Senate Calendar

TUESDAY, MARCH 10, 2020
SENATE CONvenes AT: 9:30 A.M.

TABLE OF CONTENTS

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MARCH 11, 2020

Second Reading

Favorable with Recommendation of Amendment

S. 261 An act relating to eliminating life without parole
Judiciary Report - Sen. Sears ................................................................. 472

UNFINISHED BUSINESS OF JANUARY 7, 2020

GOVERNOR'S VETOES

S. 37 An act relating to medical monitoring........................................... 474

Pending question: Shall the bill pass, notwithstanding the Governor's refusal to approve the bill?

(For text of veto message, see Senate Calendar for January 7, 2020, page 1.)

S. 169 An act relating to firearms procedures............................................ 474

Pending question: Shall the bill pass, notwithstanding the Governor's refusal to approve the bill?

(For text of veto message, see Senate Calendar for January 7, 2020, page 9.)

NEW BUSINESS

Third Reading

S. 183 An act relating to competency to stand trial and insanity as a defense......................................................................................... 474

Amendment - Sen. Nitka ........................................................................ 475

S. 205 An act relating to criminal and civil surcharges............................ 475

S. 281 An act relating to the Working Group on the Status of Libraries in Vermont............................................................................. 475
S. 296 An act relating to limiting out-of-pocket expenses for prescription insulin drugs.................................................................475

S. 307 An act relating to binding interest arbitration for employees of the Vermont Judiciary and the Vermont State Colleges....................... 475

NOTICE CALENDAR

Second Reading
Favorable

S. 287 An act relating to the contractual rights of members of the Vermont State Employees’ Retirement System

Favorable with Recommendation of Amendment

S. 265 An act relating to the use of food residuals for farming
Agriculture Report - Sen. Pollina .......................................................... 476

House Proposal of Amendment

S. 240 An act relating to recruiting new remote workers and new relocating workers................................................................. 483
ORDERS OF THE DAY

ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MARCH 11, 2020

Second Reading

Favorable with Recommendation of Amendment

S. 261.

An act relating to eliminating life without parole.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2303 is amended to read:

§ 2303. PENALTIES FOR FIRST AND SECOND DEGREE MURDER

(a) Except as provided in subsection (g) of this section:

(1) The punishment for murder in the first degree shall be imprisonment for:

(A) a minimum term of not less than 35 years and a maximum term of life; or

(B) life without the possibility of parole.

(2) The punishment for murder in the second degree shall be imprisonment for:

(A) a minimum term of not less than 20 years and a maximum term of life; or

(B) life without the possibility of parole.

(3) Notwithstanding any other provision of law, this subsection shall apply only if the murder was committed on or after the effective date of this act.

(b) The punishment for murder in the first degree shall be imprisonment for life and for a minimum term of 35 years unless a jury finds that there are aggravating or mitigating factors which justify a different minimum term. If the jury finds that the aggravating factors outweigh any mitigating factors, the court may set a minimum term longer than 35 years, up to and including life.
imprisonment without parole. If the jury finds that the mitigating factors outweigh any aggravating factors, the court may set a minimum term at less than 35 years but not less than 15 years.

(c) The punishment for murder in the second degree shall be imprisonment for life and for a minimum term of 20 years unless a jury finds that there are aggravating or mitigating factors which justify a different minimum term. If the jury finds that the aggravating factors outweigh any mitigating factors, the court may set a minimum term longer than 20 years, up to and including life imprisonment without parole. If the jury finds that the mitigating factors outweigh any aggravating factors, the court may set a minimum term at less than 20 years but not less than 10 years.

* * *

(g) Subsections (b)-(f) of this section shall apply only if the murder was committed before the effective date of this act May 1, 2006, and:

(1) the defendant was not sentenced before the effective date of this act May 1, 2006; or

(2) the defendant’s sentence was stricken and remanded for resentencing pursuant to the Vermont Supreme Court’s decision in State v. Provost, 2005 VT 134 (2005).

Sec. 2. 13 V.S.A. § 7045 is amended to read:

§ 7045. LIFE WITHOUT PAROLE SENTENCE PROHIBITED FOR PERSONS UNDER 18 YEARS OF AGE

A court shall not sentence a person to life imprisonment without the possibility of parole if:

(1) the person was under 18 years of age at the time of the commission of the any offense; or

(2) the person committed any offense other than aggravated murder.

Sec. 3. 28 V.S.A. § 501 is amended to read:

§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION

(a) An inmate serving any sentence other than life without the possibility of parole shall be eligible for parole consideration upon serving 35 years.

(b) An inmate who is serving a sentence of imprisonment shall be eligible for parole consideration as follows:
(1) If the inmate’s sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.

(2) If the inmate’s sentence has a minimum term, the inmate shall be eligible for parole consideration after the inmate has served the minimum term of the sentence or after the inmate has served 35 years, whichever occurs first.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that after passage the title of the bill be amended to read:

An act relating to limiting the sentence of life without the possibility of parole.

(Committee vote: 3-2-0)

UNFINISHED BUSINESS OF JANUARY 7, 2020

GOVERNOR'S VETOES

S. 37.

An act relating to medical monitoring.

Pending question (to be voted by call of the roll): 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.)

(For text of veto message, see Senate Calendar for January 7, 2020, page 1.)

S. 169.

An act relating to firearms procedures.

Pending question (to be voted by call of the roll): 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.)

(For text of veto message, see Senate Calendar for January 7, 2020, page 9.)

NEW BUSINESS

Third Reading

S. 183.

An act relating to competency to stand trial and insanity as a defense.
Amendment to S. 183 to be offered by Senator Nitka before Third Reading

Senator Nitka moves to amend the bill in Sec. 4, Rule 16.1 (a)(1), by striking out subparagraphs (H) and (I) in their entirety and inserting in lieu thereof the following:

(H) provide specimens of the defendant's handwriting; and

(I) submit to a reasonable physical or medical inspection of his the defendant's body or, if notice is given by the defendant that sanity is in issue or that expert testimony will be offered as provided in Rule 12.1, to a reasonable mental examination by a psychiatrist or other expert; and

S. 205.
An act relating to criminal and civil surcharges.

S. 281.

S. 296.
An act relating to limiting out-of-pocket expenses for prescription insulin drugs.

S. 307.
An act relating to binding interest arbitration for employees of the Vermont Judiciary and the Vermont State Colleges.

NOTICE CALENDAR
Second Reading
Favorable
S. 287.
An act relating to the contractual rights of members of the Vermont State Employees’ Retirement System.

Reported favorably by Senator Pollina for the Committee on Government Operations.
(Committee vote: 5-0-0)
Favorable with Recommendation of Amendment

S. 265.

An act relating to the use of food residuals for farming.

Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Agriculture.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

***

(3)(A) “Development” means each of the following:

***

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

(i) The construction of improvements for farming, logging, or forestry purposes below the elevation of 2,500 feet.

***

(vii) The construction of improvements below the elevation of 2,500 feet for the onsite storage, preparation, and sale of compost, provided that one of the following applies:

***

(III) The compost is principally used on the farm where it was produced.

***

(22) “Farming” means:

(A) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops; or

(B) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(C) the operation of greenhouses; or

(D) the production of maple syrup; or
(E) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(H) the importation of up to 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

(38) “Farm” means, for the purposes of subdivision (22)(H) of this section, a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria as established under the Required Agricultural Practices.

(39) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” does not include food residuals from markets, groceries, or restaurants.

(40) “Food residuals” has the same meaning as in section 6602 of this title.

(41) “Principally used” means, for the purposes of subdivision (3)(D)(vii)(III) or (22)(H) of this section, that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

(42) “Small farm” has the same meaning as in 6 V.S.A. § 4871.
Sec. 2. Section 2 of the Agency of Agriculture, Food and Markets, Vermont Required Agricultural Practices Rule for the Agricultural Nonpoint Source Pollution Control Program is amended to read:

Section 2. Definitions

* * *

2.16 Farming means:

(a) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural, viticultural, and orchard crops; or

(b) the raising, feeding, or management of livestock, poultry, fish, or bees; or

(c) the operation of greenhouses; or

(d) the production of maple syrup; or

(e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(f) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(h) the importation of up to 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

2.44 “Food residual” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with 10 V.S.A. § 6605k. Food residual may include preconsumer and postconsumer food scraps. “Food residual” does not mean meat and meat-related products when the food residuals are composted by a resident on site.

2.45 “Principally used” means that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and
permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

Sec. 3. 6 V.S.A. chapter 218 is added to read:

CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

§ 5131. PURPOSE

The purpose of this chapter is to establish a program for the management of residual wastes generated, imported to, or managed on a farm for farming in Vermont.

§ 5132. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Compost” means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

(3) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria for regulation under the Required Agricultural Practices.

(4) “Farming” has the same meaning as in 10 V.S.A. § 6001(22).

(5) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” do not include food residuals from markets, groceries, or restaurants.

(6) “Food residuals” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable or compostable. “Food residuals” may include preconsumer and postconsumer food scraps. “Food residuals” include meat and meat-related products when the disposition of the products is managed on a farm.

(7) “Secretary” means the Secretary of Agriculture, Food and Markets.

(8) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

§ 5133. FOOD RESIDUALS; RULEMAKING

(a) The Secretary shall regulate the importation of food residuals or food processing residuals onto a farm.
(b)(1) The Secretary shall adopt by rule requirements for the management of food residuals and food processing residuals on a farm. The rules may include requirements regarding:

(A) the proper composting of food residuals or food processing residuals;

(B) destruction of pathogens in food residuals, food processing residuals, or compost;

(C) prevention of public health threat from food residuals, food processing residuals, or compost;

(D) protection of natural resources or the environment; and

(E) prevention of objectionable odors, noise, vectors, or other nuisance conditions.

(2) The Secretary may adopt the rules required by this section as part of the Required Agricultural Practices or as independent rules under this chapter.

(c) A farm producing compost under 10 V.S.A. § 6001(22)(H) shall be regulated under this chapter and shall not require a certification or other approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

* * *

(2) Certification shall be valid for a period not to exceed 10 years.

* * *

(n) A farm producing compost under subdivision 6001(22)(H) is exempt from the requirements of this section.
Sec. 5. 10 V.S.A. § 6605h is amended to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the Secretary instead of obtaining a facility certification under section 6605 or 6605c of this title. This section shall not apply to a farm producing compost under subdivision 6001(22)(H).

Sec. 6. 10 V.S.A. § 6605j is amended to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The Secretary, in consultation with the Secretary of Agriculture, Food and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall implement and enforce accepted composting practices for the management of composting in the State. These accepted composting practices shall address:

(1) standards for the construction, alteration, or operation of a composting facility;

(2) standards for facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(3) standards for siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(4) standards for the composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(5) standards for management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas;

(6) specified areas of the State unsuitable for the siting of commercial composting that utilizes post-consumer food residuals or animal mortalities, such as designated downtowns, village centers, village growth areas, or areas of existing residential density; and
(7) definitions of “small-scale composting facility,” “medium-scale composting facility,” and “de minimis composting exempt from regulation.”

(b) A person operating a small scale composting facility or operating a composting facility on a farm who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the Secretary of Natural Resources determines that a permit is necessary to protect public health or the environment.

(c) The Secretary of Natural Resources shall coordinate with the Secretary of Agriculture, Food and Markets in implementing and enforcing the accepted composting practices. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices. [Repealed.]

(d) The Secretary shall not regulate under this section a farm producing compost under subdivision 6001(22)(H).

Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULE

Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of Agriculture, Food and Markets shall require a person producing compost on a farm under subdivision 6001(22)(H) to comply with Sections 6–1101 through 6–1110 of the Agency of Natural Resources’ Vermont Solid Waste Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections 6-1101 through 6-1110 of the Agency of Natural Resources’ Vermont Solid Waste Management Rules shall not apply to a person producing compost on a farm under subdivision 6001(22)(H).

Sec. 8. UPDATE ON IMPLEMENTATION OF IMPORT OF FOOD RESIDUALS ONTO FARM FOR COMPOSTING

On or before January 15, 2022, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall consult and present or submit testimony to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry regarding the import of food residuals onto farms for the purpose of compost production.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)
House Proposal of Amendment

S. 240

An act relating to recruiting new remote workers and new relocating workers.

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. 2019 Acts and Resolves No. 80, Sec. 20 is amended to read:

Sec. 20. ECONOMIC DEVELOPMENT FUNDING ALLOCATIONS

The $2,000,000.00 appropriated from the General Fund for economic development initiatives in Sec. C.100(30) of H.542 (2019) shall be allocated pursuant to this section.

(1) $1,725,000.00 is allocated to the Agency of Commerce and Community Development as follows:

   (A)(i) $450,000.00 for economic development marketing:

      (I) $225,000 for economic development marketing pursuant to its authority in 3 V.S.A. § 2476(c) to execute the State’s core Economic Development Marketing Plan through paid, owned, and earned media, utilizing technology, data, and analysis tools; and

      (II) $225,000.00 to identify, recruit, and provide relocation assistance to workers, including:

         (aa) identifying target audiences;
         (bb) targeting through digital and social media; and
         (cc) implementing strategies that convert visitors to residents and awarding grants for regional partnerships to help recruitment efforts at the local and regional levels.

      (ii) Notwithstanding any provision of law to the contrary, the Agency shall have the discretion to reallocate not more than $225,000.00 of the funding allocated in this subdivision (1)(A) to provide additional incentives under the New Worker Relocation Incentive Program created in this act, the New Remote Worker Grant Program created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15, or both.

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Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.
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.

Craig Bolio of Winooski – Commissioner, Department of Taxes – By Sen. Cummings for the Committee on Finance. (01/21/20)

Michael Schirling of Burlington – Commissioner, Department of Public Safety – Sen. Mazza for the Committee on Transportation. (01/29/20)

Michael K. Smith of Westford – Secretary, Agency of Human Services – Sen. Lyons for the Committee on Health and Welfare. (02/12/02)

Sabina Brochu of Williston - Member, State Board of Education - By Sen. Ingram for the Committee on Education. (01/24/20)

Kyle Courtois of Georgia - Member, State Board of Education - By Sen. Perchlik for the Committee on Education. (01/24/20)

Margaret Tandoh of South Burlington – Member, Board of Medical Practice – By Sen. McCormack for the Committee on Health and Welfare. (02/11/20)

Holly Morehouse of Burlington – Member, Children and Family Council for Prevention Programs – By Sen. Lyons for the Committee on Health and Welfare. (02/12/20)

Susan Hayward of Middlesex – Member, Capitol Complex Commission – By Sen. Benning for the Committee on Institutions. (02/14/20)

Heather Shouldice – Member, Capitol Complex Commission – By Sen. Benning for the Committee on Institutions. (02/14/20)

Dorinne Dorfman – Member, Children and Family Council for Prevention Programs – Sen. Cummings for the Committee on Health and Welfare. (02/25/20)
Richard Bernstein of Jericho – Member, Board of Medical Practice – Sen. Ingram for the Committee on Health and Welfare. (03/10/20)

Dawn Philibert of Williston – Member, State Board of Health – Sen. Ingram for the Committee on Health and Welfare. (03/10/20)

PUBLIC HEARINGS

March 11, 2020 - 4:00 p.m. - 6:00 p.m. - Room 11 - Re: Re: Pupil weighting study - Senate Committee on Education.

March 19, 2020 - 5:00 p.m. - 7:00 p.m. - Vermont Law School Campus, Oakes 107, Royalton, VT - Re: State Code of Ethics - Senate Committee on Government Operations.

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All Senate/House bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before Friday, March 13, 2020, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by Friday March 13, 2020.

(2) All Senate/House bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before Friday, March 20, 2020, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills.