

# Journal of the Senate

WEDNESDAY, SEPTEMBER 16, 2020

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend and Senator Deborah J. Ingram of Chittenden District.

## 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 John S. Rodgers 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

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

### Message from the House No. 76

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on September 15, 2020, he returned without signature and vetoed a bill originating in the House of the following title:

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

#### **Text of Communication from Governor**

The text of the communication to the House from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 688** to the House is as follows:

“September 15, 2020

The Honorable William M. MaGill  
Clerk of the Vermont House of Representatives  
State House  
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.688, *An act relating to addressing climate change*, commonly referred to as the “Global Warming Solutions Act” (GWSA), without my signature because of my objections described herein:

As passed, this legislation simply does not propose, or create a sustainable framework for, long-term mitigation and adaptation solutions to address climate change. As noted in my August 12 letter to Speaker Johnson, Senate President Pro Tem Ashe, and Committee Chairs Briglin and Bray, I share the Legislature’s commitment to reducing greenhouse gas emissions and

enhancing the resilience of Vermont's infrastructure and landscape in the face of a changing climate. In that same letter, I outlined three specific concerns with this bill and resubmitted changes to address these concerns and create a path forward.

To reiterate what I have shared publicly, and my Administration has shared with the Committees of Jurisdiction and Legislative Leadership, the three primary areas of concern that I have with H.688 are as follows:

1. the creation of a cause of action which could lead to costly litigation and delay, instead of putting forward tangible solutions and actions we can take now;
2. the structure and charge of the Vermont Climate Council (Council) presents an unconstitutional separation of powers issue; and
3. the absence of a process ensuring the Legislature would formally vote on the Vermont Climate Action Plan (Plan) promulgated by an unelected, unaccountable Council.

This, put simply, is poorly crafted legislation that would lead to bad government and expensive delays and lawsuits that would impair – not support – our emissions reductions goals. And it is unconstitutional – with the Legislature ignoring its duty to craft policy and enact actual global warming solutions on one hand and unconstitutionally usurping the Executive Branch role to execute the laws on the other. Unlike other boards and commissions, this Council would be constructed in a way that allows them to require action without the consensus or participation of the Executive Branch. Not just a majority, but a quorum of the body is composed of Legislative appointees and the Executive Branch rulemaking function, which “shall” be performed under the “guidance” of the Council, is relegated to a ministerial act to codify the Council's Plan. The Council's Plan would not need to be passed by both houses of the Legislature, nor presented to the Governor for approval.

I have also consistently, and repeatedly, noted that our recent work on a comprehensive clean water plan is a proven model. The most valuable lesson of our clean water approach is that, with careful work, tied to specific outcomes, we can develop, fund, and implement a plan that has *both* positive economic and environmental results. H.688 does not follow this model.

More specifically, our work on clean water included carefully inventorying what we were already doing, identifying where gaps existed and what needs to be done, honestly estimating costs, and putting in place a funding strategy that we can demonstrate is both affordable and sustainable for Vermonters.

We should use this model for climate change work from the start – not after costly litigation. Because, while our recent clean water work has been a

success, the fact is it took nearly two decades to reach this point with early attempts delayed by expensive and unnecessary litigation and the uncertainty those suits created.

H.688 as passed puts us on the same costly path the clean water work followed from 2002 to 2016, rather than the productive work that followed. And to what end? To send the state back to the drawing board. Again, no solutions. We simply do not have time for this sort of delay, or taxpayer money or state resources, to waste on attorneys' fees and avoidable lawsuits that divert time and money from addressing climate change.

The legal, policy, modeling and research necessary to develop the statutory, budget, management, and regulatory proposals the Plan envisions, in the timeframe set, will require significant staffing and resources – work and positions that have not been funded by the Legislature. I recognize the House has included some onetime funding in its version of the FY21 budget, but this is onetime funding and it is unlikely to be sufficient. There are also no guarantees a final budget will include those resources. Given the Senate previously removed funding for this legislation and the House concurred with those changes passage of the proper funding seems uncertain at best.

To prioritize the emission reductions necessary to address climate change, we need to learn the lessons of building a comprehensive clean water plan. H.688, as written, will lead to inefficient spending and long, costly court battles, not the tangible investments in climate-resilient infrastructure, and affordable weatherization and clean transportation options that Vermonters need.

In January, I proposed applying a portion of the revenues from the efficiency charge toward electrification of the transportation sector, our largest contributor to global warming. This month the Legislature passed S.337, *An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors*. S.337 is consistent with that direction, as well as with strategic goals in Vermont's 2016 Comprehensive Energy Plan and the goals of the Climate Action Commission. This bill exemplifies the type of practical and concrete solutions we need and can implement without additional costs to Vermonters.

These are the types of measures that have immediate impact on fighting global warming.

While I am vetoing H.688, I hope the Legislature will revisit it before it adjourns, or at the very least in January, using my input and what we have learned from our clean water work to make it better.

In the meantime, I will ask that the Legislature send me S.337 forthwith so we can take a valuable step forward.

Sincerely,

/s/Philip B. Scott  
Governor

PBS/kp”

**Senate Bill Recommended**

**S. 191.**

Senate bill entitled:

An act relating to tax increment financing districts.

Was taken up.

Thereupon, pending second reading of the bill, on motion of Senator Ashe, the bill was recommitted to the Committee on Finance.

**Senate Bill Recommended**

**S. 287.**

Senate bill entitled:

An act relating to the contractual rights of members of the Vermont State Employees' Retirement System.

Was taken up.

Thereupon, pending second reading of the bill, on motion of Senator Ashe, the bill was recommitted to the Committee on Government Operations.

**Senate Bill Recommended**

**S. 297.**

Senate bill entitled:

An act relating to the Agency of Health Care Administration.

Was taken up.

Thereupon, pending second reading of the bill, on motion of Senator Ashe, the bill was recommitted to the Committee on Health and Welfare.

**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 Appropriations:

**H. 607.** An act relating to increasing the supply of nurses and primary care providers in Vermont.

**H. 611.** An act relating to the Older Vermonters Act.

**Bill Passed in Concurrence with Proposals of Amendment**

**H. 934.**

House bill of the following title was read the third time and passed in concurrence with proposals of amendment:

An act relating to renter rebate reform.

**Third Reading Ordered**

**S. 354.**

Senate committee bill entitled:

An act relating to emergency provisions for the operation of government.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered**

**H. 795.**

Senator Lyons, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to increasing hospital price transparency.

Reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 4, effective dates, in its entirety and inserting in lieu thereof nine new sections to be numbered Secs. 4 through Secs. 12 to read as follows:

**Sec. 4. HOSPITAL SUSTAINABILITY PLANNING; REPORTS**

(a)(1) The Green Mountain Care Board shall consider ways to increase the financial sustainability of Vermont hospitals in order to achieve population-based health improvements while maintaining community access to services. In conducting this work, the Board shall consult with the Director of Health Care Reform in the Agency of Human Services, Vermont hospitals, the Vermont Association of Hospitals and Health Systems, certified accountable care organizations, the Office of the Health Care Advocate, and other interested stakeholders.

(2) All information submitted by hospitals for purposes of hospital sustainability planning pursuant to this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except for:

(A) information compiled by the Board in summary or aggregate form;

(B) materials provided to the Board in connection with the health resource allocation plan; and

(C) information that is available to the public in connection with a hospital budget review in accordance with 18 V.S.A. § 9457.

(3) All materials submitted to the Board pursuant to this section shall be provided to the Office of the Health Care Advocate, which shall not further disclose any confidential information.

(b) On or before November 15, 2020, the Board shall inform the Health Reform Oversight Committee about its consideration to date of ways to increase hospital financial sustainability as set forth in subdivision (a)(1) of this section.

(c) On or before April 1, 2021, the Board shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance an update on its progress in considering and developing recommendations for increasing hospital financial sustainability as set forth in subdivision (a)(1) of this section.

(d)(1) On or before September 1, 2021, the Board shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance its final recommendations for increasing the financial sustainability of Vermont hospitals in order to achieve population-based health improvements while maintaining community access to essential services.

(2) In the event that the COVID-19 pandemic makes it impracticable for the Board to submit its recommendations by the date specified in subdivision (1) of this subsection, the Board shall provide an update on its progress by September 1, 2021 and shall make best efforts to submit its final recommendations in a timely manner but not later than November 15, 2021.

#### Sec. 5. PROVIDER SUSTAINABILITY AND REIMBURSEMENTS; REPORTS

(a) The Green Mountain Care Board, in collaboration with the Department of Financial Regulation, the Department of Vermont Health Access, and the Director of Health Care Reform in the Agency of Human Services, shall identify processes for improving provider sustainability and increasing equity

in reimbursement amounts among providers. In evaluating potential processes, the Board's considerations shall include:

- (1) care settings;
- (2) value-based payment methodologies, such as capitation;
- (3) Medicare payment methodologies;
- (4) public and private reimbursement amounts; and
- (5) variations in payer mix among different types of providers.

(b) On or before November 15, 2020, the Board shall provide an update to the Health Reform Oversight Committee regarding its progress in identifying processes for improving provider sustainability and increasing equity in reimbursement amounts among providers.

(c) On or before March 15, 2021, the Board shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance the options that the Board has identified as demonstrating the greatest potential for improving provider sustainability and increasing equity in reimbursement amounts among providers and shall identify areas that would require further study prior to implementation.

Sec. 6. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

\* \* \*

(b)(1) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and shall include notification of the public comment period established in subsection (c) of this section. In addition, the insurer shall post the summaries on its website.

\* \* \*

(3)(A) Upon request, in conjunction with a rate filing required by subsection (a) of this section, an insurer shall provide to the Board detailed information about the insurer's payments to specific providers, which may



include fee schedules, payment methodologies, and other payment information specified by the Board.

(B) Information received from an insurer pursuant to subdivision (A) of this subdivision shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Board may disclose or release information publicly in summary or aggregate form if doing so would not disclose trade secrets, as defined in 1 V.S.A. § 317(c)(9). Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption established in this subdivision (B) shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

(C) Notwithstanding 1 V.S.A. chapter 5, subchapter 2 (Vermont Open Meeting Law), the Board may examine and discuss confidential information outside a public hearing or meeting.

\* \* \*

Sec. 7. [Deleted.]

Sec. 8. [Deleted.]

Sec. 9. 18 V.S.A. § 9457 is amended to read:

§ 9457. INFORMATION AVAILABLE TO THE PUBLIC

(a)(1) All information required to be filed under this subchapter shall be made available to the public upon request, ~~provided that~~ in accordance with 1 V.S.A. chapter 5, subchapter 3 (Public Records Act), except that the following information shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential:

(A) information that directly or indirectly identifies individual patients or health care practitioners ~~shall not be directly or indirectly identifiable;~~

(B) reimbursement information, except that the Board may disclose or release information publicly in summary or aggregate form if doing so would not disclose trade secrets, as defined in 1 V.S.A. § 317(c)(9); and

(C) sensitive financial information the Board collects to address concerns related to financial solvency or to sustainability issues.

(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemptions created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

(3) The Board shall provide guidance regarding which information it shall keep confidential. In developing this guidance, the Board shall seek to

balance concerns related to the disclosure of sensitive information with the public's interest in transparency. In addition to the information specified in the guidance, a hospital may request that the Board keep other information confidential, to the extent that doing so would be consistent with this section and the Public Records Act.

(b) Notwithstanding 1 V.S.A. chapter 5, subchapter 2 (Vermont Open Meeting Law) or any provision of this subchapter to the contrary, the Board may examine and discuss confidential information outside a public hearing or meeting.

Sec. 10. 2020 Acts and Resolves No. 91, Sec. 8, as amended by 2020 Acts and Resolves No. 140, Sec. 13, is further amended to read:

Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF FINANCIAL REGULATION; EMERGENCY RULEMAKING

It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during and after a declared state of emergency in Vermont as a result of COVID-19. Until July 1, 2021, and notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following through June 30, 2021:

(1) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, COVID-19 the diagnosis of COVID-19, including tests for influenza, pneumonia, and other respiratory viruses performed in connection with making a COVID-19 diagnosis; the treatment, of COVID-19 when it is the primary or a secondary diagnosis; and the prevention of COVID-19;

(2) modifying or suspending health insurance plan deductible requirements for all prescription drugs, except to the extent that such an action would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223; and

(3) expanding patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, and brief telecommunication services.

Sec. 11. 2020 Acts and Resolves No. 140, Sec. 4 is amended to read:

Sec. 4. MENTAL HEALTH INTEGRATION COUNCIL; REPORT

\* \* \*

## (f) Meetings.

(1) The Commissioner of Mental Health shall call the first meeting of the Council.

(2) The Commissioner of Mental Health shall serve as chair. The Commissioner of Health shall serve as vice chair.

(3) The Council shall meet every other month between ~~October 1, 2020~~ January 15, 2021 and January 1, 2023.

(4) The Council shall cease to exist on July 30, 2023.

\* \* \*

## Sec. 12. EFFECTIVE DATES

(a) Sec. 2 (18 V.S.A. § 9411) shall take effect on November 1, 2020, with the interactive price transparency dashboard becoming available for use by the public as soon as it is operational, but in no event later than February 15, 2022.

(b) Secs. 6 (8 V.S.A. § 4062) and 9 (18 V.S.A. § 9457) shall take effect on November 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 hospital price transparency, hospital sustainability planning, provider sustainability and reimbursements, and regulators' access to information.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered****H. 926.**

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to changes to Act 250.

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:

\* \* \* Trails \* \* \*

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

§ 6001. DEFINITIONS

\* \* \*

(38) “Recreational trail” has the same meaning as “trails” in subdivision 442(3) of this title.

(39) “Vermont trails system trail” means a recreational trail recognized by the Agency of Natural Resources pursuant to chapter 20 of this title. For purposes of this chapter, the construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal, county, or State purpose.

Sec. 2. 10 V.S.A. § 442(3) is amended to read:

(3) “Trails” means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes, but the primary purpose shall not be the operation of a motor vehicle. As used in this subdivision, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

Sec. 3. 10 V.S.A. § 6001(3)(A) is amended to read:

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

\* \* \*

(xi) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.

(I) This subdivision (xi) shall be the exclusive mechanism for determining jurisdiction over a recreational trail that is a Vermont trails system trail and shall only apply to the construction of improvements made on or after October 1, 2020.

(II) For purposes of this subdivision (xi), involved land includes:

(aa) land that is physically altered, including any ground disturbance and clearing that will occur; and

(bb) infrastructure that is incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage.

(III) For purposes of this subdivision (xi), involved land does not include land where no ground will be disturbed or cleared or any Vermont

trails system trail constructed before October 1, 2020.

Sec. 4. 10 V.S.A. § 6001(3)(C) is amended to read:

(C) For the purposes of determining jurisdiction under subdivision (3)(A) of this section, the following shall apply:

\* \* \*

(vi) Recreational trails. When jurisdiction over a trail has been established pursuant to subdivision (A) of this subdivision (3), jurisdiction shall extend only to the recreational trail and infrastructure that is incidental to the operation of the trail. Jurisdiction shall not extend to the remainder of a parcel or parcels where a recreational trail is located, unless otherwise determined to be jurisdictional pursuant to another provision of this chapter.

Sec. 5. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

\* \* \*

(y) No permit or permit amendment shall be required for the construction of improvements on a tract of land that would provide access across a recreational trail, provided that the access is not related to the use of the permitted recreational trail and would not establish jurisdiction under this chapter on its own.

(z) Notwithstanding 1 V.S.A. §§ 213 and 214, and until January 1, 2022, no permit is required for a Vermont trails system trail recognized pursuant to chapter 20 of this title if the trail was in existence prior to October 1, 2020.

Sec. 6. RECREATIONAL TRAILS RECOMMENDATIONS AND REPORT

On or before January 15, 2021, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that is administered by the Agency of Natural Resources. The report shall include recommendations for revisions to 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to administer the program, potential funding sources, staffing needs, and whether to include other recreational trails. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.

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Sec. 7. PROSPECTIVE REPEAL

10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

\* \* \* Forest Blocks \* \* \*

Sec. 8. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

\* \* \*

(40) “Connecting habitat” means land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include features including recreational trails and improvements constructed for farming, logging, or forestry purposes.

(41) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include features including recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

(42) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.

Sec. 9. 10 V.S.A. § 6086(a)(8) is amended to read:

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

(A)(B) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or

(iii) a reasonably acceptable alternative site is owned or controlled by the applicant ~~which~~ that would allow the development or subdivision to

fulfill its intended purpose.

(C) Will not have an undue adverse impact on forest blocks and connecting habitat. A permit shall be granted only if impacts to forest blocks and connecting habitat are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

#### Sec. 10. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules pursuant to 3 V.S.A. chapter 25 to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how impacts can be avoided, minimized, or mitigated, including how fragmentation of forest blocks or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines. As used in this subdivision, "fragmentation" means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation, and criteria to identify when a forest block or connecting habitat is not eligible for mitigation due to the unique value of the area and need to maintain the functionality of the forest block or connecting habitat.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses and limitations of on-site and off-site mitigation.

(b) Prior to prefilng with the Interagency Committee on Administrative Rules, the Board shall convene a working group to gather input on the rule. The working group shall ensure broad, inclusive, and transparent engagement with the public, which shall include a broad range of stakeholders and interested parties. The Board shall convene the working group on or before March 15, 2021.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before August 15, 2022.

Sec. 11. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

(a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources (the Secretary) shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.

(b) The Secretary of ~~Natural Resources~~ shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.

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

Sec. 12. EFFECTIVE DATES

This act shall take effect on October 1, 2020, except that Sec. 9, 10 V.S.A. § 6086(a)(8), shall take effect on September 1, 2022.



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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee of Natural Resources and Energy?, Senator Parent requested pursuant to Rule 67 that the question be divided and that Secs 1 through 7 and Sec. 12 be voted on *first* and Secs. 8 through 11 be voted on *second*.

Thereupon, Senator Bray moved that Secs. 8 through 11 be voted on *first* which was agreed to on a roll call, Yeas 22, Nays 8.

Senator Parent 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, Bray, Campion, Clarkson, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Perchlik, Pollina, Sears, Sirotkin, White.

**Those Senators who voted in the negative were:** Benning, Brock, Collamore, McNeil, Parent, Rodgers, Starr, Westman.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy in Secs. 8 through 11 was agreed to on a roll call, Yeas 24, Nays 6.

Senator Parent 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, Campion, Clarkson, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Pearson, Perchlik, Pollina, Sears, Sirotkin, White.

**Those Senators who voted in the negative were:** Brock, Collamore, Parent, Rodgers, Starr, Westman.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy in Secs. 1 through 7 and Sec. 12 was agreed to on a roll call, Yeas 30, Nays 0.

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

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**Roll Call**

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

**Those Senators who voted in the negative were:** None.

Thereupon, 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:

**H.934.****Message from the House No. 77**

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 64.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The House has considered Senate proposal of amendment to the following House bill:

**H. 967.** An act relating to the provision of child care at family child care homes during remote learning days.

And has severally concurred therein.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, September 17, 2020.