected; or

(B) a railroad car that for the previous 60 days has been unmoved and unoccupied by a person with the legal right to occupy it.

(b) Prosecutions for offenses under subsection (a) of this section shall be commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters the motor vehicle of another and knows or should know that the person does not have legal authority or the consent of the person in lawful possession of the motor vehicle to do so shall be imprisoned not more than three months or fined not more than \$500.00, or both. For a second or subsequent offense, a person who violates this subsection shall be imprisoned not more than one year or fined not more than \$500.00, or both. Notice against trespass shall not be required under this subsection.

(d) A person who enters a building other than a residence, whose access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

~~(d)~~(e) A person who enters a dwelling house, whether or not a person is actually present, knowing that ~~he or she~~ the person is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

~~(e)~~(f) A law enforcement officer shall not be prosecuted under subsection (a) of this section if ~~he or she~~ the law enforcement officer is authorized to serve civil or criminal process, including citations, summons, subpoenas, warrants, and other court orders, and the scope of ~~his or her~~ the law enforcement officer's entrance onto the land or place of another is ~~no~~ not more than necessary to effectuate the service of process.

Sec. 3. 23 V.S.A. § 1094 is amended to read:

§ 1094. OPERATION WITHOUT CONSENT OF OWNER;

AGGRAVATED OPERATION WITHOUT CONSENT OF OWNER

(a) A person commits the crime of operation without consent of the owner if:

(1) the person takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person should have known that the person did not have the consent of the owner to do so; or

(2) the person, without the consent of the owner, knowingly takes, obtains, operates, uses, or continues to operate the motor vehicle of another when the person knows they did not have the consent of the owner to do so.

\* \* \*

(c) A person convicted under subdivision (a)(1) of this section shall be imprisoned not more than three months or fined not more than \$500.00, or both. A person convicted under subsection subdivision (a)(2) of this section of operation without consent of the owner shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

\* \* \*

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

and that after passage the title of the bill be amended to read: “An act relating to criminal motor vehicle offenses involving unlawful trespass, theft, or unauthorized operation”

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

#### **H. 649**

An act relating to the Vermont Truth and Reconciliation Commission

**Rep. McCarthy of St. Albans City**, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 2022 Acts and Resolves No. 128, Sec. 4 is amended to read:

#### Sec. 4. REPEAL

1 V.S.A. chapter 25 (Truth and Reconciliation Commission) is repealed on ~~July 1, 2026~~ May 1, 2027.

Sec. 2. 1 V.S.A. § 903 is amended to read:

#### § 903. COMMISSIONERS

\* \* \*

(c) The term of each commissioner shall begin on the date of appointment and end on ~~July 1, 2026~~ May 1, 2027.

Sec. 3. 1 V.S.A. § 904 is amended to read:

#### § 904. SELECTION PANEL; MEMBERSHIP; DUTIES

~~(a)(1) The Selection Panel shall be composed of seven members selected on or before September 1, 2022 by a majority vote of the following five members:~~

~~(A)(1) the Executive Director of Racial Equity or designee;~~

~~(B)(2) the Executive Director of the Vermont Center for Independent Living or designee;~~

~~(C)(3) an individual, who shall not be a current member of the General Assembly, appointed by the Speaker of the House;~~

~~(D)(4) an individual, who shall not be a current member of the General Assembly, appointed by the Committee on Committees; and~~

~~(E)(5) an individual appointed by the Chief Justice of the Vermont Supreme Court.~~

~~(2) The individuals identified in subdivision (1) of this subsection:~~

~~(A) shall hold their first meeting on or before August 1, 2022 at the call of the individual appointed by the Chief Justice of the Vermont Supreme Court; and~~

~~(B) are encouraged to appoint individuals to the Selection Panel who include members of the populations and communities identified pursuant to subdivisions 902(b)(1)(A) (D) of this chapter and who are diverse with respect to socioeconomic status, work, education, geographic location, gender, and sexual identity.~~

~~(3) Individuals selected pursuant to subdivision (1) of this subsection who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than two meetings. These payments shall be made from amounts appropriated to the Truth and Reconciliation Commission.~~

(b)(1) The Selection Panel shall select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter.

(2) To enable it to carry out its duty to select and appoint the commissioners of the Truth and Reconciliation Commission as provided pursuant to section 905 of this chapter, the Panel may:

(A) adopt procedures as necessary to carry out the duties set forth in section 905 of this chapter; and

(B) ~~establish and maintain a principal office;~~



~~(C) meet and hold hearings at any place in this State; and~~

~~(D) hire temporary staff to provide administrative assistance during the period from September 1, 2022 through January 15, 2023, provided that if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, it may retain staff to provide administrative assistance through March 31, 2023.~~

(c) The term of each member of the Panel shall begin on the date of appointment and end on January 15, 2023, except if the Panel extends the time to select commissioners pursuant to subdivision 905(c)(1) of this chapter, the term of the Panel members shall end on March 31, 2023 May 1, 2027.

(d) The Panel shall select a chair and a vice chair from among its members.

(e)(1) Meetings shall be held at the call of the Chair or at the request of four or more members of the Panel.

(2) A majority of the current membership of the Panel shall constitute a quorum, and actions of the Panel may be authorized by a majority of the members present and voting at a meeting of the Panel.

(f) Members of the Panel who are not otherwise compensated by the State shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 20 meetings during fiscal year 2023 meetings to carry out the Panel's duties pursuant to this section and sections 905 and 905a of this chapter. These payments shall be made from amounts appropriated to the Truth and Reconciliation Commission.

(g) The Panel shall have the administrative and legal assistance of the Truth and Reconciliation Commission.

(h)(1) A member of the Panel that is not serving ex officio may be removed by the appropriate appointing authority for incompetence, failure to discharge the member's duties, malfeasance, or illegal acts.

(2) A vacancy occurring on the Panel shall be filled by the appropriate appointing authority for the remainder of the term.

Sec. 4. 1 V.S.A. § 905 is amended to read:

§ 905. SELECTION OF COMMISSIONERS

\* \* \*

(d) The Panel shall fill any vacancy occurring among the commissioners within 60 days after the vacancy occurs in the manner set forth in subsections (a) and (b) of this section. A commissioner appointed to fill a vacancy

pursuant to this subsection shall be appointed to serve for the balance of the unexpired term.

Sec. 5. APPOINTMENT TO FILL EXISTING COMMISSION VACANCY

The Selection Panel established pursuant to 1 V.S.A. § 905 shall fill the vacancy existing on the Truth and Reconciliation Commission on the effective date of this act not later than 60 days after the appointive members of the Panel are appointed.

Sec. 6. 1 V.S.A. § 905a is added to read:

§ 905a. REMOVAL OR REPRIMAND OF COMMISSIONERS FOR MISCONDUCT

The Selection Panel may, after notice and an opportunity for a hearing, reprimand or remove a commissioner for incompetence, failure to discharge the commissioner's duties, malfeasance, illegal acts, or other actions that the Panel determines would substantially and materially harm the credibility of the Truth and Reconciliation Commission or its ability to carry out its work pursuant to the provisions of this chapter. Notwithstanding subdivision 904(e)(2) of this chapter, the reprimand or removal of a commissioner shall only be authorized by a vote of the majority of the members of the Panel.

Sec. 7. 1 V.S.A. § 906 is amended to read:

§ 906. POWERS AND DUTIES OF THE COMMISSIONERS

\* \* \*

(b) Powers. To carry out its duties pursuant to this chapter, the commissioners may:

\* \* \*

(13)(A) Establish groups in which individuals who have experienced institutional, structural, or systemic discrimination or are a member of a population or community that has experienced institutional, structural, or systemic discrimination may participate for purposes of sharing experiences and providing mutual support.

(B) Commissioners shall not participate in any meeting or session of a group established pursuant to this subdivision (13).

(C) Groups established pursuant to this subdivision (13) may continue to exist after the date on which the Commission ceases to exist, provided that after that date Commission staff shall no longer provide any

assistance or services to the groups and Commission funds shall no longer be spent in support of the groups.

Sec. 8. 1 V.S.A. § 908 is amended to read:

§ 908. REPORTS

\* \* \*

(b)(1) On or before ~~June~~ April 15, ~~2026~~ 2027, the Commission shall submit a final report incorporating the findings and recommendations of each committee. Each report shall detail the findings and recommendations of the relevant committee and shall include recommendations for actions that can be taken to eliminate ongoing instances of institutional, structural, and systemic discrimination and to address the harm caused by historic instances of institutional, structural, and systemic discrimination.

(2) The Commission shall, on or before ~~January~~ October 15, 2026, make a draft of the final report publicly available and provide copies of the draft to interested parties from the populations and communities identified pursuant to subdivision 902(b)(1) of this chapter and other interested parties. The Commission shall provide the interested parties and members of the public with not less than 60 days to review the draft and provide comments on it. The Commission shall consider fully all comments submitted in relation to the draft and shall include with the final version of the report a summary of all comments received and a concise statement of the reasons why the Commission decided to incorporate or reject any proposed changes. Comments submitted in relation to the final report shall be made available to the public in a manner that complies with the requirements of section ~~910~~ 909 of this chapter.

\* \* \*

Sec. 9. 1 V.S.A. § 909 is amended to read:

§ 909. ACCESS TO INFORMATION; CONFIDENTIALITY

\* \* \*

(d) Private proceedings.

(1) The Notwithstanding any provision of chapter 5, subchapter 2 of this title, the Vermont Open Meeting Law, or section 911 of this chapter to the contrary, the Commission shall permit any individual who is interviewed by the Commission to elect to have their interview conducted in a manner that protects the individual's privacy and to have any recording of the interview kept confidential by the Commission. Any other record or document produced in relation to an interview conducted pursuant to this subdivision (d)(1) shall

only be available to the public in an anonymized form that does not reveal the identity of any individual.

\* \* \*

Sec. 10. 1 V.S.A. § 911 is added to read:

§ 911. LIMITED ACCESS COMMISSION MEETINGS; EXCEPTION TO  
OPEN MEETING LAW

(a)(1) As used in this subsection, “limited access meeting” means a meeting of the Commission that is livestreamed and video recorded to which access and participation by members of the general public is limited as provided in this subsection.

(2) Upon a finding by the Commission that there are material threats to the health or safety of the Commission, its staff, witnesses, or invitees, the Commission may hold a limited access meeting. During a limited access meeting, the Commission may restrict attendance at the meeting, whether the attendance is in person or by electronic or other means, and participation in the meeting to:

(A) Commission staff and legal counsel;

(B) persons who are providing testimony or information to the Commission during the meeting;

(C) members of the media; and

(D) other persons whose presence the Commission determines is needed at the meeting.

(3)(A) The Commission shall include in the agenda for a limited access meeting information that allows the public to directly access a livestream of the meeting. The video recording of any limited access meeting shall be posted and made available for inspection or copying under the Public Records Act.

(B) The Commission shall not be required to livestream or video record any portions of a limited access meeting that are held in executive session pursuant to 1 V.S.A. § 313.

(4) Limited access meetings shall only be conducted electronically to the extent that electronic meetings are permitted for public bodies and in a manner that is consistent with applicable laws governing electronic meetings of public bodies.

(b) Notwithstanding any provision of chapter 5, subchapter 2 of this title, the deliberations of a quorum or more of the members of the Commission shall not be subject to the Vermont Open Meeting Law.

#### Sec. 11. LEGISLATIVE INTENT

It is the intent of the General Assembly that limited access meetings held by the Truth and Reconciliation Commission pursuant to 1 V.S.A. § 911 shall be:

(1) utilized only when necessary to ensure the safety of the proceedings and to protect persons who may have experienced trauma who come before the Commission; and

(2) conducted in a manner that is trauma-informed and best ensures the safety of all participants.

Sec. 12. 1 V.S.A. § 912 is added to read:

#### § 912. GROUP SESSIONS; DUTY OF CONFIDENTIALITY

(a) The sessions of groups established pursuant to subdivision 906(b)(13) of this chapter shall be confidential and privileged. Participants in a group session, including Commission staff or individuals whom the Commission contracts with to facilitate group sessions, shall be subject to a duty of confidentiality and shall keep confidential any information gained during a group session.

(b) A person who attended a group session may bring a private action in the Civil Division of the Superior Court for damages resulting from a breach of the duty of confidentiality established pursuant to this section.

(c) This section shall not be construed to limit or otherwise affect the application of a common law duty of confidentiality to group sessions and any action that may be brought based on a breach of that duty.

(d) Nothing in this section shall be construed to prohibit the limited disclosure of information to specific persons under the following circumstances:

(1) The disclosure:

(A) relates to a threat or statement of a plan made during a group session that the individual reasonably believes is likely to result in death or bodily injury to themselves or others or damage to the property of themselves or another person; and

(B) is made to law enforcement authorities or another person that is reasonably able to prevent or lessen the threat.

(2) The disclosure is based on a reasonable suspicion of abuse or neglect of a child or vulnerable adult and a report is made in accordance with the provisions of 33 V.S.A. § 4914 or 33 V.S.A. § 6903 or to comply with another law.

(e) The Commission shall ensure that all participants in a group session are provided with notice of the provisions of this section, including any rights and obligations of participants that are established pursuant to this section.

(f) As used in this section, “group session” means any meeting of a group established pursuant to subdivision 906(b)(13) of this chapter for purposes of the participants sharing or discussing their experiences and providing mutual support. “Group session” does not include any gathering of the participants in a group established pursuant to subdivision 906(b)(13) of this chapter that includes one or more members of the Commission.

#### Sec. 13. APPROPRIATION

The sum of \$1,100,000.00 is appropriated from the General Fund to the Truth and Reconciliation Commission in fiscal year 2025 for the operating expenses of the Commission.

#### Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee Vote: 9-3-0)**

**Rep. Scheu of Middlebury**, for the Committee on Appropriations, recommends that the report of the Committee on Government Operations and Military Affairs be amended by striking out Sec. 13, appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 13. [Deleted.]

**(Committee Vote: 10-2-0)**

### H. 780

An act relating to judicial nominations and appointments

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

Sec. 1. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

(a) The Judicial Nominating Board is created for the nomination of Supreme Court Justices, Superior judges, magistrates, and the Chair and members of the Public Utility Commission.

(b)(1) The Board shall consist of ~~11~~ 12 members who shall be selected as follows:

~~(1)~~(A) The Governor shall appoint two members who are not attorneys at law.

~~(2)~~(B) The Senate shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

~~(3)~~(C) The House shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

~~(4)~~(D) Attorneys at law admitted to practice before the Supreme Court of Vermont, and residing in the State, shall elect three of their number as members of the Board. The Supreme Court shall regulate the manner of their nomination and election.

(E) The Executive Director of Racial Equity, or designee.

~~(5)~~(2) The members of the Board shall serve for terms of two years. All appointments or elections shall be between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. A House vacancy that occurs when the General Assembly is adjourned shall be filled by the Speaker of the House and a Senate vacancy that occurs when the General Assembly is adjourned shall be filled by the Senate Committee on Committees. Members shall serve until their successors are elected or appointed. Members shall serve ~~no~~ not more than three consecutive terms in any capacity.

~~(6)~~(3) The members shall elect their own chair, who will serve for a term of two years.

\* \* \*

Sec. 2. 4 V.S.A. § 602 is amended to read:

§ 602. DUTIES; JUSTICES, JUDGES, MAGISTRATES, AND THE CHAIR  
OF THE PUBLIC UTILITY COMMISSION

(a)(1) Prior to submitting to the Governor the names of candidates for Justices of the Supreme Court, Superior Court judges, magistrates, and the Chair of the Public Utility Commission, the Judicial Nominating Board shall submit to the Court Administrator a list of all candidates, and ~~he or she~~ the

Court Administrator shall disclose to the Board information solely about professional disciplinary action taken or pending concerning any candidate.

(2) From the list of candidates, the Judicial Nominating Board shall select by majority vote, provided that a quorum is present, well-qualified candidates for the position to be filled.

(b)(1) Whenever a vacancy occurs in the office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair of the Public Utility Commission, or when an incumbent does not declare that ~~he or she~~ the incumbent will be a candidate to succeed ~~himself or herself~~ themselves, the Board shall submit to the Governor the names of as many persons as it deems well qualified to be appointed to the office.

(2)(A) A person may nominate another person to fill a vacancy in the office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair of the Public Utility Commission by submitting a form developed by the Court Administrator pursuant to subdivision (B) of this subdivision (2).

(B) The Court Administrator shall make available on the Judiciary website a form that permits a person to nominate another person to fill a vacancy in the office of a Supreme Court Justice, a Superior Court judge, magistrate, or Chair of the Public Utility Commission. If a person is nominated pursuant to this subdivision (2), the Court Administrator shall provide the person nominated with information about the application process.

(c)(1) A candidate for judge or Justice shall be a Vermont resident and an experienced lawyer who has practiced law ~~in Vermont~~ for a minimum of ~~ten~~ 10 years, with at least ~~five~~ three years in Vermont immediately preceding ~~his or her~~ the candidate's application to the Board. The Board may make exceptions to the ~~five-year~~ requirement ~~for absences from practice~~ that the candidate's three years of practice in Vermont be contiguous and immediately preceding the candidate's application for reasons including family, military, academic, or medical leave.

(2) A candidate for magistrate shall be a Vermont resident and an experienced lawyer who has practiced law ~~in Vermont~~ for at least five years, with at least three years in Vermont immediately preceding his or her the candidate's application to the Board. The Board may make exceptions to the requirement that the candidate's three years of practice in Vermont be contiguous and immediately preceding the candidate's application for reasons including family, military, academic, or medical leave.

(3) A candidate for Chair of the Public Utility Commission shall not be required to be an attorney; however, if the candidate is admitted to practice



law in Vermont, the Judicial Nominating Board shall submit the candidate's name to the Court Administrator, and ~~he or she~~ the Court Administrator shall disclose to the Board information solely about professional disciplinary action taken or pending concerning the candidate. If a candidate is not admitted to practice law in Vermont, but practices a profession requiring licensure, certification, or other professional regulation by the State, the Judicial Nominating Board shall submit the candidate's name to the State professional regulatory entity and that entity shall disclose to the Board any professional disciplinary action taken or pending concerning the candidate.

(d) A candidate shall possess the following attributes:

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

(2) Legal knowledge and ability. A candidate shall possess a high degree of knowledge of established legal principles and procedures and have demonstrated a high degree of ability to interpret and apply the law to specific factual situations.

(3) Judicial temperament. A candidate shall possess an appropriate judicial temperament.

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

(5) Communication capability. A candidate shall possess demonstrated oral and written capacities, with reasonable accommodations, required by the position.

(6) Financial integrity. A candidate shall possess demonstrated financial probity.

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

(8) Administrative capabilities. A candidate shall demonstrate management and organizational skills or experience required by the position.

(9) Courtroom experience. For Superior Court, a candidate shall have sufficient trial or other comparable experience that ensures knowledge of the Vermont Rules of Evidence and courtroom procedure. For the Environmental Division of the Superior Court, a candidate shall have experience in environmental and zoning law.

(10) Other. A candidate shall possess other attributes the Board deems relevant as identified through its rules.

(e) The Board shall consider the candidate's ties to the Vermont legal community and the candidate's familiarity with the Vermont legal system.

(f) The Board shall consider the extent to which a candidate would contribute to a Judicial branch that has diverse backgrounds and a broad range of lived experience.

Sec. 3. 4 V.S.A. § 603 is amended to read:

§ 603. APPOINTMENT OF JUSTICES, JUDGES, MAGISTRATES,  
PUBLIC UTILITY COMMISSION CHAIR, AND MEMBERS

(a) Whenever the Governor appoints a Supreme Court Justice, a Superior Judge, a magistrate, the Chair of the Public Utility Commission, or a member of the Public Utility Commission, ~~he or she~~ the Governor shall select from the list of names of ~~qualified~~ well-qualified persons submitted by the Judicial Nominating Board pursuant to law. The names of candidates submitted and not selected shall remain confidential.

(b) Upon request from the Governor, the Judicial Nominating Board shall reopen the search and provide the Governor with an additional list of persons it deems well qualified to be appointed to the office. A request from the Governor for additional names pursuant to this subsection shall not be made more than once.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2024.

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

## CONSENT CALENDAR

### Concurrent Resolutions for Adoption Under Joint Rules 16a - 16d

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration in that member's chamber before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Senate Secretary's Office or the House Clerk's Office, as applicable. For text of resolutions, see Addendum to House Calendar of February 8, 2024.

### H.C.R. 148

House concurrent resolution recognizing February 14, 2024 as Recovery Day at the State House

### **H.C.R. 149**

House concurrent resolution designating February 16, 2024 as Outdoor Recreation Day at the State House

### **H.C.R. 150**

House concurrent resolution honoring Dr. David Winfield Butsch for a half century of meritorious medical, civic, and humanitarian leadership in Central Vermont and internationally

### **For Informational Purposes**

#### **NOTICE OF CROSSOVER DATES**

The Committee on Joint Rules adopted the following Crossover dates:

(1) All **House/Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Ways and Means/Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 15, 2024**.

(2) All **House/Senate** bills referred pursuant to House Rule 35(a) or Senate Rule 31 to the Committees on Appropriations and on Ways and Means/Finance must be reported out by the last of those committees on or before **Friday, March 22, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day.

**Exceptions the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill, the Pay Act, and the Fee and miscellaneous tax bills).**

#### **NOTICE OF JOINT ASSEMBLIES**

**Thursday, February 15, 2024 - 10:00 A.M. – House Chamber** - Election of an Adjutant and Inspector General, and two legislative Trustees of the Vermont State Colleges Corporation.

Candidates for the positions of Adjutant and Inspector General, and legislative candidates for trustees of the Vermont State Colleges Corporation must notify the Secretary of State **in writing** of their candidacies not later than

Thursday, February 8, 2024, by 4:00 P.M., pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

**Friday, March 1, 2024 – 10:30 A.M. – House Chamber** – Election of a Sergeant at Arms.

Candidates for the position of Sergeant at Arms, must notify the Secretary of State **in writing** of their candidacies not later than Friday, February 23, 2023, by 4:00 P.M., pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of this election:

First: All nominations for this office will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

#### **H.C.R. DRAFTING REQUEST DEADLINE**

For a House Concurrent Resolution (H.C.R.) to be available for presentation during the Town Meeting Week break, it must be adopted pursuant to the Consent Calendar published not later than the preceding week (Thurs., Feb. 29 and Fri., March 1, 2024).

Any Member who wishes to present an H.C.R. during the Town Meeting Week break should submit a drafting request to Michael Chernick, Legislative Counsel, **not later than Friday, February 16, 2024 at 4:30 P.M.** to ensure adequate time for the drafting and Consent Calendar adoption process. Any H.C.R. drafting request received after that deadline cannot be guaranteed to be adopted in time for Town Meeting Week presentation.

## JOINT FISCAL COMMITTEE NOTICES

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

**JFO #3185:** \$70,000.00 to the Attorney General's Office from the Sears Consumer Protection and Education Fund to improve accessibility and outreach of the Vermont Consumer Assistance Program to underserved populations in Vermont.

*[Received January 31, 2024]*

**JFO #3184:** Three (3) limited-service positions to the Agency of Human Services, Department of Health. One (1) Substance Abuse Program Evaluator, funded through 8/31/28; and one (1) Public Health Specialist II, and one (1) Family Service Specialist both funded through 9/29/2024. The positions are fully funded by previously approved JFO requests #3036 and #1891. These positions will support Vermont's Overdose Data to Action program and the Maternal Mortality Review Panel.

*[Received January 31, 2024]*

**JFO #3183:** \$182,500.00 to the Agency of Natural Resources, Department of Forests, Parks and Recreation. Funds will be used to complete the purchase of a conservation easement on a 183-acre parcel of land in Townshend, Vermont (Peterson Farm). *[Note: Remainder of the easement (\$82,500) is supported by a State appropriation agreement between the department and the VHCB. Closing costs, including department staff time, is funded by already budgeted federal funds. Ongoing enforcement costs are managed by the department's Lands and Facilities Trust Fund. A \$15,000.00 stewardship contribution to this fund will be made by the landowner at the time of the sale.]*

*[Received January 31, 2024]*

**JFO #3182:** \$125,000.00 to Agency of Natural Resources, Department of Environmental Conservation from the New England Interstate Water Pollution Control Commission to expand current monitoring of cyanotoxins in Lake Champlain and Vermont inland lakes.

*[Received January 31, 2024]*

**JFO #3181:** \$409,960.00 to the Agency of Commerce and Community Development, Department of Housing and Community Development from the U.S. Department of the Interior/National Park Service. Funds will be used for the preservation, repair, and restoration of the Old Constitution House, located in Windsor, Vermont. The first Constitution of Vermont was adopted on this site, then known as Elijah West's Tavern, on July 8, 1777. *[Note: A State*

*match of \$53,714.00 is accomplished within the agency budget through the reduction of a fraction of an existing position base and existing capital bill funds.]*

*[Received January 31, 2024]*

**JFO #3180:** One (1) limited-service position, Administrative Services Director III, to the Agency of Administration, Recovery Office. Position will ensure that flood recovery projects are integrated with existing state and federal programs. Will also ensure compliance and tracking of already awarded grants as well as those anticipated in the wake of the July 2023 flooding event. Position is funded through already approved JFO Request #3165 as well as Acts 74 (2021) and 185 (2022). The position is fully funded through 7/31/2027.

*[Received January 31, 2024]*

**JFO #3179:** Two (2) limited-service positions. One (1) to the Department of Mental Health, Project AWARE Lead Coordinator and one (1) to the Agency of Education, Project AWARE Co-Coordinator. The positions will liaison to coordinate and expand the state's efforts to develop sustainable infrastructure for school-based mental health. Both positions are fully funded through 9/29/28 from previous SAMHSA grant award JFO #2934.

*[Received January 26, 2024]*

**JFO #3178: \$456,436.00** to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funds will support (1) limited-service position, Environmental Analyst IV. This position will serve as administrative lead developing the updated Climate Action Plan with the Vermont Climate Council and perform added work required by the EPA grant. Position is funded through 6/30/2027.

*[Received January 11, 2024]*

**JFO #3177: \$2,543,564.00** to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funding is phase one of a two-phase funding opportunity aimed to support Vermont with climate change mitigation planning efforts. A comprehensive climate action plan will be developed, to overlap with and be synonymous to the required update to Vermont's Climate Action Plan in 2025.

*[Received January 12, 2024]*

**JFO #3176:** \$250,000.00 to the Agency of Human Services, Department of Mental Health from the National Association of State Mental Health Program Directors. These funds will increase rapid access to behavioral health care by

supporting the peer service component of the mental health urgent care clinic being established in Chittenden County. This clinic will offer an alternative to seeking mental health care in emergency departments

*[Received January 11, 2024]*