

# Senate Calendar

TUESDAY, JUNE 20, 2023

SENATE CONVENES AT: 10:00 A.M.

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**ACTION CALENDAR**

**NEW BUSINESS**

**Third Reading**

**H. 429.**

An act relating to miscellaneous changes to election laws.

**NOTICE CALENDAR**

**GOVERNOR'S VETOES**

**S. 6.**

An act relating to law enforcement interrogation policies.

**Pending question:** Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

**Text of Communication from Governor**

The Text of the communication from his excellency, the Governor, whereby he *vetoed* and returned unsigned on **Senate Bill No. 6** to the Senate is as follows:

June 1, 2023

The Honorable John Bloomer  
Secretary of the Senate  
115 State Street  
Montpelier, VT 05633

Dear Secretary Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.6, *An Act Relating to Law Enforcement Interrogation Policies* without my signature because of my objections described below.

This bill started out as a reasonable approach to expand existing constitutional protections prohibiting deceptive and coercive interrogations for juvenile offenders under the age of 18. As passed, this bill would make Vermont an outlier by offering these expanded protections to young adult offenders up to the age of 22, despite Vermont's already robust constitutional protections. There was uniform testimony in opposition to this bill from the entities charged with promoting public safety, including crime victim services

and child advocacy centers, that this bill will remove tools from law enforcement used to investigate very serious, violent crimes at a time when our communities are not feeling safe and are asking us to do more.

This bill would make it more difficult to investigate and prosecute young adult perpetrators involved in serious crimes, such as narcotics trafficking, sex offenses, including sexual assaults that happen on college campuses and child sex abuse cases, and internet crimes against children.

For this reason, I'm returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott  
Governor

PBS/kp

#### **Text of Bill as Passed By Senate and House**

The text of the bill as passed by the Senate and House of Representatives is as follows:

#### **S. 6.**

An act relating to law enforcement interrogation policies.

It is hereby enacted by the General Assembly of the State of Vermont:

#### **Sec. 1. LEGISLATIVE INTENT; JUVENILE INTERROGATION; LAW ENFORCEMENT INTERROGATION POLICIES**

It is the intent of the General Assembly to prevent false confessions and wrongful convictions of individuals subject to law enforcement interrogation and to improve trust between Vermont's communities and law enforcement. To achieve these objectives, it is the further intent of the General Assembly to create a minimum set of law enforcement interrogation standards that incorporate evidence-based best practices by:

(1) prohibiting law enforcement's use of threats, physical harm, and deception during custodial interrogations of persons under 22 years of age; and

(2) mandating that the Vermont Criminal Justice Council develop, adopt, and enforce a statewide model interrogation policy that applies to all Vermont law enforcement agencies and constables exercising law enforcement authority pursuant to 24 V.S.A. § 1936.

Sec. 2. 13 V.S.A. § 5585 is amended to read:

§ 5585. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION DEFINITIONS

(a) As used in this ~~section~~ subchapter:

(1) “Custodial interrogation” means any interrogation:

(A) involving questioning by a law enforcement officer that is reasonably likely to elicit an incriminating response from the subject; and

(B) in which a reasonable person in the subject’s position would consider the person to be in custody, starting from the moment a person should have been advised of the person’s Miranda rights and ending when the questioning has concluded.

(2) “Deception” includes the knowing communication of false facts about evidence, the knowing misrepresentation of the accuracy of the facts, the knowing misrepresentation of the law, or the knowing communication of unauthorized statements regarding leniency.

(2)(3) “Electronic recording” or “electronically recorded” means an audio and visual recording that is an authentic, accurate, unaltered record of a custodial interrogation, or if law enforcement does not have the current capacity to create a visual recording, an audio recording of the interrogation.

(4) “Law enforcement officer” has the same meaning as in 20 V.S.A. § 2351a.

(5) “Government agent” means:

(A) a school resource or safety officer; or

(B) an individual acting at the request or direction of a school resource or safety officer or a law enforcement officer.

(3)(6) “Place of detention” means a building or a police station that is a place of operation for the State police, a municipal police department, county sheriff department, or other law enforcement agency that is owned or operated by a law enforcement agency at which persons are or may be questioned in connection with criminal offenses or detained temporarily in connection with criminal charges pending a potential arrest or citation.

(4)(7) “Statement” means an oral, written, sign language, or nonverbal communication.

~~(b)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony or misdemeanor violation of this title~~

~~shall be electronically recorded in its entirety. Unless impracticable, a custodial interrogation occurring outside a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety.~~

~~(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.~~

~~(c)(1) The following are exceptions to the recording requirement in subsection (b) of this section:~~

~~(A) exigent circumstances;~~

~~(B) a person's refusal to be electronically recorded;~~

~~(C) interrogations conducted by other jurisdictions;~~

~~(D) a reasonable belief that the person being interrogated did not commit a felony or misdemeanor violation of this title and, therefore, an electronic recording of the interrogation was not required;~~

~~(E) the safety of a person or protection of the person's identity; and~~

~~(F) equipment malfunction.~~

~~(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.~~

Sec. 3. 13 V.S.A. § 5586 is added to read:

§ 5586. ELECTRONIC RECORDING OF A CUSTODIAL INTERROGATION

(a)(1) A custodial interrogation that occurs in a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety. Unless impracticable, a custodial interrogation occurring outside a place of detention concerning the investigation of a felony or misdemeanor violation of this title shall be electronically recorded in its entirety.

(2) In consideration of best practices, law enforcement shall strive to record simultaneously both the interrogator and the person being interrogated.

(b)(1) The following are exceptions to the recording requirement in

subsection (a) of this section:

(A) exigent circumstances;

(B) a person's refusal to be electronically recorded;

(C) interrogations conducted by other jurisdictions;

(D) a reasonable belief that the person being interrogated did not commit a felony or misdemeanor violation of this title and, therefore, an electronic recording of the interrogation was not required;

(E) the safety of a person or protection of the person's identity; and

(F) equipment malfunction.

(2) If law enforcement does not make an electronic recording of a custodial interrogation as required by this section, the prosecution shall prove by a preponderance of the evidence that one of the exceptions identified in subdivision (1) of this subsection applies. If the prosecution does not meet the burden of proof, the evidence is still admissible, but the court shall provide cautionary instructions to the jury regarding the failure to record the interrogation.

Sec. 4. 13 V.S.A. § 5587 is added to read:

§ 5587. JUVENILES

(a) During a custodial interrogation of a person under 22 years of age relating to the commission of a criminal offense or delinquent act, a law enforcement officer or government agent shall not employ threats, physical harm, or deception.

(b)(1) Any admission, confession, or statement, whether written or oral, made by a person under 22 years of age and obtained in violation of subsection (a) of this section shall be presumed to be involuntary and inadmissible in any proceeding.

(2) The presumption that any such admission, confession, or statement is involuntary and inadmissible may be overcome if the State proves by clear and convincing evidence that the admission, confession, or statement was:

(A) voluntary and not induced by a law enforcement officer's or government agent's use of threats, physical harm, or deception prohibited by subsection (a) of this section; and

(B) any actions of a law enforcement officer or government agent in violation of subsection (a) of this section did not undermine the reliability of

the person's admission, confession, or statement and did not create a substantial risk that the person might falsely incriminate themselves.

Sec. 5. VERMONT CRIMINAL JUSTICE COUNCIL; MODEL INTERROGATION POLICY

(a) Intent. It is the intent of the General Assembly that the Vermont Criminal Justice Council create a model interrogation policy that is grounded in evidence-based best practices to limit and eventually eliminate the use of deception in law enforcement interrogations.

(b) Policy development. On or before January 1, 2024, the Vermont Criminal Justice Council, in consultation with the Office of the Attorney General and stakeholders, including the Agency of Human Services, the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and the Innocence Project, shall establish one cohesive evidence-based model interrogation policy for law enforcement agencies and constables to adopt, follow, and enforce as part of the agency's or constable's own interrogation policy.

(c) Policy contents. The evidence-based model interrogation policy created pursuant to this section shall apply to all persons subject to various forms of interrogation, including the following:

- (1) custodial interrogations occurring in a place of detention;
- (2) custodial interrogations occurring outside a place of detention;
- (3) interrogations that are not considered custodial, regardless of location; and
- (4) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorders; and low literacy levels.

Sec. 6. 20 V.S.A. § 2359 is amended to read:

§ 2359. COUNCIL SERVICES CONTINGENT ON AGENCY COMPLIANCE; GRANT ELIGIBILITY

(a) On and after January 1, 2022, a law enforcement agency shall be prohibited from having its law enforcement applicants or officers trained by the Police Academy or from otherwise using the services of the Council if the agency is not in compliance with the requirements for collecting roadside stop data under section 2366 of this chapter, the requirement to report to the Office of Attorney General death or serious bodily injuries under 18 V.S.A. § 7257a(b), or the requirement to adopt, follow, ~~or~~ and enforce any policy required under this chapter.



(b) On and after April 1, 2024, a law enforcement agency shall be prohibited from receiving grants, or other forms of financial assistance, if the agency is not in compliance with the requirement to adopt, follow, and enforce the model interrogation policy established by the Council pursuant to section 2371 of this title.

(c) The Council shall adopt procedures to enforce the requirements of this section, which may allow for waivers for agencies under a plan to obtain compliance with this section.

Sec. 7. 20 V.S.A. § 2371 is added to read:

§ 2371. STATEWIDE POLICY; INTERROGATION METHODS

(a) As used in this section:

(1) “Custodial interrogation” has the same meaning as in 13 V.S.A. § 5585.

(2) “Place of detention” has the same meaning as in 13 V.S.A. § 5585.

(b) The Council shall establish a model interrogation policy that applies to all persons subject to various forms of interrogation, including the following:

(1) custodial interrogations occurring in a place of detention;

(2) custodial interrogations occurring outside a place of detention;

(3) interrogations that are not considered custodial, regardless of location; and

(4) the interrogation of individuals with developmental, intellectual, and psychiatric disabilities; substance use disorders; and low literacy levels.

(c)(1) On or before April 1, 2024, each law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall adopt, follow, and enforce an interrogation policy that includes each component of the model interrogation policy established by the Council, and each law enforcement officer or constable who exercises law enforcement authority shall comply with the provisions of the agency’s or constable’s policy.

(2) On or before October 1, 2024, and every even-numbered year thereafter, the Vermont Criminal Justice Council, in consultation with others, including the Office of the Attorney General, the Agency of Human Services, and the Human Rights Commission, shall review and, if necessary, update the model interrogation policy.

(d) To encourage fair and consistent interrogation methods statewide, the Vermont Criminal Justice Council, in consultation with the Office of the Attorney General, shall review the policies of law enforcement agencies and constables required to adopt a policy pursuant to subsection (c) of this section, to ensure that those policies establish each component of the model policy on or before April 15, 2024. If the Council finds that a policy does not meet each component of the model policy, it shall work with the law enforcement agency or constable to bring the policy into compliance. If, after consultation with its attorney or with the Council, or with both, the law enforcement agency or constable fails to adopt a policy that meets each component of the model policy, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Council.

(e) The Council shall incorporate the provisions of this section into the training it provides.

(f) Annually, as part of their annual training report to the Council, every law enforcement agency and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title shall report to the Council whether the agency or constable has adopted an interrogation policy in accordance with subsections (c) and (d) of this section. The Vermont Criminal Justice Council shall determine, as part of the Council's annual certification of training requirements, whether current officers have received training on interrogation methods as required by subsection (e) of this section.

(g) Annually, on or before July 1, the Vermont Criminal Justice Council shall report to the House and Senate Committees on Judiciary regarding which law enforcement agencies and officers have received training on interrogation methods.

Sec. 8. VERMONT CRIMINAL JUSTICE COUNCIL; POSITION;  
APPROPRIATION

(a) On July 1, 2023, a new, permanent, classified Director of Policy position is created in the Vermont Criminal Justice Council. In addition to any other duties deemed appropriate by the Council, the Director of Policy shall supervise the development, oversight, and compliance work related to the Council's internal, external, and State-mandated policies.

(b) The position of Director of Policy established in subsection (a) of this section shall be subject to a General Fund appropriation in FY 2024.

Sec. 9. EFFECTIVE DATES

This act shall take effect on July 1, 2023, except that Secs. 4 (juveniles), 6 (Council services contingent on Agency compliance; grant eligibility) and 7 (statewide policy; interrogation methods) shall take effect on April 1, 2024.

**S. 39.**

An act relating to compensation and benefits for members of the Vermont General Assembly.

**Pending question:** Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

**Text of Communication from Governor**

The Text of the communication from his excellency, the Governor, whereby he *vetoed* and returned unsigned on **Senate Bill No. 39** to the Senate is as follows:

May 31, 2023

The Honorable John Bloomer, Jr.  
Secretary of the Senate  
115 State House  
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.39, *An act relating to compensation and benefits for members of the Vermont General Assembly*, without my signature because of my objections described herein.

This year, the General Assembly passed several pieces of legislation that will significantly increase costs for Vermonters through new and higher taxes, fees and penalties. In my opinion, it does not seem fair for legislators to insulate themselves from the very costs they are imposing on their constituents by doubling their own future pay.

Sincerely,  
/s/Philip B. Scott  
Governor

PBS/kp

**Text of Bill as Passed By Senate and House**

The text of the bill as passed by the Senate and House of Representatives is as follows:

**S. 39.**

An act relating to compensation and benefits for members of the Vermont General Assembly.

It is hereby enacted by the General Assembly of the State of Vermont:

\* \* \* Health Benefits \* \* \*

Sec. 1. 3 V.S.A. § 631 is amended to read:

§ 631. GROUP INSURANCE FOR STATE EMPLOYEES; SALARY DEDUCTIONS FOR INSURANCE, SAVINGS PLANS, AND CREDIT UNIONS

(a)(1) The Secretary of Administration may contract on behalf of the State with any insurance company or nonprofit association doing business in this State to secure the benefits of franchise or group insurance. Beginning on July 1, 1978, the terms of coverage under the policy shall be determined under section 904 of this title, but it may include:

\* \* \*

(2)(A)(i) As used in this section, the term “employees” includes any class or classes of elected or appointed officials, State’s Attorneys, sheriffs, employees of State’s Attorneys’ offices whose compensation is administered through the State of Vermont payroll system, except contractual and temporary employees, and deputy sheriffs paid by the State of Vermont pursuant to 24 V.S.A. § 290(b). The term “employees” ~~shall~~ does not include ~~members of the General Assembly as such,~~ any person rendering service on a retainer or fee basis, members of boards or commissions, or persons ~~other than employees of the Vermont Historical Society, the Vermont Film Corporation, the Vermont State Employees’ Credit Union, Vermont State Employees’ Association, and the Vermont Council on the Arts,~~ whose compensation for service is not paid from the State Treasury, or any elected or appointed official ~~unless the~~ except as specifically provided pursuant to this subdivision (a)(2)(A)(i). The term “employees” includes employees of the Vermont Historical Society, the Vermont State Employees’ Credit Union, the Vermont State Employees’ Association, the Vermont Council on the Arts, and any elected or appointed official who is actively engaged in and devoting substantially full-time to the conduct of the business of his or her the official’s public office. The term

“employees” also includes members of the General Assembly as set forth in subdivision (iv) of this subdivision (a)(2)(A).

\* \* \*

(iv) For purposes of group hospital-surgical-medical expense insurance, any employee assistance program offered to State employees, and any flexible spending account program offered to State employees for health care or dependent care expenses, or both, the term “employees” includes members of the General Assembly.

(B)(i) The premiums for extending insurance coverage to employees shall be paid in full by the Vermont Historical Society, ~~the Vermont Film Corporation,~~ the Vermont State Employees’ Association, the Vermont State Employees’ Credit Union, the Vermont Council on the Arts, or their respective retirees. Nothing herein creates a legal obligation on the part of the State of Vermont to pay any portion of the premiums required to extend insurance coverage to this group of employees.

(ii) Members of the General Assembly shall be required to pay the same portion of the premium for group hospital-surgical-medical expense insurance as is required of employees of the Executive Branch.

\* \* \*

\* \* \* Compensation and Expenses \* \* \*

## Sec. 2. LEGISLATOR COMPENSATION FOR 2025–2026 BIENNIAL SESSION

(a) Notwithstanding any provision of 32 V.S.A. § 1052 to the contrary, members of the General Assembly other than the Speaker of the House and President Pro Tempore of the Senate are entitled to the following weekly salary amounts during the 2025–2026 Biennial Session:

(1) for 2025, a weekly salary of \$1,000.00 plus an adjustment consistent with the compensation increase provided to other constitutional officers for fiscal year 2025; and

(2) for 2026, a weekly salary of \$1,100.00 plus an adjustment consistent with the compensation increases provided to other constitutional officers for fiscal years 2025 and 2026.

(b) Notwithstanding any provision of 32 V.S.A. § 1051 to the contrary, the Speaker of the House and President Pro Tempore of the Senate are entitled to the following weekly salary amounts during the 2025–2026 Biennial Session:

(1) for 2025, a weekly salary of \$1,230.00 plus an adjustment consistent with the compensation increase provided to other constitutional officers for fiscal year 2025; and

(2) for 2026, a weekly salary of \$1,530.00 plus an adjustment consistent with the compensation increases provided to other constitutional officers for fiscal years 2025 and 2026.

(c) Notwithstanding any provision of 32 V.S.A. § 1051 to the contrary, the Speaker of the House and President Pro Tempore of the Senate are entitled to annual compensation for the 2025–2026 Biennial Session as follows:

(1) for 2025, an annual salary of \$19,000.00 plus an adjustment consistent with the compensation increase provided to other constitutional officers for fiscal year 2025; and

(2) for 2026, an annual salary of \$23,500.00 plus an adjustment consistent with the compensation increases provided to other constitutional officers for fiscal years 2025 and 2026.

(d) The weekly salary amounts set forth in subsections (a) and (b) of this section shall apply in all circumstances during the 2025–2026 Biennial Session in which legislator compensation is determined pursuant to 32 V.S.A. § 1051 or 1052, including per diem compensation under 2 V.S.A. § 23, special session compensation, and adjournment compensation.

Sec. 3. 32 V.S.A. § 1051 is amended to read:

§ 1051. SPEAKER OF THE HOUSE AND PRESIDENT PRO TEMPORE  
OF THE SENATE; COMPENSATION AND EXPENSE  
REIMBURSEMENT

(a) The Speaker of the House and the President Pro Tempore of the Senate shall be entitled to receive annual compensation of \$10,080.00 for the 2005 \$28,300.00 for the first year of the 2027 Biennial Session and thereafter, to be paid in biweekly payments, provided that, beginning on January 1, 2007, the annual compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021, plus an adjustment consistent with the compensation increases provided to other constitutional officers for fiscal years 2025–2027. Beginning on January 1, 2028 and annually thereafter on January 1, the annual compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers. The salary of the Speaker and President Pro Tempore shall be paid in biweekly installments.

(b) In addition to the annual compensation set forth in subsection (a) of this section, the Speaker and President Pro Tempore shall be entitled to receive:

(1) ~~\$652.00 a week for the 2005~~ \$1,830.00 a week for the first year of the 2027 Biennial Session, plus an adjustment consistent with the compensation increases provided to other constitutional officers for fiscal years 2025–2027 and thereafter, to be paid in biweekly payments during the regular and adjourned sessions of the General Assembly, ~~provided that, beginning on January 1, 2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021.~~ Beginning on January 1, 2028 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers;

\* \* \*

(3) an allowance for or reimbursement of expenses for mileage, meals, and lodging expenses as provided to members of the General Assembly under subsection 1052(b) of this title during the biennial, adjourned, and special sessions of the General Assembly and in addition such other actual and necessary expenses incurred while engaged in duties imposed by law.

Sec. 4. 32 V.S.A. § 1052 is amended to read:

§ 1052. MEMBERS OF THE GENERAL ASSEMBLY; COMPENSATION  
AND EXPENSE REIMBURSEMENT

(a) Compensation.

(1) Session compensation. Each member of the General Assembly, other than the Speaker of the House and the President Pro Tempore of the Senate, is entitled to a weekly salary of ~~\$589.00 for the 2005~~ \$1,210.00 for the first year of the 2027 Biennial Session, plus an adjustment consistent with the compensation increases provided to other constitutional officers for fiscal years 2025–2027 and thereafter, provided that, beginning on January 1, 2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021. Beginning on January 1, 2028 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers. The salary of members shall be paid in biweekly installments.

(2) Special session compensation. During a special session, a member is entitled to an amount equal to one-fifth of the annually adjusted weekly

compensation set forth in subdivision (1) of this subsection, rounded up to the nearest dollar, for each day of a special session ~~on which the House of which he or she is a~~ that the House in which the member serves shall sit.

(3) Adjournment compensation. During adjournment of the General Assembly, a member may claim an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection (a), rounded up to the nearest dollar, for each week of the adjournment of the General Assembly.

(b) Expenses. During any session of the General Assembly, each member is entitled to receive an allowance for or reimbursement of expenses as follows: set forth in this subsection.

(1) Mileage reimbursement. ~~Reimbursement~~ Each member shall receive reimbursement in an amount equal to the actual mileage traveled for each day of session in which the member travels between Montpelier and the member's home or from Montpelier or from the member's home to another site on officially sanctioned legislative business. Reimbursement of actual mileage traveled under this subdivision shall be at the rate per mile determined by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session.

(2) Meals and lodging allowance. Each member shall receive either a meals allowance or reimbursement of actual meals expenses. A member shall be presumed to have elected to receive the meals allowance unless the member informs the Office of Legislative Operations prior to the convening of the regular or adjourned session that the member wishes to receive reimbursement of actual meals expenses. A member's election to receive reimbursement of actual meals expenses shall remain in effect through the remainder of that session unless the member notifies the Office, in writing, that the member needs to change to the meals allowance due to a change in circumstances or for another compelling reason.

(A) Meals allowance. ~~At~~ A member who elects to receive a meals allowance in shall receive an amount equal to the daily amount for meals and lodging determined for Montpelier, Vermont, by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session; for each day the House in which the member serves shall sit.

(B) Meals reimbursement. A member who elects to receive reimbursement of expenses shall receive reimbursement equal to the actual amounts expended by the member for meals for each day that the House in which the member serves shall sit, as well as meals for the night preceding the first legislative day of each week during the legislative session; provided,



however, that the total amount of the weekly reimbursement available pursuant to this subdivision shall not exceed the amount the member would have received for the same week if the member had elected the meals allowance pursuant to subdivision (A) of this subdivision (2). The member shall provide meal receipts or otherwise substantiate the amounts expended to the Office of Legislative Operations in the form and manner prescribed by the Director of Legislative Operations.

(3) Lodging. Each member shall receive either a lodging allowance or reimbursement of actual lodging expenses. A member shall be presumed to have elected to receive the lodging allowance unless the member informs the Office of Legislative Operations prior to the convening of the regular or adjourned session that the member wishes to receive reimbursement of actual lodging expenses. A member's election to receive reimbursement of actual lodging expenses shall remain in effect through the remainder of that session unless the member notifies the Office, in writing, that the member needs to change to the lodging allowance due to a change in circumstances or for another compelling reason.

(A) Lodging allowance. A member who elects to receive a lodging allowance shall receive an amount equal to the daily amount for lodging determined for Montpelier, Vermont, by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session for each day the House in which the member serves shall sit.

(B) Lodging reimbursement. A member who elects to receive reimbursement of expenses shall receive reimbursement equal to the actual amounts expended by the member for lodging for each day that the House in which the member serves shall sit, as well as lodging for the night preceding the first legislative day of each week during the legislative session; provided, however, that the total amount of the weekly reimbursement available pursuant to this subdivision for each week shall not exceed the amount the member would have received for the same week if the member had elected the lodging allowance pursuant to subdivision (A) of this subdivision (3). The member shall provide lodging receipts or otherwise substantiate the amounts expended to the Office of Legislative Operations in the form and manner prescribed by the Director of Legislative Operations.

(4) Absences. If a member is absent for reasons other than sickness or legislative business for one or more entire days while the house in which the member sits is in session, the member shall notify the Office of Legislative Operations of that absence, and ~~expenses received shall not include the amount that the legislator specifies was not incurred~~ the member shall not receive or be

reimbursed for mileage, meals, or lodging expenses incurred during the period of that absence.

(c) ~~For attending a meeting of the Joint Fiscal Committee when a member is not receiving compensation as a member of the General Assembly, a member of the Joint Fiscal Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses as provided members of the General Assembly for attendance at sessions of the General Assembly.~~ Members-elect; stipend. Each member-elect of the General Assembly who is not an incumbent shall receive a stipend in an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (a)(1) of this section, rounded up to the nearest dollar, for each day of attendance at an orientation program for new legislators organized by the General Assembly and its staff.

(d) Death of a member. If a member of the General Assembly dies while the General Assembly is in session, the estate of the deceased member shall be entitled to receive compensation for the entire pay period in which the death occurred.

\* \* \* Legislative Leave from Employment \* \* \*

Sec. 5. 21 V.S.A. § 496 is amended to read:

§ 496. LEGISLATIVE LEAVE

(a) Any person who, in order to serve as a member of the General Assembly, must leave a ~~full-time~~ position in the employ of any employer, shall be entitled to a temporary or partial leave of absence for the purpose of allowing such employee to perform any official duty in connection with ~~his or her~~ the person's elected office.

(b) An employee who intends to seek election to the General Assembly and to invoke, if elected, ~~his or her~~ the right to a leave of absence pursuant to subsection (a) of this section, shall notify ~~his or her~~ the employee's employer of those intentions in writing within ~~10~~ 14 days after ~~filing the primary election nominating petition required by 17 V.S.A. § 2353 or of taking any other action required by 17 V.S.A. chapter 49,~~ to place his or her name on a ~~primary or general election ballot being elected.~~ An employee who fails to give notice to ~~his or her~~ the employee's employer as required by this section shall be deemed to have waived ~~his or her~~ the right to a leave of absence under subsection (a) of this section.

\* \* \*

\* \* \* Legislative Service Working Group \* \* \*

Sec. 6. LEGISLATIVE SERVICE WORKING GROUP

(a) Creation. There is created the Legislative Service Working Group to consider issues related to serving as a member of the Vermont General Assembly.

(b) Membership. The Working Group shall be composed of the following members:

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Working Group shall consider and make recommendations on issues involving legislative compensation and benefits, staffing, administrative support, and the length of the legislative session, including:

(1) the current compensation and benefits offered to members of the General Assembly, including:

(A) whether current salaries and benefits, including those added or increased by this act, are sufficient and, if not, how they should be increased;

(B) the impact of current salaries and benefits, including those added or increased by this act, on recruiting and retaining members from diverse backgrounds and life experiences;

(C) the impact of making members eligible for the State employees' health plan as set forth in Sec. 1 of this act on members of different income levels;

(D) whether members should be offered additional benefits, including reimbursement of child, dependent, and elder care expenses;

(E) options for establishing or engaging an independent entity to make adjustments to legislative compensation and benefits;

(F) whether members should have the option to receive a prorated salary throughout the calendar year instead of receiving their full salary amount during the months that the General Assembly is in session;

(G) whether supplemental compensation should be provided to members who hold leadership positions in addition to the Speaker of the

House and Senate President Pro Tempore, including caucus leaders and committee chairs;

(H) how the salaries, benefits, and compensation structure in the Vermont General Assembly compare to those of other state legislatures; and

(I) how the salaries, benefits, and compensation structure in the Vermont General Assembly compare to the mean and median compensation and benefits of Vermont residents;

(2) whether changes to staffing are necessary, such as increasing the number of legislative staff in existing staff offices, expanding the types of legislative staff services available to members, adding caucus staff, and adding personal staff or providing members with an allowance to hire their own personal staff;

(3) how to increase the administrative support available to members to increase their effectiveness and ability to respond efficiently to the needs of their constituents; and

(4) whether changes should be made to the length or structure of the legislative session.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of Legislative Operations, the Office of Legislative Counsel, the Office of Human Resources, and the Joint Fiscal Office.

(e) Report. On or before January 15, 2024, the Working Group shall report its findings and recommendations, including any recommendations for legislative action, to the Speaker of the House, the Senate President Pro Tempore, and the House Committee on Government Operations and Military Affairs and the Senate Committee on Government Operations. Drafts of the Working Group's report that are in progress but have not yet been shared with the Working Group shall be confidential.

(f) Meetings.

(1) The Office of Legislative Operations shall call the first meeting of the Working Group to occur on or before July 1, 2023.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership of the Working Group shall constitute a quorum.

(4) The Working Group shall cease to exist on January 15, 2024.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working Group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 7. [Deleted.]

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

Sec. 8. EFFECTIVE DATES

(a) Secs. 5 (legislative leave from employment) and 6 (Legislative Service Working Group) and this section shall take effect on passage.

(b) Secs. 3(b)(3) (expenses for Speaker and President Pro Tempore) and 4(b)–(d) (legislator expenses) shall take effect on January 1, 2024.

(c) Sec. 2 (legislator compensation for 2025–2026 Biennial Session) shall take effect on July 1, 2024.

(d) The remaining sections shall take effect on January 1, 2025.

### **House Proposal of Amendment**

#### **S. 80.**

An act relating to miscellaneous environmental conservation subjects.

The House proposes to the Senate to amend the bill as follows:

First: By adding Secs. 6a and 6b to read as follows:

Sec. 6a. USE OF VERMONT ENVIRONMENTAL PROTECTION  
AGENCY (EPA) POLLUTION CONTROL REVOLVING FUND

Notwithstanding the authority of the Secretary of Natural Resources under 24 V.S.A. § 4753 to transfer up to \$275,000.00 from the Vermont EPA Pollution Control Revolving Fund to the Vermont Wastewater and Potable Water Revolving Fund, the Secretary of Natural Resources shall not transfer any funds from the EPA Pollution Control Revolving Fund to the Vermont Wastewater and Potable Water Revolving Fund after July 1, 2024 until:

(1) the Secretary of Natural Resources submits the comprehensive fee report required by the General Assembly for each Agency of Natural Resources fee in existence on July 1, 2023;

(2) the Secretary of Natural Resources submits the report required under Sec. 6b (report on EPA revolving funds) of this act; and

(3) an act of the General Assembly authorizes transfers from the Vermont EPA Pollution Control Revolving Fund to the Vermont Wastewater and Potable Water Revolving Fund to continue after July 1, 2024.

#### Sec. 6b. ANR REPORT ON REVOLVING LOAN FUNDS

On or before January 15, 2024, the Secretary of Natural Resources shall submit to the House Committee on Corrections and Institutions and the Senate Committee on Institutions a report summarizing the status of the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund and the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund. The report shall include an accounting of the Funds, including the following information for each Fund as it existed at the end of fiscal year 2023:

- (1) the balance of funds in the Fund;
- (2) the amount of funds loaned or obligated from the Fund;
- (3) the amount of funds repaid to the Fund in fiscal year 2023; and
- (4) the amount of funds due for repayment to the Fund.

Second: By striking out Sec. 7, 2018 Acts and Resolves No. 185, Sec. 12, in its entirety and inserting in lieu thereof a new Sec. 7 and reader assistance heading to read as follows:

\* \* \* Riparian Protection \* \* \*

#### Sec. 7. ANR REPORT ON RIPARIAN PROTECTION PROGRAM

The Secretary of Natural Resources shall conduct a stakeholder process to develop recommendations on the implementation of a riparian protection program in the State. The stakeholder process shall address what elements of a riparian protection program should be implemented to protect water quality and aquatic habitat and what funding would be required to implement a riparian protection program. On or before December 15, 2023, the Secretary shall submit its recommendations on the implementation of a riparian protection program to the House Committee on Environment and Energy and the Senate Committee on Natural Resources and Energy.

Third: In Sec. 16, 29 V.S.A. § 405(d), in subsection (d), after “on the date that” and before “is signed” by inserting the word “it”

**S. 103.**

An act relating to amending the prohibitions against discrimination.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495 is amended to read:

§ 495. UNLAWFUL EMPLOYMENT PRACTICE

(a) It shall be unlawful employment practice, except where a bona fide occupational qualification requires persons of a particular race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition:

(1) For any employer, employment agency, or labor organization to harass or discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability.

\* \* \*

(3) For any employment agency to fail or refuse to classify properly or refer for employment or to otherwise harass or discriminate against any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age or against a qualified individual with a disability.

(4) For any labor organization, to limit, segregate, or qualify its membership with respect to any individual because of race, color, religion, ancestry, national origin, sex, sexual orientation, gender identity, place of birth, crime victim status, or age to discriminate against any individual or against a qualified individual with a disability or to limit, segregate, or qualify its membership; or against a qualified individual with a disability.

\* \* \*

(7) For any employer, employment agency, labor organization, or person seeking employees to discriminate between employees on the basis of sex, race, national origin, sexual orientation, or gender identity or against a qualified individual with a disability by paying wages to employees of one sex, race, national origin, sexual orientation, or gender identity or an employee who is a qualified individual with a disability at a rate less than the rate paid to employees of the other sex or a different race, national origin, sexual orientation, or gender identity or without the physical or mental condition of the qualified individual with a disability for equal work that requires equal skill, effort, and responsibility and is performed under similar working

conditions. An employer who is paying wages in violation of this section shall not reduce the wage rate of any other employee in order to comply with this subsection.

(A) An employer may pay different wage rates under this subsection when the differential wages are made pursuant to:

\* \* \*

(iv) A bona fide factor other than sex, race, national origin, sexual orientation, gender identity, or physical or mental condition. An employer asserting that differential wages are paid pursuant to this subdivision (7)(A)(iv) shall demonstrate that the factor does not perpetuate a ~~sex-based~~ differential in compensation, based on sex, race, national origin, sexual orientation, gender identity, or physical or mental condition; is job-related with respect to the position in question;; and is based upon a legitimate business consideration.

\* \* \*

(C) Nothing in this subdivision (a)(7) shall be construed to:

(i) create any new rights for an employer to inquire about a characteristic of an employee that is otherwise unknown to the employer upon which pay discrimination is prohibited pursuant to the provisions of this subdivision (a)(7); or

(ii) diminish an employee's right to privacy under any other law, or pursuant to an applicable contract or collective bargaining agreement.

(8) ~~Retaliation prohibited.~~ An employer, employment agency, or labor organization shall not discharge or in any other manner discriminate against any employee because the employee:

\* \* \*

(i) An agreement to settle a claim of a violation of subsection (a) of this section shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer. Any provision of an agreement to settle a claim of a violation of subsection (a) of this section that violates this subsection shall be void and unenforceable with respect to the individual who made the claim.

(j) Except for claims alleging a violation of subdivision (a)(7) of this section or disparate impact discrimination an employee shall not be required to demonstrate the existence of another employee or individual to whom the employee's treatment can be compared to establish a violation of this section.

(k) Notwithstanding any State or federal judicial precedent to the contrary:



(1) harassment and discrimination need not be severe or pervasive to constitute a violation of this section; and

(2) behavior that a reasonable employee with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this section.

Sec. 2. 21 V.S.A. § 495d is amended to read:

§ 495d. DEFINITIONS

As used in this subchapter:

\* \* \*

(13)(A) “Sexual harassment” is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal ~~or~~, physical, written, auditory, or visual conduct of a sexual nature when:

~~(A)(i)~~ submission to that conduct is made either explicitly or implicitly a term or condition of employment;

~~(B)(ii)~~ submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting that individual; or

~~(C)(iii)~~ the conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

(B) Sexual harassment need not be severe or pervasive in order to be unlawful pursuant to this subchapter.

\* \* \*

(16) “Harass” means to engage in unwelcome conduct based on an employee’s race, color, religion, national origin, sex, sexual orientation, gender identity, ancestry, place of birth, age, crime victim status, or physical or mental condition that interferes with the employee’s work or creates a work environment that is intimidating, hostile, or offensive. In determining whether conduct constitutes harassment:

(A) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.

(B) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality rather than in isolation.

(C) Conduct may constitute harassment, regardless of whether:

(i) the complaining employee is the individual being harassed;

(ii) the complaining employee acquiesced or otherwise submitted to or participated in the conduct;

(iii) the conduct is also experienced by others outside the protected class involved in the conduct;

(iv) the complaining employee was able to continue carrying out the employee's job duties and responsibilities despite the conduct;

(v) the conduct resulted in a physical or psychological injury; or

(vi) the conduct occurred outside the workplace.

Sec. 3. 9 V.S.A. § 4501 is amended to read:

§ 4501. DEFINITIONS

As used in this chapter:

\* \* \*

(12)(A) "Harass" means to engage in unwelcome conduct that detracts from, undermines, or interferes with a person's:

(i) use of a place of public accommodation or any of the accommodations, advantages, facilities, or privileges of a place of public accommodation because of the person's race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability; or

(ii) terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection with a dwelling or other real estate, because of the person's race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability, or because the person intends to occupy a dwelling with one or more minor children, or because the person is a recipient of public assistance, or because the person is a victim of abuse, sexual assault, or stalking.

(B) Notwithstanding any judicial precedent to the contrary, harassing conduct need not be severe or pervasive to be unlawful pursuant to the provisions of this chapter. In determining whether conduct constitutes unlawful harassment:

(i) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.

(ii) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality rather than in isolation.

(iii) Conduct may constitute unlawful harassment, regardless of whether:

(I) the complaining person is the person being harassed;

(II) the complaining person acquiesced or otherwise submitted to or participated in the conduct;

(III) the conduct is also experienced by others outside the protected class involved in the conduct;

(IV) despite the conduct, the complaining person was able to:

(aa) use the place of public accommodation or any of the accommodations, advantages, facilities, or privileges of the place of public accommodation; or

(bb) enjoy the benefit of applicable terms, conditions, privileges, or protections in the sale or rental of the dwelling or other real estate, or to obtain services or facilities in connection with the dwelling or other real estate;

(V) the conduct resulted in a physical or psychological injury;  
or

(VI) the conduct occurred outside the place of public accommodation or the dwelling or other real estate.

(C) Behavior that a reasonable person with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this chapter.

(D) The provisions of this subdivision (12) shall not apply to any action brought under this chapter pursuant to the provisions of 16 V.S.A. § 570f.

Sec. 4. 9 V.S.A. § 4503 is amended to read:

§ 4503. UNFAIR HOUSING PRACTICES

\* \* \*

~~(d)(1) As used in this section, “harass” means to engage in unwelcome conduct that detracts from, undermines, or interferes with the person’s terms, conditions, privileges, or protections in the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection with a~~

~~dwelling or other real estate, because of the person's race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability, or because the person intends to occupy a dwelling with one or more minor children, or because the person is a recipient of public assistance, or because the person is a victim of abuse, sexual assault, or stalking.~~

~~(2) Notwithstanding any judicial precedent to the contrary, harassing conduct need not be severe or pervasive to be unlawful pursuant to the provisions of this section. In determining whether conduct constitutes unlawful harassment:~~

~~(A) The determination shall be made on the basis of the record as a whole, according to the totality of the circumstances, and a single incident may constitute unlawful harassment.~~

~~(B) Incidents that may be harassment shall be considered in the aggregate with varying types of conduct and conduct based on multiple characteristics viewed in totality, rather than in isolation.~~

~~(C) Conduct may constitute unlawful harassment, regardless of whether:~~

~~(i) the complaining person is the person being harassed;~~

~~(ii) the complaining person acquiesced or otherwise submitted to or participated in the conduct;~~

~~(iii) the conduct is also experienced by others outside the protected class involved in the conduct;~~

~~(iv) the complaining person was able to enjoy the benefit of applicable terms, conditions, privileges, or protections in the sale or rental of the dwelling or other real estate, or to obtain services or facilities in connection with the dwelling or other real estate, despite the conduct;~~

~~(v) the conduct resulted in a physical or psychological injury; or~~

~~(vi) the conduct occurred outside the dwelling or other real estate.~~

~~(3) behavior that a reasonable person with the same protected characteristic would consider to be a petty slight or trivial inconvenience shall not constitute unlawful harassment or discrimination pursuant to this section. [Repealed.]~~

## Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

**ORDERED TO LIE**

**S. 94.**

An act relating to the City of Barre tax increment financing district.

**PENDING ACTION:** House proposal of amendment.

**CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Paul Hood of Middlesex – Member, State Infrastructure Bank Board – By Senator Bray for the Committee on Finance (5/16/23)

Mark Gregoritsch of Essex – Member, Occupational Safety and Health Review Board – By Senator Harrison for the Committee on Economic Development, Housing and General Affairs (5/16/23)