

Journal of the Senate

THURSDAY, SEPTEMBER 24, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 85

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 Senate proposal of amendment to the following House bill:

H. 795. An act relating to increasing hospital price transparency, hospital sustainability planning, provider sustainability and reimbursements, and regulators' access to information.

And has severally concurred therein.

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
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
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

Third Reading Ordered

H. 99.

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to trade in covered animal parts or products.

Reported that the bill ought to pass in concurrence.

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

Thereupon, pending the question, Shall the bill be read third time?, Senator Brock moved that the Senate propose to the House to amend the bill as follows in Sec. 1, 10 V.S.A. part 4, chapter 124:

First: In section 5501, definitions, in subdivision (2), by striking out subdivisions (H) (mammoth) and (I) (mastodon) in their entireties and by relettering the remaining subdivisions of subdivision (2) to be alphabetically correct.

Second: In section 5503, exceptions, by striking out subdivision (a)(3) in its entirety and inserting in lieu thereof the following:

(3) to any article that satisfies the antique exemption under 16 U.S.C. § 1539 of the Endangered Species Act or for which the article meets all of the following criteria:

(A) is not less than 100 years of age;

(B) is composed in whole or in part of a covered animal;

(C) has not been repaired or modified with any covered animal part or product of the species on or after December 28, 1973; and

(D) was legally imported and acquired;

and by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Documentation evidencing reasonable provenance of or the age of a covered animal part or product that may be purchased, sold, offered for sale, or possessed under subsection (a) of this section may include receipts of purchase, invoices, bills of sale, prior appraisals, auction catalogues, museum or art gallery exhibit catalogues, written and sworn statements of qualified experts or appraisers, and scientific tests that determine the age or composition of an object, including carbon dating, genetic testing, spectrographic analysis, or other scientifically accepted methods. An expert providing a statement under this subsection shall demonstrate his or her qualification to issue statements for the provenance of or age of a covered animal part through education, training, professional certification, or documented experience. The issuance of a false or fraudulent statement of the age or provenance of a covered animal part or product shall be subject to penalty under section 5506 of this title.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senator Brock?, Senator Rodgers moved to commit the bill to the Committee on Natural Resources and Energy, which was disagreed to on a roll call, Yeas 6, Nays 24.

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: Benning, Brock, Collamore, McNeil, Parent, Rodgers.

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

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by Senator Brock?, was disagreed to on a roll call, Yeas 10, Nays 20.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Brock, Collamore, Cummings, McNeil, Parent, Rodgers, Sears, Starr, White.

Those Senators who voted in the negative were: Ashe, Balint, Baruth, Bray, Champion, Clarkson, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Perchlik, Pollina, Sirotkin, Westman.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 25, Nays 5.

Senator Brock 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, Champion, Clarkson, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Perchlik, Pollina, *Rodgers, Sears, Sirotkin, Starr, Westman, White.

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

*Senator Brock explained his vote as follows:

“I strongly support the effort to protect the world’s most endangered species. But sadly, this fatally-flawed bill fails to properly balance the purely theoretical benefit against the very real harm it does to individual Vermonters. Section 2 of the Vermont Constitution provides that “private property ought to be subservient to public uses when necessity requires it, nevertheless, whenever any person's property is taken for the use of the public, the owner ought to receive an equivalent in money.” In this body, each of us took an oath not to assent to any bill that would be injurious to the people or that would abridge their Constitutional rights. This bill, by government fiat, expropriates the value of antiques and other property owned by Vermonters. From heirloom chess sets to scrimshaw collections, valuable items owned by Vermonters are rendered worthless and despite passionate claims by advocates, no evidence has been presented to us that these draconian restrictions on

century old antiques has had or will have any impact whatsoever on the protection of endangered species.”

*Senator Rodgers explained his vote as follows:

“I hope the proponents of this bill are right and it makes a positive difference. It seems like colonialism to me.”

Proposal of Amendment; Third Reading Ordered

H. 607.

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

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

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 18 V.S.A. § 9491, in subdivision (b)(1)(F), following the semicolon, by striking out the word “and”, by inserting two new subdivisions to be subdivisions (G) and (H) to read as follows:

(G) one representative of naturopathic physicians;

(H) one representative of home health agencies; and

And by redesignating the existing subdivision (G) to be subdivision (I)

Second: By striking out Sec. 8, effective date, in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. EFFECTIVE DATE

This act shall take effect on November 1, 2020.

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

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9491 is amended to read:

§ 9491. HEALTH CARE WORKFORCE; STRATEGIC PLAN

(a) ~~The Director of Health Care Reform in the Agency of Human Services shall oversee the development of~~ maintain a current health care workforce development strategic plan that continues efforts to ensure that Vermont has the health care workforce necessary to provide care to all Vermont residents. ~~The Director of Health Care Reform may designate an entity responsible for convening meetings and for preparing the draft strategic plan. The Green Mountain Care Board established in chapter 220 of this title shall review the draft strategic plan and shall approve the final plan and any subsequent modifications.~~

(b)(1) ~~The~~ In maintaining the strategic plan, the Director or designee shall collaborate with the area health education centers, the State Workforce Development Board established in 10 V.S.A. § 541a, the Prekindergarten-16 Council established in 16 V.S.A. § 2905, the Department of Labor, the Department of Health, the Department of Vermont Health Access, and other interested parties to develop and maintain the plan consult with an advisory group composed of the following 11 members, at least one of whom shall be a nurse, to develop and maintain the strategic plan:

(A) one representative of the Green Mountain Care Board's primary care advisory group;

(B) one representative of the Vermont State Colleges;

(C) one representative of the Area Health Education Centers' workforce initiative;

(D) one representative of federally qualified health centers;

(E) one representative of Vermont hospitals;

(F) one representative of physicians;

(G) one representative of mental health professionals;

(H) one representative of dentists;

(I) one representative of naturopathic physicians;

(J) one representative of home health agencies; and

(K) one representative of long-term care facilities.

(2) The Director or designee shall serve as the chair of the advisory group.

(c) The Director of Health Care Reform shall ensure that the strategic plan includes recommendations on how to develop Vermont's health care workforce, including:

(1) the current capacity and capacity issues of the health care workforce and delivery system in Vermont, including the shortages of health care professionals, specialty practice areas that regularly face shortages of qualified health care professionals, issues with geographic access to services, and unmet health care needs of Vermonters;

(2) ~~the resources needed to ensure that:~~

~~(A) the health care workforce and the delivery system are able to provide sufficient access to services given demographic factors in the population and in the workforce, as well as other factors;~~

~~(B) the health care workforce and the delivery system are able to participate fully in health care reform initiatives, including establishing a medical home for all Vermont residents through the Blueprint for Health pursuant to chapter 13 of this title and transitioning to electronic medical records; and~~

~~(C) all Vermont residents have access to appropriate mental health care that meets standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care;~~

(3) how State government, universities and colleges, the State's educational system, entities providing education and training programs related to the health care workforce, and others may develop the resources in the health care workforce and delivery system to educate, recruit, and retain health care professionals to achieve Vermont's health care reform principles and purposes; and

~~(4) reviewing data on the extent to which individual health care professionals begin and cease to practice in their applicable fields in Vermont;~~

~~(5) identifying factors which either hinder or assist in recruitment or retention of health care professionals, including an examination of the processes for prior authorizations, and making recommendations for further improving recruitment and retention efforts;~~

~~(6)~~(3) assessing the availability of State and federal funds for health care workforce development.

~~(e) Beginning January 15, 2013, the Director or designee shall provide the strategic plan approved by the Green Mountain Care Board to the General Assembly and shall provide periodic updates on modifications as necessary.~~

Sec. 2. HEALTH CARE WORKFORCE STRATEGIC PLAN; REPORT

(a) The Director of Health Care Reform, in connection with the advisory group established pursuant to 18 V.S.A. § 9491(b) in Sec. 1 of this act, shall update the health care workforce strategic plan as set forth in 18 V.S.A. § 9491 and shall submit a draft of the plan to the Green Mountain Care Board for its review and approval on or before July 1, 2021. The Board shall review and approve the plan within 30 days following receipt.

(b) On or before August 15, 2021, the Director shall provide the updated health care workforce strategic plan to the House Committees on Appropriations, on Health Care, and on Commerce and Economic Development and the Senate Committees on Appropriations, on Health and Welfare, and on Economic Development, Housing and General Affairs.

Sec. 3. 18 V.S.A. § 33 is added to read:

§ 33. MEDICAL STUDENTS; PRIMARY CARE

(a) The Department of Health, in collaboration with the Office of Primary Care and Area Health Education Centers Program at the University of Vermont College of Medicine (AHEC), shall establish a primary care physician scholarship program. The scholarships shall cover the medical school tuition for up to five third-year and up to five fourth-year medical students annually who commit to practicing primary care in a rural area of this State or in a Vermont federally qualified health center's service area, in a setting or practice not owned by an academic medical center. For each academic year of tuition covered by the scholarship, the recipient shall incur an obligation of two years of full-time service or four years of half-time service. Students receiving a scholarship for their third year of medical school shall be eligible to receive another scholarship for their fourth year of medical school. The amount of each scholarship shall be set at the in-state tuition rate less any other State or federal educational grant assistance the student receives for the same academic year.

(b) Approved specialties shall be all of the specialties recognized by the National Health Service Corps at the time of the scholarship award, which may include family medicine, internal medicine, pediatrics, obstetrics-gynecology, and psychiatry.

(c) A scholarship recipient who does not fulfill the commitment to practice primary care in accordance with the terms of the award shall be liable for repayment of the full amount of the scholarship, plus interest calculated in accordance with the formula determined by the National Health Service Corps for failure to complete a service obligation under that program.

Sec. 4. PRIMARY CARE PHYSICIAN SCHOLARSHIP PROGRAM;
APPROPRIATION

(a) The sum of \$608,419.00 in Global Commitment investment funds is appropriated to the Department of Health in fiscal year 2021 for scholarships for medical students who commit to practicing primary care in this State in accordance with 18 V.S.A. § 33.

(b)(1) The Secretary of Human Services, in consultation with the Department of Health, the University of Vermont College of Medicine, and the advisory group established in 18 V.S.A. § 9491(b), shall identify funding sources from existing State budget allocations or new revenue sources to provide the State match in future fiscal years for scholarship funds to expand Vermont's primary care physician workforce to ensure that Vermonters have access to necessary health care services, preferably in their own communities.

(2) On or before March 1, 2021, the Secretary shall report to the House Committees on Appropriations and on Health Care and the Senate Committees on Appropriations and on Health and Welfare the funding sources identified for the ongoing State match for the primary care physician scholarship program.

Sec. 5. EDUCATIONAL ASSISTANCE; NURSING STUDENTS;
APPROPRIATION

(a) The sum of \$1,035,957.00 in Global Commitment investment funds is appropriated to the Department of Health for additional scholarships for nursing students pursuant to the program established in 18 V.S.A. § 31, as redesignated by Sec. 7 of this act, and administered by the Vermont Student Assistance Corporation.

(b)(1) First priority for the scholarship funds shall be given to students pursuing a practical nursing certificate who will be eligible to sit for the NCLEX-PN examination upon completion of the certificate.

(2) Second priority for the scholarship funds shall be given to students pursuing an associate's degree in nursing who will be eligible to sit for the NCLEX-RN examination upon graduation.

(3) Third priority for the scholarship funds shall be given to students pursuing a bachelor of science degree in nursing.

(c) To be eligible for a scholarship under this section, applicants shall:

(1) demonstrate financial need;

(2) demonstrate academic capacity by carrying at least a 2.5 grade point average in their course of study prior to receiving the fund award; and

(3) agree to work as a nurse in Vermont for a minimum of one year following licensure for each year of scholarship awarded.

(d) Students attending an accredited postsecondary educational institution in Vermont shall receive first preference for scholarships.

(e) There shall be no deadline to apply for a scholarship under this section. Scholarships shall be awarded on a rolling basis as long as funds are available, and any funds remaining at the end of fiscal year 2021 shall roll over and shall be available to the Department of Health in fiscal year 2022 for additional scholarships as described in this section.

(f) The Director of Health Care Reform in the Agency of Human Services, in consultation with the Department of Health, the Agency of Commerce and Community Development, and the advisory group established in 18 V.S.A. § 9491(b), shall identify the primary causes of Vermont's nursing workforce shortage and shall propose solutions to address those causes. On or before March 1, 2021, the Director of Health Care Reform shall submit his or her findings and recommendations to the House Committees on Appropriations and on Health Care and the Senate Committees on Appropriations and on Health and Welfare, including:

(1) an assessment of the existing nursing career ladders at health care facilities in this State and their relationships with programs at Vermont's institutions of higher education;

(2) other states' successful strategies for expanding their nursing workforces; and

(3) in the event that inadequate scholarship funding is identified as a barrier to expanding Vermont's nursing workforce, proposals for existing State budget allocations or new revenue sources that can be used for nursing scholarships to ensure that Vermonters have access to necessary health care services, preferably in their own communities.

Sec. 5a. SCHOLARSHIP FUNDING; STATE MATCH; APPROPRIATION

The sum of \$750,000.00 is appropriated from the General Fund to the Agency of Human Services in fiscal year 2021 to provide the State match for the scholarship funds appropriated in Secs. 4 (primary care physician scholarship program; appropriation) and 5 (educational assistance; nursing students; appropriation) of this act.

Sec. 5b. VERMONT TRAINING PROGRAM; REVERSION

In fiscal year 2021, \$200,000.00 of the funds appropriated to the Department of Economic Development for the Vermont Training Program shall revert to the General Fund.

Sec. 6. 18 V.S.A. chapter 1 is amended to read:

CHAPTER 1. DEPARTMENT OF HEALTH; GENERAL PROVISIONS

Subchapter 1. General Provisions

§ 1. GENERAL POWERS OF DEPARTMENT OF HEALTH

* * *

Subchapter 2. Health Care Professions; Educational Assistance

* * *

Sec. 7. REDESIGNATIONS

(a) 18 V.S.A. § 10 (educational assistance; incentives; nurses) is redesignated to be 18 V.S.A. § 31 in 18 V.S.A. chapter 1, subchapter 2.

(b) 18 V.S.A. § 10a (loan repayment for health care providers and Health Care Educational Loan Repayment Fund) is redesignated to be 18 V.S.A. § 32 in 18 V.S.A. chapter 1, subchapter 2.

Sec. 7a. SUNSET

18 V.S.A. § 33 (medical students; primary care) is repealed on July 1, 2022.

Sec. 8. EFFECTIVE DATE

This act shall take effect on November 1, 2020.

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 the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Health and Welfare, as amended, was agreed to and third reading of the bill was ordered.

Third Reading Ordered

H. 952.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

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

House Proposal of Amendment Concurred In with Amendment

S. 119.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

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

§ 2368. STANDARDS FOR LAW ENFORCEMENT USE OF 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) “Force” means the physical coercion employed by a law enforcement officer to compel a person’s compliance with the officer’s instructions.

(3) “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 threat 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 immediately addressed and confronted.

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

(5) “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.

(6) “Totality of the circumstances” means the conduct and decisions of the law enforcement officer leading up to the use of force and all facts known to the law enforcement officer at the time.

(b) Use of force.

(1) The authority of law enforcement 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) A law enforcement officer shall use only the force objectively reasonable, necessary, and proportional to effect an arrest, to prevent escape, or to overcome resistance of a person the officer has reasonable cause to believe has committed a crime or to achieve any other lawful law enforcement objective.

(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 with agency policies.

(4) Whether the decision by a law enforcement officer to use force was objectively reasonable shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances. A law enforcement officer's failure to use feasible and reasonable alternatives to force shall be a consideration for whether its use was objectively reasonable.

(5) When a law enforcement officer knows that a subject's conduct is the result of a medical condition, mental impairment, developmental disability, physical limitation, language barrier, drug or alcohol impairment, or other factor beyond the subject's control, the officer shall take that information into account in determining the amount of force appropriate to use on the subject, if any.

(6) 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)(2) 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.

(c) Use of deadly force.

(1) A law enforcement officer is justified in using deadly force upon another person only when, based on the totality of the circumstances, such force is objectively reasonable and 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) The use of deadly force is necessary when, given the totality of the circumstances, an objectively reasonable law enforcement officer in the same situation would conclude that there was no reasonable alternative to the use of deadly force that would prevent death or serious bodily injury to the officer or to another person.

(3) A law enforcement officer shall cease the use of deadly force as soon as the subject is under the officer's control or no longer poses an imminent threat of death or serious bodily injury to the officer or to another person.

(4) 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.

(5) 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.

(6) A law enforcement officer has a duty to intervene when the officer observes another officer using a prohibited restraint on a person.

Sec. 2. 13 V.S.A. § 2305 is amended to read:

§ 2305. JUSTIFIABLE HOMICIDE

If a person kills or wounds another under any of the circumstances enumerated below, he or she shall be guiltless:

(1) in the just and necessary defense of ~~his or her~~ the person's own life or the life of ~~his or her husband, wife~~ the person's spouse, parent, child, ~~brother, sister, master, mistress, servant~~ sibling, guardian, or ward; or

(2) in the forceful or violent suppression of a person attempting to commit murder, sexual assault, aggravated sexual assault, burglary, or robbery, ~~with force or violence~~; or

(3) in the case of a ~~civil officer; or a military officer or private soldier~~ when lawfully called out to suppress riot or rebellion, or to prevent or suppress

~~invasion, or to assist in serving legal process, in suppressing opposition against him or her in the just and necessary discharge of his or her duty law enforcement officer as defined in 20 V.S.A. § 2351(a) using force in compliance with 20 V.S.A. § 2368(b)(2), (4), and (5) or deadly force in compliance with 20 V.S.A. § 2368(c)(1)–(4).~~

Sec. 3. 2020 Acts and Resolves No. 147, Sec. 9 is amended to read:

Sec. 9. REPEALS

~~(a) 13 V.S.A. § 1032 (law enforcement use of prohibited restraint) is repealed on July 1, 2021. [Repealed.]~~

~~(b) 13 V.S.A. § 2305(3) (justifiable homicide) is repealed on July 1, 2021. [Repealed.]~~

Sec. 4. DEPARTMENT OF PUBLIC SAFETY; REPORT ON MODEL STATEWIDE POLICY FOR LAW ENFORCEMENT USE OF FORCE

On or before February 2, 2021, the Department of Public Safety and the Executive Director of Racial Equity shall report to the House and Senate Committees on Judiciary and on Government Operations regarding the development of a uniform statewide model policy on the use of force for all law enforcement agencies and officers as directed by Executive Order No. 03-20 (Governor’s Public Safety Reform Initiative). The report shall include:

(1) the process undertaken by the Department, including a list of the community representatives and other stakeholders that were included in the development of the policy, the number of times the stakeholders met, and any opportunities given for public comment and the participation in and outcome of that public comment; and

(2) the final proposed policy.

Sec. 4a. 20 V.S.A. § 2358 subsection (f) is added to read:

(f) The Council shall not offer or approve any training on the use of a prohibited restraint as defined in section 2401 of this chapter, except for training designed to identify and prevent the use of prohibited restraints.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 (standards for law enforcement use of force) and Sec. 2 (justifiable homicide) shall take effect on January 1, 2021.

(b) The remainder of this act shall take effect on passage.

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

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

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Sears, Baruth and Benning moved that the Senate concur in the House proposal of amendment with an amendment as follows:

In Sec. 5, effective dates, in subsection (a), by striking out the word “January” and inserting in lieu thereof the word July

Which was agreed to.

House Proposal of Amendment Concurred In

S. 124.

House proposal of amendment to Senate bill entitled:

An act relating to governmental structures protecting the public health, safety and welfare.

Was taken up.

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

* * * Vermont Criminal Justice Council * * *

Sec. 1. 20 V.S.A. chapter 151 is redesignated to read:

CHAPTER 151. VERMONT CRIMINAL JUSTICE ~~TRAINING~~ COUNCIL

Sec. 2. VERMONT CRIMINAL JUSTICE COUNCIL; PURPOSE;
CONFORMING REVISIONS

(a) In order to fully reflect all of its powers and duties, which relate to training, certifying, and professionally regulating law enforcement officers, the Vermont Criminal Justice Training Council is renamed the Vermont Criminal Justice Council.

(b) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Counsel shall replace “Vermont Criminal Justice Training Council” with “Vermont Criminal Justice Council,” provided that those revisions have no other effect on the meaning of the affected statutes.

Sec. 3. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

(a) In order to promote and protect the health, safety, and welfare of the public, it is in the public interest to provide for the creation of the Vermont

Criminal Justice ~~Training~~ Council.

(b) The Council is created to:

(1) encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ basic training for law enforcement applicants and in-service training for law enforcement officers; and

(2) maintain statewide standards of law enforcement officer professional conduct by accepting and tracking complaints alleging officer unprofessional conduct, adjudicating charges of unprofessional conduct, and imposing sanctions on the certification of an officer who the Council finds has committed unprofessional conduct.

(c) The Council shall offer and approve continuing programs of instruction in up-to-date methods of law enforcement and the administration of criminal justice.

(d) It is the responsibility of the Council to encourage the participation of local governmental units in the program and to aid in the establishment of adequate training facilities.

Sec. 4. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice ~~Training~~ Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) the Executive Director of the Department of State's Attorneys and Sheriffs;

(D) the Executive Director of Racial Equity;

(E) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

~~(D)~~(F) a member of the Vermont Police Association, elected by its membership; ~~and~~

~~(E)~~(G) ~~five additional members appointed by the Governor.~~

(i) ~~The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;~~

(H) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(I) a law enforcement officer, appointed by the President of the Vermont State Employees Association;

(J) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(K) an individual appointed by the Executive Director of the Center for Crime Victim Services;

(L) an individual appointed by the Executive Director of the Human Rights Commission;

(M) an individual appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence; and

(N) seven public members, appointed by the Governor, who shall not be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer, current legislators, or otherwise be employed in the criminal justice system.

(i) At least one of these members shall be a mental health crisis worker.

(ii) At least one of these members shall be an individual with a lived experience of a mental health condition or psychiatric disability.

(iii) At least two of these members shall be chosen from among persons nominated by the Vermont chapters of the NAACP, and each of these members shall represent a different Vermont NAACP chapter. In order to assist the Governor in making these appointments, each Vermont chapter of the NAACP shall nominate at least three individuals for these gubernatorial appointments.

(2) A member's term shall be three years.

(3) The Governor shall appoint the Chair of the Council from among the members set forth in subdivisions (1)(D) and (K)–(N) of this subsection.

* * *

(c) The members of the Council shall be entitled to receive no per diem compensation for their services but shall be allowed their actual and necessary and reimbursement of expenses incurred in the performance of their duties as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.

* * *

Sec. 5. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL MEMBERSHIP

(a) Any existing member of the Vermont Criminal Justice Council who will serve on the Council under its new membership as set forth in Sec. 4 of this act may serve the remainder of his or her term in effect immediately prior to the effective date of Sec. 4.

(b) The new membership of the Council shall be appointed on or before December 1, 2020.

Sec. 6. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer nonovernight courses whenever possible.

(2) The Council may also offer the basic officer's course for pre-service preservice students and educational outreach courses for the public, including firearms safety and use of force.

* * *

Sec. 7. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer

certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(2) Level II certification.

* * *

(3) Level III certification.

* * *

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that on and after July 1, 2021, a Level II certified officer may use portfolio experiential learning or College Level Examination Program (CLEP) testing in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

* * *

Sec. 8. COUNCIL; REPORT ON CHANGES IN TRAINING OPTIONS;
RULE ADOPTION DEADLINE

(a) Report. On or before January 15, 2021, the Executive Director of the Vermont Criminal Justice Council shall provide a verbal progress report to the Senate and House Committees on Government Operations regarding the Council's:

(1) plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (the Police Academy), including its 16-week residential basic training, with nonovernight training and training in other areas of the State, in accordance with 20 V.S.A. § 2355(b)(1) in Sec. 6 of this act, and shall specifically address any plans it has to offer training by remote means; and

(2) changes in the structure of its programs to enable a law enforcement officer to transition from Level II to Level III certification as required by 20 V.S.A. § 2358(c)(2) in Sec. 7 of this act.

(b) Rules. On or before July 1, 2023, the Council shall finally adopt the rules regarding alternate routes to certification required by 20 V.S.A. § 2355(a)(1) in Sec. 6 of this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Sec. 8a. COUNCIL; REPORT ON RESOURCES NEEDED TO OPERATE

On or before January 15, 2021, the Executive Director of the Vermont Criminal Justice Council shall report to the House and Senate Committees on Appropriations and on Government Operations specifying the resources the Council needs to fully operate as set forth in law, including the resources it needs to implement the provisions of this act. The Executive Director shall specifically detail in this report any additional appropriations or positions it needs to fully operate and provide a narrative to explain the basis for those needs.

Sec. 9. 20 V.S.A. § 2359 is added to read:

§ 2359. COUNCIL SERVICES CONTINGENT ON AGENCY COMPLIANCE

(a) On and after January 1, 2022, a law enforcement agency shall be prohibited from having its law enforcement applicants or officers trained by the Police Academy or from otherwise using the services of the Council if the agency is not in compliance with the requirements for collecting roadside stop data under section 2366 of this chapter, the requirement to report to the Office of Attorney General death or serious bodily injuries under 18 V.S.A. § 7257a(b), or the requirement to adopt, follow, or enforce any policy required under this chapter.

(b) The Council shall adopt procedures to enforce the requirements of this section, which may allow for waivers for agencies under a plan to obtain compliance with this section.

Sec. 10. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING

(a) Nothing in this chapter prohibits any State law enforcement agency, department, or office or any municipality or county of the State from providing additional training beyond basic training to its personnel where no certification is requested of or required by the Council or its Executive Director.

(b) The head of a State agency, department, or office, a municipality's chief of police, or a sheriff executive officer of a law enforcement agency may seek certification from the Council for any in-service training he or she, or his or her designee may provide to his or her employees law enforcement officers

of his or her agency or of another agency, or both.

Sec. 11. 20 V.S.A. § 2362a is amended to read:

§ 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT
CURRENT OR FORMER AGENCY

(a)(1) Prior to hiring a law enforcement officer ~~who is no longer employed at his or her last law enforcement agency~~, the executive officer of a potential hiring law enforcement agency shall:

(A) require that officer to execute a written waiver that explicitly authorizes the officer's:

(i) current law enforcement agency employer to disclose its analysis of the officer's performance at that agency, if the officer is still employed at that agency; or

(ii) last law enforcement agency employer to disclose the reason that officer is no longer employed by that agency, if the officer is not currently employed at an agency; and

(B) contact that former agency to determine that reason obtain that disclosure and provide to that agency a copy of that written waiver.

(2) An officer who refuses to execute the written waiver shall not be hired by the potential hiring agency.

(b)(1)(A) If that current or former agency is a law enforcement agency in this State, the executive officer of that current or former agency or designee shall disclose to the potential hiring agency in writing its analysis of the officer's performance at that agency or the reason the officer is no longer employed by the former agency, as applicable.

(B) The executive officer or designee shall send a copy of the disclosure to the officer at the same time he or she sends it to the potential hiring agency.

(2) Such a current or former agency shall be immune from liability for its disclosure described in subdivision (1) of this subsection, unless such disclosure would constitute intentional misrepresentation or gross negligence.

(c) A potential hiring agency that receives a disclosure under subsection (b) of this section shall keep the contents of that disclosure confidential.

(d) A collective bargaining agreement between a law enforcement agency and the exclusive representative or bargaining agent of the law enforcement officers employed by that agency shall not include a prohibition on the exchange of information between the employing agency and another agency

about an officer's performance at the employing agency.

Sec. 12. LAW ENFORCEMENT AGENCY; DUTY TO DISCLOSE

(a) The requirement of a current law enforcement agency to disclose its analysis of its law enforcement officer's performance at the agency as set forth in 20 V.S.A. § 2362a(a) and (b) in Sec. 11 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(b) The provisions in Sec. 11, in 20 V.S.A. § 2362a(d), that prohibit a collective bargaining agreement from including a prohibition on the exchange of information between law enforcement agencies about the performance of a law enforcement officer shall not apply to any collective bargaining agreement that took effect prior to the effective date of that section, but shall apply upon the expiration or termination of such an agreement and shall apply to any collective bargaining agreement that takes effect on or after the effective date of that section.

Sec. 13. 20 V.S.A. § 2368 is added to read:

§ 2368. STATEWIDE POLICY; REQUIRED USE OF BODY CAMERA POLICY

(a)(1) On and after January 1, 2022, each law enforcement agency that authorizes its law enforcement officers to use body cameras shall adopt, follow, and enforce a model body camera policy established by the Council, and each law enforcement officer who uses a body camera shall comply with the provisions of that policy.

(2) Until the date set forth in subdivision (1) of this subsection, each law enforcement agency that authorizes its law enforcement officers to use body cameras shall adopt, follow, and enforce the Model Body Worn Camera (BWC) Policy established by the Law Enforcement Advisory Board pursuant to 2016 Acts and Resolves No. 163, and each law enforcement officer who uses a body camera shall comply with the provisions of that policy.

(b) The Council shall incorporate the provisions of this section into training it provides.

Sec. 14. MORATORIUM ON FACIAL RECOGNITION TECHNOLOGY

(a) Until the use of facial recognition technology by law enforcement officers is authorized by an enactment of the General Assembly, a law enforcement officer shall not use facial recognition technology or information acquired through the use of facial recognition technology unless the use would be permitted with respect to drones under 20 V.S.A. § 4622 (law enforcement use of drones).

(b) As used in this section:

(1) “Facial recognition” means:

(A) the automated or semi-automated process that identifies or attempts to identify a person based on the characteristics of the person’s face, including identification of known or unknown persons or groups; or

(B) the automated or semiautomated process by which the characteristics of a person’s face are analyzed to determine the person’s sentiment, state of mind, or other propensities, including the person’s level of dangerousness.

(2) “Facial recognition technology” means any computer software or application that performs facial recognition.

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

Sec. 15. 20 V.S.A. chapter 151 (Vermont Criminal Justice Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

* * *

§ 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

(a)(1) The executive officer of a law enforcement agency or the chair of the agency’s civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) ~~Category (A).~~

(i) There is a finding of probable cause by a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a credible complaint against the officer that, ~~if deemed credible by the executive officer of the agency as a result of a valid investigation,~~ alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

(2) As part of his or her report, the executive officer of the agency or the chair of the civilian review board shall provide to the Council a copy of any relevant documents associated with the report, including any findings, decision, and the agency's investigative report.

(b) The Council shall provide a copy of any report and the relevant documents provided with it to the Council Advisory Committee, which shall recommend any appropriate action to take in regard to a law enforcement officer who is the subject of that report.

(c) The Executive Director of the Council shall report to the Attorney General and the State's Attorney of jurisdiction any allegations that an officer committed Category A conduct.

* * *

Sec. 16. LAW ENFORCEMENT RECOMMENDATIONS

In order to further the goal of defining law enforcement officers as community guardians, the following entities shall report to the Senate and House Committees on Government Operations on or before January 15, 2021 on their progress in regard to the following topics, including any recommendations for legislative action, except that the Criminal Justice Council (Council) shall submit a verbal progress report to those Committees by that date and any recommendations for legislative action on or before March 15, 2021:

(1) Law enforcement officer qualifications.

(A) The Law Enforcement Advisory Board shall recommend universal standards for interviewing and hiring new law enforcement officers in order to recognize applicant qualities that are desirable and those that are not. The Board shall specifically recommend standards that should apply to officers in a supervisory role.

(B) The Council shall consult with the Human Rights Commission, the American Civil Liberties Union, statewide racial justice groups, statewide

groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other relevant organizations and individuals in reviewing law enforcement applicants' current written, oral, and psychological examinations for cultural sensitivities and overall appropriateness.

(2) Law enforcement officer training.

(A) The Council, in consultation with the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, the Human Rights Commission, the American Civil Liberties Union, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other relevant stakeholders, shall review the current requirements for basic and annual in-service training in order to determine whether appropriate training is provided in the areas of cultural awareness, implicit bias, de-escalation, and recognition of and appropriately responding to individuals with a mental health condition or psychiatric disability, and whether that training is embedded into training on other policing policies such as traffic stops and searches.

(B) In consideration of its analysis in subdivision (A) of this subdivision (2), and in reviewing current training requirements and how that training is used in practice, the Council shall recommend any amendments to statutorily required training that may not be necessary for all officers.

(C) The Council, Law Enforcement Advisory Board, and Department of Public Safety shall consult with the Vermont League of Cities and Towns and other interested stakeholders to determine whether:

(i) the Council should be reestablished within a State agency or other oversight entity; and

(ii) there should be more flexibility in the residential and field training required of law enforcement applicants, including whether applicants should be able to satisfy some aspects of basic training through experiential learning.

(3) Models of civilian oversight. The Office of Attorney General shall consult with the Council, the Human Rights Commission, the Vermont League of Cities and Towns, the Vermont Law School Center for Justice Reform, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other interested parties to recommend one or more models of civilian oversight of law enforcement.

(4) Reporting allegations of law enforcement misconduct. The Office of Attorney General shall consult with the Council, the Human Rights

Commission, the American Civil Liberties Union, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other interested parties in order to identify a central point for reporting allegations of law enforcement officer misconduct, which may be the Council or another entity, and how those allegations should be handled.

(5) Access to complaint information. The Council Advisory Committee shall consult with the Secretary of State, the Human Rights Commission, the American Civil Liberties Union, and other interested parties in reviewing public access to records related to allegations of law enforcement officer misconduct and substantiations of those allegations in order to recommend any changes to current practice.

(6) Body cameras.

(A) The Law Enforcement Advisory Board shall report any changes it deems necessary to the Model Body Worn Camera (BWC) Policy that it established pursuant to 2016 Acts and Resolves No. 163.

(B)(i) The Council shall recommend a model body camera policy for use by law enforcement agencies and officers.

(ii) After consulting with the Secretary of State, the Human Rights Commission, the American Civil Liberties Union, statewide racial justice groups, statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, and other interested parties, the Council shall specifically recommend policies for responding to public records requests for body camera footage, including any recommended timelines to respond, how and what footage should be redacted, length of footage retention, and storage.

(C) The Department of Public Safety shall consult with the Council and the Law Enforcement Advisory Board to investigate the possibility of a statewide group purchasing contract for law enforcement body cameras and of central storage locations. If the Department recommends such a group, it shall detail its recommended structure and operation.

(7) Military equipment. After an opportunity for community involvement and feedback, the Council shall recommend a statewide policy on law enforcement officers' acquisition of military equipment.

(8) Facial recognition technology. After analyzing any law enforcement needs to use facial recognition technology, analyzing any potential inaccuracies or other limitations in the capacities of that technology, including implicit biases, and an opportunity for community involvement and feedback, the Council shall recommend a statewide policy on law enforcement officers'

acquisition and use of facial recognition technology, in light of the moratorium set forth in Sec. 14 of this act. If the Council will recommend the authority for officers to acquire and use facial recognition technology, the Council shall recommend a plan to mitigate any implicit bias that results from the use of that technology.

* * * State Data Collection and Analysis * * *

Sec. 17. STATE OUTCOMES REPORT; GOVERNMENT ACCOUNTABILITY COMMITTEE; POPULATION-LEVEL INDICATORS DEMONSTRATING QUALITY OF LIFE FOR VERMONTERS WHO ARE BLACK, INDIGENOUS, OR PEOPLE OF COLOR

(a) On or before March 1, 2021, the Government Accountability Committee shall consult with the Executive Director of Racial Equity, the Social Equity Caucus, and the Chief Performance Officer and shall accept recommendations from other relevant entities in order to approve by that date population-level indicators that demonstrate the quality of life for Vermonters who are Black, Indigenous, or People of Color as those indicators relate to the population-level quality of life outcomes set forth in 3 V.S.A. § 2311(b).

(b) Once those indicators are approved by the Government Accountability Committee, the Chief Performance Officer shall report on those indicators in the State Outcomes Report set forth in 3 V.S.A. § 2311.

Sec. 18. 3 V.S.A. § 2311 is amended to read:

§ 2311. CHIEF PERFORMANCE OFFICER; ANNUAL STATE OUTCOMES REPORT

(a) Report.

(1) Annually, on or before September 30, the Chief Performance Officer within the Agency of Administration shall submit to the General Assembly a State Outcomes Report demonstrating the State's progress in reaching the population-level outcomes for each area of Vermont's quality of life set forth in subsection (b) of this section by providing data for the population-level indicators that are approved pursuant to the process set forth in subsection (c) of this section.

(2) Vermont's population-level quality of life outcomes are intended to reflect the well-being of all Vermonters, and indicators reported to measure the extent to which outcomes are achieved are intended to represent the experience of all Vermonters, including and especially Vermonters who are members of marginalized groups.

(b) Vermont population-level quality of life outcomes.

- (1) Vermont has a prosperous economy.
- (2) Vermonters are healthy.
- (3) Vermont's environment is clean and sustainable.
- (4) Vermont is a safe place to live.
- (5) Vermont's families are safe, nurturing, stable, and supported.
- (6) Vermont's children and young people achieve their potential.
- (7) Vermont's elders live with dignity and in settings they prefer.
- (8) Vermonters with disabilities live with dignity and in settings they prefer.
- (9) Vermont has open, effective, and inclusive government.
- (10) Vermont's State infrastructure meets the needs of Vermonters, the economy, and the environment.

(c) Approving population-level indicators.

(1) Annually, on or before March 1, a standing committee of the General Assembly having jurisdiction over a population-level quality of life outcome set forth in subsection (b) of this section or the Chief Performance Officer may submit to the Government Accountability Committee a request that any population-level indicator related to that outcome be revised.

(2) If that request is approved by the Government Accountability Committee, the Chief Performance Officer shall revise and report on the population-level indicator in accordance with that approval and this section.

(d) The report set forth in this section shall not be subject to the limitation on the duration of agency reports set forth in 2 V.S.A. § 20(d).

Sec. 19. 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) and the death or serious bodily injury reporting requirements set forth in 18 V.S.A. § 7257a(b) within six months prior to the Secretary's or designee's review.

Sec. 20. 20 V.S.A. § 2053 is amended to read:

§ 2053. COOPERATION WITH OTHER AGENCIES

(a) The ~~center~~ Center shall cooperate with other ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers in this ~~state~~ State and with federal and international law enforcement agencies to develop and carry on a uniform and complete ~~state~~ State, interstate, national, and international system of records of ~~criminal activities~~ commission of crimes and information.

(b)(1) All ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers shall cooperate with and assist the ~~center~~ Center in the establishment of a complete and uniform system of records relating to the commission of crimes, arrests, convictions, imprisonment, probation, parole, fingerprints, photographs, stolen property, and other matters relating to the identification and records of persons who have or who are alleged to have committed a crime, or who are missing persons, or who are fugitives from justice.

(2) In order to meet the requirements of subdivision (1) of this subsection, the Center, in consultation with the Vermont Crime Research Group, statewide racial justice groups, and statewide groups representing individuals with lived experience of a mental health condition or psychiatric disability, shall establish and provide training on a uniform list of definitions to be used in entering data into a law enforcement agency's system of records, and every law enforcement officer shall use those definitions when entering data into his or her agency's system.

* * * Law Enforcement Advisory Board * * *

Sec. 21. LEAB; REPEAL FOR RECODIFICATION

24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

Sec. 22. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

- (1) the Commissioner of Public Safety;
- (2) the Director of the Vermont State Police;

(3) the Director of the Enforcement Division of the Department of Fish and Wildlife;

(4) the Director of the Enforcement and Safety Division of the Department of Motor Vehicles;

(5) the Chief of the Capitol Police Department;

(6) the Director of the Vermont Criminal Justice Services Division;

(7) a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(8) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(9) a representative of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(10) a member of the Vermont Police Association, appointed by the President of the Association;

(11) the Attorney General or designee;

(12) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(13) the U.S. Attorney or designee;

(14) the Executive Director of the Vermont Criminal Justice Council;

(15) the Defender General or designee;

(16) one representative of the Vermont Troopers' Association or its successor entity, elected by its membership;

(17) a member of the Vermont Constables Association, appointed by the President of the Association; and

(18) a law enforcement officer, appointed by the President of the Vermont State Employees Association.

(b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of 10 members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall undertake an ongoing formal review process of law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given monies available. The Board shall also provide educational resources to Vermonters about public

safety challenges in the State.

(d)(1) The Board shall meet not fewer than six times a year to develop policies and recommendations for law enforcement priority needs, including retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

Sec. 23. LEAB; RECODIFICATION DIRECTIVE

(a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory revision, the Office of Legislative Counsel shall revise accordingly any references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

(b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as previously codified shall be deemed to refer to 20 V.S.A. § 1818.

Sec. 24. LEAB; 2021 REPORT ON MUNICIPAL ACCESS TO LAW ENFORCEMENT SERVICES

As part of its annual report in the year 2021, the Law Enforcement Advisory Board shall specifically recommend ways that towns can increase access to law enforcement services.

* * * Department of Public Safety; Dispatch * * *

Sec. 25. 20 V.S.A. chapter 113 (Commissioner and Members), subchapter 1 is amended to read:

Subchapter 1. General Provisions

§ 1871. DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER

(a) ~~The department of public safety~~ Department of Public Safety, created by 3 V.S.A. § 212, shall include a ~~commissioner of public safety~~ Commissioner of Public Safety.

(b) The head of the ~~department~~ Department shall be a ~~commissioner of public safety~~ the Commissioner of Public Safety, who shall be a citizen of the United States and shall be selected on the basis of training, experience and qualifications. The ~~commissioner~~ Commissioner shall be appointed by the ~~governor~~ Governor, with the advice and consent of the ~~senate~~, for a term of six years Senate.

* * *

(i) The ~~commissioner of public safety~~ Commissioner of Public Safety may enter into contractual arrangements to perform dispatching functions for ~~state~~

~~State, municipal, or other emergency services, establishing charges sufficient to recover the costs of dispatching. Dispatch positions which are fully funded under such contracts may be authorized under the provisions of 32 V.S.A. § 5(b).~~

(j) Charges collected under subsections (e), (f), and (i) of this section shall be credited to the Vermont law telecommunications special fund Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

* * *

§ 1873. REMOVAL OF COMMISSIONER

~~During his or her term of office, the governor may remove the commissioner upon charges preferred in writing and after hearing, which shall be a public hearing if the commissioner requests the same, upon the following grounds:~~

~~(1) Incompetency amounting to failure to perform his or her official duties competently;~~

~~(2) Misconduct in office which shall be construed to include:~~

~~(a) failure to be of good behavior;~~

~~(b) participation, directly or indirectly, in a political campaign, rally, caucus or other political gathering, other than to vote. [Repealed.]~~

* * *

§ 1875. RADIO COMMUNICATION SYSTEM

(a) ~~The commissioner~~ Commissioner shall establish a communication system as will best enable the ~~department~~ Department to carry out the purposes of this chapter. This shall include a radio set furnished, on written request, to the sheriff and ~~state's attorney~~ State's Attorney of each county on a memorandum receipt.

(b)(1) ~~The commissioner~~ Commissioner may charge to all users of telecommunications services managed, maintained, or operated by the ~~department~~ Department for the benefit of the users a proportionate share of the actual cost of providing the services and products inclusive of administrative costs.

(2) Such charges shall be based on a pro rata allocation of the actual costs of services or products, determined in an equitable manner, which shall be representative of services provided to or system usage by individual units of government, including ~~state~~ State, local, and federal agencies or private

nonprofit entities.

(3) Such charges shall be credited to the Vermont ~~communication system special fund~~ Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

* * *

Sec. 26. DEPARTMENT OF PUBLIC SAFETY; PROHIBITION ON NEW CHARGES TO PERFORM DISPATCH FUNCTIONS UNTIL FEE STRUCTURE ENACTED; RECOMMENDATIONS

(a) In accordance with the amendments to 20 V.S.A. § 1871(i) set forth in Sec. 25 of this act, the Department of Public Safety shall not charge fees in any contractual arrangements it enters into to perform dispatching functions for State, municipal, or other emergency services until the General Assembly establishes in law a dispatch fee structure for those charges.

(b)(1) On or before March 15, 2021, the Department of Public Safety shall hold at least three public hearings and consult with the Vermont League of Cities and Towns, the Emergency Medical Advisory Committee, the Vermont Police Chiefs Association, the Vermont State Firefighters Association, and local emergency medical services, police, and fire agencies in order to report by that date to the House Committees on Government Operations and on Ways and Means and the Senate Committees on Government Operations and on Finance the Department's recommendations for an equitable dispatch fee structure for the Department to charge for dispatching emergency medical service, police, and fire services, and potential funding mechanisms for those charges that do not rely on property taxes.

(2) If the Department decides to overrule substantial arguments and considerations raised against the equitable dispatch fee structure or potential funding mechanisms it ultimately recommends, the Department shall include in its report a description of those arguments and considerations and the reasons for the Department's decision.

* * * Emergency Medical Services * * *

Sec. 27. 24 V.S.A. chapter 71 is amended to read:

CHAPTER 71. AMBULANCE SERVICES

Subchapter 1. Emergency Medical Services Districts

§ 2651. DEFINITIONS

As used in this chapter:

* * *

(14) “~~State Board~~” means the ~~State Board of Health~~. [Repealed.]

* * *

§ 2652. CREATION OF DISTRICTS

The ~~State Board~~ Department of Health may divide the State into emergency medical services districts, the number, size, and boundaries of which shall be determined by the ~~Board~~ Department in the interest of affording adequate and efficient emergency medical services throughout the State.

* * *

§ 2654. RECORDING DETERMINATION OF DISTRICTS

The ~~State Board~~ Department of Health shall cause to be recorded in the office of the Secretary of State a certificate containing its determination of emergency medical services districts.

* * *

§ 2656. DUTIES AND POWERS OF OFFICERS AND DIRECTORS

(a) The board of directors shall have full power to manage, control, and supervise the conduct of the district and to exercise in the name of the district all powers and functions belonging to the district, subject to such laws or ~~regulations~~ rules as may be applicable.

* * *

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers that include the power to:

* * *

(6) monitor the provision of emergency medical services within the district and make recommendations to the ~~State Board~~ Department of Health regarding licensure, relicensure, and removal or suspension of licensure for ambulance vehicles, ambulance services, and first responder services;

* * *

(b) Two or more contiguous emergency medical services districts by a majority vote of the district board in each of the districts concerned may

change the mutual boundaries of their emergency medical services districts. The district boards shall report all changes in district boundaries to the ~~State Board~~ Department of Health.

* * *

Subchapter 2. Licensing Operation of Affiliated Agencies

§ 2681. LICENSE REQUIRED; AMBULANCE LICENSE REQUIREMENT

(a) A person furnishing ambulance services or first responder services shall obtain a license to furnish services under this subchapter.

(b)(1) In order to obtain and maintain a license, an ambulance service shall be required to provide its services in a manner that does not discriminate on the basis of income, funding source, or severity of health needs, in order to ensure access to ambulance services within the licensee's service area.

(2) The Department of Health shall adopt rules in accordance with the provisions of subdivision (1) of this subsection.

§ 2682. ~~POWERS OF STATE BOARD~~ THE DEPARTMENT OF HEALTH

(a) ~~The State Board~~ Department of Health shall administer this subchapter and shall have power to:

* * *

§ 2683. TERM OF LICENSE

Full licenses shall be issued on forms to be prescribed by the ~~State Board~~ Department of Health for a period of three years beginning on January 1, or for the balance of any such three-year period. Temporary, conditional, or provisional licenses may also be issued by the ~~Board~~ Department.

* * *

Sec. 28. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE ALLOCATION PLAN

* * *

(b) The Green Mountain Care Board, in consultation with the Secretary of Human Services or designee, shall publish on its website the Health Resource Allocation Plan identifying Vermont's critical health needs, goods, services, and resources, which shall be used to inform the Board's regulatory processes, cost containment and statewide quality of care efforts, health care payment and delivery system reform initiatives, and any allocation of health resources within the State. The Plan shall identify Vermont residents' needs for health

care services, programs, and facilities; the resources available and the additional resources that would be required to realistically meet those needs and to make access to those services, programs, and facilities affordable for consumers; and the priorities for addressing those needs on a statewide basis. The Board may expand the Plan to include resources, needs, and priorities related to the social determinants of health. The Plan shall be revised periodically, but not less frequently than once every four years.

(1) In developing the Plan, the Board shall:

(A) consider the principles in section 9371 of this title, as well as the purposes enumerated in sections 9401 and 9431 of this title;

(B) identify priorities using information from:

(i) the State Health Improvement Plan;

(ii) emergency medical services resources and needs identified by the EMS Advisory Committee in accordance with subsection 909(f) of this title;

(iii) the community health needs assessments required by section 9405a of this title;

~~(iii)~~(iv) available health care workforce information;

~~(iv)~~(v) materials provided to the Board through its other regulatory processes, including hospital budget review, oversight of accountable care organizations, issuance and denial of certificates of need, and health insurance rate review; and

~~(v)~~(vi) the public input process set forth in this section;

(C) use existing data sources to identify and analyze the gaps between the supply of health resources and the health needs of Vermont residents and to identify utilization trends to determine areas of underutilization and overutilization; and

(D) consider the cost impacts of fulfilling any gaps between the supply of health resources and the health needs of Vermont residents.

* * *

Sec. 29. 18 V.S.A. chapter 17 is amended to read:

CHAPTER 17. EMERGENCY MEDICAL SERVICES

* * *

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of 26 V.S.A. chapter 23, persons who are affiliated with an affiliated agency and licensed to provide emergency medical treatment pursuant to the requirements of this chapter and the rules adopted under it are hereby authorized to provide such care without further certification, registration, or licensing.

* * *

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the Department of Health may contract for the provision of specific services.

(b) The Secretary of Human Services, upon the recommendation of the Commissioner of Health, may ~~issue~~ adopt rules to carry out the purposes and responsibilities of this chapter.

* * *

§ 906. EMERGENCY MEDICAL SERVICES DIVISION; RESPONSIBILITIES

To implement the policy of section 901 of this chapter, the Department of Health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and licensing emergency medical personnel according to their level of training and competence. The Department shall establish by rule at least three levels of emergency medical personnel instructors and the education required for each level.

* * *

(7) Assisting hospitals in the development of programs ~~which~~ that will improve the quality of in-hospital services for persons requiring emergency medical ~~care~~ treatment.

* * *

(9) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical ~~care~~ treatment.

(10) Establishing, by rule, license levels for emergency medical personnel. The Commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant.

The rules shall also provide that:

* * *

(B) An individual licensed by the Commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, who is affiliated with an affiliated agency, shall be able to practice fully within the scope of practice for such level of licensure as defined by NHTSA's National EMS Scope of Practice Model consistent with the license level of the affiliated agency, and subject to the medical direction of the emergency medical services district medical advisor.

(C)(i) Unless otherwise provided under this section, an individual seeking any level of licensure shall be required to pass an examination approved by the Commissioner for that level of licensure, except that any psychomotor skills testing for emergency medical responder, or emergency medical technician licensure shall be accomplished either by the demonstration of those skills competencies as part of the education required for that license level as approved by the Department or by the National Registry of Emergency Medical Technicians' psychomotor examination.

(ii) Written and practical examinations shall not be required for relicensure; however, to maintain licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the Commissioner. The Commissioner shall ensure that continuing education classes are available online and provided on a regional basis to accommodate the needs of volunteers and part-time individuals, including those in rural areas of the State.

* * *

(E) An applicant who has served as a hospital corpsman or a medic in the U.S. Armed Forces, or who is licensed as a registered nurse or a physician assistant shall be granted a permanent waiver of the training requirements to become a licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the Commissioner for that level of licensure and is affiliated with an affiliated agency.

(F) An applicant who is registered on the National Registry of Emergency Medical Technicians as an emergency medical technician, an advanced emergency medical technician, or a paramedic shall be granted licensure as a Vermont emergency medical technician, an advanced emergency medical technician, or a paramedic without the need for further testing, provided he or she is affiliated with an affiliated agency or is serving as a medic with the Vermont National Guard.

* * *

(11) In addition to the licenses established under subdivision (10) of this section, the Department shall establish by rule an entry-level certification for Vermont EMS first responders.

* * *

§ 906b. TRANSITIONAL PROVISION; CERTIFICATION TO LICENSURE

~~Every person certified as an emergency medical provider shall have his or her certification converted to the comparable level of licensure. Until such time as the Department of Health issues licenses in lieu of certificates, each certified emergency medical provider shall have the right to practice in accordance with his or her level of certification. [Repealed.]~~

* * *

§ 906d. RENEWAL REQUIREMENTS; SUNSET REVIEW

(a) Not less than once every five years, the Department shall review emergency medical personnel continuing education and other continuing competency requirements. The review results shall be in writing and address the following:

(1) the renewal requirements of the profession;

(2) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(3) the cost of the renewal requirements for emergency medical personnel; and

(4) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection.

(b) The Department shall amend its rules or propose any necessary statutory amendments to revise any emergency medical personnel continuing education and other continuing competency requirements that are not necessary for the protection of the public health, safety, or welfare.

* * *

§ 909. EMS ADVISORY COMMITTEE; EMS EDUCATION COUNCIL

(a) The Commissioner shall establish the Emergency Medical Services Advisory Committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

* * *

(e) Annually, on or before January 1, the Committee shall report on the EMS system to the House Committees on Government Operations, on Commerce and Economic Development, and on Human Services and to the Senate Committees on Government Operations, on Economic Development, Housing and General Affairs, and on Health and Welfare. The Committee's reports shall include information on the following:

* * *

(6) the nature and costs of dispatch services for EMS providers throughout the State, including the annual number of mutual aid calls to an emergency medical service area that come from outside that area, and suggestions for improvement;

* * *

(f) In addition to its report set forth in subsection (e) of this section, the Committee shall identify EMS resources and needs in each EMS district and provide that information to the Green Mountain Care Board to inform the Board's periodic revisions to the Health Resource Allocation Plan developed pursuant to subsection 9405(b) of this title.

(g) The Committee shall establish from among its members the EMS Education Council, which may:

(1) sponsor training and education programs required for emergency medical personnel licensure in accordance with the Department of Health's required standards for that training and education; and

(2) provide advice to the Department of Health regarding the standards for emergency medical personnel licensure and any recommendations for changes to those standards.

Sec. 30. 32 V.S.A. § 8557 is amended to read:

§ 8557. VERMONT FIRE SERVICE TRAINING COUNCIL

(a)(1) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed \$1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the Commissioner of Financial Regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section.

* * *

(4) An amount not less than \$150,000.00 shall be specifically allocated to the Emergency Medical Services Special Fund established under 18 V.S.A. § 908 for the provision of training programs for certified Vermont EMS first responders and licensed emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics.

* * *

Sec. 31. TRANSITIONAL EMS PROVISIONS

(a) Rules. Except as otherwise provided in this act, on or before July 1, 2021, the Department of Health shall finally adopt or amend the rules required by this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Ambulance service licenses. The requirements for initial ambulance service licensure and renewal set forth in 24 V.S.A. § 2681(b) in Sec. 27 of this act shall apply to initial ambulance service license and renewal applicants on and after July 1, 2021 or on and after the effective date of the Department of Health rules adopted pursuant to that section and subsection (a) of this section, whichever date is later.

(c) Existing EMS Instructor/Coordinator licensees. Any person who is licensed as an EMS Instructor/Coordinator under the Department of Health's Emergency Medical Service Rules in effect immediately prior to the effective date of the rules establishing the new levels of instructor licenses as required by 18 V.S.A. § 906(1) in Sec. 29 of this act shall be deemed to be licensed at the level that is consistent with the scope of practice of the new license levels.

(d) Development of Vermont EMS First Responder certification. The Department of Health shall consult with the EMS Advisory Committee, the University of Vermont's Initiative for Rural Emergency Medical Services, and any other relevant stakeholders in developing the new Vermont EMS First Responder certification required by 18 V.S.A. § 906(11) in Sec. 29 of this act so that certification is established on or before July 1, 2021.

(e) Sunset review of renewal requirements. Pursuant to 18 V.S.A. § 906d (renewal requirements; sunset review) set forth in Sec. 29 this act, the Department of Health shall conduct its first sunset review in conjunction with its rulemaking required by this act and thereafter propose any necessary statutory amendments in accordance with that section.

* * * Public Safety Planning * * *

Sec. 32. REGIONAL PLANNING COMMISSIONS; INVENTORY OF MUNICIPAL PUBLIC SAFETY RESOURCES

(a) The purpose of this section is to require each regional planning commission to create one inventory identifying the public safety resources of each town within its jurisdiction and to report that inventory to all of its towns so that each town can better understand the public safety resources that are available to them and how those resources may be shared on a regional basis.

(b) On or before December 31, 2021, each regional planning commission shall create and report to all of the towns within its jurisdiction one inventory identifying all of the public safety resources that each town within its jurisdiction relies upon for its public safety needs. As part of this inventory, the inventory shall identify:

(1) any mutual aid agreements for public safety resources that its towns may have; and

(2) any of its towns that have a public safety plan.

(c) As used in this section, “public safety resources” means the law enforcement, fire, emergency medical service, and dispatch entities that provide their services to a town.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

This act shall take effect on October 1, 2020, except that:

(1) Sec. 4, 20 V.S.A. § 2352 (Council membership) shall take effect on December 1, 2020; and

(2) Sec. 19, 3 V.S.A. § 2222 (powers and duties; budget and report) shall take effect on January 1, 2021.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment Concurred In

S. 237.

House proposal of amendment to Senate bill entitled:

An act relating to promoting affordable housing.

Was taken up.

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

* * * Municipal Zoning * * *

Sec. 1. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

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

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

* * *

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to ~~an owner-occupied~~ a single-family dwelling on an owner-occupied lot. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling unit means ~~an efficiency or one-bedroom apartment a distinct unit~~ that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.

~~(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.~~

(F) Nothing in subdivision (a)(1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units; or

(ii) a bylaw that ~~requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit:~~

~~(I) a new accessory structure;~~

~~(II) an increase in the height or floor area of the existing dwelling; or~~

~~(III) an increase in the dimensions of the parking areas regulates short-term rental units distinctly from residential rental units.~~

* * *

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot not served by and able to connect to municipal sewer and water service if either of the following applies:

- (i) the lot is less than one-eighth acre in area; or
- (ii) the lot has a width or depth dimension of less than 40 feet.

* * *

Sec. 2. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

* * *

(3) Conditional uses.

(A) In any district, certain uses may be allowed only by approval of the appropriate municipal panel, if general and specific standards to which each allowed use must conform are prescribed in the appropriate bylaws and if the appropriate municipal panel, under the procedures in subchapter 10 of this chapter, determines that the proposed use will conform to those standards. These general standards shall require that the proposed conditional use shall not result in an undue adverse effect on any of the following:

- (i) The capacity of existing or planned community facilities.
- (ii) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
- (iii) Traffic on roads and highways in the vicinity.
- (iv) Bylaws and ordinances then in effect.
- (v) Utilization of renewable energy resources.

* * *

(E) A multiunit dwelling project consisting of four or fewer units located in a district allowing multiunit dwellings may not be denied solely due to an undue adverse effect on the character of the area affected.

* * *

Sec. 3. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To regulate by means of an ordinance or bylaw the operation of short-term rentals within the municipality, provided that the ordinance or bylaw does not adversely impact the availability of long-term rental housing. As used in this subdivision, “short-term rental” means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

Sec. 4. 27 V.S.A. § 545 is added to read:

§ 545. COVENANTS, CONDITIONS, AND RESTRICTIONS OF
SUBSTANTIAL PUBLIC INTEREST

Deed restrictions, covenants, or similar binding agreements added after January 1, 2021 that prohibit or have the effect of prohibiting land development allowed under a municipality’s bylaws shall not be valid. This section shall not affect the enforceability of any property interest held in whole or in part by a qualified organization or State agency as defined in 10 V.S.A. § 6301a, including any restrictive easements, such as conservation easements and historic preservation rights and interests defined in 10 V.S.A. § 822. This section shall not affect the enforceability of any property interest that is restricted by a housing subsidy covenant as defined by section 610 of this title and held in whole or in part by an eligible applicant as defined in 10 V.S.A. § 303(4) or the Vermont Housing Finance Agency.

* * * Mobile Home Parks * * *

Sec. 5. MOBILE HOME PARK INFRASTRUCTURE

(a) The Department of Environmental Conservation shall:

(1) assist the Town of Brattleboro and the Tri-Park Cooperative in the implementation of the Tri-Park Master Plan and Deerfield River & Lower Connecticut River Tactical Basin Plan, including through restructuring or forgiveness of State Revolving Loans RF1-104 and RF3-163 and additional loans to the extent possible, to allow for improvements to drinking water, wastewater, and stormwater infrastructure needs;

(2) provide similar assistance to the extent possible to similarly situated mobile home parks that also have infrastructure needs; and

(3) identify statutory and programmatic changes necessary to assist in the implementation of the plans and to improve access and terms by mobile home parks to the Clean Water Revolving Loan Fund, Water Infrastructure Sponsorship Program and the Drinking Water State Revolving Fund.

(b) On or before January 15, 2021, the Department shall report on actions taken and recommendations for statutory or programmatic changes to the Senate Committees on Economic Development, Housing and General Affairs and on Institutions and to the House Committees on General, Housing, and Military Affairs, on Natural Resources, Fish, and Wildlife, and on Corrections and Institutions.

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

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

~~(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities. The Treasurer may use amounts available under this section to provide financing for infrastructure projects in Vermont mobile home parks and may modify the terms of such financing in his or her discretion as is necessary to promote the availability of mobile home park housing and to protect the interests of the State.~~

* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

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. 119.

Message from the House No. 86

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 a bill originating in the Senate of the following title:

S. 254. An act relating to union organizing.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Ashe, the Senate adjourned until ten o'clock in the morning.