

# House Calendar

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Tuesday, September 15, 2020

253rd DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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**ORDERS OF THE DAY**

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**ACTION CALENDAR**

**Unfinished Business of Wednesday, June 10, 2020**

**Favorable with Amendment**

**H. 99**

An act relating to trade in covered animal parts or products

**Rep. McCullough of Williston**, for the Committee on Natural Resources, Fish, and Wildlife, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. part 4, chapter 124 is added to read:

CHAPTER 124. TRADE IN COVERED ANIMAL PARTS OR PRODUCTS

§ 5501. DEFINITIONS

As used in this chapter:

(1) “Bona fide educational or scientific institution” means an institution that establishes through documentation that it is a tax-exempt institution under the Internal Revenue Service’s educational or scientific tax exemption.

(2) “Covered animal” means any species of:

(A) Cheetah (Acinonyx jubatus);

(B) Elephant (family Elephantidae);

(C) Giraffe (Giraffa camelopardalis) ;

(D) Hippopotamus (family Hippopotamidae);

(E) Jaguar (Panthera onca);

(F) Leopard (Panthera pardus);

(G) Lion (Panthera leo);

(H) Mammoth (genus Mammuthus);

(I) Mastodon (genus Mammut),

(J) Pangolin (family Manidae);

(K) Endangered ray, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(L) Rhinoceros (family Rhinocerotidae);

(M) Sea turtle (family Chelonioidea);

(N) Endangered shark, as listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(O) Tiger (Panthera tigris);

(P) Whale (families Balaenidae, Balaenopteridae, Cetotheriidae, Eschrichtiidae, Monodontidae, Physeteridae, Kogiidae, and Ziphiidae); or

(Q) The following primates: gorillas, bonobos, orangutans, gibbons, or chimpanzees.

(3) “Commissioner” means the Commissioner of Fish and Wildlife.

(4) “Covered animal part or product” means any item that contains, or is wholly or partially made from, a covered animal, including the meat or flesh of a covered animal sold as food.

(5) “Firearm” has the same meaning as in 13 V.S.A. § 4016(a)(3).

(6) “Sale” or “sell” means any act of selling, trading, or bartering for monetary or nonmonetary consideration, and includes any transfer of ownership that occurs in the course of a commercial transaction. “Sale” or “sell” shall not include a nonmonetary transfer of ownership by way of gift, donation, or bequest.

(7) “Secretary” means the Secretary of Natural Resources.

(8) “Total value” means either the fair market value or the actual price paid for a covered animal part or product, whichever is greater.

#### § 5502. PROHIBITION

Except as provided in this chapter, notwithstanding any other provision of law to the contrary, a person shall not purchase, sell, offer for sale, or possess with intent to sell any item that the person knows or should know is a covered animal part or product.

#### § 5503. EXCEPTIONS

(a) The prohibition on the purchase, sale, offer for sale, or possession with intent to sell set forth in section 5502 of this title shall not apply:

(1) to employees or agents of the federal or State government undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law;

(2) when the activity is expressly authorized by federal law;

(3) when the covered animal part or product is a fixed component of an antique that is not made wholly or partially from the covered animal part or product, provided that:

(A) the antique status is established by the owner or seller of the covered animal part or product with documentation providing evidence of the provenance of the covered animal part or product and showing the covered animal part or product to be not less than 100 years old; and

(B) the total weight of the covered animal part or product is less than 200 grams;

(4) when the covered animal part or product is a fixed component of a firearm; knife; or musical instrument, including string instruments and bows, wind and percussion instruments, and pianos, provided that the covered animal part or product was legally acquired and provided that the total weight of the covered animal part or product is less than 200 grams; or

(5) the activity is authorized under section 5504 of this title.

(b) Documentation evidencing reasonable provenance or the age of a covered animal part or product that may be purchased, sold, offered for sale, or possessed under subsection (a) of this section may include receipts of purchase, invoices, bills of sale, prior appraisals, auction catalogues, museum or art gallery exhibit catalogues, and the signed certification of an antique appraiser to the age of the covered animal part. The issuance of a false or fraudulent certification of the age of a covered animal part or product shall be subject to penalty under section 5506 of this title.

#### § 5504. EDUCATIONAL OR SCIENTIFIC USE

The Secretary may permit, under terms and conditions as the Secretary may require, the purchase, sale, offer for sale, or possession with intent to sell of any covered animal part or product for educational or scientific purposes by a bona fide educational or scientific institution unless the activity is prohibited by federal law, and provided that the covered animal part or product was legally acquired.

#### § 5505. PRESUMPTION OF POSSESSION WITH INTENT TO SELL

There shall be a rebuttable presumption that a person possesses a covered animal part or product with intent to sell when the part or product is possessed by a retail or wholesale establishment or other forum engaged in the business of buying or selling similar items. This rebuttable presumption shall not preclude a court from finding intent to sell a covered animal part or product based on any other evidence that may serve to independently establish intent.

#### § 5506. ADMINISTRATIVE PENALTIES; REFERRAL FOR CRIMINAL ENFORCEMENT

(a) The Secretary may assess the following administrative penalties for a

violation of a provision of this chapter:

(1) For a first offense, a person shall be assessed an administrative penalty of not more than \$1,000.00 nor less than \$400.00.

(2) For a second offense or subsequent offense, a person shall be assessed an administrative penalty of not more than \$4,000.00 nor less than \$2,000.00.

(b) Instead of bringing an environmental enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may refer a violation of this chapter to the Commissioner of Fish and Wildlife for criminal enforcement under section 4518 of this title.

§ 5507. SEIZURE.

A person convicted of violating a provision of this chapter shall forfeit to the Secretary the covered animal part or product that is the subject of the violation. The Secretary may:

(1) authorize that the covered animal part or product be maintained for educational or training purposes;

(2) authorize that the covered animal part or product be donated to a bona fide educational or scientific institution; or

(3) require that the covered animal part or product be destroyed.

§ 5508. RULES

The Secretary may adopt rules necessary to implement the requirements of this chapter.

Sec. 2. 10 V.S.A. § 4518 is amended to read:

**§ 4518. BIG GAME VIOLATIONS; THREATENED AND ENDANGERED SPECIES; SUSPENSION; VIOLATIONS**

Whoever violates a provision of this part or orders or rules of the Board relating to taking, possessing, transporting, buying, or selling of big game or, relating to threatened or endangered species, or relating to the trade in covered animal parts or products shall be fined not more than \$1,000.00 nor less than \$400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, the violator shall be fined not more than \$4,000.00 nor less than \$2,000.00 or imprisoned for not more than 60 days, or both.

Sec. 3. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

\* \* \*

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species;

\* \* \*

(29) 10 V.S.A. § 1420, relating to abandoned vessels; and

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; and

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products.

Sec. 4. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

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

(1) The following provisions of this title:

\* \* \*

(V) chapter 124 (trade in covered animal parts or products).

\* \* \*

Sec. 5. EFFECTIVE DATE

This act shall take effect on January 1, 2022.

**( Committee Vote: 7-4-0)**

**H. 783**

An act relating to recovery residences

**Rep. Killackey of South Burlington**, for the Committee on General, Housing, and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that any exceptions made to existing landlord and tenant relationships in this act are limited solely to recovery residences operating pursuant to this act. These exceptions are intended to enable the expansion of recovery residences throughout the State and ensure their accessibility to individuals recovering from a substance use disorder.

Sec. 2. 18 V.S.A. § 4812 is added to read:

§ 4812. RECOVERY RESIDENCES

(a) Definition.

(1) As used in this section, “recovery residence” means a shared living residence supporting persons recovering from a substance use disorder that:

(A) Provides residents with peer support, an environment that prohibits the use of alcohol and the illegal use of prescription drugs or other illegal substances, and provides assistance accessing support services and community resources available to persons recovering from substance use disorder; and

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization to uphold appropriate standards for recovery housing.

(2) As used in this section, “the illegal use of prescription drugs” refers to the use of prescription drugs by a person who does not hold a valid prescription for that drug or in an amount that exceeds the dosing instructions.

(b) Voluntary arrangement. The decision to live in a recovery residence shall be voluntary and shall not be required or mandated by any private or public entity or individual.

(c) Terms of residency; compliance.

(1) Landlord and tenant relationship. A recovery residence and a resident have a landlord and tenant relationship that is subject to 9 V.S.A. chapter 137, except as otherwise provided in subdivisions (3)–(4) of this subsection.

(2) Residential rental agreement.

(A) A recovery residence and a resident shall execute a written rental agreement that includes:

(i) the policies and procedures governing the tenancy;

(ii) a statement that the recovery residence and the resident will comply with the policies and procedures;

(iii) the consequences of noncompliance;

(iv) the identification of a verified location where the resident may be housed in the event of temporary removal;

(v) payment requirements;

(vi) notice requirements and procedure for terminating the tenancy;

(vii) the contact information for a resident's probation or parole officer, if the resident is on furlough or parole from the Department of Corrections; and

(viii) any other provisions to which the parties agree.

(B) The parties may amend a rental agreement in a written record signed by the parties.

(C) A resident may have a support person present when negotiating and executing a rental agreement or amendment.

### (3) Temporary removal.

(A) A recovery residence shall adopt policies and procedures that govern the temporary removal of a resident who uses alcohol or illegal substances, engages in the illegal use of prescription drugs, or engages in violent, sexually harassing, or threatening behavior, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of the reason for temporary removal and of the actions the resident must take to avoid temporary removal or to be readmitted after temporary removal;

(II) design and implement harm reduction strategies for a resident who is temporarily removed, which may include providing naloxone to the resident upon temporary removal or other strategies more appropriate to the resident's recovery needs; and

(III) take action that is consistent with the resident's most recent reoccurrence agreement to the extent possible.

(ii) A recovery residence shall not temporarily remove a resident based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.



(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence and to his or her property within the residence.

(4) Termination of tenancy.

(A) A recovery residence shall adopt policies and procedures that govern the termination of tenancy of a resident who violates one or more provisions of the rental agreement, consistent with the following:

(i) A recovery residence shall:

(I) provide written notice of its intent to terminate the tenancy that includes the reason for termination and the actions the resident must take to avoid removal;

(II) design and implement harm reduction strategies for a resident whose tenancy is terminated, which may include providing naloxone to the resident upon removal or other strategies more appropriate to the resident's recovery needs; and

(III) adopt a review process under which:

(aa) a person other than the original decision maker or a subordinate of the original decision maker, which may include a Vermont affiliate of the National Alliance for Recovery Residences, reviews the decision to terminate the tenancy;

(bb) the resident has a meaningful opportunity to present evidence why the resident should not be removed; and

(cc) the resident receives prompt written notice of a final decision.

(ii) A recovery residence shall not:

(I) terminate a tenancy because a resident uses alcohol or illegal substances, or engages in the illegal use of prescription drugs, unless:

(aa) the resident fails to take the actions required to avoid temporary removal or to be readmitted after temporary removal; and

(bb) the recovery residence has contemporary drug test results verified by a laboratory approved by the State; or

(II) terminate a tenancy based solely on the resident's use of medication in conjunction with medication-assisted treatment, as defined in section 4750 of this title.

(B) Notwithstanding 9 V.S.A. §§ 4467 and 4468, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(5) may terminate the tenancy of a resident pursuant to the notice requirements and procedure for terminating the tenancy provided in the rental agreement.

(d) Drug testing. A recovery residence shall adopt policies and procedures that govern drug testing of residents and shall apply the policies and testing procedures fairly among residents.

(e) Future services. A recovery residence shall not deny future services to a resident who has been either temporarily removed from a recovery residence or whose tenancy has been terminated, based solely on the resident's use of alcohol or illegal substances or the illegal use of prescription drugs.

Sec. 3. 24 V.S.A. § 4412 is amended to read:

#### § 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

\* \* \*

(G) A residential care home or group home to be operated under State licensing or registration, serving not more than eight persons who have a disability as defined in 9 V.S.A. § 4501, and a recovery residence as defined in 18 V.S.A. § 4812, serving not more than eight persons, shall be considered by right to constitute a permitted single-family residential use of property. This subdivision (G) does not require a municipality to allow a greater number of residential care homes or group homes on a lot than the number of single-family dwellings allowed on the lot.

\* \* \*

#### Sec. 4. REPORT; RECOVERY RESIDENCE; FURLOUGH

On or before January 1, 2021 and annually thereafter through January 1, 2024, the Department of Corrections shall submit a report to the House Committees on General, Housing, and Military Affairs, on Corrections and Institutions, and on Human Services and to the Senate Committees on Economic Development, on Health and Welfare, and on Judiciary containing the number of individuals on furlough who reside in recovery residences as defined in 18 V.S.A. § 4812 and the number of individuals who have violated the conditions of their furlough and were removed from their recovery

residence and returned to prison.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

**( Committee Vote:8-1-2 )**

**Rep. Redmond of Essex**, for the Committee on Human Services, recommends the bill ought to pass when amended as recommended by the Committee on General, Housing, and Military Affairs and when further amended as follows:

First: In Sec. 2, 18 V.S.A. § 4812, in subdivision (a)(1)(A), by striking out “available to persons recovering from substance use disorder;” and inserting in lieu thereof “.”

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(A)(ii) in its entirety and inserting a new subdivision (3)(A)(ii) to read as follows:

(ii) A recovery residence shall not temporarily remove a resident based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Third: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (4)(A)(ii)(II) in its entirety and inserting a new subdivision (4)(A)(ii)(II) to read as follows:

(II) terminate a tenancy based on the resident receiving medication-assisted treatment, as defined in section 4750 of this title.

Fourth: In Sec. 4, report; recovery residence; furlough, after “Senate Committees on Economic Development” by inserting “, Housing and General Affairs”

**( Committee Vote: 9-0-2)**

**Amendment to be offered by Rep. Killacky of South Burlington to the recommendation of amendment of the Committee on General, Housing, and Military Affairs as further amended as recommended by the Committee on Human Services to H. 783**

First: In Sec. 2, 18 V.S.A. § 4812, in subsection (a), by striking out subdivision (1)(B) in its entirety and inserting in lieu thereof a new subdivision (1)(B) to read as follows:

(B) Is certified by an organization that is a Vermont affiliate of the National Alliance for Recovery Residences or obtains a preliminary certification within 45 days of operation and adheres to the national standards established by the Alliance or its successor in interest. If there is no successor in interest, the Department of Health shall designate a certifying organization

to uphold appropriate standards for recovery housing.

Second: In Sec. 2, 18 V.S.A. § 4812, in subsection (c), by striking out subdivision (3)(B) in its entirety and inserting in lieu thereof a new subdivision (3)(B) to read as follows:

(B) Notwithstanding 9 V.S.A. §§ 4463 and 4464, a recovery residence that complies with the policies and procedures adopted pursuant to this subdivision (c)(3) may temporarily deny a resident access to the recovery residence, but shall return to the resident his or her property or ensure its safekeeping.

## **Unfinished Business of Tuesday, August 25, 2020**

### **Senate Proposal of Amendment**

#### **H. 954**

An act relating to miscellaneous tax provisions

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

First: By striking out Sec. 4, property tax collection, in its entirety and inserting in lieu thereof:

Sec. 4. [Deleted.]

Second: By striking out Sec. 8, 32 V.S.A. § 5870, in its entirety and inserting in lieu thereof:

Sec. 8. USE TAX SAFE HARBOR; REPORT

On or before January 15, 2021, the Department of Taxes, with the assistance of the Joint Fiscal Office, shall provide the General Assembly with a report on the remittance of the Vermont use tax on taxpayers' State individual income tax returns as provided under 32 V.S.A. § 5870. The report required under this section shall:

(1) analyze the fiscal impact on the remittance of the Vermont use tax of the following:

(A) the U.S. Supreme Court decision in *South Dakota v. Wayfair*, 138 S. Ct. 2080 (2108) and the conforming Vermont remote seller collection requirements imposed under 32 V.S.A. § 9701(9)(F) and (9)(G); and

(B) the enactment of marketplace facilitator collection requirements in 2019 Acts and Resolves No. 46; and

(2) recommend options for amending the alternative reporting of use tax that a taxpayer may elect under 32 V.S.A. § 5870(a), including a reduction of the amount that is a percentage of a taxpayer's adjusted gross income, given the fiscal impact analysis required under subdivision (1) of this section.

Third: After Sec. 10, noncollecting vendor reporting, by adding a new Sec. 10a to read as follows:

Sec. 10a. 32 V.S.A. § 9741(54) is added to read:

(54) Sales of recyclable paper carryout bags to customers pursuant to 10 V.S.A. § 6693, provided that sales of recyclable paper carryout bags to stores and food service establishments as defined under 10 V.S.A. § 6691 shall not be exempt under this subdivision and shall not be considered sales for resale under 32 V.S.A. § 9701(5).

Fourth: By striking out Sec. 12, 32 V.S.A. § 9248, in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. 32 V.S.A. § 9248 is amended to read:

#### § 9248. INFORMATIONAL REPORTING

The Department of Taxes shall may collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

Fifth: By striking out Sec. 19, 32 V.S.A. § 5825a(b), in its entirety and inserting in lieu thereof the following:

Sec. 19. 32 V.S.A. § 5825a is amended to read:

#### § 5825a. CREDIT FOR VERMONT HIGHER EDUCATION INVESTMENT PLAN CONTRIBUTIONS

(a) A taxpayer of this State, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a Vermont ~~higher education investment plan~~ Higher Education Investment Plan account under 16 V.S.A. chapter 87, subchapter 7, provided the account is provided directly by the Vermont Student Assistance Corporation to the participant.

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, ~~which distribution is not used exclusively for costs of attendance at an approved postsecondary education~~

~~institution as defined in 16 V.S.A. § 2822(6), up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years~~ except when the distribution:

(1) is used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6);

(2) qualifies as an expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); or

(3) is made after the death of the beneficiary or after the beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C. § 72.

(c) Repayments under this subsection (b) of this section shall be subject to assessment, notice, penalty and interest, collection, and other administration in the same manner as an income tax under this chapter.

Sec. 19a. 16 V.S.A. chapter 87, subchapter 7 is amended to read:

\* \* \*

#### § 2876. DEFINITIONS

As used in this subchapter, except where the context clearly requires another interpretation:

(1) “Beneficiary” means any individual designated by a participation agreement to benefit from payments for qualified postsecondary education costs ~~at an institution of postsecondary education.~~

(2) “Benefits” means the payment of qualified postsecondary education costs on behalf of a beneficiary ~~by the Corporation’s Investment Plan during the beneficiary’s attendance at an institution of postsecondary education~~ from a participant’s investment plan account.

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Internal Revenue Code” means the federal Internal Revenue Code of 1986, as amended, together with the regulations promulgated ~~thereunder~~ pursuant to that Code.

(5) “Qualified postsecondary education costs” means the ~~qualified costs of tuition and fees and other expenses for attendance at an approved postsecondary education institution~~ costs of tuition and fees for attendance at an approved postsecondary education institution, and other qualified higher education expenses as provided under 26 U.S.C. § 529.

(6) “Approved postsecondary education institution” means a postsecondary education institution as defined in section 2822 of this title.

(7) “Vermont Higher Education Investment Plan” or “Investment Plan” means ~~the program~~ one or more plans created pursuant to this subchapter.

(8) “Participant” means a person who has entered into a participation agreement pursuant to this subchapter intended for the ~~advance~~ payment of qualified postsecondary education costs on behalf of a beneficiary.

(9) “Participation agreement” means an agreement between a participant and the Corporation, pursuant to and conforming with the requirements of this subchapter.

§ 2877. VERMONT HIGHER EDUCATION INVESTMENT PLAN  
CREATED

(a) There is created a program of the State to be known as the Vermont Higher Education Investment Plan and a trust for that purpose to be administered by the Vermont Student Assistance Corporation as an instrumentality of the State. The program may consist of one or more different investment plans, including one or more plans that may be offered to a participant only with the assistance of a qualified financial advisor.

(b) In order to establish and administer the Investment Plan, the Corporation, in addition to its other powers and authority, shall have the power and authority to:

\* \* \*

(2) Enter into agreements with any ~~institution~~ of approved postsecondary education institution, the State, or any federal or other agency or entity as required for the operation of ~~the~~ an Investment Plan pursuant to this subchapter.

(3) Accept any grants, gifts, legislative appropriations, and other ~~moneys~~ monies from the State; any unit of federal, State, or local government; or any other person, firm, partnership, or corporation for ~~deposit~~ contribution to the account of the Investment Plan, or for the operation or other related purposes of the Corporation.

(4) Invest the funds received from participants in appropriate investment vehicles approved and held in trust for participants by the Corporation as selected by the participants, including education loans made by the Corporation.

(5) Enter into participation agreements with participants.

(6) Develop and use two or more types of participation agreements to provide a range of investment ~~structures~~ options for participants.

(7) Make payments to ~~institutions of postsecondary education on behalf of beneficiaries~~ as directed by the participants pursuant to participation agreements.

(8) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in this subchapter and the rules ~~and regulations~~, policies, and procedures adopted by the Corporation.

(9) Make provision for the payment of costs of administration and operation of ~~the~~ an Investment Plan subject to the limitations on charges on participation agreements established in subdivision 2878(5) of this title.

(10) Adopt rules ~~and regulations~~, policies, and procedures to implement this subchapter and take all necessary action to ensure an Investment Plan is in conformance with the Internal Revenue Code and other applicable law.

\* \* \*

#### § 2878. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN

The Corporation shall have the authority to enter into Investment Plan participation agreements with participants ~~on behalf of beneficiaries~~ pursuant to the provisions of this subchapter, including the following terms and agreements:

(1) A participation agreement shall stipulate the terms and conditions of the Investment Plan ~~in~~ to which the participant makes ~~deposits~~ contributions.

(2) A participation agreement shall clearly specify the method for calculating the return on the ~~deposit made by the participant, which may be a variable or adjustable rate of return~~ various investment options available and shall reference the relevant expenses and other pertinent information about the account.

\* \* \*

(4) A participation agreement shall clearly and prominently disclose to participants the risks associated with ~~depositing monies with the Corporation~~ the various investment options available under the applicable Investment Plan.

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public. A participation agreement shall clearly and prominently disclose to participants that the Corporation, the State, and any other governmental entity are not



liable for, nor guarantee the return of or on the participant's contributions to an Investment Plan. A participation agreement shall also clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration, operation, or services. No fee or similar charge may be imposed with regard to an investment managed by the Corporation. Any fee, load, or similar charge with regard to any investment not managed by the Corporation shall be no greater than the cost determined by the Corporation to be required to administer the investment. The cost of originating and servicing any education loans made or acquired pursuant to participation agreements shall not be considered as load charges or similar charges.

\* \* \*

§ 2878a. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN;  
INDIVIDUAL DEVELOPMENT INVESTMENT ACCOUNTS

The Corporation may participate in the Individual Development Investment Program established under 33 V.S.A. § 1123, in accordance with the rules of the Agency of Human Services adopted thereunder, in connection with an individual or family who, at the time of ~~depositing~~ contributing funds into an account created pursuant to a Vermont Higher Education Investment Plan, receives public assistance or is otherwise an eligible saver under 33 V.S.A. § 1123.

§ 2879. INVESTMENT AND PAYMENTS

All money paid by a participant in connection with a participation agreement shall be deposited credited to the participant's account as received, held by the Corporation in trust for the benefit of the participant, and shall be promptly invested by the Corporation as selected by the participant from the investment options available under the participation agreement. ~~Deposits and earnings thereon accumulated on behalf of participants in the Investment Plan~~ Contributions and earnings accumulated in a participant's Investment Plan account may be used, as provided in the participation agreement, for payments to any institution of postsecondary education including for payments of qualified postsecondary education costs. The trust shall continue in existence as long as it holds any funds belonging to a participant.

\* \* \*

§ 2879c. TAX EXEMPTION

\* \* \*

(b) Contributions to an account held under ~~the a~~ Vermont Higher Education Investment Plan that is provided directly by the Corporation to a participant shall be eligible for a credit against Vermont income tax as provided under 32 V.S.A. § 5825a.

§ 2879D. PROPERTY RIGHTS TO ASSETS IN THE PLAN

The assets of the Vermont Higher Education Investment Plan shall at all times be held in trust for the benefit of the participant, shall not be commingled with any other funds of the Corporation or the State, shall be preserved, invested, and expended solely and only for the purposes set forth in this chapter and in accordance with the participation agreements, and no property rights therein shall exist in favor of the Corporation or the State. Amounts held in, or withdrawn from, a participant's Investment Plan account under a participation agreement shall not be subject to liens, attachment, garnishment, levy, seizure, claim by creditors of the contributors, participants, or any beneficiary, or subject to any involuntary sale, transfer, or assignment by any execution or any other legal or equitable operation of law, including bankruptcy or insolvency laws.

\* \* \*

Sixth: By inserting a Sec. 25a to read as follows:

Sec. 25a. 32 V.S.A. § 5933(a) is amended to read:

(a) A claimant agency may submit any debt of ~~\$50.00~~ \$45.00 or more to the Department for collection under the procedure established by this chapter. This setoff debt collection remedy is in addition to and not in substitution for any other remedy available by law.

Seventh: By striking out Sec. 27, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof Secs. 27–29 and their reader assistance headings to read as follows:

\* \* \* Land Use Change Tax Lien Subordination \* \* \*

Sec. 27. 2019 Acts and Resolves No. 20, Sec. 109 is amended to read:

Sec. 109. REPEALS

(a) 32 V.S.A. § ~~3757(f)~~ 3777 (land use change tax lien subordination) is repealed on July 1, 2020.

\* \* \*

\* \* \* Interest Rate; Overpayments and Underpayments \* \* \*

Sec. 28. 32 V.S.A. § 3108(a) is amended to read:

(a) Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities and tax overpayments that shall be equal to the average prime rate charged by banks during the immediately preceding 12 months commencing on October 1 of the prior year, rounded upwards to the nearest quarter percent. ~~Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual rate established for tax overpayments plus 200 basis points.~~ The rate established hereunder shall be effective on January 1 of the immediately following year. As used in this section, the term “prime rate charged by banks” shall mean the average predominate prime rate quoted by commercial banks to large businesses as determined by the Board of Governors of the Federal Reserve Board.

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

#### Sec. 29. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Sec. 10a, 32 V.S.A. § 9741(54) (sales and use tax exemption), shall take effect on July 1, 2020, provided that if the date of passage of this act is after July 1, 2020, then notwithstanding 1 V.S.A. § 214, Sec. 10a shall take effect retroactively on July 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.

(For text see House Journal May 15, 2020 )

### **Unfinished Business of Tuesday, September 8, 2020**

#### **Senate Proposal of Amendment**

#### **H. 663**

An act relating to expanding access to contraceptives

The Senate proposes to the House to amend the bill by striking out Sec. 11, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* School Wellness \* \* \*

Sec. 11. 16 V.S.A. § 136 is amended to read:

§ 136. WELLNESS PROGRAM; ADVISORY COUNCIL ON WELLNESS  
AND COMPREHENSIVE HEALTH

(a) As used in this section:

\* \* \*

(5) “Wellness program” means a program that includes comprehensive health education as defined in section 131 of this title, fitness, and nutrition.

(b) ~~The Secretary with the approval of the State Board shall establish an Advisory Council on Wellness and Comprehensive Health that shall include at least three members associated with the health services field with expertise in health services, health education, or health policy. The members shall serve without compensation but shall receive their actual expenses incurred in connection with their duties relating to wellness and comprehensive health programs. The Council shall assist the Agency to plan, coordinate, and encourage wellness and comprehensive health programs in the public schools and shall meet not less than twice a year.~~

(c) The Secretary shall collaborate with other officials, agencies, and councils working on childhood wellness, including the Director of Trauma Prevention and Resilience Development established in 33 V.S.A. § 3403 and the Substance Misuse Prevention Oversight and Advisory Council created in 18 V.S.A. § 4803, to:

(1) ~~Supervise the preparation of appropriate nutrition and fitness wellness program curricula for use in the public schools, promote programs for the preparation of teachers to teach these curricula, and assist in the development of wellness programs.~~

\* \* \*

~~(5) Create a process for schools to share with the Department of Health any data collected about the height and weight of students in kindergarten through grade six. The Commissioner of Health may report any data compiled under this subdivision on a countywide basis. Any reporting of data must protect the privacy of individual students and the identity of participating schools.~~

\* \* \*

Sec. 12. SCHOOL WELLNESS POLICY

On or before January 15, 2021, the Agency of Education, in collaboration with the Advisory Council on Wellness and Comprehensive Health created

under 16 V.S.A. § 136, shall update and distribute to school districts a model wellness program policy, using the expanded definition of “wellness program” under 16 V.S.A. § 136, as amended by this act, that shall:

(1) be in compliance with all relevant State and federal laws; and

(2) reflect nationally accepted best practices for comprehensive health education and school wellness policies, such as guidance from the Centers for Disease Control and Prevention’s Whole School, Whole Community, Whole Child Model.

\* \* \* Menstrual Hygiene Products \* \* \*

Sec. 13. 16 V.S.A. § 1432 is added to read:

§ 1432. MENSTRUAL HYGIENE PRODUCTS

(a) By enacting this statute, the General Assembly intends to ensure that a female student attending a public school or an approved independent school has access to menstrual hygiene products at no cost and without the embarrassment of having to request them.

(b) A school district and an approved independent school shall make menstrual hygiene products available at no cost in a majority of gender-neutral bathrooms and bathrooms designated for females that are generally used by females in any of grades five through 12 in each school within the district or under the jurisdiction of the board of the independent school. The school district or independent school, in consultation with the school nurse who provides services to the school, shall determine which of the gender-neutral bathrooms and bathrooms designated for females to stock with menstrual hygiene products and which brands to use.

(c) School districts and approved independent schools shall bear the cost of supplying menstrual hygiene products and may seek grants or partner with a nonprofit or community-based organization to fulfill this obligation.

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

Sec. 14. EFFECTIVE DATES

(a) Secs. 2 (8 V.S.A. § 4099c), 7 (26 V.S.A. § 2022), and 8 (26 V.S.A. § 2023) shall take effect on January 1, 2021.

(b) Sec. 13 (16 V.S.A. § 1432) shall take effect on November 1, 2020, and school districts and approved independent schools shall comply with the requirements of that section for the 2021–2022 school year and thereafter.

(c) The remainder of this act shall take effect on November 1, 2020.

(For text see House Journal March 13, 2020 )

**New Business**

**Third Reading**

**S. 220**

An act relating to professional regulation

**S. 234**

An act relating to miscellaneous judiciary procedures

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 952**

An act relating to approval of amendments to the charter of the City of Burlington

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

\* \* \* City of Burlington \* \* \*

Sec. 1. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendments to the charter of the City of Burlington as set forth in this act. The voters approved proposals of amendment on March 3, 2020.

Sec. 2. 24 App. V.S.A. chapter 3 is amended to read:

CHAPTER 3. CITY OF BURLINGTON

\* \* \*

§ 3. ELECTION OF MAYOR AND CITY COUNCILORS

(a) Election of Mayor. On the first Tuesday in March 2003 and triennially thereafter, the legal voters of the City shall, from among the legal voters thereof, elect a Mayor. Notwithstanding any provision of this charter or the general statutes, no person shall be eligible to have his or her name printed on the ballot as a candidate for the Office of Mayor who has not submitted a nominating petition signed by at least 150 registered voters of the City within

the time limits specified in 17 V.S.A. chapter 55, as the same may be amended from time to time. For all special elections, nominations of the municipal officers shall be by petition as specified in 17 V.S.A. chapter 55, excepting 17 V.S.A. § 2681(a)(1)(A). Instead, the petition shall be filed with the municipal clerk, together with the endorsement, if any, of any party or parties in accordance with the provisions of this title, not later than 5:00 p.m. on the ninth Monday preceding the day of the election, which shall be the filing deadline.

\* \* \*

## § 6. REQUIREMENTS GENERALLY

\* \* \*

(b) Upon request of the City Council by resolution or upon petition signed by five percent of the legal voters, filed with the Chief Administrative Officer ~~no later than the deadline established in 17 V.S.A. chapter 55 as the same may be amended from time to time,~~ the Mayor shall insert in the warning for the annual City meeting any special article for any legal purpose beyond the jurisdiction of the City Council, ~~said~~ the purpose to be set forth in said article as stated in such resolution or petition and the Chief Administrative Officer shall prepare suitable ballots in sufficient quantities for the vote upon ~~such~~ the article; For the City annual meeting in March of each year, the resolution or petition must be filed with the Chief Administrative Officer not later than the deadline established in 17 V.S.A. chapter 55 as the same may be amended from time to time, and for any special elections, the resolution or petition must be filed with the Chief Administrative Officer not later than 60 days prior to the election; provided, however, that any petition for the insertion of any article calling for the resubmission, reconsideration, or rescision of any question previously submitted to the legal voters of ~~said~~ the City shall be filed not later than the deadline established for requesting reconsideration or rescision of a prior vote as specified in 17 V.S.A. § 2661 as the same may be amended from time to time; and provided further, that no question previously submitted to the legal voters of ~~said~~ the City shall be more than once resubmitted or presented for reconsideration or rescision except upon request of the City Council by resolution. Each page of a petition filed under this section shall bear the full text of the petition, each signature to ~~such~~ the petition shall be witnessed, each signer of such petition shall set after his or her signature his or her legal address within the City, and any part of ~~such~~ the petition not conforming to these requirements shall be invalid.

\* \* \*

## § 22. BALLOTS

For all City or ward or City district elections, and also for the election of justices of the peace in said the City, the Chief Administrative Officer shall prepare all official ballots, consistent with the requirements of any regulation adopted under section 5 of this chapter, and otherwise in the same manner and subject to all the provisions of the laws of this State providing for and regulating the preparation and distribution of official ballots in towns and cities; provided, however, that said the Chief Administrative Officer shall cause to be printed for every ward or City district in said the City not less than 60 ballots for every 50 names or fractional part thereof on the voting list prepared and posted in such the ward or City district for any such election; and further provided that said the Chief Administrative Officer shall deliver to the inspectors of election in each ward on the day of such the election and before the hour for opening the polls in said ward, such the number of blocks of ballots containing 100 each as shall nearest represent two thirds of the whole number required to be printed for such the ward or City district, and shall retain the balance of the ballots for each ward or City district so prepared. For all special elections, the Chief Administrative Officer shall prepare all official ballots at least 45 days prior to the election.

\* \* \*

#### § 102f. ANNUAL ASSESSMENT FOR HOUSING TRUST FUND USE

##### AUTHORIZED

The City Council shall annually assess upon the property grand list of the City to assist in meeting the appropriation made for distributions and uses of the Housing Trust Fund as set forth in Article 18-404 of the Code of Ordinances a tax that will, in the judgment of the City Council, be sufficient to assist in meeting the appropriation, but the rate shall not exceed one cent upon the dollar of the property grand list, except when a larger rate shall be authorized by the legal voters of the City. The tax shall not be included within the limitations of the amount of tax for City purposes prescribed in section 99 of this chapter.

\* \* \*

\* \* \* City of Barre \* \* \*

#### Sec. 3. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendments to the charter of the City of Barre. Voters approved the proposals of amendment on March 3, 2020.

Sec. 4. 24 App. V.S.A. chapter 1 is amended to read:

#### CHAPTER 1. CITY OF BARRE



\* \* \*

§ 311. BUSINESS OR CONTRACTS BETWEEN CITY AND CITY  
OFFICIALS OR EMPLOYEES

No City official or employee shall be ~~directly or indirectly~~ interested in any contract with ~~said the~~ City ~~for an amount in excess of \$500.00, or~~ furnish any material, or perform any labor, except in the discharge of ~~his or her~~ the official's or employee's official duties for which said City officer shall receive a sum in excess of \$500.00, unless such contract shall have been awarded upon bids advertised for by publications [which] must have appeared six days previous to the opening of such bids or as allowed for in the Procurement Policy or Conflict of Interest Policy as adopted by the Council.

\* \* \*

Sec. 5. REPEALS

(a) 24 App. V.S.A. chapter 1, § 415 (City Grand Juror) is repealed on November 1, 2020.

(b) 24 App. V.S.A. chapter 1, Article XII (Housing Board of Review and governance of security deposits) is repealed on November 1, 2020.

\* \* \* Effective Date \* \* \*

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

**Ordered to Lie**

**H. 162**

An act relating to removal of buprenorphine from the misdemeanor crime of possession of a narcotic.

Pending Action: Second reading

**H. 492**

An act relating to establishing a homeless bill of rights and prohibiting discrimination against people without homes.

Pending Action: Second reading

**H. 535**

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

Pending Action: Second reading

