

Journal of the Senate

TUESDAY, JUNE 23, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil

Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

H. 552. An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

H. 572. An act relating to the Maternal Mortality Review Panel.

H. 688. An act relating to addressing climate change.

House Proposal of Amendment Concurred In with Amendment

S. 339.

House proposals of amendment to Senate bill entitled:

An act relating to miscellaneous changes to laws related to vehicles.

Were taken up.

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

First: By striking out Sec. 5, 23 V.S.A. § 373, and Sec. 6, 23 V.S.A. § 1222, and the corresponding reader assistance heading in their entireties and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Second: In Sec. 9, 23 V.S.A. § 671, by striking out subsection (c) in its entirety and inserting in lieu thereof

(c) The Commissioner ~~shall not~~ may suspend the license of an operator, or the right of an unlicensed person to operate a motor vehicle, while a prosecution for an offense under this title is pending against such person, ~~unless if:~~

(1) ~~he or she~~ the Commissioner finds upon full reports submitted to him or her by an enforcement officer or motor vehicle inspector that the safety of

the public will be imperiled by permitting such operator or such unlicensed person to operate a motor vehicle;² or

(2) ~~the Commissioner finds that such person operator is seeking to delay the prosecution, but if he or she so finds, he or she may suspend such license or right pending a final disposition of the prosecution.~~

Third: In Sec. 9, 23 V.S.A. § 671, by striking out subsection (g) in its entirety and relettering subsection (h) to be subsection (g).

Fourth: By inserting the following reader assistance heading before Sec. 13:

* * * Exempt Vehicle Title * * *

Fifth: By striking out Sec. 14, 23 V.S.A. § 1399, in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. 23 V.S.A. § 1399 is amended to read:

§ 1399. EXCEPTIONS FOR CONSTRUCTION AND MAINTENANCE EQUIPMENT; FIRE APPARATUS; AND HEAVY-DUTY TOW AND RECOVERY VEHICLES

(a) As used in this section, “heavy-duty tow and recovery vehicle” means a vehicle that:

(1) is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

(2) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

(b) Nothing contained in sections 1391–1398 of this title, shall restrict the weight of:

(1) ~~snow~~ Snow plows, road machines, oilers, traction engines, tractors, rollers, power shovels, dump wagons, trucks, or other construction or maintenance equipment when used by any town, incorporated village, city, or state ~~the State~~ in the construction or the maintenance of any highway, provided that such construction or maintenance is performed by persons employed by or under contract with such town, incorporated village, city, or the State for this purpose. However, any operation of motorized highway building equipment or road making appliances used in construction work contracted by a town, incorporated village, city, or the State shall be unrestricted as to weight only within a construction area.

(2) ~~Nothing contained in sections 1391-1398 of this title shall restrict the weight of municipal~~ Municipal and volunteer fire apparatus.

(3) Heavy-duty tow and recovery vehicles on the Dwight D. Eisenhower System of Interstate and Defense Highways.

Sixth: By inserting a new section to be numbered Sec. 15a to read as follows:

Sec. 15a. 23 V.S.A. § 1437 is added to read:

§ 1437. EXCEPTION FOR TOWAWAY TRAILER TRANSPORTER COMBINATION

(a) As used in this section:

(1) “Towaway trailer transporter combination” means a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers with a total weight that does not exceed 26,000 pounds and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(2) “Trailer transporter towing unit” means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

(b) Notwithstanding sections 1391–1398 of this title, a towaway trailer transporter combination may be operated on the Dwight D. Eisenhower System of Interstate and Defense Highways, those classes of qualifying Federal-aid Primary System highways as designated by the Secretary of the U.S. Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower System of Interstate and Defense Highways for a distance of one mile or less without a permit if the overall length does not exceed 82 feet unless the Vermont Secretary of Transportation finds the use of a specific highway to be unsafe.

Seventh: By striking out Sec. 26, online permitting system, and its corresponding reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Online Permitting System; Report * * *

Sec. 26. ONLINE PERMITTING SYSTEM; REPORT

(a) Centralized online permitting system.

(1) The Commissioner of Motor Vehicles is authorized to initiate the design and development of a centralized online permitting system. The online system shall provide 24-hour-a-day access to a system where a person can apply for, obtain, and pay for required weight and length permits issued by the Agency of Transportation.

(2) The Commissioner shall design the online system so that, in a future phase, municipally issued weight and length permits may be purchased and issued through the same system. The Commissioner shall consult with stakeholders to establish conditions for municipally issued permits prior to engaging in design and development for the future phase.

(b) Permit study and report.

(1) The Agency of Transportation shall facilitate a study to:

(A) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, or jurisdictional issues for class 2 town highways if municipal permits currently required by municipalities are not required for vehicles that are allowed on State highways without a permit;

(B) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways if an additional permit or permits are not required when a wrecker, as defined under 23 V.S.A. § 4(76), is towing one or more disabled vehicles and the wrecker and disabled vehicle or vehicles individually do not exceed the limitations imposed by 23 V.S.A. chapter 13, subchapter 15, article 1 or are lawfully operating under a blanket permit; and

(C) make recommendations on any limitations, including distance towed, or conditions that should be imposed if an additional permit or permits are not required in the situation identified in subdivision (B) of this subdivision (1).

(2) The Agency shall file a written report on this study with the House and Senate Committees on Transportation on or before January 15, 2021.

Eighth: By striking out Sec. 28, use of lighted paddle signaling devices, in its entirety and inserting in lieu thereof the following:

Sec. 28. USE OF LIGHTED PADDLE SIGNALING DEVICES; REPORT

(a) Pilot program. On or before September 1, 2020, the Agency of Transportation shall identify a minimum of 10 projects to pilot the use of STOP/SLOW paddle signaling devices modified to improve conspicuity by incorporating either white or red flashing lights on the STOP face and either white or yellow flashing lights on the SLOW face in one of the patterns and consistent with the standards detailed in Part 6E.03 of the Manual Uniform on Traffic Control Devices (MUTCD). The Agency shall select projects that will allow the testing of such devices in a range of projects to collect data on the effectiveness, reliability, and availability during the 2021 and 2022 construction seasons.

(b) Report. The Agency shall file a written report on the pilot program identified in subsection (a) of this section with the House and Senate Committees on Transportation on or before December 1, 2022. At a minimum, the report shall cover:

- (1) the selected projects, including location and a brief description; and
- (2) an evaluation of the effectiveness, reliability, and availability of the lighted paddle signaling devices.

Ninth: In Sec. 36, 23 V.S.A. § 1050, in subsection (a) by striking out “EMS personnel,” and inserting in lieu thereof “EMS personnel,”

Tenth: In Sec. 44, effective dates, in subsection (a) by striking out “43 (learner’s permits; 23 V.S.A. § 617(e))” and inserting in lieu thereof “42 (translated documents and use of interpreters)”

Eleventh: In Sec. 44, effective dates, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) Notwithstanding 1 V.S.A. § 214, Sec. 43 (learner’s permits; 23 V.S.A. § 617(e)) shall take effect retroactively on June 1, 2020.

(e) All other sections shall take effect on July 1, 2020.

Twelfth: In Sec. 44, effective dates, by striking out subsection (c) in its entirety and relettering the remaining subsections to be alphabetically correct.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senator Perchlik moved that the Senate concur in the House proposals of amendment with an amendment as follows:

In the *Seventh* proposal of amendment in Sec. 26, online permitting system; report, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(b) Permit study and report.

(1) The Agency of Transportation shall facilitate a study to:

(A) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, or jurisdictional issues for class 2 town highways if municipal permits currently required by municipalities are not required for vehicles that are allowed on State highways without a permit;

(B) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, if an additional permit or permits are not required when a wrecker, as defined under 23 V.S.A. § 4(76), is towing one or more disabled vehicles and the wrecker and disabled vehicle

or vehicles individually do not exceed the limitations imposed by 23 V.S.A. chapter 13, subchapter 15, article 1 or are lawfully operating under a blanket permit;

(C) make recommendations on any limitations, including distance towed, or conditions that should be imposed if an additional permit or permits are not required in the situation identified in subdivision (B) of this subdivision (1); and

(D) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, if 23 V.S.A. § 1432(c) is repealed.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Clarkson moved to amend the proposal of amendment offered by Senator Perchlik as follows:

First: In the *Seventh* proposal of amendment in Sec. 26, subdivision (b)(1)(A) after the words “any safety” by inserting the word issues

Second: In the *Seventh* proposal of amendment in Sec. 26, subdivision (b)(1)(B) after the words “any safety” by inserting the word issues

Third: In the *Seventh* proposal of amendment in Sec. 26, subdivision (b)(1)(C) after the words “any safety” by inserting the word issues

Thereupon, pending the question, Shall Senator Perchlik's proposal of amendment be amended as proposed by Senator Clarkson?, Senator McCormack requested leave to be excused from voting on S. 339 pursuant to the provision of Senate Rule 69.

Thereupon, pending the question, Senator McCormack requested and was granted leave to withdraw his request.

Thereupon, the pending question, Shall Senator Perchlik's proposal of amendment be amended as proposed by Senator Clarkson?, was disagreed to.

Thereupon, the pending question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as moved by Senator Perchlik?, was agreed to.

Bill Amended; Third Reading Ordered

S. 119.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to law enforcement training on appropriate use of force, de-escalation tactics, and cross-cultural awareness.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2368 is added to read:

§ 2368. STATEWIDE POLICY; LAW ENFORCEMENT USE OF DEADLY FORCE

(a) Definitions. As used in this section:

(1) “Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury.

(2) “Imminent threat of death or serious bodily injury” means when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the law enforcement officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

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

(4) “Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

(5) “Totality of the circumstances” means all facts known to the law enforcement officer at the time, including the conduct of the officer and the words and conduct of the subject leading up to the use of deadly force.

(b) Statewide policy.

(1) The authority to use physical force is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. Every person has a right to be free from excessive use of force by officers acting under authority of the State.

(2) Law enforcement officers may use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.

(3) The decision by a law enforcement officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by law enforcement officers, in order to ensure that officers use force consistent with law and agency policies.

(4) The decision by a law enforcement officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time.

(5) Any law enforcement officer who has reasonable cause to believe that the person to be arrested has committed a crime may use proportional force if necessary to effect the arrest, to prevent escape, or to overcome resistance.

(c) Use of deadly force.

(1) A law enforcement officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to:

(A) defend against an imminent threat of death or serious bodily injury to the officer or to another person; or

(B) apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

(2) When feasible, a law enforcement officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a law enforcement officer and to warn that deadly force may be used.

(3) A law enforcement officer shall not use deadly force against a person based on the danger that person poses to himself or herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the law enforcement officer or to another person.

(4) A law enforcement officer who makes or attempts to make an arrest need not retreat or desist from his or her efforts by reason of the resistance or threatened resistance of the person being arrested. A law enforcement officer shall not be deemed an aggressor or lose the right to self-defense by the use of proportional force if necessary in compliance with subdivision (b)(5) of this section to effect the arrest or to prevent escape or to overcome resistance. For

the purposes of this subdivision, “retreat” does not mean tactical repositioning or other de-escalation tactics.

(5) A law enforcement officer shall not use a prohibited restraint on a person for any reason. A law enforcement officer has a duty to intervene when the officer observes another officer using a prohibited restraint on a person.

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2020.

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

An act relating to a statewide use of deadly force policy for law enforcement.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered, on a roll call, Yeas 28, Nays 0.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Baruth, Benning, Bray, Brock, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Balint, Rodgers.

Bill Amended; Third Reading Ordered

S. 219.

Senator Sears, for the Committee on Appropriations, to which was referred Senate bill entitled:

An act relating to requiring law enforcement to comply with race data reporting requirements in order to receive State grant funding.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

* * *

(k) The Secretary of Administration, or the Secretary's designee, shall review all grants from an agency of the State to a local law enforcement agency or constable, and all such grants shall be subject to the approval of the Secretary or Secretary's designee. The Secretary or Secretary's designee shall approve the grant only if the law enforcement agency or constable has complied with the race data reporting requirements set forth in 20 V.S.A. § 2366(e) within six months prior to the Secretary's or designee's review.

Sec. 2. SECRETARY OF ADMINISTRATION; NOTICE TO LAW ENFORCEMENT AGENCIES

On or before July 1, 2020, the Secretary of Administration shall issue a notice to all Vermont law enforcement agencies and constables that the provisions of 33 V.S.A. § 2222(k) become effective on January 1, 2021, and that, beginning on that date, State grant funding for law enforcement shall be contingent on the agency or constable complying the requirements of 20 V.S.A. § 2366(e).

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on January 1, 2021.

(b) The remaining sections shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Judiciary, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Law Enforcement Race Data Collection * * *

Sec. 1. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

* * *

(k) The Secretary of Administration or designee shall review all grants from an agency of the State to a local law enforcement agency or constable, and all such grants shall be subject to the approval of the Secretary or designee. The Secretary or designee shall approve the grant only if the law enforcement agency or constable has complied with the race data reporting requirements set forth in 20 V.S.A. § 2366(e) within six months prior to the Secretary's or designee's review.

Sec. 2. SECRETARY OF ADMINISTRATION; NOTICE TO LAW ENFORCEMENT AGENCIES

On or before August 1, 2020, the Secretary of Administration shall issue a notice to all Vermont law enforcement agencies and constables that the provisions of 3 V.S.A. § 2222(k) become effective on January 1, 2021, and that, beginning on that date, State grant funding for law enforcement shall be contingent on the agency or constable complying with the requirements of 20 V.S.A. § 2366(e).

Sec. 3. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION

* * *

(e)(1) On or before September 1, 2014, every State, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

- (A) the age, gender, and race of the driver;
- (B) the reason for the stop;
- (C) the type of search conducted, if any;
- (D) the evidence located, if any; ~~and~~

(E) the outcome of the stop, including whether physical force was employed or threatened in effectuating the stop, and if so, the type of force employed and whether the force resulted in bodily injury or death, and whether:

- (i) a written warning was issued;
- (ii) a citation for a civil violation was issued;
- (iii) a citation or arrest for a misdemeanor or a felony occurred; or
- (iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Executive Director of Racial Equity, the Criminal Justice Training Council, and a vendor chosen by the Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to

the Executive Director of Racial Equity and the vendor chosen by the Criminal Justice Training Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable, user-friendly, and accessible to the public on the receiving agency's website. The receiving agency shall also report the data annually to the General Assembly.

(5) As used in this subsection, "physical force" shall refer to the force employed by a law enforcement officer to compel a person's compliance with the officer's instructions, including contact controls, compliance techniques, defensive tactics, and deadly force.

(f) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that policy or practice is, to the extent of the conflict, abolished.

*** Prohibited Restraints; Unprofessional Conduct ***

Sec. 4. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

§ 2401. DEFINITIONS

As used in this subchapter:

(1) "Category A conduct" means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

(i) simple assault, second offense;

(ii) domestic assault;

(iii) false reports and statements;

(iv) driving under the influence, second offense;

(v) violation of a relief from abuse order or of a condition of release;

- (vi) stalking;
- (vii) false pretenses;
- (viii) voyeurism;
- (ix) prostitution or soliciting prostitution;
- (x) distribution of a regulated substance;
- (xi) simple assault on a law enforcement officer; or
- (xii) possession of a regulated substance, second offense.

(2) “Category B conduct” means gross professional misconduct amounting to actions on duty or under ~~color of~~ authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy, ~~such as~~ and shall include:

- (A) sexual harassment involving physical contact or misuse of position;
- (B) misuse of official position for personal or economic gain;
- (C) excessive use of force under ~~color of~~ authority of the State, ~~second~~ first offense;
- (D) biased enforcement; ~~or~~
- (E) use of electronic criminal records database for personal, political, or economic gain;
- (F) placing a person in a prohibited restraint; or
- (G) failing to intervene when the officer observes another officer placing a person in a prohibited restraint or using excessive force.

* * *

(5) “Unprofessional conduct” means Category A, B, or C conduct.

* * *

(7) “Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

* * *

§ 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF CATEGORY B CONDUCT

(a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Council shall take no action, except that the Council may take action for a first offense under subdivision 2401(2)(F) (placing a person in a prohibited restraint) or 2401(2)(G) (failing to intervene when an officer observes another officer placing a person in a prohibited restraint or using excessive force) of this chapter.

* * *

Sec. 5. 13 V.S.A. § 1032 is added to read:

§ 1032. LAW ENFORCEMENT USE OF PROHIBITED RESTRAINT

(a) As used in this section:

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

(2) “Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

(3) “Serious bodily injury” shall have the same meaning as in section 1021 of this title.

(b) A law enforcement officer acting in the officer’s capacity as law enforcement who employs a prohibited restraint on a person that causes serious bodily injury to or death of the person shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

(c) Nothing in this section shall be construed to limit or restrict the availability of the justifiable homicide defense pursuant to section 2305 of this title.

* * * Body Cameras * * *

Sec. 6. 20 V.S.A. § 1818 is added to read:

§ 1818. EQUIPMENT OF OFFICERS WITH VIDEO RECORDING DEVICES

The Department shall ensure that every Department law enforcement officer who exercises law enforcement powers is equipped with a body camera or other video recording device on his or her person and that the device is

recording whenever the officer has contact with the public for law enforcement purposes.

Sec. 7. DEPARTMENT OF PUBLIC SAFETY; VIDEO RECORDING DEVICES; ONGOING COSTS

The Department of Public Safety shall immediately initiate the acquisition and deployment of video recording devices to comply with the requirements of 20 V.S.A. § 1818. The ongoing costs of the devices that cannot be accommodated within the Department's budget shall be included in the Department's FY21 budget proposal to the General Assembly in August of 2020.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Sec. 1 (powers and duties; budget and report) of this act shall take effect on January 1, 2021.

(b) Sec. 6 (equipment of officers with video recording devices) shall take effect on August 1, 2020.

(c) The remaining sections shall take effect on passage.

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

An act relating to addressing racial bias and excessive use of force by law enforcement.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, Senator Sears requested and was granted leave to withdraw the report of the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Judiciary?, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Baruth, Benning, Nitka, Sears and White moved to amend the bill as follows:

First: By inserting a Sec. A.1, legislative intent, as follows:

Sec. A.1. LEGISLATIVE INTENT

(a) This act is a continuation of the General Assembly's work over the past several years to create meaningful reforms to address systemic racism and disproportionate use of force by law enforcement. Such reforms include 2017

Act No. 54, an act relating to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel; 2018 Act No. 9, an act relating to racial equity in State government; 2013 Act No. 180, an act relating to a statewide policy on the use of and training requirements for electronic control devices; 2016 Act No. 163, an act relating to a model State policy for use of body cameras by law enforcement officers; and 2017 Act No. 56, an act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council. The ongoing effort includes the work on S.338 (2020), an act relating to justice reinvestment, a data-driven approach to improve public safety, reduce criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. Additionally, several legislative committees continue to study law enforcement policies, training standards, and discipline, including work on updating a model policy for the use of body cameras. Therefore, this act represents one step in the legislature's ongoing effort to combat racial bias and increase accountability in policing.

(b) It is the intent of the General Assembly that law enforcement agencies in Vermont use community policing strategies that develop collaborative partnerships between law enforcement and communities, adopt policies and practices that reflect a guardian mindset towards the citizens they serve, and establish a culture of transparency and accountability to promote public safety and foster public trust. To this end, it is the intent of the General Assembly that law enforcement use de-escalation strategies first and foremost before using force in every community-police interaction.

Second: In Sec. 5, 13 V.S.A. § 1032, by striking out subsection (c) in its entirety.

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 29, Nays 0.

Senator Baruth having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Rodgers.

Proposal of Amendment; Third Reading Ordered

H. 955.

Senator Benning, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to capital construction and State bonding budget adjustment.

Reported recommending that the Senate propose to the House 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. 42, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2020:

* * *

(7) Montpelier, State House, new drapes and carpeting or carpeting repair in the Governor's ceremonial office and the vestibule near the Governor's ceremonial office, the Hall of Flags, the Cedar Creek Room, the Senate Secretary's Office, and the carpeting or carpeting repair in the Card Room:

\$45,000.00

* * *

(c) The following sums are appropriated in FY 2021:

* * *

(4) Statewide, planning, use, and contingency: ~~\$500,000.00~~ \$529,077.00

(5) Burlington, 108 Cherry Street, parking garage repairs:
~~\$7,500,000.00~~ \$7,400,000.00

(6) Montpelier, State House, ~~historical restorations~~ new drapes and carpeting or carpeting repair in the Governor's ceremonial office or in the vestibule near the Governor's ceremonial office, the Hall of Flags, Senate Secretary's Office, and carpeting or carpeting repair in the Card Room:

\$75,000.00

* * *

(11) Montpelier, State House, HVAC, planning and design to address air quality and mold issues: \$500,000.00

(12) Newport, Orleans County Courthouse, replacement, site acquisition, planning, and design for a stand-alone courthouse with no retail space: 1,500,000.00

(13) Windsor, costs to renovate space at the former Southeast State Correctional Facility associated with the relocation of the Department of Fish and Wildlife and the Department of Forests, Parks and Recreation from the Springfield State Office Building: \$700,000.00

(14) Statewide, installation of electric vehicle charging facilities in State-owned parking lots under the jurisdiction of the Department of Buildings and General Services: 75,000.00

(15) State House, cafeteria renovation for a flexible meeting room: \$57,000.00

(d)(1) For the amount appropriated in subdivision (b)(4) of this section, the Commissioner of Buildings and General Services is authorized to use up to \$200,000.00 to ~~assess relative costs and resource requirements for potential construction of a correctional facility that ranges in scale~~ issue a request for proposal to hire a consultant to analyze different state-of-the-art correctional facility models in order to accommodate the results of the Council of State Governments' study described in Sec. 28 of this act; provided, however, that the funds shall only become available after approval by the Joint Fiscal Committee and the Joint Legislative Justice Oversight Committee. If the cost of the analysis exceeds \$200,000.00, the Commissioner is authorized to use the amounts appropriated in subdivisions (b)(4) and (c)(4) of this section to cover the additional cost.

(2) On or before ~~March 15, 2020~~ January 1, 2021, the Commissioner shall submit a copy of the ~~assessment~~ analysis described in subdivision (1) of this subsection to the House Committee on Corrections and Institutions and the Senate Committee on Institutions. Beginning on July 1, 2020, the Commissioner of Buildings and General Services and the Commissioner of Corrections shall provide monthly updates on the status of the analysis to the Joint Legislative Justice Oversight Committee.

(e) It is the intent of the General Assembly that the Commissioner of Buildings and General Services shall look at other State uses for storage of State-owned equipment and whether the former Southeast State Correctional Facility would be an appropriate place for storage.

Appropriation – FY 2020

\$20,323,423.00

Appropriation – FY 2021	\$21,325,813.00	<u>\$24,086,890.00</u>
Total Appropriation – Section 2	\$41,649,236.00	<u>\$44,410,313.00</u>

Sec. 2. 2019 Acts and Resolves No. 42, Sec. 3 is amended to read:

Sec. 3. HUMAN SERVICES

* * *

(c) The following sums are appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

* * *

(4) Brattleboro, Brattleboro Retreat, level 1 bed project construction:
\$1,500,000.00

(5) Windsor and St. Johnsbury, site preparation, relocation and rebuild of a greenhouse at the Caledonia County Workcamp from the former Southeast State Correctional Facility, with the use of inmate labor for the rebuild of the greenhouse, where appropriate:
\$200,000.00

* * *

(d) The sum of ~~\$3,900,000.00~~ \$4,500,000.00 is appropriated in FY 2021 to the Agency of Human Services for the Department of Vermont Health Access, Integrated Eligibility and Enrollment system.

* * *

(f) The Commissioner of Buildings and General Services, in consultation with the Commissioner of Corrections, may use the amount appropriated in subdivision (c)(5) of this section to build a new greenhouse at the Caledonia Work Camp if a new build is more cost-effective than the relocation of the greenhouse from the former Southeast State Correctional Facility. Where appropriate, inmate labor may be used for the new build of a greenhouse.

Appropriation – FY 2020	\$8,828,000.00	<u>\$8,100,000.00</u>
Appropriation – FY 2021	\$5,875,000.00	<u>\$8,175,000.00</u>
Total Appropriation – Section 3		<u>\$14,703,000.00</u>
		<u>\$16,275,000.00</u>

Sec. 3. 2019 Acts and Resolves No. 42, Sec. 5 is amended to read:

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

* * *

~~(c) The sum of \$250,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at statewide historic sites.~~

(d) The following sums are appropriated in FY 2021 to the Agency of Commerce and Community Development for the following projects described in this subsection:

- (1) Underwater preserves: \$25,000.00
- (2) Placement and replacement of roadside historic markers: \$25,000.00
- (3) Highgate Native American Cemetery, slope stabilization, Monument Road: \$100,000.00
- (4) Major maintenance at statewide historic sites: \$250,000.00

~~(e)(d) The funds shall become available after the Agency notifies the Department that the remaining funds to complete the project have been secured. The Agency shall not use the amount appropriated in subdivision (c)(1) of this section for any new underwater preserve projects. It is the intent of the General Assembly that no future capital funding shall be made available for new underwater preserve projects.~~

* * *

Appropriation – FY 2020	\$487,500.00
Appropriation – FY 2021	\$300,000.00 <u>\$400,000.00</u>
Total Appropriation – Section 5	\$787,500.00 <u>\$887,500.00</u>

Sec. 4. 2019 Acts and Resolves No. 42, Sec. 8 is amended to read:

Sec. 8. UNIVERSITY OF VERMONT

(a) The sum of \$1,300,000.00 is appropriated in FY 2020 to the University of Vermont for construction, renovation, and major maintenance at any facility owned or operated in the State by the University of Vermont.

(b) The sum of \$1,000,000.00 is appropriated in FY 2021 to the University of Vermont for the projects described in subsection (a) of this section.

* * *

Sec. 5. 2019 Acts and Resolves No. 42, Sec. 9 is amended to read:

Sec. 9. VERMONT STATE COLLEGES

(a) The sum of \$2,100,000.00 is appropriated in FY 2020 to the Vermont State Colleges for construction, renovation, and major maintenance at any

facility owned or operated in the State by the Vermont State Colleges.

(b) The sum of \$2,000,000.00 is appropriated in FY 2021 to the Vermont State Colleges for the projects described in subsection (a) of this section.

* * *

Sec. 6. 2019 Acts and Resolves No. 42, Sec. 10 is amended to read:

Sec. 10. NATURAL RESOURCES

* * *

(f) The following sums are appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

* * *

(2) Dam safety and hydrology projects: ~~\$895,000.00~~ \$916,138.00

(3) Engineering and construction grants related to improvements for public water systems with confirmed concentrations of PFAS exceeding 20 nanograms per liter and on a do-not-drink notice: \$550,000.00

* * *

(i)(1) Notwithstanding 24 V.S.A. § 4753(a)(9), it is the intent of the General Assembly that the reallocation in Sec. 13 of this act, amending 2019 Acts and Resolves No. 42, Sec. 20(h), the amount of \$130,000.00 from the Vermont Drinking Water Revolving Loan be used to support the appropriation in subdivision (f)(3) of this section.

(2) For the amount appropriated in subdivision (f)(3) of this section, the Agency shall use \$50,000.00 for grants to reimburse any schools that operate public water systems with confirmed concentrations of PFAS exceeding 20 nanograms per liter and on a do-not-drink notice for their costs of providing bottled or bulk water.

(3) Any recovery or repayment of funds appropriated by subdivision (f)(3) of this section from a person responsible for the contamination of a public water system receiving those funds shall be used for future capital construction acts.

Appropriation – FY 2020	\$9,025,807.00 <u>\$8,975,807.00</u>
Appropriation – FY 2021	\$7,341,400.00 <u>\$7,912,538.00</u>
Total Appropriation – Section 10	\$16,367,207.00 <u>\$16,888,345.00</u>

Sec. 7. 2019 Acts and Resolves No. 42, Sec. 11 is amended to read:

Sec. 11. CLEAN WATER INITIATIVES

* * *

(h) The sum of \$4,294,503.00 is appropriated in FY 2021 to the Agency of Agriculture, Food and Markets for water quality grants and contracts.

(i) The following sums are appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) Water Pollution Control Fund, Clean Water/EPA Revolving Loan Fund (CWSRF) match: \$1,605,497.00

(2) Municipal Pollution Control Grants, pollution control projects, and planning advances for feasibility studies: \$3,300,000.00

(j) The sum of \$1,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for best management practices at State-owned forest and recreational access points.

(k)(1) The following sums are appropriated in FY 2021 to the Vermont Housing and Conservation Board for the following projects:

(A) Agricultural water quality projects: \$1,100,000.00

(B) Land conservation and water quality projects: \$1,700,000.00

(2) A grant issued under subdivision (1)(A) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost share requirements.

Appropriation – FY 2020 \$12,100,000.00

Appropriation – FY 2021 \$13,900,000.00

Total Appropriation – Section 11 \$26,000,000.00

Sec. 8. 2019 Acts and Resolves No. 42, Sec. 12 is amended to read:

Sec. 12. MILITARY

(a) The sum of \$700,000.00 is appropriated in FY 2020 to the Department of Military for maintenance and renovations at State armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The sum of ~~\$800,000.00~~ \$1,420,000.00 is appropriated in FY 2021 to the Department of Military for the projects described in subsection (a) of this section.

Appropriation – FY 2020		\$700,000.00
Appropriation – FY 2021	\$800,000.00	<u>\$1,420,000.00</u>
Total Appropriation – Section 12	\$1,500,000.00	<u>\$2,120,000.00</u>

Sec. 9. 2019 Acts and Resolves No. 42, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

* * *

(d) The sum of \$2,000,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for renovation costs associated with the relocation of a replacement for the Middlesex Field Station to the former Department of Libraries building in Berlin.

Appropriation – FY 2020		\$2,200,000.00
Appropriation – FY 2021	\$5,400,000.00	<u>\$7,400,000.00</u>
Appropriation – Section 13	\$7,600,000.00	<u>\$9,600,000.00</u>

Sec. 10. 2019 Acts and Resolves No. 42, Sec. 14 is amended to read:

Sec. 14. AGRICULTURE, FOOD AND MARKETS

* * *

(c) The sum of ~~\$200,000.00~~ \$280,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance at the Vermont building of the Eastern States Exposition.

Appropriation – FY 2020		\$300,000.00
Appropriation – FY 2021	\$200,000.00	<u>\$280,000.00</u>
Total Appropriation – Section 14	\$500,000.00	<u>\$580,000.00</u>

Sec. 11. 2019 Acts and Resolves No. 42, Sec. 18 is amended to read:

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,800,000.00 is appropriated in FY 2020 to the Vermont Housing and Conservation Board for housing projects.

(b) The sum of ~~\$1,800,000.00~~ \$3,800,000.00 is appropriated in FY 2021 to the Vermont Housing and Conservation Board for ~~the project described in subsection (a) of this section~~ housing and conservation projects.

Appropriation – FY 2020		\$1,800,000.00
Appropriation – FY 2021	\$1,800,000.00	<u>\$3,800,000.00</u>
Total Appropriation – Section 18	\$3,600,000.00	<u>\$5,600,000.00</u>

Sec. 12. AGENCY OF TRANSPORTATION

(a) The sum of \$50,000.00 is appropriated in FY 2020 to the Agency of Transportation for the Lamoille Valley Rail Trail.

(b) The following sums are appropriated in FY 2021 to the Agency of Transportation for the following projects:

(1) Lamoille Valley Rail Trail: \$2,830,000.00

(2) Electric Vehicle Equipment (EVSE) Grant Program: \$750,000.00

(c) For the amount appropriated in subdivision (b)(1) of this section, if matching federal funds are not available or if federal funds do not require a state match, the funds shall be used for projects in a future capital construction act.

(d) On or before January 15, 2021, the Commissioner of Forests, Parks and Recreation, in consultation with the Secretary of Administration, shall develop and submit a plan to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on whether the Lamoille Valley Rail Trail may be developed into a linear State park.

(e) The Secretary of Transportation and the Commissioner of Forests, Parks and Recreation shall develop a memorandum of understanding (MOU) regarding the ongoing maintenance of the Lamoille Valley Rail Trail. On or before January 15, 2021, and prior to execution, the Secretary and Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with a draft of the MOU and an implementation plan for the MOU.

<u>Appropriation – FY 2020</u>		<u>\$50,000.00</u>
<u>Appropriation – FY 2021</u>		<u>\$3,580,000.00</u>
<u>Total Appropriation – Section 12</u>		<u>\$3,630,000.00</u>

* * * Financing this Act * * *

Sec. 13. 2019 Acts and Resolves No. 42, Sec. 20 is amended to read:

Sec. 20. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated in 2017 2016 Acts and Resolves No. 160, Sec. 13(c) (Waterbury State Office Complex): \$33,404.00

(2) of the amount appropriated in 2017 2016 Acts and Resolves No. 160, Sec. 5(d)(2) (Barre courthouse study): \$10,076.40

(3) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(b)(11) (109 and 111 State Street, final design and construction): \$104,244.77

(4) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(c)(6), as amended by 2018 Acts and Resolves No. 190, Sec. 1 (120 State Street, life safety and infrastructure improvements): \$456,308.11

(5) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(c)(10), as amended by 2018 Acts and Resolves No. 190, Sec. 1 (109 and 111 State Street, final design and construction): \$495,755.23

(b)(1) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 8(a)(2) (school construction) to the Agency of Education, the amount of \$1,225,076.00 in unexpended funds reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

(2) Of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 7 (emergency aid for school construction), the amount of \$37,264.89 in unexpended funds is reallocated to defray expenditures authorized in this act.

(3) Of the amount appropriated in 2018 Acts and Resolves No. 42, Sec. 7(a) (emergency aid for school construction), the amount of \$49,382.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(c)(1) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(b)(3) (Unmarked Burial Fund) to the Agency of Commerce and Community Development, the amount of \$29,849.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(2) Of the amount appropriated in 2018 Acts and Resolves No. 190, Sec. 5(d)(4) (Civil War Heritage Trail Sign) to the Agency of Commerce and Community Development, the amount of \$29,948.00 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

* * *

(e) Of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 6(a)(8) (Agricultural Fairs Capital Projects Competitive Grant Program) to the Agency of Agriculture, Food and Markets, the amount of \$18,696.00 in

unexpended funds is reallocated to defray expenditures authorized in this act.

(f) Of the amount appropriated in 2018 Acts and Resolves No. 190, Sec. 3(b)(3) (Essex, Woodside Juvenile Rehabilitation Center, design and construction documents) to the Agency of Human Services, the amount of \$499,139.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(g) Of the amount appropriated in 2009 Acts and Resolves No. 43, Sec. 9(d) (Montpelier Flood Control) to the Agency of Natural Resources, the amount of \$21,137.83 in unexpended funds is reallocated to defray expenditures authorized in this act.

(h) Of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 13(b) (School Safety and Security Grant Program) to the Department of Public Safety, the amount of \$25,000.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(i) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 16 (electronic medical records) to the Vermont Veterans' Home, the amount of \$497,483.00 in unexpended funds is reallocated to defray expenditures in this act.

(j) Of the amount appropriated in 2012 Acts and Resolves No. 104, Sec. 8, amending 2011 Acts and Resolves No. 40, Sec. 12 (Vermont Drinking Water Revolving Loan Fund), the amount of \$130,000.00 in unexpended funds is reallocated to defray expenditures in this act.

(k) Of the amount appropriated in 2018 Acts and Resolves No. 84, Sec. 6(a)(3) (Cultural Facilities Grant Program) to the Vermont Arts Council, the amount of \$8,500.00, and the of the amount appropriated in 2018 Acts and Resolves No. 84, Sec. (6)(b)(3) to the Vermont Arts Council, the amount of \$5,000.00 in unexpended funds are reallocated to defray expenditures in this act.

(l) Of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 15 (State House security), the amount of \$94.67 in unexpended funds is reallocated to defray expenditures in this act.

Total Reallocations and Transfers – Section 20 ~~\$1,375,341.06~~ \$2, 377,854.50

Sec. 14. GENERAL OBLIGATION BONDS AND APPROPRIATIONS;
FY 2021

The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$11,634,361.55 that were previously authorized but unissued under 2019 Acts and Resolves No. 42 for the purpose of funding the appropriations in this act.

Total Revenues – Section 14

\$11,634,361.55

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 15. SALE OF ENOSBURG ARMORY

Notwithstanding 20 V.S.A. § 542 or any other provision of law to the contrary, on or before December 31, 2020, the Board of Armory Commissioners is authorized to sell the Enosburg Armory building located at 134 Pearl Street in Enosburg Falls to the Town of Enosburgh for below fair market value, provided that the building is for municipal purposes only. If the Town of Enosburgh no longer uses the building for municipal purposes, the State shall have the right of first refusal.

Sec. 16. 2018 Acts and Resolves No. 190, Sec. 1, amending 2017 Acts and Resolves No. 84, Sec. 2(17), is further amended to read:

(17) Waterbury, Waterbury State Office Complex, Stanley and Wasson, demolition of Stanley Hall, ~~and programming, schematic design, and design development for Wasson Hall:~~ \$950,000.00

Sec. 17. 29 V.S.A. § 157 is amended to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The Commissioner of Buildings and General Services shall:

(1) ~~Maintain~~ maintain the condition of buildings and infrastructure under the Commissioner's jurisdiction to provide a safe and healthy environment through sustainable practices and judicious capital renewal;

(2) ~~Conduct~~ conduct a facilities condition analysis each year of 20 percent of the building area and infrastructure under the Commissioner's jurisdiction so that within five years all property is assessed. ~~At the end of the five years, the process shall begin again. The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption; and~~

(3) conduct investment grade energy audits to develop a pipeline of energy efficiency and conservation measures to be implemented through the State Energy Management Program or during construction projects.

(b) The Commissioner may use up to ~~two~~ four percent of the funds appropriated to the Department of Buildings and General Services for major maintenance and planning for the purpose described in subsection (a) of this section.

Sec. 18. 29 V.S.A. § 166 is amended to read:

§ 166. SELLING OR RENTING STATE PROPERTY

* * *

(b) Upon authorization by the General Assembly, which may be granted by resolution, and with the advice and consent of the Governor, the Commissioner of Buildings and General Services may sell real estate owned by the State. Such property shall be sold to the highest bidder therefor at public auction or upon sealed bids in the discretion of the Commissioner of Buildings and General Services, who may reject any or all bids. Notice of the sale or a request for sealed bids shall be posted in at least three public places in the town where the property is located and also published three times in a newspaper having a known circulation in the town, the last publication to be not less than 10 days before the date of sale or opening of the bids. Failing to consummate a sale under the method prescribed in this section, the Commissioner of Buildings and General Services is authorized to list the sale of this property with a real estate agent licensed by the State of Vermont. This subsection shall not apply to ~~exchanges of lands~~ the sale, conveyance, exchange, or lease of lands or interests in lands; to the amendment of deeds, leases, and easements; or to sales of timber made in accordance with the provisions of 10 V.S.A. chapter 55 ~~or to the sale of land or interests in land made in accordance with 155~~ or the provisions of 10 V.S.A. chapter 83.

* * *

Sec. 19. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. E.113.1, 2017 Acts and Resolves No. 84, Sec. 29, 2018 Acts and Resolves No. 190, Sec. 18, and 2019 Acts and Resolves No. 42, Sec. 25, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2020~~ July 1, 2021.

Sec. 20. OFFICE RELOCATION; LEGISLATIVE STAFF

Notwithstanding 29 V.S.A. § 165, the Commissioner of Buildings and General Services shall require approval from the Joint Legislative Management Committee for any proposals to relocate space used by the Legislative Branch. The Joint Legislative Management Committee shall consult with the Chair of the House Committee on Corrections and Institutions and the Chair of the Senate Committee on Institutions prior to granting approval.

Sec. 21. 2019 Acts and Resolves No. 42, Sec. 22 is amended to read:

Sec. 22. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

(b)(1) The Commissioner of Buildings and General Services is authorized to transfer ~~a 20-by-20-foot parcel~~ two contiguous tracts of land totaling approximately 3,152 square feet located on the Monocacy National Battlefield Park located at 5201 Urbana Pike, Frederick, Maryland, to the United States National Park Service.

* * *

Sec. 22. NAMING STATE BUILDING AND FACILITIES; REPORT
CAPITOL COMPLEX COMMISSION; DEPARTMENT OF
LIBRARIES

(a) Intent. It is the intent of the General Assembly to establish a plan for naming State buildings and facilities in the Capitol Complex in Montpelier and Statewide.

(b) Capitol Complex Commission. On or before January 15, 2021, the Capitol Complex Commission shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with recommendations for a process to name State buildings and facilities in the Capitol Complex, as defined in 29 V.S.A. § 182.

(c) Department of Libraries. On or before January 15, 2021, the Department of Libraries shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with recommendations for a process to name all State buildings and facilities, except for buildings and facilities located in the Capitol Complex, as defined in 29 V.S.A. § 182.

* * * COVID-19 Emergency * * *

Sec. 23. COVID-19 EMERGENCY RESPONSE; REALLOCATIONS

(a) Intent. In response to the unprecedented challenges posed by the COVID-19 pandemic, the General Assembly acknowledges that continued funding of capital projects and infrastructure will help boost our local economy and support the health and welfare of Vermonters. Accordingly, it is the intent of the General Assembly that the projects funded in this capital construction act will serve to support and help drive growth in Vermont's economy during this uncertain time.

(b) Reallocation authority. Notwithstanding 29 V.S.A. § 152(a)(20) and (a)(25) nor any other provision of law, the Emergency Board, in consultation

with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, is authorized to reallocate any project balances from any capital construction acts for any capital expenditures associated with the COVID-19 emergency response.

(c) Report. On or before August 15, 2020, the Commissioner of Finance and Management, in consultation with the Joint Fiscal Office and the Office of Legislative Council, shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions, with a review of all capital expenditures associated with the COVID-19 emergency response, an assessment of whether CARES Act funding may be used to address any capital expenditures, whether any other federal funds are available to meet those needs, and an assessment of any General Fund need that may qualify as a capital expenditure.

* * * Education * * *

Sec. 24. 2016 Acts and Resolves No. 93, Sec. 4 is amended to read:

Sec. 4. EFFECTIVE DATES

* * *

(b) Sec. 3 of this act shall take effect on ~~July 1, 2020~~ July 1, 2022.

* * * Electric Vehicles * * *

Sec. 25. FUNDING FOR ELECTRIC VEHICLE SUPPLY EQUIPMENT

(a) The Agency of Transportation shall establish and administer, through a memorandum of understanding with the Department of Housing and Community Development, a program to support the continued buildout of electric vehicle supply equipment available to the public and build upon the existing VW EVSE Grant Program that the Department of Housing and Community Development has been administering on behalf of the Department of Environmental Conservation.

(b) The Agency is authorized to spend up to \$750,000.00, as appropriated in Sec. 12 of this act, on the Program established in this section in fiscal year 2021. This funding shall initially be used to support grants for the construction and operation of direct current (DC) fast-charging stations strategically located to fill gaps in the State's highway corridor fast-charging network. Any remaining funds may be used to support strategically located level 2 workplace charging.

(c) Grant recipients shall disclose a fee schedule to the Department of Housing and Community Development demonstrating a required user fee for electric vehicle charging that accounts for expenses associated with the

equipment, including but not limited to electricity costs.

(d) The Department of Housing and Community Development shall consult with an interagency team consisting of the Commissioner of Housing and Community Development or designee, the Commissioner of Environmental Conservation or designee, the Commissioner of Health or designee, the Commissioner of Public Service or designee, and the Agency's Division Director of Policy, Planning, and Intermodal Development or designee on all major decisions regarding the administration of this Program.

Sec. 26. ELECTRIC VEHICLE CHARGING STATIONS; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; FEE

Pursuant to 32 V.S.A. § 604, the Department of Buildings and General Services shall charge a fee for consumption of power associated with electric vehicle supply equipment under the jurisdiction of the Department of Buildings and General Services when the electric vehicle supply equipment is available to the public and capable of charging a fee.

* * * Human Services * * *

Sec. 27. BRATTLEBORO RETREAT

(a) For the amount appropriated in Sec. 2 of this act, amending 2019 Acts and Resolves No. 42, Sec. 3(c)(4), the Brattleboro Retreat must comply with the following provisions:

(1) The Retreat shall deliver to the Agency of Human Services monthly reports covering financial performance upon passage of this bill. All financial reports shall be delivered by the end of the month for the previous month's fiscal performance period. Financial reports shall include the following:

(A) income statement, with narrative;

(B) balance sheet, with narrative;

(C) cash flow statement, with narrative;

(D) accounts payable update and summary, with narrative;

(E) accounts receivable update and summary, with narrative; and

(F) a copy of the standard monthly financial package that is provided to the Finance Committee of the Board of Trustees.

(2) The Retreat shall follow best practices outlined in the March 2020 Best Practices Memorandum and ensure compliance with Medicaid billing practices and provider enrollment.

(3) The Retreat shall keep the Agency advised of any event or occurrence that materially impacts its financial stability, performance, staffing

service delivery capacity, or viability.

(4) The Retreat shall provide information to the Department of Mental Health necessary for its statutory oversight responsibilities.

(5) The Retreat shall work with the Department of Mental Health to develop an initial strategic plan for the long-term reuse of the renovated facilities to meet future system of care needs.

(6) The Retreat shall provide the State access to the 12 level-1 beds, constructed pursuant to 2018 Acts and Resolves No. 190, Sec. 2, for a period determined by the Secretary of Human Services to be in the best interests of the State.

(7) The Retreat shall adhere to the terms and conditions of the contract with the Department of Mental Health for the operation of the 12 level-1 beds constructed pursuant to 2018 Acts and Resolves No. 190, Sec. 2.

(b) The Brattleboro Retreat, the Agency of Human Services, and the Department of Buildings and General Services shall provide a report at the July and September Joint Fiscal Committee meetings that includes the following information:

(1) the Retreat financial reports, including income statement, balance sheet, and cash flow projections;

(2) the status of the 12 level-1 beds, constructed pursuant to 2018 Acts and Resolves No. 190, Sec. 2, including anticipated opening date and cost estimates to complete;

(3) an update on the development of a long-term strategic plan that analyzes current and future needs of the service delivery priorities and role of the Retreat in Vermont's mental health system of care; and

(4) an update on the strategic plan for the long-term reuse of the renovated facility to meet future system of care needs.

Sec. 28. 2019 Acts and Resolves No. 42, Sec. 31 is amended to read:

Sec. 31. DEPARTMENT OF DISABILITIES, AGING, AND
INDEPENDENT LIVING; RULEMAKING

The Department of Disabilities, Aging, and Independent Living shall amend its rules, pursuant to 3 V.S.A. chapter 25, pertaining to therapeutic community residences to allow secure residential recovery facilities to utilize emergency involuntary procedures so that those amended rules are finally adopted on or before ~~June 1, 2020~~ June 1, 2021, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c). These rules shall be identical to the rules adopted by the Department of Mental

Health that govern the use of emergency involuntary procedures in psychiatric inpatient units.

* * * Natural Resources * * *

Sec. 29. 10 V.S.A. § 1283a is added to read:

§ 1283a. CONTAMINANTS OF EMERGING CONCERN SPECIAL FUND

(a) The Contaminants of Emerging Concern Special Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 to provide grants to public water systems responding to or remediating emerging contaminants in a public water supply. The Secretary of Natural Resources shall administer the Fund and may make disbursements from the Fund for the following costs:

(1) investigation of an actual or threatened impact to or contamination of natural resources or public assets presented by an emerging contaminant;

(2) reimbursement to any person for:

(A) expenditures made to provide alternative water supplies or to take other emergency measures deemed necessary by the Secretary to protect human health from emerging contaminants; or

(B) expenditures by a public asset to pay for the treatment or disposal of an emerging contaminant;

(3) payment of the costs of oversight or conducting assessment of a natural resource where injury has resulted or is likely to result from of an emerging contaminant; or

(4) payment of the costs of oversight or conducting restoration, replacement, or rehabilitation of a natural resource injured by an emerging contaminant.

(b) The Secretary may bring an action under this section or other available State and federal laws to enforce the obligation to repay the Fund.

(c) As used in this section:

(1) "Emerging contaminant" means:

(A) a hazardous material as defined in subdivision 6602(16) of this title;

(B) any constituent for which the Department of Health has established a health advisory; or

(C) any constituent that the Secretary determines is an imminent and substantial endangerment to human health, natural resources, or public assets.

(2) “Natural resources” means fish, wildlife, biota, air, surface water, groundwater, wetlands, drinking water supplies, or State-held public lands.

(3) “Public asset” means:

(A) any wastewater treatment facility permitted under chapter 47 of this title;

(B) any public water system or noncommunity system permitted under chapter 56 of this title;

(C) any potable water supply permitted under chapter 64 of this title;
or

(D) any facility for the disposal of solid waste permitted under chapter 159, provided that the facility did not know that the waste was an emerging contaminant at the time of disposal.

(4) “Secretary” shall mean Secretary of Natural Resources.

(d) Nothing in this section shall be construed to preclude, supplant, or limit any other statutory or common-law rights or remedies.

* * * Effective Date * * *

Sec. 30. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Institutions?, Senator Balint requested and was granted leave to be excused from voting on H. 955 pursuant to the provisions of Senate Rule 69.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Institutions?, Senators Hardy, Balint, Clarkson, Ingram and McCormack moved to amend the proposal of amendment of the Committee on Institutions by striking out Sec. 30 and its reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * State House * * *

Sec. 30. 2 V.S.A. § 651 is amended to read:

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

(a) The Legislative Advisory Committee on the State House is created.

* * *

(d) The Committee shall meet at the State House at least one time ~~during the months of July and December~~ when the General Assembly is in session and at least one time when the General Assembly is not in session or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

(e) The Committee shall have the assistance of the Office of Legislative Council.

Sec. 31. 2 V.S.A. § 653 is amended to read:

§ 653. FUNCTIONS

(a)(1) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(2) The Legislative Advisory Committee on the State House shall develop a plan for the acquisition or commission of artwork for the State House collection that represents Vermont's diverse people and history, including diversity of gender, race, ethnicity, sexuality, and disability status.

* * *

Sec. 32. STATE HOUSE ARTWORK AND PORTRAIT PROJECT;
LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE; REPORT

(a) Intent. It is the intent of the General Assembly:

(1) to expand the State House artwork and portrait collection to represent the diverse stories of those who have significantly contributed to Vermont's history;

(2) to give special consideration to the State House as a place of employment for a diverse workforce and as an institution of public education for students and members of the general public; and

(3) that the State have a policy of including diverse leadership stories that reflect all of Vermont's history when acquiring or commissioning artistic representations for the State House art collection.

(b) Policy. It is the policy of the General Assembly that the State House art collection shall reflect:

(1) those who have served as leaders and have significantly contributed to the history of Vermont;

(2) those whose service relates to the State or the Abenaki Nation, the civil rights of Vermonters, the legislative process, or the operation of the State House;

(3) stories of significance to a community, a tribe, or historical moments that demonstrate the diverse nature of Vermont's people and history; or

(4) the natural landscapes and environmental features of the State of Vermont.

(c) Plan. Pursuant to 2 V.S.A. § 653, the Legislative Advisory Committee on the State House, in consultation with the State Curator, shall develop a plan for the acquisition or commission of artwork for the State House collection that incorporates the intent and policies described in subsections (a) and (b) of this section.

(d) Recommendations. The Committee, in consultation with the public and relevant experts, including Vermont historians, artists, and diverse community leaders, shall research and recommend significant historical Vermont leadership stories that warrant artistic inclusion in the State House art collection using the intent and policies described in subsections (a) and (b) of this section.

(e) Report. On or before March 1, 2021, the Committee shall submit a written report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the plan and recommendations described in this section and any recommendations for legislative action.

Sec. 33. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, and tours; and

(3) acquisition, management, and care of State collections of art and historic furnishings, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a).

(c) Acquisition policy. In coordination with the Legislative Advisory Committee on the State House, and in accordance with the plan developed pursuant to 2 V.S.A. § 653, the State Curator shall adopt an acquisition policy that ensures that the acquisition of art for the State House reflects a diversity of artistic media and artists, the natural history of the State, and the diversity of the people and stories of Vermont throughout the history of the State.

(d) Interpretive plan. In coordination with the Friends of the Vermont State House and the Vermont Historical Society, the State Curator shall create an interpretive plan that tells the stories of the State House art collection through accessible written, multimedia, and oral means. The plan shall include appropriate and inclusive training of State House volunteers and staff.

* * * Effective Date * * *

Sec. 34. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Institutions, as amended, was agreed to and third reading of the bill was ordered.

Rules Suspended; Bill Messaged

On motion of Senator Ashe, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

S. 339.

Adjournment

On motion of Senator Ashe, the Senate adjourned until Noon on Wednesday, June 23, 2020.