

Journal of the House

Thursday, April 5, 2018

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Peter Plagge, Waterbury Congregational Church, Waterbury, VT.

House Bill Introduced

H. 926

Reps. Brennan of Colchester, Dakin of Colchester and Taylor of Colchester introduced a bill, entitled

An act relating to approval of amendments to the charter of the Town of Colchester

Which was read the first time and referred to the committee on Government Operations.

Joint Resolution Adopted

J.R.H. 16

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

Offered by: Representatives Krowinski of Burlington and Copeland-Hanzas of Bradford

Whereas, the American Legion Auxiliary Department of Vermont sponsors the Green Mountain Girls State educational program, providing a group of girls entering the 12th grade a special opportunity to study the workings of State government in Montpelier, and

Whereas, the Green Mountain Girls State education program serves as an outstanding leadership training forum for future women civic leaders in Vermont, and

Whereas, as part of their visit to the State's capital city, the girls conduct a mock legislative session in the State House, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the State House for the Green Mountain Girls State

educational program on Wednesday, June 20, 2018, from 8:00 a.m. to 4:15 p.m., and be it further

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

Was taken up and adopted on the part of the House.

Senate Proposal of Amendment Concurred in

H. 611

The Senate proposed to the House to amend House bill, entitled
An act relating to compensation for victims of crime

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

In Sec. 1, 13 V.S.A. § 5357, by amending the last sentence to read as follows:

Such subrogation rights shall be against ~~the perpetrator of the crime or~~ any person liable for the pecuniary loss.

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 836

The Senate proposed to the House to amend House bill, entitled
An act relating to electronic court filings for relief from abuse orders

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

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

This act permits relief from abuse orders to be obtained electronically in certain circumstances when courts are closed while enhancing the safety of all parties involved.

Second: In Sec. 2, 15 V.S.A. § 1106, by striking out subdivision (b)(2)(C) and inserting in lieu thereof a new subdivision (b)(2)(C) to read as follows:

(C) The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the applicant by the authorized person, and shall conclude with the following statement: "I declare under the penalty of perjury

pursuant to the laws of the State of Vermont that the foregoing is true and accurate. I understand that the penalty for perjury is imprisonment of not more than 15 years or a fine of not more than \$10,000.00, or both.” The authorized person shall note on the affidavit the date and time that the oath was administered.

Pending the question Will the House concur in the Senate proposal of amendment? **Reps. Willhoit of St. Johnsbury and Grad of Moretown**, moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

By adding a new Sec. 3 to read as follows:

Sec. 3. ORDERS AGAINST STALKING OR SEXUAL ASSAULT;
REPORT FROM OFFICE OF COURT ADMINISTRATOR

On or before March 1, 2019, the Office of the Court Administrator shall report to the House and Senate Committees on Judiciary regarding the feasibility of ensuring that orders against stalking or sexual assault issued under 12 V.S.A. chapter 178 are available after regular court hours and on weekends and holidays. The report required by this section may be provided through oral testimony.

and by renumbering the remaining section to be numerically correct.

Which was agreed to.

Read Third Time; Bill Passed

H. 548

House bill, entitled

An act relating to limiting additional TIF districts

Was taken up and pending third reading of the bill, **Rep. Chesnut-Tangerman of Middletown Springs** moved to amend the bill as follows:

First: By striking out Sec. 4, Effective Date, and inserting in lieu thereof the following:

Sec. 4. 32 V.S.A. § 305b is amended to read:

§ 305b. EDUCATION PROPERTY TAX INCREMENT; EMERGENCY
BOARD ESTIMATE

Annually, at the January meeting of the Emergency Board held pursuant to section 305a of this title, the Joint Fiscal Office and the Secretary of Administration shall provide to the Emergency Board a consensus estimate of the ~~impact on~~ foregone revenue from the Education Fund resulting from tax

increment financing districts authorized pursuant to 24 V.S.A. chapter 53 and section 5404a of this title. The estimate shall be for the succeeding fiscal year. The Emergency Board shall adopt an official estimate of the ~~impact on foregone revenue~~ the Education Fund at the January meeting.

Second: By adding a Sec. 5, amending 16 V.S.A. § 4025, to read as follows:

Sec. 5. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) The Education Fund is established to comprise the following:

(1) All revenue paid to the State from the statewide education tax on nonresidential and homestead property under 32 V.S.A. chapter 135.

(2) For each fiscal year, the amount of the general funds appropriated and transferred to the Education Fund shall be \$305,900,000.00, to be increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent, plus an amount equal to the official estimate of forgone revenue from the Education Fund adopted by the Emergency Board pursuant to section 305b of this title.

* * *

Third: By adding a Sec. 6, Effective Date, to read as follows:

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, **Rep. Chesnut-Tangerman of Middletown Springs** asked that the question be divided and that Section 1 be taken first, Section 2 be taken second and Section 3 be taken third.

Thereupon the first instance of amendment was disagreed to on a division of Yeas, 56 and Nays, 70.

Pending the question, Shall the bill be amended as offered by Rep. Chesnut-Tangerman of Middletown Springs in the second instance (Section 5) only? **Rep. Browning of Arlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Chesnut-

Tangerman of Middletown Springs in the second instance (Section 5) only? was decided in the negative. Yeas, 20. Nays, 115.

Those who voted in the affirmative are:

Bancroft of Westford	Colburn of Burlington	McCullough of Williston
Browning of Arlington	Gonzalez of Winooski	McFaun of Barre Town
Buckholz of Hartford	Haas of Rochester	Mrowicki of Putney
Burke of Brattleboro	Hooper of Montpelier	Murphy of Fairfax
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Sullivan of Dorset
Cina of Burlington	LaClair of Barre Town	Till of Jericho
	Lucke of Hartford	Weed of Enosburgh

Those who voted in the negative are:

Ancel of Calais	Graham of Williamstown	Partridge of Windham
Bartholomew of Hartland	Harrison of Chittenden	Pearce of Richford
Baser of Bristol	Head of South Burlington	Potter of Clarendon
Batchelor of Derby	Hebert of Vernon	Pugh of South Burlington
Beck of St. Johnsbury	Helm of Fair Haven	Quimby of Concord
Belaski of Windsor	Higley of Lowell	Rachelson of Burlington
Bissonnette of Winooski	Hill of Wolcott	Rosenquist of Georgia
Bock of Chester	Houghton of Essex	Savage of Swanton
Botzow of Pownal	Howard of Rutland City	Scheu of Middlebury
Brennan of Colchester	Jessup of Middlesex	Scheuermann of Stowe
Briglin of Thetford	Juskiewicz of Cambridge	Sharpe of Bristol
Brumsted of Shelburne	Keefe of Manchester	Shaw of Pittsford
Canfield of Fair Haven	Keenan of St. Albans City	Sibilia of Dover
Carr of Brandon	Kimbell of Woodstock	Smith of New Haven
Christensen of Weathersfield	Kitzmiller of Montpelier	Squirrell of Underhill
Christie of Hartford	Krowinski of Burlington	Stevens of Waterbury
Conlon of Cornwall	Lalonde of South Burlington	Strong of Albany
Connor of Fairfield	Lanpher of Vergennes	Stuart of Brattleboro
Conquest of Newbury	Lawrence of Lyndon	Sullivan of Burlington
Copeland-Hanzas of Bradford	Lefebvre of Newark	Taylor of Colchester
Corcoran of Bennington	Lewis of Berlin	Terenzini of Rutland Town
Cupoli of Rutland City	Lippert of Hinesburg	Toleno of Brattleboro
Dakin of Colchester	Long of Newfane	Toll of Danville
Deen of Westminster	Macaig of Williston	Townsend of South Burlington
Devereux of Mount Holly	Marcotte of Coventry	Trieber of Rockingham
Dickinson of St. Albans Town	Martel of Waterford	Troiano of Stannard
Donahue of Northfield	Masland of Thetford	Turner of Milton
Donovan of Burlington	Mattos of Milton	Van Wyck of Ferrisburgh
Dunn of Essex	McCormack of Burlington	Viens of Newport City
Emmons of Springfield	McCoy of Poultney	Walz of Barre City
Fagan of Rutland City	Miller of Shaftsbury	Webb of Shelburne
Feltus of Lyndon	Morris of Bennington	Willhoit of St. Johnsbury
Forguites of Springfield	Morrissey of Bennington	Wood of Waterbury
Frenier of Chelsea	Myers of Essex	Wright of Burlington
Gage of Rutland City	Nolan of Morristown	Yacovone of Morristown
	Norris of Shoreham	Yantachka of Charlotte
	Noyes of Wolcott	

Gamache of Swanton	O'Sullivan of Burlington	Young of Glover
Gannon of Wilmington	Pajala of Londonderry	
Grad of Moretown	Parent of St. Albans Town	

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

Ainsworth of Royalton	Gardner of Richmond	Poirier of Barre City
Beyor of Highgate	Giambatista of Essex	Read of Fayston
Burditt of West Rutland	Hooper of Randolph	Sheldon of Middlebury
Condon of Colchester	Jickling of Randolph	Smith of Derby
Fields of Bennington	Ode of Burlington	

Thereupon, **Rep. Chesnut-Tangerman of Middletown Springs** asked and was granted leave of the House to withdraw Section 3, the third instance of amendment.

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

Bill Committed

H. 482

House bill, entitled

An act relating to consumer protection

Appearing on the Calendar for action, was taken up and pending the reading of the report of the committee on Commerce and Economic Development, on motion of **Rep. Marcotte of Coventry**, the bill was committed to the committee on Judiciary.

Senate Proposal of Amendment Concurred in

H. 563

The Senate proposed to the House to amend House bill, entitled

An act relating to repealing the crimes of vagrancy

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) At common law, a vagrant is someone who refuses to work or goes about begging. Throughout the 19th and 20th centuries, Vermont and most other states criminalized this status. An 1864 Vermont statute focused on a "person, who, having his face painted, discolored, covered, or concealed, or being otherwise disguised in a manner calculated to prevent him from being identified and his true character discovered." Other versions of the law

targeted persons who were “unable to give a good account of themselves.”

(2) Vermont’s vagrancy laws are very likely unconstitutional. Similar laws in other states have been struck down by the courts for vagueness and overbreadth, for failure to provide fair notice of what conduct is forbidden, and for encouraging arbitrary and erratic arrests.

(3) Vermont’s vagrancy laws criminalize a person’s status as someone who “roves from place to place and [lives] without visible means of support...” Any conduct prohibited in the vagrancy chapter is covered by other statutes in current law such as disorderly conduct, trespass, and assault.

Sec. 2. REPEAL

13 V.S.A. chapter 83 (Vagrants) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Which proposal of amendment was considered and concurred in.

**Favorable Report; Second Reading;
Third Reading Ordered**

S. 253

Rep. Gage of Rutland City, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to Vermont’s adoption of the Interstate Medical Licensure Compact

Reported in favor of its passage in concurrence

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 422

The Senate proposed to the House to amend House bill, entitled

An act relating to removal of firearms from a person arrested or cited for domestic assault

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

Sec. 1. 13 V.S.A. § 1048 is added to read:

§ 1048. REMOVAL OF FIREARMS

(a)(1) When a law enforcement officer arrests, cites, or obtains an arrest warrant for a person for domestic assault in violation of this subchapter, the officer may remove any firearm:

(A) that is contraband or will be used as evidence in a criminal proceeding; or

(B) that is in the immediate possession or control of the person being arrested or cited, in plain view of the officer at the scene of the alleged domestic assault, or discovered during a lawful search, including under exigent circumstances, if the removal is necessary for the protection of the officer, the alleged victim, the person being arrested or cited, or a family member of the alleged victim or of the person being arrested or cited.

(2) As used in this section, "family member" means any family member, a household member as defined in 15 V.S.A. § 1102(1), or a child of a family member or household member.

(b) A person cited for domestic assault shall be arraigned on the next business day after the citation is issued except for good cause shown. Unless the person is held without bail, the State's Attorney shall request conditions of release for a person cited or lodged for domestic assault.

(c)(1) At arraignment, the court shall issue a written order releasing any firearms removed pursuant to subdivision (a)(1)(B) of this section unless:

(A) the firearm is being or may be used as evidence in a pending criminal or civil proceeding;

(B) a court orders relinquishment of the firearm pursuant to 15 V.S.A. chapter 21 (abuse prevention) or any other provision of law consistent with 18 U.S.C. § 922(g)(8), in which case the weapon shall be stored pursuant to 20 V.S.A. § 2307;

(C) the person requesting the return is prohibited by law from possessing a firearm; or

(D) the court imposes a condition requiring the defendant not to possess a firearm.

(2) If the court under subdivision (1) of this subsection orders the release of a firearm removed under subdivision (a)(1)(B) of this section, the law enforcement agency in possession of the firearm shall make it available to the owner within three business days after receipt of the written order and in a manner consistent with federal law.

(d)(1) A law enforcement officer shall not be subject to civil or criminal liability for acts or omissions made in reliance on the provisions of this

section. This section shall not be construed to create a legal duty to a victim or to any other person, and no action may be filed based upon a claim that a law enforcement officer removed or did not remove a firearm as authorized by this section.

(2) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of firearms removed, stored, or transported pursuant to this section. This subdivision shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(3) This section shall not be construed to limit the authority of a law enforcement agency to take any necessary and appropriate action, including disciplinary action, regarding an officer's performance in connection with this section.

(e) This section shall not be construed:

(1) to prevent a court from prohibiting a person from possessing firearms under any other provision of law;

(2) to prevent a law enforcement officer from searching for and seizing firearms under any other provision of law; or

(3) to authorize a warrantless search under any circumstances other than those permitted by this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on September 1, 2018.

Which proposal of amendment was considered.

Pending the question, Shall the House concur with the Senate proposal of amendment? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House concur with the Senate proposal of amendment? was decided in the affirmative. Yeas, 133. Nays, 0.

Those who voted in the affirmative are:

Ancel of Calais	Gonzalez of Winooski	Noyes of Wolcott
Bancroft of Westford	Grad of Moretown	O'Sullivan of Burlington
Bartholomew of Hartland	Graham of Williamstown	Pajala of Londonderry
Baser of Bristol	Haas of Rochester	Parent of St. Albans Town
Batchelor of Derby	Harrison of Chittenden	Partridge of Windham
Beck of St. Johnsbury	Head of South Burlington	Pearce of Richford
Belaski of Windsor	Hebert of Vernon	Potter of Clarendon
Bissonnette of Winooski	Helm of Fair Haven	Pugh of South Burlington
Bock of Chester	Higley of Lowell	Quimby of Concord
Botzow of Pownal	Hill of Wolcott	Rachelson of Burlington

Brennan of Colchester	Hooper of Montpelier	Rosenquist of Georgia
Briglin of Thetford	Houghton of Essex	Savage of Swanton
Browning of Arlington	Howard of Rutland City	Scheu of Middlebury
Brumsted of Shelburne	Jessup of Middlesex	Scheuermann of Stowe
Burke of Brattleboro	Joseph of North Hero	Sharpe of Bristol
Canfield of Fair Haven	Juskiewicz of Cambridge	Shaw of Pittsford
Carr of Brandon	Keefe of Manchester	Sibilia of Dover
Chesnut-Tangerman of Middletown Springs	Keenan of St. Albans City	Smith of New Haven
Christensen of Weathersfield	Kimbell of Woodstock	Squirrell of Underhill
Christie of Hartford	Kitzmiller of Montpelier	Stevens of Waterbury
Cina of Burlington	Krowinski of Burlington	Strong of Albany
Colburn of Burlington	LaClair of Barre Town	Stuart of Brattleboro
Conlon of Cornwall	Lalonde of South Burlington	Sullivan of Dorset
Connor of Fairfield	Lanpher of Vergennes	Sullivan of Burlington
Conquest of Newbury	Lawrence of Lyndon	Taylor of Colchester
Copeland-Hanzas of Bradford	Lefebvre of Newark	Terenzini of Rutland Town
Corcoran of Bennington	Lewis of Berlin	Till of Jericho
Cupoli of Rutland City	Lippert of Hinesburg	Toleno of Brattleboro
Dakin of Colchester	Long of Newfane	Toll of Danville
Deen of Westminster	Lucke of Hartford	Townsend of South Burlington
Devereux of Mount Holly	Macaig of Williston	Trieber of Rockingham
Dickinson of St. Albans Town	Marcotte of Coventry	Troiano of Stannard
Donahue of Northfield	Masland of Thetford	Turner of Milton
Donovan of Burlington	Mattos of Milton	Van Wyck of Ferrisburgh
Dunn of Essex	McCormack of Burlington	Viens of Newport City
Emmons of Springfield	McCoy of Poultney	Walz of Barre City
Fagan of Rutland City	McCullough of Williston	Webb of Shelburne
Feltus of Lyndon	McFaun of Barre Town	Weed of Enosburgh
Forguites of Springfield	Miller of Shaftsbury	Willhoit of St. Johnsbury
Frenier of Chelsea	Morris of Bennington	Wood of Waterbury
Gage of Rutland City	Morrissey of Bennington	Wright of Burlington
Gamache of Swanton	Mrowicki of Putney	Yacovone of Morristown
Gannon of Wilmington	Murphy of Fairfax	Yantachka of Charlotte
	Myers of Essex	Young of Glover
	Nolan of Morristown	
	Norris of Shoreham	

Those who voted in the negative are: none

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

Ainsworth of Royalton	Gardner of Richmond	Poirier of Barre City
Beyor of Highgate	Giambatista of Essex	Read of Fayston
Buckholz of Hartford	Hooper of Randolph	Sheldon of Middlebury
Burditt of West Rutland	Jickling of Randolph	Smith of Derby
Condon of Colchester	Martel of Waterford	
Fields of Bennington	Ode of Burlington	

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 771

The Senate proposed to the House to amend House bill, entitled
An act relating to the Vermont National Guard

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

Sec. 1. 20 V.S.A. § 428 is added to read:

§ 428. RECRUITMENT, RETENTION, AND PROMOTION OF WOMEN;
REPORT

(a) Notwithstanding 2 V.S.A. § 20(d), the Adjutant and Inspector General shall make a report to the General Assembly on or before January 15, 2019 and annually thereafter regarding the Vermont National Guard's efforts to recruit and retain women and to increase the number of women serving as senior noncommissioned officers, warrant officers, and senior commissioned officers.

(b) The report shall contain:

(1) the numbers of men and women serving in the Vermont National Guard;

(2) the numbers, by rank, of men and women serving in the Vermont National Guard as senior noncommissioned officers, E-7 and above; as warrant officers, W-1 to W-5; and as senior commissioned officers, O-4 and above;

(3) the change during the previous five years in the numbers of men and women serving in the Vermont National Guard as senior noncommissioned officers, E-7 and above; as warrant officers, W-1 to W-5; and as senior commissioned officers, O-4 and above;

(4) the numbers of men and women recruited to serve in the Vermont National Guard during the past calendar year;

(5) the numbers of men and women recruited or promoted to serve in the Vermont National Guard as senior noncommissioned officers, E-7 and above, during the past calendar year;

(6) the numbers of men and women recruited or promoted to serve in the Vermont National Guard as warrant officers, W-1 to W-5, during the past calendar year;

(7) the numbers of men and women recruited or promoted to serve in the Vermont National Guard as senior commissioned officers, O-4 and above,

during the past calendar year;

(8) a summary of the current policies, initiatives, and programs to increase the number of women recruited and retained by the Vermont National Guard, any changes made by the Guard since the prior report, and any recommendations for legislative action to increase further the number of women recruited and retained by the Vermont National Guard; and

(9) a summary of the current policies, initiatives, and programs to increase the number of women serving in the Vermont National Guard as senior noncommissioned officers, warrant officers, and senior commissioned officers; any changes made by the Guard since the prior report; and any recommendations for legislative action to increase further the number of women serving in the Vermont National Guard as senior noncommissioned officers, warrant officers, and senior commissioned officers.

Sec. 2. 20 V.S.A. § 363 is amended to read:

§ 363. OFFICERS GENERALLY

(a)(1) The general assembly General Assembly shall biennially elect an adjutant and inspector general Adjutant and Inspector General, who shall also be quartermaster general Quartermaster General with the rank of a major general.

(2) A candidate for Adjutant and Inspector General shall:

(A) be a resident of Vermont;

(B) have attained the rank of lieutenant colonel (O-5) or above;

(C) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or the Air National Guard or be eligible to return to active service in the Army National Guard or the Air National Guard; and

(D) be a graduate of a Senior Service College, currently be enrolled in a Senior Service College, or be eligible to be enrolled in a Senior Service College during the biennium in which the candidate would first be appointed.

(3) A candidate for Adjutant and Inspector General shall, at the time he or she notifies the Secretary of State of his or her candidacy pursuant to 2 V.S.A. § 12, certify under oath to the Secretary that he or she meets the qualifications set forth in subdivision (2) of this subsection.

(b)(1) Such officer The Adjutant and Inspector General may appoint a deputy with appropriate rank, an assistant adjutant general Assistant Adjutant General for army Army, an assistant adjutant general Assistant Adjutant General for air Air, an assistant adjutant general Assistant Adjutant General for

~~joint operations~~ Joint Operations, a sergeant major, and a chief master sergeant, without pay, with the approval of the ~~governor~~ Governor.

(2) The ~~adjutant general~~ Adjutant and Inspector General may remove the appointed assistant adjutant generals and sergeants and shall be responsible for their acts.

(3) Upon appointment, each assistant adjutant general shall be a federally recognized officer of the ~~national guard~~ National Guard of the rank of lieutenant colonel or above, and shall have a rank of colonel or brigadier general, and the sergeant major shall be a federally recognized noncommissioned officer of the ~~national guard~~ National Guard of the rank of master sergeant or first sergeant, and the chief master sergeant shall be a federally recognized noncommissioned officer of the rank of senior master sergeant or first sergeant.

(4) The deputy, assistants, and sergeants shall perform duties as the ~~adjutant and inspector general and quartermaster general~~ Adjutant and Inspector General shall direct. In the absence or disability of the ~~officer~~ Adjutant and Inspector General, the deputy shall perform the duties of that office.

(c) In case a vacancy occurs in the office of ~~adjutant and inspector general and quartermaster general~~ Adjutant and Inspector General, the deputy shall assume and discharge the duties of the office until the vacancy is filled.

(d) ~~The appointments~~ Appointments made pursuant to subsection (b) of ~~this section~~ shall be in writing and recorded in the office of the ~~secretary of state~~ Secretary of State.

(e) All other officers of the ~~national guard~~ National Guard shall be chosen in accordance with ~~such regulations as~~ rules adopted by the ~~governor may prescribe~~ Governor consistent with the laws of this ~~state~~ State and the United States.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Pending the question Will the House concur in the Senate proposal of amendment? **Rep. Gonzalez of Winooski, Head of South Burlington, Stevens of Waterbury, Christie of Hartford, Harrison of Chittenden, Howard of Rutland City, Read of Fayston, Scheuermann of Stowe, Strong of Albany, Walz of Barre City** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: In Sec. 2, 20 V.S.A. § 363, by striking out subdivision (a)(3) in its entirety:

Second: In Sec. 2, 20 V.S.A. § 363, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read:

(d) ~~The appointments~~ Appointments made pursuant to subsection (b) of this section shall be in writing and recorded in the ~~office of the secretary of state~~ Office of the Secretary of State.

Third: By striking out Sec. 3, Effective Date, in its entirety and inserting in lieu thereof Secs. 3 through 9 to read:

Sec. 3. 20 V.S.A. § 370 is added to read:

§ 370. ADJUTANT AND INSPECTOR GENERAL RECOMMENDATION BOARD

(a) The Adjutant and Inspector General Recommendation Board is created to nominate candidates for Adjutant and Inspector General.

(b)(1) The Board shall consist of 10 members who shall be selected as follows:

(A) The Senate Committee on Committees shall appoint four members of the Senate, not all of whom shall be members of the same party.

(B) The Speaker of the House shall appoint four members of the House, not all of whom shall be members of the same party.

(C) The Governor shall appoint two members who shall have served in the U.S. Armed Forces.

(2)(A) The members of the Board appointed by the Governor shall serve for terms of two years and may serve for no more than three terms.

(B) The members of the Board appointed by the House and Senate shall serve for terms of two years and may serve for no more than three consecutive terms.

(C) All appointments shall occur between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. Members shall serve until their successors are appointed.

(3) The members of the Board shall elect their own chair who shall serve for a term of two years.

(c) Legislative members of the Board shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Members of the Board who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses in the same manner as members of boards and commissions are compensated under 32 V.S.A. § 1010. All compensation and reimbursement

shall be paid from the legislative appropriation.

(d) A quorum of the Board shall consist of six members.

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

Sec. 4. 20 V.S.A. § 371 is added to read:

§ 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND
INSPECTOR GENERAL

(a) A candidate for Adjutant and Inspector General shall, not later than four months prior to the election, declare his or her candidacy to the Board and demonstrate that he or she meets the qualifications set forth in subsection 363(a) of this chapter as required pursuant to procedures adopted by the Board.

(b) In the case of a vacancy in the office of Adjutant and Inspector General that occurs during a term, a candidate shall, not later than 14 days after the office of Adjutant and Inspector General becomes vacant, declare his or her candidacy to the Board and demonstrate that he or she meets the qualifications set forth in subsection 363(a) of this chapter as required pursuant to procedures adopted by the Board.

(c) The procedures necessary to carry out subsections (a) and (b) of this section may be adopted and revised at the discretion of the Board and shall not be subject to rulemaking under 3 V.S.A. §§ 836–844.

Sec. 5. 20 V.S.A. § 372 is added to read:

§ 372. DUTIES OF RECOMMENDATION BOARD

(a) Establishment of criteria, standards, and procedures.

(1) The Board shall adopt rules under 3 V.S.A. chapter 25 that establish criteria and standards for the evaluation and nomination of qualified candidates for Adjutant and Inspector General. In adopting criteria and standards, the Board shall consult with current and retired members of the Vermont Army National Guard and the Vermont Air National Guard. The criteria and standards adopted by the Board shall include:

(A) leadership;

(B) integrity;

(C) administrative and communication skills; and

(D) other criteria and standards as determined by the Board from time to time.

(b) Interview and selection.

(1) The Board shall interview each candidate for Adjutant and Inspector General who meets the qualifications set forth in subsection 363(a) of this chapter.

(2) The Board may, as necessary to determine whether a candidate meets the criteria and standards adopted pursuant to subsection (a) of this section:

(A) review records kept or maintained by the State, the Vermont National Guard, or the U.S. Armed Forces; and

(B) conduct interviews with current and former members of the National Guard of any state or the U.S. Armed Forces.

(3) Based on the information gathered pursuant to subdivisions (1) and (2) of this subsection, the Board shall evaluate each candidate against the criteria and standards established pursuant to subsection (a) of this section and shall nominate for election to the office of Adjutant and Inspector General all qualified candidates which satisfy those criteria and standards.

(c) Nomination. The Board shall submit the list of its nominees for Adjutant and Inspector General to the General Assembly and to the Secretary of State at least seven weeks prior to the election of the Adjutant and Inspector General.

(d) Confidentiality of proceedings and records.

(1) Except as otherwise provided by subdivision (2) of this subsection:

(A) all proceedings of the Board shall be confidential and exempt from the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2; and

(B) all records of the Board, including the names of candidates and any information related to candidates, shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(2) The following shall be public:

(A) the Board's rules and operating procedures;

(B) the Board's application procedures and any application forms or other forms used by the Board, provided they do not contain information about a candidate or confidential proceedings;

(C) proceedings of the Board that are not directly related to the consideration of candidates;

(D) the names of the candidates submitted to the Secretary of State pursuant to 2 V.S.A. § 12; and

(E) once the Board has submitted the list of candidates to the Secretary of State, the total number of applicants interviewed by the Board and the total number of candidates submitted to the Secretary of State.

Sec 6. 2 V.S.A. § 12 is amended to read:

§ 12. LEGISLATIVE ELECTIONS; UNIFORM BALLOTS

* * *

(b)(1) A candidate for office, other than for Adjutant and Inspector General, shall, not later than one week preceding the election, notify the Secretary of State in writing of his or her candidacy, naming the particular office. If he or she fails so to notify the Secretary of State, his or her name shall not be printed on the ballot.

(2) Not later than seven weeks prior to the election, the Adjutant and Inspector General Recommendation Board shall, pursuant to 20 V.S.A. § 372, submit the list of its nominees for Adjutant and Inspector General to the Secretary of State to be printed on the ballot prepared by the Secretary. The list shall constitute the complete list of candidates for Adjutant and Inspector General that are included on the ballot.

(3) No ballot may be used other than the official ballot provided by the Secretary of State.

Sec. 7. IMPLEMENTATION OF THE ADJUTANT AND INSPECTOR
GENERAL RECOMMENDATION BOARD

(a) The Senate Committee on Committees, the Speaker of the House, and the Governor shall appoint the members of the Adjutant and Inspector General Recommendation Board pursuant to 20 V.S.A. § 370 on or before March 15, 2019. Initially, the members of the Board shall be appointed for a term that expires when their successors are appointed pursuant to 20 V.S.A. § 370.

(b) On or before September 1, 2019, the Adjutant and Inspector General Recommendation Board shall propose for adoption rules that establish criteria and standards for the evaluation and nomination of qualified candidates for Adjutant and Inspector General.

Sec. 8. 2019 ELECTION OF ADJUTANT AND INSPECTOR GENERAL;
CERTIFICATION OF QUALIFICATIONS

For purposes of the 2019 election, a candidate for Adjutant and Inspector General shall, at the time he or she notifies the Secretary of State of his or her candidacy pursuant to 2 V.S.A. § 12(b), certify under oath to the Secretary that he or she satisfies the requirements set forth in 20 V.S.A. § 363(a)(2).

Sec. 9. EFFECTIVE DATES

- (a) This section and Secs. 1, 2, and 8 shall take effect on July 1, 2018.
- (b) The remaining sections of this act shall take effect on March 1, 2019.

Which was agreed to.

Adjournment

At three o'clock and twenty-three minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.