

# Senate Calendar

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FRIDAY, MARCH 12, 2021

SENATE CONVENES AT: 11:30 A.M.

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**ACTION CALENDAR**

**NEW BUSINESS**

**Committee Bill for Second Reading**

**S. 117.**

An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

**By the Committee on Health and Welfare. (Senator Lyons for the Committee.)**

**Second Reading**

**Favorable**

**S. 78.**

An act relating to binding interest arbitration for employees of the Vermont Judiciary.

**Reported favorably by Senator Ram for the Committee on Government Operations.**

(Committee vote: 5-0-0)

**S. 107.**

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

**Reported favorably by Senator White for the Committee on Government Operations.**

(Committee vote: 4-1-0)

**Favorable with Recommendation of Amendment**

**S. 7.**

An act relating to expanding access to expungement and sealing of criminal history records.

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

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

Sec. 1. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

\* \* \*

(7) "Listed crime" means any of the following offenses:

- (A) stalking as defined in section 1062 of this title;
- (B) aggravated stalking as defined in subdivision 1063(a)(3) or (4)(b) of this title;
- (C) domestic assault as defined in section 1042 of this title;
- (D) first degree aggravated domestic assault as defined in section 1043 of this title;
- (E) second degree aggravated domestic assault as defined in section 1044 of this title;
- (F) sexual assault as defined in section 3252 of this title or its predecessor as it was defined in section 3201 or 3202 of this title;
- (G) aggravated sexual assault as defined in section 3253 of this title;
- (H) lewd or lascivious conduct as defined in section 2601 of this title;
- (I) lewd or lascivious conduct with a child as defined in section 2602 of this title;
- (J) murder as defined in section 2301 of this title;
- (K) aggravated murder as defined in section 2311 of this title;
- (L) manslaughter as defined in section 2304 of this title;
- (M) aggravated assault as defined in section 1024 of this title;

(N) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;

(O) arson causing death as defined in section 501 of this title;

(P) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;

(Q) maiming as defined in section 2701 of this title;

(R) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;

(S) unlawful restraint in the second degree as defined in section 2406 of this title;

(T) unlawful restraint in the first degree as defined in section 2407 of this title;

(U) recklessly endangering another person as defined in section 1025 of this title;

(V) violation of abuse prevention order as defined in section 1030 of this title, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

(W) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(X) ~~eareless~~ or negligent or grossly negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(Y) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(Z) burglary into an occupied dwelling as defined in subsection 1201(c) of this title;

(AA) the attempt to commit any of the offenses listed in this section;

(BB) abuse (section 1376 of this title), abuse by restraint (section 1377 of this title), neglect (section 1378 of this title), sexual abuse (section 1379 of this title), financial exploitation (section 1380 of this title), and exploitation of services (section 1381 of this title);

(CC) aggravated sexual assault of a child in violation of section 3253a of this title;

(DD) human trafficking in violation of section 2652 of this title; and

(EE) aggravated human trafficking in violation of section 2653 of this title.

Sec. 2. 13 V.S.A. § 7282 is amended to read:

§ 7282. SURCHARGE

\* \* \*

(b) The surcharges imposed by this section shall not be waived by the court except as part of an expungement or sealing proceeding where the petitioner demonstrates an inability to pay.

\* \* \*

Sec. 3. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of cannabis, a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a).

(4) “Qualifying crime” means: any criminal offense that is not an offense listed in subdivision 5301(7) of this title or a violation of 18 V.S.A. § 4231(c), 4233(c), 4233a(b), 4234a(c), or 4230(c), or any offense for which a person has been granted an unconditional pardon from the Governor.

~~(A) a misdemeanor offense that is not:~~

~~(i) a listed crime as defined in subdivision 5301(7) of this title;~~

~~(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;~~

~~(iii) an offense involving violation of a protection order in violation of section 1030 of this title;~~

~~(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or~~

~~(v) a predicate offense;~~

~~(B) a violation of subsection 3701(a) of this title related to criminal mischief;~~

~~(C) a violation of section 2501 of this title related to grand larceny;~~

~~(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title;~~

~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

~~(F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;~~

~~(G) a violation of 18 V.S.A. § 4230(a) related to possession of cannabis;~~

~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;~~

~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;~~

~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;~~

~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;~~

~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;~~

~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or~~

~~(P) any offense for which a person has been granted an unconditional pardon from the Governor.~~

(5) “Qualifying felony property offense” means a felony level violation of 9 V.S.A. § 4043 related to fraudulent use; section 1801 of this title related to forgery and counterfeiting; section 1802 of this title related to uttering forged or counterfeited instrument; section 1804 of this title related to counterfeiting paper money; section 1816 of this title related to possession or use of credit card skimming devices; section 2001 of this title related to false personation; section 2002 of this title related to false pretenses or tokens; section 2029 of this title related to home improvement fraud; section 2030 of this title related to identity theft; section 2501 of this title related to grand larceny; section 2502 of this title related to petit larceny; section 2503 of this title related to larceny from the person; section 2531 of this title related to embezzlement; section 2532 of this title related to officers or servants of incorporated bank; section 2533 of this title related to receiver or trustee; section 2537 of this title related to holding property in official capacity or belonging to the State or a municipality; section 2561 of this title related to receiving stolen property; section 2575a of this title related to organized retail theft; section 2577 of this title related to retail theft; section 2582 of this title related to theft of services; section 2591 of this title related to theft of rented property; section 2592 of this title related to failure to return a rented or leased motor vehicle; section 3016 of this title related to false claims; section 3701 of this title related to unlawful mischief; section 3705 of this title related to unlawful trespass; section 3733 of this title related to mills, dams, or bridges; section 3761 of this title related to unauthorized removal of human remains; section 3767 of this title related to grave markers and ornaments; section 4103 of this title related to access to computer for fraudulent purposes; section 4104 of this title related to alteration, damage, or interference; or section 4105 of this title related to theft or destruction.

(6) “Subsequent offense” means the conviction of a crime committed by the person who is the subject of a petition to expunge or seal a criminal history record that arose out of a new incident or occurrence after the person was convicted of the crime to be expunged or sealed.

Sec. 4. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,  
POSTCONVICTION; PROCEDURE

(a)(1) A person may file a petition with the court requesting expungement or sealing of the criminal history record related to the conviction if:

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence;



(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense;

(C) pursuant to the conditions set forth in subsection (g) of this section, the person was convicted of a violation of 23 V.S.A. § 1201(a) related to operating under the influence of alcohol or other substance, excluding a violation of that section resulting in serious bodily injury or death to any person other than the operator, or related to operating a school bus with a blood alcohol concentration of 0.02 or more or operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; or

(D) pursuant to the conditions set forth in subsection (h) of this section, the person was convicted under 1201(c)(3)(A) of a violation of subdivision 1201(a) of this title related to burglary when the person was 25 years of age or younger, and the person did not carry a dangerous or deadly weapon during commission of the offense.

(2) The State's Attorney or Attorney General shall be the respondent in the matter. Notwithstanding any other provision of law, if a person petitions to seal or expunge a criminal history record prior to the date the offense is eligible for sealing or expungement as provided in this section, only the office that prosecuted the offense that is the subject of the sealing or expungement petition may stipulate to that petition.

(3) The court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the court, and the court shall issue the petitioner an order of expungement and provide notice of the order in accordance with this section.

(4) This section shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge a record of a conviction for a felony offense committed in a motor vehicle as defined in 23 V.S.A. § 4.

(5) A person convicted of a qualifying offense for which the person has served a term of probation with payment of restitution as a condition of that probation may petition for sealing or expungement of that offense upon satisfaction of the judgement for the qualifying offense. The petition shall request that the court, in the interest of justice, adjust the waiting period for sealing or expungement of the offense as set forth in this section. The court shall consider the nature and circumstances of the offense, typical sentences for similar offenses, and the length of the sentence served by the petitioner in determining whether to adjust the waiting period and the duration of any adjusted waiting period.

(b) Qualifying nonpredicate misdemeanors and possession of a controlled substance offenses. For petitions filed to expunge or seal a criminal history record of a nonpredicate misdemeanor offense or a violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a):

(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least five years have elapsed since:

~~(i) the date on which the person successfully completed the terms and conditions of the sentence for the conviction satisfied the judgement,~~ or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

~~(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime. [Repealed.]~~

(C) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(D) The court finds that expungement of the criminal history record serves the interests of justice.

(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), ~~(B)~~, and (C) of this subsection are met and the court finds that:

(A) sealing the criminal history record better serves the interests of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for expungement or sealing as set forth in this subsection, the court may grant the petition without a hearing.

(c) Qualifying predicate misdemeanors. For petitions filed to expunge or seal a criminal history record of a qualifying predicate misdemeanor offense:

(1) The court shall grant the petition and order that the criminal history record be ~~expunged~~ sealed pursuant to section ~~7606~~ 7607 of this title if the following conditions are met:

(A) ~~At least 10~~ five years have elapsed since:

~~(i) the date on which the person successfully completed the terms and conditions of the sentence for the conviction~~ satisfied the judgement; or

~~(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgement for the subsequent offense,~~ whichever is later.

~~(B) The person has not been convicted of a felony arising out of a new incident or occurrence in the last seven years. [Repealed.]~~

~~(C) The person has not been convicted of a misdemeanor during the past five years. [Repealed.]~~

(D) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

(E) After considering the particular nature of any subsequent offense, the court finds that expungement of the criminal history record for the qualifying crime serves the interests of justice.

~~(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the court finds that:~~

~~(A) sealing the criminal history record better serves the interests of justice than expungement; and~~

~~(B) the person committed the qualifying crime after reaching 19 years of age. A criminal history record sealed pursuant to this subsection (c) shall be eligible for expungement pursuant to section 7606 of this title five years after the date on which the sealing order is issued if the person does not commit any criminal offense subsequent to the sealed offense.~~

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for expungement or sealing as set forth in this subsection, the court may grant the petition without a hearing.

\* \* \*

(g) Certain DUI offenses. For petitions filed pursuant to subdivision (a)(1)(C) of this section, only petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:

(1) At least 10 years have elapsed since the date on which the person ~~successfully completed the terms and conditions of the sentence~~ satisfied the judgment for the conviction, or if the person has ~~sueessfully completed the terms and conditions of~~ an indeterminate term of probation that commenced at least 10 years previously.

(2) At the time of the filing of the petition:

(A) the person has only one conviction of a violation of 23 V.S.A. § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

(B) the person has not been convicted of a ~~crime arising out of a new incident or occurrence~~ subsequent offense since the person was convicted of a violation of 23 V.S.A. § 1201(a).

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that sealing of the criminal history record serves the interests of justice.

(h) Certain burglary offenses. For petitions filed pursuant to subdivision (a)(1)(D) of this section, unless the court finds that expungement or sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged or sealed in accordance with section 7606 or 7607 of this title if the following conditions are met:

(1) At least 15 years have elapsed since the date on which the person ~~successfully completed the terms and conditions of the sentence~~ satisfied the judgment for the conviction, or the person has ~~sueessfully completed the terms and conditions of~~ an indeterminate term of probation that commenced at least 15 years previously.

(2) The person has not been convicted of a ~~crime arising out of a new incident or occurrence~~ subsequent offense since the person was convicted of a violation of subdivision 1201(c)(3)(A) of this title.

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that expungement or sealing of the criminal history record serves the interests of justice.

(i) Qualifying felony property offenses and selling, dispensing, or transporting regulated substances offenses. For petitions filed to expunge or seal a criminal history record of a qualifying felony property offense or a violation of 18 V.S.A. § 4230(b), 4231(b), 4232(b), 4233(b), 4234(b), 4234a(b), 4234b(b), 4235(c), or 4235a(b):

(1) The court shall grant the petition and order that the criminal history record be sealed pursuant to section 7607 of this title if the following conditions are met:

(A) At least eight years have elapsed since:

(i) the date on which the person satisfied the judgment for the conviction; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

(B) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

(C) After considering the particular nature of any subsequent offense, the court finds that expungement of the criminal history record for the qualifying crime serves the interests of justice.

(2) A criminal history record sealed pursuant to this subsection (i) shall be eligible for expungement pursuant to section 7606 of this title eight years after the date on which the sealing order is issued if the person does not commit any criminal offense subsequent to the sealed offense.

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for sealing as provided in this subsection, the court may grant the petition to seal or expunge without a hearing.

(j) Qualifying felonies. For petitions filed to expunge or seal a criminal history record of any other qualifying felony offense not specified in subsection (f), (h), or (i) of this section:

(1) The court shall grant the petition and order that the criminal history record be sealed pursuant to section 7607 of this title if the following conditions are met:

(A) At least 10 years have elapsed since the date on which the person satisfied the judgment for the conviction or, if the person committed a subsequent offense, 10 years from the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

(B) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

(2) A criminal history record sealed pursuant to this subsection (j) shall not be eligible for expungement pursuant to section 7606 of this title unless the respondent stipulates to the expungement.

(3) If the respondent stipulates to a petition to seal filed prior to, on, or after the date the offense is eligible for sealing as provided in this subsection, the court may grant the petition to seal without a hearing.

Sec. 5. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The court shall also make a reasonable effort to notify the person whose record is sealed that, pursuant to section 7602 of this title, he or she may be eligible for a subsequent expungement after a required waiting period. “Reasonable effort” means attempting to contact the person by first-class mail at the person’s last known address and by telephone at the person’s last known phone number. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation’s National Crime Information Center.

\* \* \*

Sec. 6. 33 V.S.A. § 5119 is amended to read:

§ 5119. SEALING OF RECORDS

\* \* \*

(e)(1) Except as provided in subdivision (2) of this subsection, upon the entry of an order sealing such files and records under this section, the proceedings in the matter ~~under this act~~ shall be considered never to have occurred, all general index references ~~thereto~~ to the sealed record shall be deleted, and the person, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such person upon inquiry in any matter. Copies of the order shall be sent to each agency or official named in the order.

(2)(A) Any court, agency, or department that seals a record pursuant to an order under this section may keep a special index of files and records that have been sealed. This index shall only list the name and date of birth of the subject of the sealed files and records and the docket number of the proceeding ~~which~~ that was the subject of the sealing. The special index shall be confidential and may be accessed only for purposes for which a department or agency may request to unseal a file or record pursuant to subsection (f) of this section.

(B) Access to the special index shall be restricted to the following persons:

(i) the commissioner and general counsel of any administrative department;

(ii) the secretary and general counsel of any administrative agency;

(iii) a sheriff;

(iv) a police chief;

(v) a State's Attorney;

(vi) the Attorney General;

(vii) the Director of the Vermont Crime Information Center; and

(viii) a designated clerical staff person in each office identified in subdivisions (i)–(vii) of this subdivision (B) who is necessary for establishing and maintaining the indices for persons who are permitted access.

(C) Persons authorized to access an index pursuant to subdivision (B) of this subdivision (2) may access only the index of their own department or agency.

\* \* \*

(g) On application of a person who has pleaded guilty to or has been convicted of the commission of a crime under the laws of this State ~~which~~ that the person committed prior to attaining ~~the age of 21~~ 25 years of age, or on the motion of the court having jurisdiction over such a person, after notice to all parties of record and hearing, the court shall order the sealing of all files and records related to the proceeding if it finds:

(1) two years have elapsed since the final discharge of the person;

(2) the person has not been convicted of a listed crime as defined in 13 V.S.A. § 5301 or adjudicated delinquent for such an offense ~~after the initial conviction~~ for 10 years prior to the application or motion, and no new proceeding is pending seeking such conviction or adjudication; and

(3) the person's rehabilitation has been attained to the satisfaction of the court.

\* \* \*

Sec. 7. 23 V.S.A. § 2303 is added to read:

§ 2303. EXPUNGEMENT OF VIOLATION RECORDS

(a) Automatic expungement. The Judicial Bureau shall automatically enter an expungement order for convictions or adjudications of the following violations on the two-year anniversary of the satisfaction of the judgment:

(1) section 301 of this title (operating an unregistered vehicle);

(2) subsection 307(a) of this title (failing to possess registration);

(3) section 611 of this title (failing to possess license);

(4) subsection 676(a) of this title (operating after suspension);

(5) section 601 of this title (operating without a license);

(6) section 800 of this title (operating without insurance); and

(7) subsection 1222(c) of this title (operating an uninspected vehicle).

(b) Effect of expungement.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the individual whose record is expunged shall be treated in all respects as if he or she had never been convicted or adjudicated of the violation. This includes the expungement of any points accumulated pursuant to chapter 25 of this title.

(2) The Judicial Bureau shall report the expungement to the Department of Motor Vehicles within 14 days.

(3) The Judicial Bureau shall keep a special index of cases that have been expunged together with the expungement order. The index shall list only the name of the individual convicted or adjudicated of the violation, his or her date of birth, the docket number, and the violation that was the subject of the expungement. All other court documents and records that are subject to an expungement order, whether held by the Judicial Bureau or the Department of Motor Vehicles, shall be destroyed.



(4) Upon receiving an inquiry from any person regarding an expunged record, the Judicial Bureau and Department of Motor Vehicles shall respond that “NO RECORD EXISTS.”

(c) Policies for implementation. The Court Administrator shall establish policies for implementing this section.

#### Sec. 8. VERMONT SENTENCING COMMISSION; EXPUNGEMENT AND SEALING REPORT

During the 2021 legislative interim, the Vermont Sentencing Commission shall consider how to simplify and automate the process of expungement and sealing of criminal history records and develop a comprehensive policy that provides an avenue for expungement or sealing of all offenses except those listed in 33 V.S.A. § 5204(a). On or before November 1, 2021, the Commission shall report to the Joint Legislative Justice Oversight Committee regarding its recommendations on:

(1) a policy to make all criminal history records eligible for sealing or expungement, except for records of convictions of the offenses listed in 33 V.S.A. § 5204(a);

(2) the individuals or entities that should have access to sealed criminal history records;

(3) whether Vermont should continue to employ a two-track system that provides for sealing or expungement of criminal history records based on the nature of the offense, or whether Vermont should employ a one-track system that provides for either sealing or expungement for all eligible offenses;

(4) implementing an automated process, not requiring a petition, to seal and expunge criminal conviction records that provides for notice to the prosecuting office and an opportunity for the prosecutor to oppose the sealing or expungement.

#### Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

(Committee vote: 5-0-0)

**S. 15.**

An act relating to correcting defective ballots.

**Reported favorably with recommendation of amendment by Senator White for the Committee on Government Operations.**

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

\* \* \* Candidate Nicknames \* \* \*

Sec. 1. 17 V.S.A. § 2361 is amended to read:

§ 2361. CONSENT OF CANDIDATE

(a) A candidate for whom petitions containing sufficient valid signatures have been filed shall file with the official with whom the petitions were filed a consent to the printing of the candidate's name on the ballot. The Secretary of State shall prepare and furnish forms for this purpose.

(b)(1) The consent shall set forth the name of the candidate, as the candidate wishes to have it printed on the ballot, the candidate's town of residence, and correct mailing address.

(2) If a candidate wishes to use a nickname, the format on the ballot shall be the candidate's first name, the nickname set off in quotations, and the candidate's last name.

(A) A nickname of one or two words by which the candidate has been commonly known for at least three years preceding the election may be used in combination with a candidate's name. A nickname that constitutes a slogan or otherwise indicates a political, economic, social, or religious view or affiliation may not be used.

(B) A nickname may not be used unless the candidate executes and files with the application for a place on the ballot an affidavit indicating that the nickname complies with this subsection.

(3) Professional titles such as "Dr.," "Esq.," or "CPA" shall not be used as part of a candidate's name on the ballot.

(c) The consent shall be filed on or before the day petitions are due. Unless a consent is filed, the candidate's name shall not be printed on the primary ballot.

\* \* \* Outdoor and Drive-up Polling Places \* \* \*

Sec. 2. 17 V.S.A. § 2502 is amended to read:

§ 2502. LOCATION OF POLLING PLACES; OUTDOOR POLLING PLACES

(a) Each polling place shall be located in a public place within the town.

(b) Outdoor polling places. A polling place may be located outdoors if it can be operated in a manner consistent with the provisions of this chapter.

(1) The board of civil authority shall designate the outdoor area that comprises the “polling place” for purposes of restrictions and requirements for polling places imposed pursuant to this chapter, including the restrictions on campaigning and other activities within the building containing the polling place described in subdivisions 2508(a)(1)(A) and (B) of this subchapter.

(2) An indoor polling place alternative must be available at or near the same physical location as the outdoor polling place in case of inclement weather. If conditions require use of the indoor alternative, the Secretary of State’s office shall be notified immediately of the change.

(3) Candidates and members of the public who would otherwise be allowed to campaign outside an indoor polling place must be kept a reasonable distance from the outdoor polling place such that any campaigning does not disrupt or interfere in any way with the voting process.

(c) Drive-up voting. Voting may be conducted by a drive-through or drive-up voting method at a polling place if the voting process can be operated in a manner consistent with the provisions of this chapter.

(1) Drive-up voting procedures shall enable voters to complete the voting process without leaving their vehicle, allowing the voters to deposit their ballot directly into a tabulator or secure ballot box that may be brought to the window of the vehicle or located in such a manner that it can be accessed from the vehicle, or providing voters an envelope or folder in which to place their voted ballot before handing it to an election official for processing.

(2) Polling places conducting drive-up voting shall also accommodate walk-in voters and those using other forms of transport.

(d) Ballot transfer. If a polling place is outside or if voting is conducted by a drive-up method, ballots may be periodically transferred from a secure outdoor or drive-up ballot box to another secure container for counting after the close of the polls or to election officials who are processing ballots through the tabulator. Any such transfer shall be done in the presence of two election officials, if possible officials of different parties.

(b)(e) The Access. The accessible voting system must be available for those who request it. Additionally, the board of civil authority shall take such measures as are necessary to assure that voters who are elders or have a disability may conveniently and secretly cast their votes. Measures that may be taken shall include: location of polling places on the ground floor of a building; providing ramps, elevators, or other facilities for access to the polling place; providing a stencil overlay for ballots; providing a separate polling place with direct communication to the main polling place; and permitting election officials to carry a ballot to an elder or to a person who has a disability in order to permit that person to mark the ballot while in a motor vehicle adjacent to the polling place. For purposes of this subsection, the board of civil authority shall have full jurisdiction on the day of an election over the premises at which a polling place is located.

(e)(f) Polling place designation.

(1) Thirty days prior to a local, primary, or general election, the town clerk shall submit to the Secretary of State a list of polling places within the municipality that will be used in that election. The list shall include the name of the polling location, its physical address, and the time the polling place will open.

(2)(A) A municipality may change the location of a polling place less than 30 days prior to an election only in cases of emergency. If a municipality changes the location of a polling place less than 30 days prior to the election, the town clerk shall notify the Secretary of State within 24 hours of the change and provide the new polling place information.

(B) The Secretary of State shall assist any municipality that needs to change the location of a polling place on the day of an election due to an emergency, including assisting in finding a new location and informing the public of that new location.

(C) The Secretary of State shall inform the State chairs of Vermont's major political parties of any changes made to polling places that he or she is aware of made less than 30 days prior to an election.

(3) The Secretary of State shall provide on his or her official website a list of polling places that will be used in any local, primary, or general election within the State, and shall specifically provide notice on that website of any change in the location of a municipality's polling place.

\* \* \* Ballot Mailing for Local Elections \* \* \*

Sec. 3. 17 V.S.A. § 2680 is amended to read:

§ 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL

(a) Application. Unless specifically required by statute, the provisions of the Australian ballot system shall not apply to the annual or special meeting of a municipality unless that municipality, at its annual meeting or at a special meeting called for that purpose, votes to have them apply.

\* \* \*

(f) Presiding officer. The presiding officer for any election or part of an election using the Australian ballot system shall be the town clerk or as otherwise provided in section 2452 of this title.

(g) Early and absentee voting. At the time the Australian ballots are available, which shall be not less than 20 days before the election, early and absentee voting shall be permitted in accordance with chapter 51, subchapter 6 of this title.

(1) The legislative body of a town, city, or village may vote to mail a ballot to all active registered voters in the town, city, or village.

(2) A school board may, after receiving the approval of the legislative body of each member town in the district, vote to mail its annual meeting ballot to all active registered voters in the district. In such case, the town clerk and election officials in the member towns shall be responsible for the mailing of the ballots but all costs associated with the mailing of ballots shall be borne by the school district.

(3) Ballots shall be mailed not less than 20 days before the election, or as soon as they are available.

(4) The mailing of ballots shall be conducted to the extent practicable in accordance with chapter 51, subchapter 6 of this title.

(g)(h) Hearing.

(1) Whenever a municipality has voted to adopt the Australian ballot system of voting on any public question or budget, except the budget revote as provided in subsection (c) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 10 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office.

\* \* \*

\* \* \* Ballot Mailing for Statewide Elections \* \* \*

Sec. 4. 17 V.S.A. § 2532 is amended to read:

§ 2532. AUTHORIZED APPLICANTS; APPLICATION FORM;  
DUPLICATES

\* \* \*

(e) Duplicate early voter absentee ballots.

(1)(A) The town clerk may, upon application, issue a duplicate early voter absentee ballot if the original ballot is lost or not received by the voter within a reasonable period of time after mailing it is mailed to the voter by the town clerk or by the Secretary of State's office pursuant to section 2537a of this subchapter.

(B) The application may be made by a person entitled to apply for an early voter absentee ballot under subsection (a) of this section and shall be accompanied by a sworn statement affirming that the voter has not received the original ballot.

(2) If a duplicate early voter absentee ballot is issued and both the duplicate and original early voter absentee ballots are received before the close of the polls on election day, the ballot with the earlier postmark that is received first by the town clerk shall be counted and the Elections Division of the Secretary of State's office shall be notified.

\* \* \*

Sec. 5. 17 V.S.A. § 2536 is amended to read:

§ 2536. FURNISHING EARLY VOTER ABSENTEE BALLOT  
ENVELOPES

Upon request, for any statewide primary, presidential primary, or general election, the Secretary of State shall furnish the envelopes prescribed in sections 2535 and 2542 of this title to town clerks in such numbers as they request. The cost of absentee ballot envelopes for local elections shall be borne by the municipality.

Sec. 6. 17 V.S.A. § 2537 is amended to read:

§ 2537. EARLY OR ABSENTEE VOTING IN THE TOWN CLERK'S  
OFFICE

(a)(1) A voter may, if he or she chooses, apply in person to the town clerk for the early voter absentee ballots and envelopes.

(2) In this case, the clerk shall furnish the early voter absentee ballots and envelopes when a valid application has been made, or at such time as the clerk receives the ballots, whichever comes first.

(3) The voter may:

(A) mark his or her ballots, place them in the envelope, sign the certificate, and return the ballots in the envelope containing the certificate to the town clerk or an assistant town clerk without leaving the office of the town clerk; ~~or~~

(B) take the ballots and return them to the town clerk in the same manner as if the ballots had been received by mail; or

(C) if the board of civil authority has voted to allow it pursuant to section 2546b of this subchapter, mark the ballots and deposit them directly into the vote tabulator or ballot box in accordance with section 2546b of this subchapter.

(b) Except for justices of the peace as provided in section 2538 of this subchapter, a person shall not take any ballot from the town clerk on behalf of any other person.

Sec. 7. 17 V.S.A. § 2537a is added to read:

§ 2537a. MAILING OF GENERAL ELECTION BALLOTS

(a) For every general election, the Secretary of State's office shall mail a general election ballot to all active voters on the statewide voter checklist described in section 2154 of this title.

(1) The mailing of the ballots shall commence not later than 43 days before the election and shall be completed not later than October 1.

(2) A postage-paid return envelope, pre-addressed to the town or city clerk of the town or city where the voter is registered to vote, shall be included with the ballot sent to every voter in which the ballot may be mailed back to the clerk. All postage cost shall be paid by the Secretary of State's office.

(3) The address file to be used for the mailing shall be generated from the statewide voter checklist as close as practicable to the date of the mailing, and in no case earlier than September 1.

(4) The Secretary of State's office shall include in the mailing to each voter instructions for return of the voted ballot.

(b) General election ballots mailed by the Secretary of State's office under this section shall be returned by the voter to the town or city clerk in the town or city where that voter is registered in accordance with the procedures for return of ballots described in this subchapter.

Sec. 8. 17 V.S.A. § 2539 is amended to read:

§ 2539. DELIVERY OF EARLY VOTER ABSENTEE BALLOTS

(a) Default; town office or mail.

(1) Except as provided in subsections (b) and (c) of this section, unless the early or absentee voter votes in the town clerk's office as set forth in section 2537 of this ~~subchapter~~ title, the town clerk shall provide to the early or absentee voter who comes to the town clerk's office a complete set of early voter absentee ballots or mail a complete set of early voter absentee ballots to each early or absentee voter for whom a valid application has been filed.

(2) ~~The~~ Except as provided in subdivision (3) of this subsection, the early voter absentee ballots shall be mailed forthwith upon the filing of a valid application, or upon the town clerk's receipt of the necessary ballots, whichever is later.

(3)(A) For any general election, if a voter transfers his or her registration from another town or city in the state following the mailing of ballots to all active voters by the Secretary of State's office pursuant to section 2537a of this subchapter, before issuing an absentee ballot the clerk shall confirm the status of the ballot that was previously mailed to that voter by the Secretary of State and proceed as follows:

(i) If the voter has voted and returned the ballot issued to the voter by the Secretary of State to the town in which they were previously registered, the voter shall not be issued a ballot nor be allowed to cast another ballot in the same general election and shall be registered following the election.

(ii) If the voter did not receive or did not return the ballot that was previously sent to the voter by the Secretary of State, the voter may be issued another ballot for the general election if:

(aa) the voter returned the unvoted ballot that was previously issued to the voter; or

(bb) the voter signs an affidavit stating that the voter has not previously cast a ballot in that general election.



(B) If a voter registers to vote for the first time in Vermont following the time when the Secretary of State's office generated the address file to be used for the mailing of ballots to all active voters by the Secretary of State's Office, and requests a ballot for the general election, the ballot shall be issued to that voter pursuant to subdivision (1) of this subsection (a).

\* \* \*

Sec. 9. 17 V.S.A. § 2540 is amended to read:

§ 2540. INSTRUCTIONS TO BE SENT WITH BALLOTS

(a) The town clerk shall send with all early voter absentee ballots and envelopes printed instructions, which may be included on the envelope, in ~~substantially the following form:~~ a form prescribed by the Secretary of State's office.

~~INSTRUCTIONS FOR EARLY OR ABSENTEE VOTERS~~

- ~~1. Mark the ballots.~~
- ~~2. Place them in this envelope.~~
- ~~3. Fill out and sign the certificate on the envelope.~~
- ~~4. Mail or deliver the envelope containing the ballots to the town clerk of the town where you are a registered voter in time to arrive not later than election day.~~

~~Note: If these ballots have been brought to you personally by two justices of the peace because of your illness, injury, or disability, just return them to the justices after you have signed the envelope. YOU HAVE THE RIGHT TO MARK YOUR BALLOTS IN PRIVATE—but if you ask for help in filling out the ballots, they will give it to you.~~

~~BE SURE TO FILL OUT AND SIGN THE CERTIFICATE ON THIS ENVELOPE OR YOUR VOTE WILL NOT COUNT!~~

~~(b) In the case of early absentee voting in a primary, the instructions shall also include appropriate instructions prepared by the Secretary of State for separating and depositing unvoted ballots in a separate envelope provided and clearly marked for that purpose.~~

\* \* \* Ballot Curing; Secure Drop Boxes \* \* \*

Sec. 10. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

(a) After marking the ballots and signing the certificate on the envelope, the early or absentee voter to whom the same are addressed shall return the

ballots to the clerk of the town in which ~~he or she is a~~ the voter is registered, in the manner prescribed, except that in the case of a voter to whom ballots are delivered by justices, the ballots shall be returned to the justices calling upon ~~him or her~~ that voter, and they shall deliver them to the town clerk.

(b) Once an early voter absentee ballot has been returned to the clerk in the envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason unless the ballot is deemed defective under subdivision 2546(a)(2) of this subchapter and the voter chooses to cure the defect and cast the ballot pursuant to subsection 2547(d) of this subchapter.

(c) If a ballot includes more than one page, the early or absentee voter need only return the page upon which the voter has marked his or her vote.

(d)(1) All early voter absentee ballots returned as follows shall be counted:

(A) by any means, to the town clerk's office before the close of business on the day preceding the election;

(B) to any secure ballot drop box provided by the town or city in which the voter is registered pursuant to section 2543a of this subchapter before the close of business on the day before the election;

~~(B)(C)~~ by mail, to the town clerk's office before the close of the polls on the day of the election; and

~~(C)(D)~~ by hand delivery to the presiding officer at the voter's polling place before the closing of the polls at 7 p.m.

(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.

Sec. 11. 17 V.S.A. § 2543a is added to read:

§ 2543a. PROVISION OF SECURE BALLOT DROP BOXES

(a) A board of civil authority may vote to install one or more secure outdoor ballot drop boxes ("drop boxes") for the return of voted ballots.

(b) Drop boxes must be located on municipal property. If a town has only one drop box, it shall be located on the property of the municipal clerk's office.

(c) Drop boxes must allow for the return of ballots by voters at any time of day, and must be available for the return of ballots not later than 43 days before the election.

(d) Drop boxes must be installed and maintained in accordance with guidance issued by the Secretary of State's office. At a minimum, drop boxes must:

(1) be affixed to a foundation or other immovable object such that they cannot not be removed without being tampered with;

(2) be under 24-hour video surveillance or in the alternative be within sight of the municipal building;

(3) be constructed in such a manner that it is impossible to remove the ballots without the ballot box being tampered with; and

(4) be able to be closed such that ballots may not be deposited once the deadline for deposit has passed.

(e) Ballots may be deposited in the drop boxes until the close of business on the day before the election. At that time the drop box shall be closed and instructions affixed to the drop box instructing the voter to return their voted ballot to the polling place on the day of the election.

(f) The Secretary of State's office shall provide drop boxes to a town or city upon request following a vote of the board of civil authority. The maximum number of drop boxes that the Secretary of State's office shall provide in any town or city shall be as follows:

(1) up to 5,000 registered voters, one;

(2) between 5,000 and 10,000 registered voters, two;

(3) between 10,000 and 15,000 registered voters, three;

(4) between 15,000 and 20,000 registered voters, four; and

(5) over 20,000 registered voters, five.

(6) A town or city may have a number of secure drop boxes equal to the number of representative districts in that town or city, with one drop box located in each district, if that number is greater than the number allowed based on that town or city's number of registered voters in subdivisions (1)–(5) of this subsection. If there is not suitable municipal property for the location of a secure drop box in the area covered by a certain district in the town or city, an alternative location may be used with the approval of the Secretary of State's office.

## Sec. 12. REPEALS

17 V.S.A. § 2545 (receipt of marked ballots by town clerk; delivery to election officers) is repealed.

\* \* \* Ballot Processing and Defective Ballot Notification \* \* \*

Sec. 13. 17 V.S.A. § 2546 is amended to read:

§ 2546. DEPOSIT OF EARLY VOTER ABSENTEE BALLOTS IN  
BALLOT BOX OR VOTE TABULATOR RECEIPT OF BALLOTS  
BY CLERK; VOTER STATUS; OPPORTUNITY TO CURE;  
PROCESSING ABSENTEE BALLOTS

(a) Not earlier than Beginning 30 days before the opening of the polls on election day, upon receipt of a mailing envelope containing ballots returned by a voter, the town clerk may shall, within three business days or on the next day the office is open for business, whichever is later, direct two election officials working together to do all of the following:

(1) open the outside mailing envelope and sort early voter absentee ballots by ward and district, if necessary; and

(2) determine that the certificate has been properly completed and signed; the voted ballot was placed in the certificate envelope, and the ballot is not defective for any other reason pursuant to section 2547 of this subchapter.

(A) If the ballot is not deemed defective, the clerk shall check the name of the early voter off the entrance checklist and record the ballot as received and accepted in the online election management system, and:

(i) place the certificate envelopes into a secure container marked “checked in early voter absentee ballots” to be transported to the polling places on election day; or

(ii) open the certificate envelope and place the voted ballot in the ballot box or tabulator in accordance with the procedures contained in section 2546a of this subchapter.

(B) If the ballot is deemed defective, the clerk shall:

(i) check the name of the early voter off the entrance checklist and record the ballot as received and defective in the online election management system;

(ii) place the ballot in the defective ballot envelope in accordance with the procedures of subdivisions 2547(b)(1)–(3) of this subchapter;

(iii) not later than the next business day mail a postcard, designed and provided by the Secretary of State’s office, to the voter at the address where the ballot was sent informing the voter that their ballot was deemed defective and rejected, the reason it was deemed defective, and the voter’s

opportunity to correct the error pursuant to subsection 2547(d) of this subchapter.

(b) Beginning five business days preceding the election, the clerk is not required to send a postcard to those voters whose ballots have been deemed defective. In these cases, the clerk shall make a reasonable effort to provide notice to the voter as soon as possible using any other contact information that the clerk has on file and shall record the ballot as defective in the online election management system not later than 24 hours after the ballot is deemed defective.

~~(3) check the name of the early voter off the entrance checklist; and~~

~~(4) place the certificate envelopes into a secure container marked “checked in early voter absentee ballots” to be transported to the polling places on election day.~~

(b)(c) The Processing absentee ballots on election day. If the certificate envelopes have not been opened and the voted ballots placed in the ballot box or tabulator, the town clerk or presiding officer shall deliver the unopened early voter absentee ballots to the election officials at the place where the entrance checklist is located. Upon the opening of the polls During the polling hours on election day:

(1) If the ballots are in a , at the direction of the presiding officer, at least two election officials shall open the container marked “checked in early voter absentee ballots,” one election official shall open the certificate envelopes, turn the certificate side face down, and hand the envelope face down to a second election official, if possible from a different political party, who shall remove the ballots from the envelopes and deposit them in the ballot box or vote tabulator. If the early voter is a first-time voter who registered by mail or online, and if the proper identification has not been submitted before the closing of the polls, the ballot shall be treated as a provisional ballot, as provided in subchapter 6A of this chapter.

~~(2) If the ballots have not been previously checked off the entrance checklist and if two election officials, from different political parties, determine that the certificate on the envelope is properly completed and signed by the early voter, the name of the early voter appears on the checklist, and the early voter is not a first-time voter in the municipality who registered by mail and is marked on the checklist as requiring additional documentation, the election officials shall mark the checklist, open the certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballots in the ballot box or vote tabulator.~~

~~(3)(A) If the early voter is a first-time voter who registered by mail or online, two election officials from different political parties shall determine whether the identification required under subdivision 2563(1) of this title has been submitted by the voter. Upon ascertaining that the proper identification has been submitted by the voter, the election officials shall mark the checklist, open the certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballot in the ballot box or vote tabulator.~~

~~(B) If the proper identification has not been submitted, the ballot shall be treated as a provisional ballot, as provided in subchapter 6A of this chapter.~~

~~(e)(d) All early voter absentee ballots shall be commingled with the ballots of voters who have voted in person.~~

Sec. 14. 17 V.S.A. § 2546a is amended to read:

§ 2546a. ~~DAY PRECEDING ELECTION;~~ DEPOSIT OF EARLY VOTER  
ABSENTEE BALLOTS IN VOTE TABULATOR

(a) Generally. Notwithstanding any provision of law to the contrary, ~~if a town will be using a vote tabulator for the registering and counting of votes in the upcoming election and will check in early voter absentee ballots in accordance with subsection 2546(a) of this chapter for that election,~~ the board of civil authority may vote to permit elections officials to deposit these early voter absentee ballots that have been processed in accordance with subsection 2546(a) of this subchapter and have not been deemed defective into the vote tabulator or ballot box in accordance with the provisions of this section and any guidance issued by the Secretary of State. This Any such depositing of these ballots shall take place at the town clerk's office ~~on the day~~ during the 30 days preceding the election.

(b) Notice.

~~(1) If a board of civil authority votes to deposit ballots as described in subsection (a) of this section, the town clerk shall post notice that ballots will be so deposited in at least two public places in the municipality and in or near the town clerk's office not less than 30 nor more than 40 days before the election. If a municipality has more than one polling place and the polling places are not all in the same building, the notice shall be posted in at least two public places within each voting district and in or near the town clerk's office. the process shall be conducted during normal business hours if practicable or, if conducting the process at a time other than normal business hours, notice of~~

the date(s), time(s), and location of the processing shall be posted at the clerk's office and two other public places at least three days in advance.

~~(2) In addition, at least five days before the day preceding the election, the notice shall be published in a newspaper of general circulation in the municipality and on the municipality's website, if the municipality actively updates its website on a regular basis.~~

~~(3) The notice shall include the date and time for the count, inspection, and depositing of the ballots and the location of the town clerk's office.~~

(c) Officials. The town clerk and at least two other election officials, from different political parties to the extent practicable, shall be present for the inspection of the sealed certificate envelopes and the processing of the ballots described in this section.

~~(d) Count and inspection.~~

~~(1) On the day preceding the election, at least one hour prior to depositing the ballots in the vote tabulator, the town clerk and the election officials shall:~~

~~(A) first open the secure container marked "checked in early voter absentee ballots," count the certificate envelopes containing those ballots, and record the number counted; and~~

~~(B) permit these certificate envelopes to be inspected by members of the public.~~

~~(2) Any early voter absentee ballot that is returned after the expiration of the period for the count and inspection shall be processed on the day of the election in accordance with section 2546 of this subchapter.~~

~~(e) Processing.~~

~~(1) Immediately after the expiration of the period for the count and inspection described in subsection (d) of this section, the town clerk and election officials shall open each certificate envelope containing an early voter absentee ballot that was counted under subdivision (d)(1) of this section and deposit each ballot into a vote tabulator.~~

~~(2) The town clerk and the election officials shall ensure that all procedures for handling ballots are followed to the fullest extent practicable.~~

~~(3) At the end of the processing, the town clerk shall verify that the vote tabulator's memory card is locked in place and shall sign a statement verifying how many early voter absentee ballots were counted by the vote tabulator and that the memory card is so locked. The town clerk shall compare the vote~~

~~tabulator's number of counted ballots to the original count of those ballots described in subdivision (d)(1) of this section.~~

~~(f) Security. The town clerk shall otherwise comply with all provisions of this title relating to the security of the vote tabulator.~~

~~(g) Election day. On the day of the election, when the vote tabulator is turned on at the polling place, the town clerk shall verify that the number of ballots that the vote tabulator displays as having been counted matches the number that the town clerk verified the tabulator counted on the preceding day.~~

(d) Processing. The Secretary of State's office shall issue detailed procedures for conducting the processing of early ballots into the vote tabulator or ballot box pursuant to this section. A town or city shall follow the procedures issued by the Secretary of State's office for this purpose.

~~(h)~~(e) Rules. The Secretary of State may adopt rules to implement the provisions of this section.

Sec. 15. 17 V.S.A. § 2546b is amended to read:

§ 2546b. EARLY VOTING IN TOWN CLERK'S OFFICE; DEPOSIT INTO VOTE TABULATOR

(a)(1) A board of civil authority may vote to permit its town's registered early or absentee voters to vote in the town clerk's office in the same manner as those voting on election day by marking their early voter absentee ballots and depositing them into a vote tabulator or secure ballot box.

(2) If a board of civil authority votes to permit early voting as described in subdivision (1) of this subsection, the town's process for conducting this early voting shall conform to the provisions of this section and to procedures that the Secretary of State shall adopt for this purpose.

(b)(1) During business hours in the town clerk's office, the secure ballot box or vote tabulator and ballot bin shall be in a secured area accessible only to election officials and voters. The vote tabulator unit shall be secured with an identifiable seal and the ballot box containing voted ballots shall remain locked at all times and secured with an identifiable seal. Neither seal shall be broken prior to the time of closing the polls on election day.

(2) Once early voting has commenced in the town clerk's office, the town clerk or designee shall certify each day in a record prepared for this purpose that the seals on the vote tabulator and secure ballot box are intact.

(3) When an election official is not present or at times other than business hours, the secure ballot box or sealed vote tabulator and ballot ~~box~~ bin shall be secured in the town clerk's office vault.



(4) The town clerk shall maintain a record of each early or absentee voter who voted in person in accordance with this section and shall mark these voters as having voted early in the clerk's office in the online election management system.

(c) On the day of the election:

(1) The secure ballot box or sealed vote tabulator and ~~sealed ballot boxes~~ ballot bin shall be transferred to the polling place on election day by two election officials and shall not be opened until the polls have closed on election day.

(2) When the vote tabulator is turned on at the polling place, the town clerk shall verify that the number of ballots that the vote tabulator displays as having been counted matches the number of voters who deposited their early voter absentee ballots in the vote tabulator in accordance with this section and any early voter absentee ballots that were processed and deposited in the vote tabulator under section 2546a of this subchapter.

(3) All early voter absentee ballots shall be commingled with those voted at the polls on election day prior to being examined for the purpose of identifying write-in votes.

Sec. 16. 17 V.S.A. § 2547 is amended to read:

§ 2547. DEFECTIVE BALLOTS

(a) If upon examination by the election officials it shall appear that any of the following defects is present, either the ballot or the unopened certificate envelope shall be marked "defective" and the ballot shall not be counted:

- (1) the identity of the early or absentee voter cannot be determined;
- (2) the early or absentee voter is not legally qualified to vote;
- (3) the early or absentee voter has voted in person or previously returned a ballot in the same election;
- (4) the certificate is not signed;
- (5) the voted ballot is not in the certificate envelope; or
- (6) in the case of a primary vote, the early or absentee voter has failed to return the unvoted primary ballots.

(b) Each defective ballot or unopened certificate envelope shall be:

- (1) affixed with a note from the presiding officer indicating the reason it was determined to be defective; and

(2) placed with other such defective ballots in an envelope marked “Defective Ballots - Voter Checked Off Checklist - Do Not Count”; and

~~(3) returned in that envelope to the town clerk in the manner prescribed by section 2590 of this chapter.~~

(c) The provisions of this section shall be indicated prominently in the early or absentee voter material prepared by the Secretary of State.

(d)(1) If a ballot is deemed defective, the voter shall be notified of the defect in accordance with the provisions of subdivision 2546(a)(2)(B) of this subchapter. Upon notification, the voter may cure the defect until the closing of the polls on election day, by either:

(A) correcting the defect or submitting a new absentee ballot in person at the clerk’s office or at the polling place on election day; or

(B) requesting a new ballot be mailed to them by the clerk along with materials for submission of the new ballot, provided that the new ballot is received at the clerk’s office or at the polling place prior to the closing of the polls.

(2)(A) If a voter corrects the defect in accordance with subdivision (1)(A) of this subsection (d), the clerk shall update the status of the ballot to “received – accepted” in the online election management system.

(B) If a voter corrects the defect by requesting a new ballot be mailed to them under subdivision (1)(B) of this subsection (d), the clerk shall enter a second absentee ballot request and issue date for that voter in the online election management system.

(3) The same voter may cure a ballot deemed defective not more than twice for any single election.

\* \* \* Voting Early at Clerk’s Office \* \* \*

Sec. 17. 17 V.S.A. § 2548 is amended to read:

§ 2548. VOTING IN PERSON

(a) Prior to the opening of the polls, the municipal clerk shall provide the election officials of each polling place with a list of the names of all persons who have voted early in the clerk’s office or marked and returned early voter absentee ballots, and these persons shall not thereafter vote in person in the same election.

~~(b)(1) A person who in good faith has received early voter absentee ballots for his or her use but has not yet marked them, if he or she is able to vote in person, may cast the early voter absentee ballots as provided above, or may~~

~~vote in person after returning the complete set of unmarked ballots, together with the envelope intended for their return, to the presiding officer at the time the voter appears to vote in person.~~

~~(2) If a person does not have his or her absentee ballots to return, the person shall be checked off the checklist and permitted to vote only after completing a sworn affidavit that he or she does not have his or her absentee ballots to return.~~

~~(3) The presiding officer shall return the unused early voter absentee ballots and envelope to the town clerk, who shall make a record of their return on the list of early or absentee voters and treat them as replaced ballots, pursuant to section 2568 of this title. A voter who has been issued an early ballot, either by the Secretary of State's office pursuant to section 2537a of this subchapter, or otherwise by the town clerk, but who has not returned their voted ballot to the clerk, may vote in person at the polling place on election day.~~

(2) If the voter brings their marked ballot enclosed in the signed certificate envelope, the voter may submit that certificate envelope containing the voted ballot to the entrance checklist official for processing along with any other early or absentee ballots. The voter shall be marked off the checklist and the clerk shall record the voter as having returned their absentee ballot on election day in the online election management system.

(3) If the voter brings their marked ballot, but it is not enclosed in the certificate envelope, the voter shall be marked off the checklist and be allowed to cast that ballot into the secure ballot box or tabulator in the same manner as other voters who are voting in the polling place. The clerk shall record any such voter as having voted in person on election day in the online election management system.

(4) If the voter brings their unmarked ballot, the voter shall be marked off the checklist and allowed to proceed to a voting booth to mark that ballot and cast it into the ballot box or tabulator in the same manner as other voters who are voting in the polling place. The presiding officer may choose to provide any such voter with a new ballot in exchange for the unvoted ballot that the voter brought to the polls. The clerk shall record any such voter as having voted in person on election day in the online election management system.

(5) If the voter does not bring their marked or unmarked ballot with them to the polls, the voter shall be required to sign an affidavit that they have not previously cast a ballot in the election, and only then shall they be checked off the checklist and allowed to vote in the same manner as all other voters

who are voting at the polling place. The clerk shall record any such voter as having voted in person on election day in the online election management system. Any affidavits signed by voters at the polling place pursuant to this section shall be retained for a period of 90 days following the election.

Sec. 18. 17 V.S.A. § 2565 is amended to read:

§ 2565. DELIVERY OF BALLOTS

As Except as otherwise provided in subsection 2548(b) of this title, as each voter passes through the entrance of the guardrail, an election official or officials shall hand him or her one of each kind of ballot. The election officials shall also answer any questions a voter may ask concerning the process of voting. The presiding officer shall keep the election officials in charge of furnishing ballots to voters supplied with a sufficient number of blank ballots, keeping the remainder of the blank ballots safely secured until needed.

Sec. 19. 17 V.S.A. § 2566 is amended to read:

§ 2566. MARKING BALLOTS

~~On~~ Except as provided in subdivision 2548(b)(2) of this title, on receiving his or her ballots, the voter shall forthwith, and without leaving the polling place or going outside the guardrail, proceed to one of the booths not occupied by any other person and vote by filling in the appropriate square or oval opposite the name of the candidate of his or her choice for each office, or by writing in the name of the candidate of his or her choice in the blank space provided and filling in the square or oval to the right of that blank space.

\* \* \* Language Access \* \* \*

Sec. 20. LANGUAGE ACCESS; REPORT

The Secretary of State's office shall consult with municipalities and interested stakeholders on best practices for increasing access to voting for non-English-speaking Vermonters and Vermonters with limited English proficiency and provide recommendations to the Senate and House Committees on Government Operations on or before January 15, 2022.

\* \* \* Position Created \* \* \*

Sec. 21. CREATION OF POSITION WITHIN THE OFFICE OF  
SECRETARY OF STATE; ELECTIONS

(a) There is created within the Secretary of State's office one new position in the Elections Division.

(b) Any funding necessary to support the position created in subsection (a) of this section shall be derived from the Secretary of State's Service Fund.

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

Sec. 22. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

**Reported favorably with recommendation of amendment by Senator Starr for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto:

By striking out Sec. 21, creation of position within the Office of Secretary of State; elections, in its entirety and inserting in lieu thereof a new Sec. 21 to read as follows:

Sec. 21. CREATION AND FUNDING OF POSITION WITHIN THE  
OFFICE OF SECRETARY OF STATE; ELECTIONS

(a) There is established within the Secretary of State's office one new classified Elections Assistant Director position in the Elections Division.

(b) In fiscal year 2021, \$125,000.00 is appropriated from the Secretary of State's Service Fund to the Secretary of State to support the position created in subsection (a) of this section. Any funds needed to support this position in fiscal year 2022 shall be carried forward from fiscal year 2021 to fiscal year 2022 within the Secretary of State's Service Fund.

(Committee vote: 7-0-0)

**Amendment to the recommendation of amendment of the Committee on Government Operations to S. 15 to be offered by Senator Benning**

Senator Benning moves to amend the recommendation of amendment of the Committee on Government Operations as follows:

By striking out Sec. 10, 17 V.S.A. § 2543, in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

(a) After marking the ballots and signing the certificate on the envelope, the early or absentee voter to whom the same are addressed shall return the

ballots to the clerk of the town in which ~~he or she is a~~ the voter is registered, in the manner prescribed, except that in the case of a voter to whom ballots are delivered by justices, the ballots shall be returned to the justices calling upon ~~him or her~~ that voter, and they shall deliver them to the town clerk.

(b) Once an early voter absentee ballot has been returned to the clerk in the envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason unless the ballot is deemed defective under subdivision 2546(a)(2) of this subchapter and the voter chooses to cure the defect and cast the ballot pursuant to subsection 2547(d) of this subchapter.

(c) If a ballot includes more than one page, the early or absentee voter need only return the page upon which the voter has marked his or her vote.

(d)(1) All early voter absentee ballots returned as follows shall be counted:

(A) by any means, to the town clerk's office before the close of business on the day preceding the election;

(B) to any secure ballot drop box provided by the town or city in which the voter is registered pursuant to section 2543a of this subchapter before the close of business on the day before the election;

~~(B)(C)~~ by mail, to the town clerk's office before the close of the polls on the day of the election; and

~~(C)(D)~~ by hand delivery to the presiding officer at the voter's polling place before the closing of the polls at 7:00 p.m.

(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.

(e) A candidate whose name appears on the ballot for that election, or a paid campaign staff member of any such candidate, may not return a ballot to the town clerk or to a secure ballot drop box, unless that candidate or paid campaign staff member:

(1) is returning the candidate's or paid campaign staff member's own ballot;

(2) is returning the ballot of an immediate family member, as defined in section 2532 of this title, including a person's spouse, children, brothers, sisters, parents, spouse's parents, grandparents, and spouse's grandparents, who has requested the candidate's or paid campaign staff member's assistance with the return of that ballot;

(3) is returning the ballot of a voter for whom the candidate or paid campaign staff member is a caretaker, and who has requested their assistance with the return of that ballot; or

(4) is a justice of the peace performing his or her official duties pursuant to section 2538 of this title.

(f) The clerk or other local election official accepting the return of ballots shall not be required to enforce the provisions of subsection (e) of this section but shall report any suspected violations to the Secretary of State's office, who shall refer them to the Attorney General's office for investigation. Candidates violating this section may be subject to penalties pursuant to section 2017 of this title.

**Amendment to the recommendation of amendment of the Committee on Government Operations to S. 15 to be offered by Senator Parent**

Senator Parent moves to amend the recommendation of amendment of the Committee on Government Operations as follows:

First: In Sec. 3, 17 V.S.A. § 2680 (Australian ballot system; general), by striking out subsection (g) in its entirety and inserting in lieu thereof the following:

(g) Early and absentee voting. At the time the Australian ballots are available, which shall be not less than 20 days before the election, early and absentee voting shall be permitted in accordance with chapter 51, subchapter 6 of this title.

(1) The legislative body of a town, city, or village may vote to mail a ballot to all active registered voters in the town, city, or village.

(2) A school board may, after receiving the approval of the legislative body of each member town in the district, vote to mail its annual meeting ballot to all active registered voters in the district. In such case, the town clerk and election officials in the member towns shall be responsible for the mailing of the ballots but all costs associated with the mailing of ballots shall be borne by the school district.

(3) Any municipality that has voted to apply the Australian ballot system but did not vote to mail its annual or special meeting ballot to all active registered voters shall mail an absentee ballot request form to all active registered voters.

(4) Ballots shall be mailed not less than 20 days before the election or as soon as they are available.

(5) The mailing of ballots shall be conducted to the extent practicable in accordance with chapter 51, subchapter 6 of this title.

Second: By adding a new section to be Sec. 21a to read as follows:

Sec. 21a. VOTING ACCESS; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Voting Access Study Committee to evaluate how to expand Vermonters' access to statewide and local elections.

(b) Membership. The Committee shall be composed of the following members:

(1) two current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees;

(3) four representatives of municipalities, including a representative of the Vermont League of Cities and Towns and the Town Clerks Association;

(4) four representatives representing the interests of voters, including a representative from the Vermont Public Interest Research Group, the Executive Director of Racial Equity or designee, the National Vote at Home Institute or designee, and a registered Vermont voter; and

(5) the Director of the Secretary of State's Elections Division or designee.

(c) Powers and duties. The Committee shall study the ways Vermont can increase its residents' access to statewide and local elections, including examination of the following issues:

(1) whether Town Meeting Day should be moved to a weekend or made a State holiday;

(2) whether universal vote by mail should be required for municipalities that vote to apply an Australian ballot system;

(3) whether universal vote by mail should be required for Vermont's general and primary elections; and

(4) whether universal vote by mail for statewide or local elections increases access to voting among Vermonters who are Black, Indigenous, or people of color or among populations or communities with historically low voter turnout.



(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Secretary of State's office and the Office of Legislative Counsel.

(e) Report. On or before July 1, 2022, the Committee shall submit a written report to the House and Senate Committees on Government Operations with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Director of the Secretary of State's Elections Division shall call the first meeting of the Committee to occur on or before August 15, 2021.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on July 1, 2022.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than eight meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Members of the Committee representing municipalities shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the Secretary of State's office.

## **NOTICE CALENDAR**

### **Second Reading**

#### **Favorable with Recommendation of Amendment**

#### **S. 33.**

An act relating to project-based tax increment financing districts.

**Reported favorably with recommendation of amendment by Senator Ram for the Committee on Economic Development, Housing and General Affairs.**

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

Sec. 1. 24 V.S.A. 1892(d) is amended to read:

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district:

- (1) the City of Burlington, Downtown;
- (2) the City of Burlington, Waterfront;
- (3) the ~~Town of Milton, North and South~~ Town of Bennington;
- (4) the ~~City of Newport~~ City of Montpelier;
- (5) the City of Winooski;
- (6) the ~~Town of Colchester~~;
- ~~(7)~~ the Town of Hartford;
- ~~(8)~~(7) the City of St. Albans;
- ~~(9)~~(8) the City of Barre;
- ~~(10)~~(9) the Town of Milton, Town Core; and
- ~~(11)~~(10) the City of South Burlington.

Sec. 2. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

\* \* \*

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply not more than 70 percent of the State education property tax increment, and not less than 85 percent of the municipal property tax increment, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than ~~six~~ four districts in the State, and not more than two per county, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the ~~six-district~~ four-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the six-district limit.

(D) The Council shall not approve more than one district in Bennington County and one district in Washington County.

\* \* \*

### Sec. 3. TAX INCREMENT FINANCING PROJECT DEVELOPMENT; PILOT PROGRAM

(a) Definitions. As used in this section:

(1) "Committed" means pledged and appropriated for the purpose of the current and future payment of tax increment financing and related costs as defined in this section.

(2) "Coordinating agency" means any public or private entity from outside the municipality's departments or offices and not employing the municipality's staff, which has been designated by a municipality to administer and coordinate a district during creation, public hearing process, approval process, or administration and operation during the life of the district, including overseeing infrastructure development, real property development and redevelopment, assisting with reporting, and ensuring compliance with statute and rule.

(3) "Financing" means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements and related costs for the approved project, only if authorized by the legal voters of the municipality in accordance with 24 V.S.A. § 1894. Payment for eligible related costs may also include direct payment by the municipality using the district increment. However, such anticipated payments shall be included in the vote by the legal voters of the municipality in accordance with subsection (f) of this section. If interfund loans within the municipality are

used as the method of financing, no interest shall be charged. Bond anticipation notes may be used as a method of financing and may qualify as a municipality's first incurrence of debt. A municipality that uses a bond anticipation note during the third or sixth year that a municipality may incur debt pursuant to subsection (f) of this section shall incur all permanent financing not more than one year after issuing the bond anticipation note.

(4) "Improvements" means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation. "Improvements" also means the funding of debt service interest payments for a period of up to five years, beginning on the date on which the first debt is incurred.

(5) "Legislative body" means the mayor and alderboard, the city council, the selectboard, and the president and trustees of an incorporated village, as appropriate.

(6) "Municipality" means a city, town, or incorporated village.

(7) "Nexus" means the causal relationship that must exist between the improvements and the expected development and redevelopment in the TIF Project Zone or the expected outcomes in the TIF Project Zone.

(8) "Original taxable value" means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the project as of the creation date, provided that no parcel within the project shall be divided or bisected.

(9) "Project" means a public improvement, as defined in subdivision (4) of this subsection (a), with a total debt ceiling, including related costs, and principal and interest payments, of not more than \$5,000,000.00. A project must:

(A) clearly require substantial public investment over and above the normal municipal operating or bonded debt expenditures;

(B) only include public improvements that are integral to the expected private development; and

(C) meet one of the following four criteria:

(i) The development includes new or rehabilitated affordable housing, as defined in 24 V.S.A. § 4303.

(ii) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or

may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

(iii) The development will include at least one entirely new business or business operation or expansion of an existing business within the project, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the Department of Labor.

(iv) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

(10) “Related costs” means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing improvements, that are directly related to the creation and implementation of the project, including reimbursement of sums previously advanced by the municipality for those purposes. Related costs may not include direct municipal expenses such as departmental or personnel costs.

(11) “TIF project zone” means an area located within one or more active designations approved by the Vermont Downtown Development Board under 24 V.S.A. chapter 76A for the parcels in a municipality that have nexus to the project.

(b) Pilot program. Beginning on January 1, 2022 and ending on December 31, 2027, the Vermont Economic Progress Council is authorized to approve not more than 15 tax increment financing projects, provided that there shall be not more than one project per municipality.

(c) General authority. Under the pilot program established in subsection (b) of this section, a municipality, upon approval of its legislative body, may apply to the Vermont Economic Progress Council pursuant to the process set forth in subsection (e) of this section to use tax increment financing for a project.

(d) Eligibility.

(1) A municipality is only authorized to apply for a project under this section if:

(A) the project will serve one or more active designations approved by the Vermont Downtown Development Board under 24 V.S.A. chapter 76A; and

(B) the proposed infrastructure improvements and the projected development or redevelopment are compatible with confirmed municipal and regional development plans and the project has clear local and regional significance for employment, housing, or transportation improvements.

(2) A municipality with an approved tax increment financing district as set forth in 24 V.S.A. 1892(d) is not authorized to apply for a project under this section.

(e) Approval process. The Vermont Economic Progress Council shall do all of the following to approve an application submitted pursuant to subsection (c) of this section:

(1)(A) Review each application to determine that the infrastructure improvements proposed to serve the project and the proposed development in the project would not have occurred as proposed in the application, or would have occurred in a significantly different and less desirable manner than as proposed in the application, but for the proposed utilization of the incremental tax revenues.

(B) The review shall take into account:

(i) the amount of additional time, if any, needed to complete the proposed development for the project and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(ii) how the proposed project components and size would differ, if at all, including, if applicable to the project, in the number of units of affordable housing, as defined in 24 V.S.A. § 4303, without education property tax increment financing; and

(iii)(I) the amount of additional revenue expected to be generated as a result of the proposed project;

(II) the percentage of that revenue that shall be paid to the Education Fund;

(III) the percentage that shall be paid to the municipality; and

(IV) the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the project.

(2) Process requirements. Determine that each application meets all of the following requirements:

(A) The municipality held public hearings and established a project.

(B) The municipality has developed a tax increment financing project plan, including a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(f) Incurring indebtedness.

(1) A municipality approved under the process set forth in subsection (e) of this section may incur indebtedness against revenues to provide funding to pay for improvements and related costs for tax increment financing project development.

(2) Notwithstanding any provision of any municipal charter, the municipality shall only require one authorizing vote to incur debt through one instance of borrowing to finance or otherwise pay for the tax increment financing project improvements and related costs; provided, however, that a municipality may present one or more subsequent authorization votes in the event a vote fails. The municipality shall be authorized to incur indebtedness only after the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, authorize the legislative body to pledge the credit of the municipality, borrow, or otherwise secure the debt for the specific purposes so warned. The creation of the project shall occur at 12:01 a.m. on April 1 of the calendar year the municipal legislative body votes to approve the tax increment financing project plan.

(3) Any indebtedness shall be incurred within three years from the date of approval by the Vermont Economic Progress Council, unless the Vermont Economic Progress Council grants an extension of an additional three years pursuant to the substantial change process set forth in the 2015 TIF Rule; provided, however, that an updated plan is submitted prior to the three-year termination date of the project.

(g) Original taxable value. As of the date the project is approved by the legislative body of the municipality, the lister or assessor for the municipality shall certify the original taxable value and shall certify to the legislative body in each year thereafter during the life of the project the amount by which the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the project has increased or decreased relative to the original taxable value.

(h) Tax increments.

(1) In each year following the approval of the project, the lister or assessor shall include no more than the original taxable value of the real property in the assessed valuation upon which the treasurer computes the rates of all taxes levied by the municipality and every other taxing district in which the project is situated, but the treasurer shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the municipality shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property within the project that the excess valuation bears to the total assessed valuation. The amount held apart each year is the "tax increment" for that year. No more than the percentages established pursuant to subsection (i) of this section of the municipal and State education tax increments received with respect to the project and committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing project account and in its official books and records until all capital indebtedness of the project has been fully paid. The final payment shall be reported to the treasurer, who shall thereafter include the entire assessed valuation of the project in the assessed valuations upon which municipal and other tax rates are computed and extended and thereafter no taxes from the project shall be deposited in the project's tax increment financing account.

(2) Notwithstanding any charter provision or other provision, all property taxes assessed within a project shall be subject to the provision of subdivision (1) of this subsection. Special assessments levied under 24 V.S.A. chapters 76A or 87 or under a municipal charter shall not be considered property taxes for the purpose of this section if the proceeds are used exclusively for operating expenses related to properties within the project and not for improvements within the district, as defined in subdivision (a)(3) of this section.

(3) Amounts held apart under subdivision (1) of this subsection shall only be used for financing and related costs as defined in subsection (a) of this section.

(i) Use of tax increment.

(1) Education property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, up to 70 percent of the education tax increment may be retained for up to 20 years, beginning with the education tax increment generated the year in which the first debt incurred for the project financed in whole or in part with



incremental education property tax revenue. Upon incurring the first debt, a municipality shall notify the Department of Taxes and the Vermont Economic Progress Council of the beginning of the 20-year retention period of the education tax increment.

(2) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, not less than 85 percent of the municipal tax increment shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subdivision (1) of this subsection.

(3) The Vermont Economic Progress Council shall determine there is a nexus between the improvement and the expected development and redevelopment for the project and expected outcomes in the TIF Project Zone.

(j) Distribution. Of the municipal and education tax increments received in any tax year that exceed the amounts committed for the payment of the financing for improvements and related costs for the project, equal portions of each increment may be retained for the following purposes: prepayment of principal and interest on the financing, placed in a special account required by subdivision (g)(1) of this section and used for future financing payments or used for defeasance of the financing. Any remaining portion of the excess municipal tax increment shall be distributed to the city, town, or village budget, in the proportion that each budget bears to the combined total of the budgets, unless otherwise negotiated by the city, town, or village, and any remaining portion of the excess education tax increment shall be distributed to the Education Fund.

(k) Information reporting. Every municipality with an approved project pursuant to this section shall:

(1) Develop a system, segregated for the project, to identify, collect, and maintain all data and information necessary to fulfill the reporting requirements of this section, including performance measures.

(2) Provide, as required by events, notification to the Vermont Economic Progress Council and the Department of Taxes regarding any tax increment financing development project debt obligations, public votes, or votes by the municipal legislative body immediately following such obligation or vote on a form prescribed by the Council, including copies of public notices, agendas, minutes, vote tally, and a copy of the information provided to the public in accordance with 24 V.S.A. § 1894(i).

(3) Annually:

(A) Ensure that the tax increment financing project account required by subdivision (h)(1) is subject to the annual audit prescribed in subsection (m) of this section. Procedures must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(B) On or before February 15 of each year, on a form prescribed by the Council, submit an annual report to the Vermont Economic Progress Council and the Department of Taxes, including the information required by subdivision (2) of this section if not already submitted during the year, all information required by subdivision (A) of this subdivision (3), and the information required by 32 V.S.A. § 5404a(i), including performance measures and any other information required by the Council or the Department of Taxes.

(1) Annual report. The Vermont Economic Progress Council and the Department of Taxes shall submit an annual report to the Senate Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means on or before April 1 each year. The report shall include the date of approval, a description of the project, the original taxable value of the property subject to the project development, the scope and value of projected and actual improvements and developments in the TIF Project Zone, projected and actual incremental revenue amounts, and division of the increment revenue between project debt, the Education Fund, the special account required by subdivision (h)(1) and the municipal General Fund, projected and actual financing, and a set of performance measures developed by the Vermont Economic Progress Council, which may include outcomes related to the criteria for which the municipality applied and the amount of infrastructure work performed by Vermont firms.

(m) Audit; financial reports. Annually, until the year following the end of the period for retention of education tax increment, a municipality with an approved project under this section shall:

(1) on or before January 1, submit an annual report to the Vermont Economic Progress Council, which shall provide sufficient information for the Vermont Economic Progress Council to prepare its report required by subsection (i) of this section; and

(2) on or before April 1, ensure that the project is subject to the annual audit prescribed in 24 V.S.A. § 1681 or 1690. In the event that the audit is only subject to the audit under 24 V.S.A. § 1681, the Vermont Economic Progress Council shall ensure a process is in place to subject the project to an

independent audit. Procedures for the audit must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(n) Authority to issue decisions.

(1) The Secretary of Commerce and Community Development, after reasonable notice to a municipality and an opportunity for a hearing, is authorized to issue decisions to a municipality on questions and inquiries concerning the administration of projects, statutes, rules, noncompliance with this section, and any instances of noncompliance identified in audit reports conducted pursuant to subsection (m) of this section.

(2) The Vermont Economic Progress Council shall prepare recommendations for the Secretary prior to the issuance of a decision. As appropriate, the Council may prepare such recommendations in consultation with the Commissioner of Taxes, the Attorney General, and the State Treasurer. In preparing recommendations, the Council shall provide a municipality with a reasonable opportunity to submit written information in support of its position. The Secretary shall review the recommendations of the Council and issue a final written decision on each matter within 60 days of the receipt of the recommendations. The Secretary may permit an appeal to be taken by any party to a Superior Court for determination of questions of law in the same manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court before issuing a final decision.

(o) The Vermont Economic Progress Council is authorized to adopt policies that are consistent with the 2015 TIF Rule, as may be modified by subsequent rule, to implement this section.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

(Committee vote: 5-0-0)

### S. 51.

An act relating to the persons authorized to make contributions to candidates and political parties and to political committee names.

**Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.**

The Committee recommends that the bill be amended as follows:

By striking out Sec. 4, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 4. PUBLIC CAMPAIGN FINANCE STUDY COMMITTEE; REPORT

(a) Creation. There is created the Public Campaign Finance Study Committee to study and make recommendations regarding Vermont's current public campaign finance option.

(b) Membership. The Committee shall be composed of the following members:

(1) one current member of the Senate, who shall be appointed by the Committee on Committees and who shall be Co-Chair;

(2) one current member of the House of Representatives, who shall be appointed by the Speaker of the House and who shall be Co-Chair;

(3) the Secretary of State or designee;

(4) the Attorney General or designee; and

(5) the Executive Director of the State Ethics Commission or designee.

(c) Powers and duties. The Committee shall consult with interested stakeholders to study and make recommendations on Vermont's current public campaign finance option (Option), including the following issues:

(1) whether the structure of the Option is appropriate or whether Vermont should instead enact a different public campaign finance system, such as one based on vouchers as in the Seattle Democracy Voucher Program or one that provides supplemental payments based on the amount of qualifying contributions as in the Maine Clean Election Act;

(2) if Vermont should retain the Option:

(A) whether the current qualifying contributions and grant amounts for candidates for Governor and Lieutenant Governor are appropriate;

(B) whether the Option should be extended to other offices and, if so, which offices and what the qualifying contributions and grant amounts should be for each office; and

(C) how it may be improved; and

(3) what the funding source should be for either the Option or any recommended substitute.

(d) Assistance. The Committee shall have the assistance of the Office of Legislative Counsel and the Joint Fiscal Office.

(e) Report. On or before December 1, 2021, the Committee shall report to the Senate and House Committees on Government Operations with its findings and any recommendations for legislative action. The report may be in the form of legislation.

(f) Meetings.

(1) The Co-Chairs shall call the first meeting of the Committee to occur on or before August 15, 2021.

(2) A majority of the membership shall constitute a quorum.

(3) The Committee shall cease to exist on December 1, 2021.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings. These payments shall be made from monies appropriated to the member's appointing authority.

#### Sec. 5. EFFECTIVE DATES

This act shall take effect on December 11, 2022, except that Sec. 4 (campaign finance study) shall take effect upon passage.

(Committee vote: 4-1-0)

### **S. 62.**

An act relating to creating a New Vermont Employee Incentive Program.

**Reported favorably with recommendation of amendment by Senator Brock for the Committee on Economic Development, Housing and General Affairs.**

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

#### Sec. 1. INTENT AND PURPOSE

It is the intent of the General Assembly and the purpose of this act to:

(1) expand the Vermont workforce;

(2) attract new residents to the State; and

(3) provide support to employers who are unable to fill positions from among candidates who are already located in this State, whether due to very low unemployment rate or due to a disconnect between job requirements and candidate qualifications.

Sec. 2. 10 V.S.A. chapter 1 is amended to read:

## CHAPTER 1. ECONOMIC DEVELOPMENT

\* \* \*

### § 4. NEW RELOCATING AND REMOTE EMPLOYEES; INCENTIVES

(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as provided in this section and subject to the policies and procedures the Agency adopts to implement the program.

(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed \$5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;

(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.

(d) Annually, on or before December 15, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the program;

(2) the promotion and marketing of the program;

(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

(e) As used in this section:

(1) “Qualifying expenses” means the actual costs a relocating employee incurs for one or more of the following:

(A) relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month’s rent payment, and other relocation expenses established in Agency guidelines;

(B) reasonable and necessary costs, considering the employee’s location and employment position, to access or upgrade broadband Internet connectivity or to acquire membership in a co-working or similar space.

(2) “Relocating employee” means an individual who on or after July 1, 2021 meets the following criteria:

(A) The individual becomes a full-time resident of this State.

(B) The individual:

(i)(I) becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State; and

(II) the employer attests to the Agency that, after reasonable time and effort, the employer has been unable to fill the employee’s position from among Vermont applicants; or

(ii) is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(C) The individual receives gross salary or wages that equal or exceed:

(i) 160 percent of the State minimum wage; or

(ii) 140 percent of the State minimum wage if:

(I) the individual becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State that is located in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State; or

(II) the individual is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State, and the individual becomes a resident in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State.

(D) The individual is subject to Vermont income tax.

### Sec. 3. IMPLEMENTATION; FUNDING; TRANSITION; REPORT

(a) It is the intent of the General Assembly to consolidate into a single program:

(1) the funding and activities of the New Remote Worker Grant Program created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15; and

(2) the funding and activities of the New Worker Relocation Incentive Program created by 2019 Acts and Resolves No. 80, Sec. 12.

(b) Consistent with subsection (a) of this section, the Agency of Commerce and Community Development may use any remaining funds appropriated to it for the New Remote Worker Grant Program and the New Worker Relocation Incentive Program to:

(1) award incentives to new remote workers and new relocating workers who qualify for an incentive under either of those programs until July 1, 2021; and

(2) award incentives to relocating employees under the program created pursuant to Sec. 2 of this act on or after July 1, 2021.

(c) On or before January 15, 2022, the Agency of Commerce and Community Development shall report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development concerning any recommended changes to the program created in Sec. 2 of this act, including any residency requirements or other further changes on new employee eligibility.



Sec. 4. REPEAL

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

Sec. 5. APPROPRIATION

(a) In fiscal year 2022, the amount of \$1,000,000.00 is appropriated from the General Fund to the Agency of Commerce and Community Development to provide grants pursuant to the program created in Sec. 2 of this act.

(b) The Agency shall make reasonable efforts to promote the availability of grants through the program to communities that are underrepresented in Vermont and to populations that have historically experienced discrimination or unequal access to benefits and services.

Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 3 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2021.

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

An act relating to creating incentives for new remote and relocating workers.

(Committee vote: 5-0-0)

**S. 109.**

An act relating to the Vermonters' Enhanced Energy Savings Act.

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

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

Sec. 1. 10 V.S.A. § 581 is amended to read:

§ 581. BUILDING EFFICIENCY GOALS

It shall be goals of the State:

(1) To improve substantially the energy fitness of at least ~~20 percent of the State's housing stock by 2017 (more than 60,000 housing units), and 25 percent of the State's housing stock by 2020 (approximately 80,000 housing~~

units) 120,000 housing units and reduce greenhouse gas emissions by 0.32 MMTCO<sub>2</sub>e by 2031.

\* \* \*

(4) To save Vermont families and businesses a total of \$1.5 billion on their fuel bills over the lifetimes of the improvements and measures installed between 2008 and 2017.

(5) To increase weatherization services to low-income Vermonters by expanding the number of units weatherized or the scope of services provided, or both, as revenue becomes available in the Home Weatherization Assistance Fund.

Sec. 2. 3 V.S.A. § 3902 is amended to read:

§ 3902. OFFICE OF ECONOMIC OPPORTUNITY

(a) The Director of the Office of Economic Opportunity is hereby authorized to allocate available financial assistance for community services agencies and programs in accordance with State and federal law and regulation.

(b) The Director may provide financial assistance to community services agencies for the planning, conduct, administration, and evaluation of community service programs to provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or in areas of the community where poverty is a particularly acute problem. Components of those services and activities may involve, without limitation of other activities and supporting facilities designed to assist low income participants:

(1) to secure and retain meaningful employment;

(2) to obtain adequate education;

(3) to make better use of available income;

(4) to provide and maintain adequate housing and a suitable living environment, while also working to achieve the State's energy savings and carbon emission reduction goals, including those in 10 VSA § 581;

(5) to obtain services for the prevention of narcotics addiction, alcoholism, and for the rehabilitation of narcotic addicts and alcoholics;

(6) to obtain emergency assistance through loans and grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and unemployment-related assistance;

(7) to remove obstacles and solve personal and family problems ~~which~~ that block achievement of self-sufficiency;

(8) to achieve greater participation in the affairs of the community;

(9) to make more frequent and effective use of other programs related to the purposes of this chapter;

(10) to coordinate and establish linkages between governmental and other social service programs to assure the effective delivery of such services to low-income persons; and to encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.

\* \* \*

### Sec. 3. PUBLIC UTILITY COMMISSION PROCEEDING

On or before December 17, 2021, the Public Utility Commission shall report to the General Assembly on its recommendations concerning the implementation of a volumetric thermal energy efficiency charge to provide supplemental funding for thermal energy efficiency programs implemented pursuant to 30 V.S.A. § 209(e) and (g). The report shall include the following:

(1) criteria for establishing the amount of the thermal energy efficiency charge, including the size of annual thermal energy efficiency program budgets and accounting for existing or new sources of funding for those programs over time;

(2) whether the supplemental funding provided by the thermal energy efficiency charge should be directed to an entity other than an entity appointed by the Commission pursuant to 30 V.S.A. § 209(d)(2)(B) to provide efficiency programs and services to thermal energy customers;

(3) how to incentivize the installation of clean energy heating systems and phase out the use of heating systems with high amounts of emissions; and

(4) any statutory amendments necessary to implement its recommendations.

### Sec. 4. DEVELOPMENT OF WEATHERIZATION WORKFORCE AND COUNSELING SERVICES; REPORTS

#### (a) Weatherization Workforce Report.

(1) On or before June 15, 2021, the Chairs of the Senate Committee on Natural Resources and Energy and the House Committee on Energy and Technology, or their designees shall meet with the Department of Labor, the Agency of Education, Efficiency Vermont, the Vermont Housing Finance Agency, the Community Action Agencies, NeighborWorks of Western

Vermont, and other parties currently delivering programming to train workers to perform services related to thermal energy savings and weatherization.

(2) Thereafter, the Department of Labor shall lead the Weatherization Workforce Group that shall develop plans for the coordinated delivery of a standardized statewide Building Sciences curriculum that includes weatherization. The curriculum shall be designed to establish a career pathway in energy efficiency construction and shall include a certification that is broadly recognized, transparent, and portable.

(3) On or before October 1, 2021, the Department of Labor shall report to the Senate Committee on Natural Resources and Energy and the House Committee on Energy and Technology a plan for enhancing the coordinated delivery of the standardized Building Sciences training program in order to support the goals of 10 V.S.A. § 581.

(b) Energy Savings Counseling Report.

(1) On or before June 30, 2021, the Chairs of the Senate Committee on Natural Resources and Energy and the House Committee on Energy and Technology, or their designees shall meet with the Office of Economic Opportunity, the directors of the Community Action Agencies, Efficiency Vermont, NeighborWorks of Western Vermont, and other parties currently providing outreach and counseling services to Vermonters with low and moderate income for the State's energy savings programs, including thermal and transportation energy efficiency programs.

(2) Thereafter, the Office of Economic Opportunity shall lead the Energy Savings Counseling Group that shall develop a plan for the coordinated and effective delivery of counseling services designed to enroll and deliver energy savings programs to their target service populations.

(3) On or before October 15, 2021, the Office of Economic Opportunity shall report to the Senate Committee on Natural Resources and Energy and the House Committee on Energy and Technology a plan for coordinating and enhancing their counseling services to low-income and moderate-income Vermonters who could benefit from the State's energy savings programs, including thermal and transportation energy efficiency programs.

Sec. 5. 30 V.S.A. § 35 is added to read:

§ 35. ENERGY SAVINGS FUND

(a) There is established the Energy Savings Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. This Fund shall be administered by the Department of Public Service to fund a variety of programs that will increase energy savings. Monies in the Fund shall be used

solely for energy savings programs, including weatherization and transportation programs and for necessary costs incurred in administering the Fund.

(b) The Fund shall be made up of any funds appropriated to or deposited into the Fund.

(c) The funds shall only be used to fund projects for which federal funds are not currently available.

#### Sec. 6. APPROPRIATIONS

In fiscal year 2022, there is appropriated from the General Fund \$35,000,000.00 to the Energy Savings Fund, established in 30 V.S.A. § 35, as follows:

(1) \$4,000,000.00 to the Department for Children and Families, Office of Economic Opportunity, Home Weatherization Assistance Program to be used in fiscal year 2022 and fiscal year 2023. Up to \$150,000.00 of these funds may be used for vermiculite remediation and home repair as part of home weatherization.

(2) \$4,000,000.00 to the Department of Buildings and General Services to provide low-cost financing to municipalities seeking to leverage energy savings opportunities.

(3) \$9,000,000.00 to the Agency of Administration to grant to the Vermont Housing Finance Agency for financial support of housing weatherization statewide.

(4) \$5,000,000.00 to the Department of Public Service to grant to the Vermont Energy Investment Corporation (VEIC) for weatherization incentives that supplement programs delivered by Efficiency Vermont.

(5) \$2,000,000.00 to the Department of Public Service to grant to VEIC for workforce development initiatives and to support the expansion of NeighborWorks of Western Vermont's Heat Squad program statewide.

(6) \$9,000,000.00 to the Affordable Community-Scale Renewable Energy Program, which shall support the creation of renewable energy projects for low-income Vermonters.

(7) \$2,000,000.00 to support projects offering innovative methods of financing energy savings measures, including to-the-meter programs.

Sec. 7. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

\* \* \*

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d); and

(23) develop a program to finance and promote housing weatherization using funds appropriated by the State; funds generated through issuing bonds, notes, and other obligations of the Agency; and funds from other sources obtained through grants or other arrangements. The program shall give priority to programs benefiting persons and families at or below 120 percent of the median income with high energy burdens and to programs to expand the pool of qualified weatherization contractors in the State.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except for Sec .6 (appropriations), which shall take effect on July 1, 2021.

(Committee vote: 5-0-0)

**CONCURRENT RESOLUTIONS FOR ACTION**

**Concurrent Resolutions For Action Under Joint Rule 16**

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session. Requests for floor consideration should be communicated to the Secretary's Office.

**S.C.R. 1** (For text of Resolution, see Addendum to Senate Calendar for March 11, 2021)

**H.C.R. 23 - 26** (For text of Resolutions, see Addendum to House Calendar for March 11, 2021)

## **JFO NOTICE**

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3):

**JFO #3036** - \$3,800,000 to the VT Dept of Health from the Center for Disease Control and Prevention to increase and sustain the public health approach to suicide prevention. This grant includes funding for three (3) limited service positions. Two (2) positions in the Dept of Health: Public Health Programs Administrator and Public Health Analyst II. One (1) position in the Dept of Mental Health: Marketing and Outreach Coordinator. Grant amount is \$760,000 per year for 5 years.

*[JFO received 2/16/2021]*

**JFO #3037** - \$135,000 to the VT Dept of Mental Health from Vibrant Emotional Health for the development of the 988-implementation plan to ensure compliance with the federal mandate for universal access to suicide and prevention services by July 16, 2022. *[Note: One (1) limited service position is included within JFO #3036].*

*[JFO received 2/16/2021]*

**JFO #3038** - \$40,000 to the VT Agency of Commerce and Community Development from the Chittenden County Regional Planning Commission. ACCD is a sub-grantee of the Chittenden County Regional Planning Commission and is awarded a maximum of \$40,000; original funds are from the U.S. Economic Development Administration. Funds will be used for work related to the West Central Vermont Comprehensive Economic Development Strategy project.

*[JFO received 2/18/2021]*

**JFO #3039** - \$1,000,000 to the VT Dept of Public Safety from the U.S. Dept of Justice to develop and implement approaches to address a range of criminal justice system problems. The majority of funds will be awarded as sub-grants to organizations with expertise in this subject matter.

*[JFO received 3/3/2021]*

**JFO #3040** - Two (2) limited service positions, both Financial Manager I, to ensure financial record compliance for the anticipated \$200 million in COVID-19 related public assistance awards to the VT Agency of Human Services from the Federal Emergency Management Agency. Positions will be funded through previously approved JFO grant #3015. *[Note: Grant #3015 is a public assistance grant to reimburse eligible costs borne by state, local and non-profit entities in the COVID-19 emergency response – further info can be found here: [https://ljfo.vermont.gov/custom\\_reports/grants/default.html](https://ljfo.vermont.gov/custom_reports/grants/default.html)]*

*[JFO received 3/8/2021, expedited review requested on 3/9/2021]*

**JFO #3041** - \$100,000 to the VT Dept. of Fish and Wildlife from Ducks Unlimited to fund a 25-year stewardship of 136 acres in Addison County. The land was donated by Ducks Unlimited with the condition that the Department perform stewardship duties. The yearly projected cost in materials and staff time is \$4,000.

*[JFO received 3/08/2021]*

#### **FOR INFORMATION ONLY**

#### **CROSSOVER DATES**

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 12, 2021**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by Friday March 12, 2021.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 19, 2021**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

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

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