

Senate Calendar

FRIDAY, MARCH 19, 2021

SENATE CONVENES AT: 11:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

UNFINISHED BUSINESS OF MARCH 17, 2021

Second Reading

Favorable with Recommendation of Amendment

- S. 10** An act relating to extending certain unemployment insurance provisions related to COVID-19
Econ. Dev., Housing and General Affairs Report - Sen. Sirotkin 603
- S. 60** An act relating to allowing municipal and cooperative utilities to offer innovative rates and services
Finance Report - Sen. Bray 609
- S. 88** An act relating to insurance, banking, and securities
Finance Report - Sen. Hardy 612

UNFINISHED BUSINESS OF MARCH 18, 2021

Third Reading

- S. 20** An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products..... 637
Amendment - Sen. Lyons 637

Second Reading

Favorable with Proposal of Amendment

- H. 315** An act relating to COVID-19 relief
Appropriations Report - Sen. Kitchel 637
Amendment - Sen. Kitchel 654

NEW BUSINESS

Third Reading

- S. 30** An act relating to prohibiting possession of firearms at childcare facilities, hospitals, and certain public buildings..... 656
- S. 47** An act relating to motor vehicle manufacturers and motor vehicle warranty or service facilities..... 656

Committees Bills for Second Reading

Favorable

- S. 102** An act relating to the regulation of agricultural inputs for farming..... 656
- By the Committee on Agriculture (Sen. Starr for the Committee)
- Natural Resources and Energy Report - Sen. MacDonald 656
- Finance Report - Sen. MacDonald 656

Favorable with Recommendation of Amendment

- S. 114** An act relating to improving prekindergarten through grade 12 literacy within the State..... 657
- By the Committee on Education (Sen. Campion for the Committee)
- Appropriations Report - Sen. Baruth 657

Second Reading

Favorable with Recommendation of Amendment

- S. 3** An act relating to competency to stand trial and insanity as a defense
- Judiciary Report - Sen. Sears 657
- Appropriations Report - Sen. Sears 663
- S. 97** An act relating to miscellaneous judiciary procedures
- Judiciary Report - Sen. Nitka 664
- Finance Report - Sen. Sirotkin 670

House Proposal of Amendment

- 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..... 670

NOTICE CALENDAR

Second Reading

Favorable

- S. 66** An act relating to electric bicycles
Transportation Report - Sen. Chittenden 671
Finance Report - Sen. Pearson 671

Favorable with Recommendation of Amendment

- S. 25** An act relating to miscellaneous cannabis regulation procedures
Judiciary Report - Senator Sears 671
Appropriations Report - Sen. Sears 685
- S. 51** An act relating to the persons authorized to make contributions to candidates and political parties and to political committee names
Government Operations Report - Sen. Pollina 685
Appropriations Report - Sen. Starr 687
- S. 62** An act relating to creating a New Vermont Employee Incentive Program
Econ. Dev., Housing and Gen. Affairs Report - Sen. Brock 687
Appropriations Report - Sen. Baruth 691

CONCURRENT RESOLUTIONS FOR ACTION

- H.C.R. 27 - 28** (For text of Resolutions, see Addendum to House Calendar for March 18, 2021)..... 691

ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, MARCH 17, 2021

Second Reading

Favorable with Recommendation of Amendment

S. 10.

An act relating to extending certain unemployment insurance provisions related to COVID-19.

Reported favorably with recommendation of amendment by Senator Sirotkin 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:

* * * Experience Rating Relief for Calendar Year 2020 * * *

Sec. 1. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;
DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(G) The Between March 15, 2020 and December 31, 2020, the individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

* * *

(3)(A) Subject to the provisions of ~~subdivision~~ subdivisions (B) and (C) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual between March 15, 2020 and December 31, 2020 for a period of up to eight weeks with respect to benefits paid because:

(i) the employer temporarily ceased operation, either partially or completely, at the individual's place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(ii) the individual becomes unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19, including through a change or reduction in the employer's operation at the individual's place of employment that is a direct result of such a state of emergency, order, or directive; or

(iii) the employer has temporarily laid off the individual has been recommended or requested based on a recommendation or request by a medical professional or a public health authority with jurisdiction ~~to~~ that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

~~(B)(i) An~~ Unless extended by the Commissioner pursuant to subdivision (C) of this subdivision (a)(3), an employer shall only be eligible for relief be relieved of charges for up to eight weeks of benefits paid between March 15, 2020 and December 31, 2020 under the provisions of this subdivision (a)(3) ~~if the employer rehires or offers to rehire the individual within a reasonable period of time after the employer resumes operations at the individual's place of employment, as determined by the Commissioner, or upon the completion of the individual's period of isolation or quarantine unless the Commissioner determines that:~~

(I) the employee was not separated from employment for one of the reasons set forth in subdivision (A) of this subdivision (a)(3); or

(II) the reason for the individual's separation from employment set forth in subdivision (A) of this subdivision (a)(3) no longer exists and the employer has failed to rehire or offer to rehire the individual without good cause.

(ii) If the Commissioner has cause to believe or receives an allegation or other information indicating that an employer may not be entitled to relief from charges pursuant to this subdivision (a)(3), the Commissioner shall examine the employer's records and any other documents and information necessary to determine if the employer is entitled to relief from charges pursuant to this subdivision (a)(3).

(C) The Commissioner may extend the period for which an employer shall be relieved of charges for benefits paid to employees pursuant to subdivision (A)(i) of this subdivision (a)(3) by an amount that the Commissioner determines to be appropriate in light of the terms of any applicable request from a local health official or the Commissioner of Health or any applicable emergency order or directive issued by the Governor or the President and any other relevant conditions or factors.

* * *

* * * Experience Rating Relief for Calendar Year 2021 * * *

Sec. 2. RELIEF FROM COVID-19-RELATED UNEMPLOYMENT
BENEFIT CHARGES FOR CALENDAR YEAR 2021

(a) For calendar year 2021, an employer shall be relieved from charges against its unemployment insurance experience rating under 21 V.S.A. § 1325 for benefits paid because:

(1)(A) the individual voluntarily separated from employment with the employer for one of the reasons set forth in 21 V.S.A. § 1344(a)(2)(A)(ii)-(vi);

(B) the employer temporarily ceased operation, either partially or completely, at the individual's place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(C) the individual became unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19, including through a change or reduction in the employer's operation at the individual's place of employment that was a direct result of such a state of emergency, order, or directive; or

(D) the employer temporarily laid off the individual based on a recommendation or request by a medical professional or a public health authority with jurisdiction that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual was diagnosed with COVID-19; and

(2)(A) the employer rehired or offered to rehire the employee within a reasonable time, not to exceed 30 days after the reason for the individual's separation from employment set forth in subdivision (1) of this subsection (a) no longer exists; or

(B) the employer demonstrates to the satisfaction of the Commissioner that it had good cause for failing to rehire or offer to rehire the employee within the time period set forth in subdivision (A) of this subsection (a)(2).

(b) On or before June 1, 2021, the Commissioner of Labor shall adopt procedures and an application form for employers to apply for relief from charges pursuant to subsection (a) of this section.

(c) The Commissioner shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any procedures adopted under subsection (b) of this section.

(d) On or before April 15, 2021, the Commissioner shall:

(1) submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report summarizing the procedures and application form to be adopted pursuant to subsection (b) of this section; and

(2) commence a public outreach campaign to notify employers and employees of the requirements and procedures to obtain relief from charges under this section.

* * * Extension of Unemployment Insurance Related Sunset
from 2020 Acts and Resolves No. 91 * * *

Sec. 3. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

(3) Secs. 32 and 33 shall take effect on ~~March 31, 2021~~ the first day of the calendar quarter following the calendar quarter in which the state of emergency declared in response to COVID-19 pursuant to Executive Order 01-20 is terminated, provided that if the state of emergency is terminated within the final 30 days of a calendar quarter, Secs. 32 and 33 shall take effect on the first day of the second calendar quarter following the calendar quarter in which the state of emergency is terminated.

* * * Implementation of Continued Assistance Act Provisions * * *

Sec. 4. TEMPORARY SUSPENSION OF CERTAIN REQUIREMENTS
FOR TRIGGERING AN EXTENDED BENEFIT PERIOD

For purposes of determining whether the State is in an extended benefit period during the period from November 1, 2020 through December 31, 2021, the Commissioner shall disregard the requirement in 21 V.S.A. § 1421 that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period.

* * * Increased Unemployment Insurance Benefits * * *

Sec. 5. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

(a) Each eligible individual who is totally unemployed in any week shall be paid with respect to such a week a weekly benefit amount determined as provided in this section.

* * *

(e)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, an individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45 ~~38~~; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in subsection (f) of this section.

(2)(A) In addition to the weekly benefit amount determined pursuant to subdivision (1) of this subsection, an individual shall be entitled to an additional weekly allowance of \$50.00 if the individual has one or more dependent children under 18 years of age.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply during the period from July 1, 2022 through June 30, 2023 if, on April 15, 2022, the balance of the Unemployment Insurance Trust Fund is either below \$90,000,000.00 or projected to drop below that amount on or before December 31, 2022.

* * *

Sec. 6. MAXIMUM WEEKLY BENEFIT FOR BENEFIT YEARS
BEGINNING JULY 1, 2021 AND JULY 1, 2022

(a) Notwithstanding any provision of 21 V.S.A. § 1338(f) to the contrary, the maximum weekly benefit for the benefit year beginning July 1, 2021 shall be \$637.00 plus the amount of any dependent allowance pursuant to 21 V.S.A. § 1338(e)(2).

(b) Notwithstanding any provision of 21 V.S.A. § 1338(f) to the contrary, the maximum weekly benefit for the benefit year beginning July 1, 2022 shall be equal to 57 percent of the State annual average weekly wage determined pursuant to 21 V.S.A. § 1338(g).

Sec. 7. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

(a) Each eligible individual who is totally unemployed in any week shall be paid with respect to such a week a weekly benefit amount determined as provided in this section.

* * *

(e)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, an individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by ~~38~~ 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in subsection (f) of this section.

* * *

* * * Unemployment Insurance Contribution Relief * * *

Sec. 8. UNEMPLOYMENT INSURANCE RATE SCHEDULE FOR
BENEFIT YEARS BEGINNING JULY 1, 2021 AND JULY 1, 2022

(a)(1) Notwithstanding any provision of 21 V.S.A. § 1326 to the contrary, the unemployment insurance contribution rate schedule for the benefit year beginning on July 1, 2021 shall remain at Schedule I.

(2) The provisions of this section shall not apply if, on April 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below \$90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

(b)(1) Notwithstanding any provision of 21 V.S.A. § 1326 to the contrary, the unemployment insurance contribution rate schedule for the benefit year beginning on July 1, 2022 shall increase to Schedule III.

(2) The provisions of this section shall not apply if, on April 15, 2022, the balance of the Unemployment Insurance Trust Fund is either below \$90,000,000.00 or projected to drop below that amount on or before December 31, 2022.

Sec. 9. UNEMPLOYMENT INSURANCE; BASE OF CONTRIBUTIONS
FOR 2022 AND 2023

(a)(1) Notwithstanding 21 V.S.A. § 1321(b), the base of contributions for calendar year 2022 shall be the same amount as for calendar year 2021.

(2) The provisions of this subsection shall not apply if, on October 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below \$90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

(b) Notwithstanding any provision of subsection (a) of this section or 21 V.S.A. § 1321(b) to the contrary, the base of contributions for calendar year 2023 shall be determined pursuant to 21 V.S.A. § 1321(b) as if the base of contributions for calendar year 2022 had been determined pursuant to 21 V.S.A. § 1321(b) rather than the provisions of subsection (a) of this section.

* * * Effective Dates * * *

Sec. 10. EFFECTIVE DATES

(a)(1) Secs. 5 and 6 shall take effect on July 1, 2021.

(2) Sec. 7 shall take effect on July 1, 2022.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, Secs. 5, 6, and 7 shall not take effect at all if on April 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below \$90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

(b) This section and the remaining sections of this act shall take effect on passage.

(Committee vote: 4-1-0)

S. 60.

An act relating to allowing municipal and cooperative utilities to offer innovative rates and services.

Reported favorably with recommendation of amendment by Senator Bray for the Committee on Finance.

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. 30 V.S.A. § 218d(n) is added to read:

(n)(1) Notwithstanding subsection (a) of this section and sections 218, 225, 226, 227, and 229 of this title, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to change its rates for service to its customers if the rate change is:

(A) applied to all customers equally;

(B) not more than two percent during any twelve-month period;

(C) cumulatively not more than 10 percent from the rates last approved by the Commission; and

(D) not going to take effect more than 10 years from the last approval for a rate change from the Commission.

(2) The municipal company or electric cooperative shall provide written notice of a rate change pursuant to this subsection to its customers, the Department of Public Service, and the Commission at least 45 days prior to implementing the rate change. Included with the submission shall be a rate analysis describing the rationale for the rate change. Unless an objection to the rate change is filed by the Department of Public Service with the Commission within 45 days of this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may implement the rate change.

(3) If the Department does not object to the change within 30 days, five persons adversely affected by the change may apply at their own expense to the Commission by petition alleging why the change is unreasonable and unjust and asking that the Commission investigate the matter and make such orders as justice and law require.

(4) A municipal company or electric cooperative shall be eligible to change its rates pursuant to this subsection only if it has received approval for a rate change from its governing body at a duly warned meeting held for such purpose prior to filing its written notice with the Department and the Commission.

(5) The Commission shall establish, by rule or order, standards and procedures for implementing this subsection.

(o)(1) Notwithstanding subsections (a) and (n) of this section and sections 218, 225, 226, 227, and 229 of this title, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to offer innovative

rates or services to their customers as pilot programs without obtaining prior approval from the Commission if the rate or service:

(A) is designed to satisfy the requirements of subdivision 8005(a)(3) of this title or to advance the goals of the State Comprehensive Energy Plan;

(B) has a duration of 18 months or less; and

(C) shall not result in:

(i) plant additions of more than two percent of the municipal company's or electric cooperative's net plant capacity; or

(ii) an increase in the municipal company's or electric cooperative's overall cost-of-service by more than two percent.

(2) The municipal company or electric cooperative shall provide written notice of an innovative rate or service to its customers, the Department of Public Service, and the Commission at least 45 days prior to offering the innovative rate or service to its customers. Included with the submission shall be the terms and conditions of service. Unless an objection to the innovative rate or service is filed with the Commission within 45 days of this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may commence offering the innovative rate or service to its customers.

(3) The municipal company or electric cooperative shall provide written notice to the Department of Public Service and the Commission at least 45 days prior to the end of an innovative rate or service duration period with any proposed modifications to the terms and conditions. Unless an objection to the innovative rate or service is filed with the Commission within 45 days of this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may continue offering the innovative rate or service to its customers. The Commission may allow for the innovative rate or service to remain in effect pending the outcome of an investigation into the notice filing.

(4) The Commission may establish, by rule or order, standards and procedures for implementing and interpreting this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

(Committee vote: 7-0-0)

S. 88.

An act relating to insurance, banking, and securities.

Reported favorably with recommendation of amendment by Senator Hardy for the Committee on Finance.

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. 8 V.S.A. § 2760b is amended to read:

§ 2760b. PROHIBITED ACTIVITIES

* * *

(c) No person or any other entity, other than a licensee, shall use the ~~title~~ titles “debt adjuster,” “budget planner,” “licensed debt adjuster,” or “licensed budget planner” or the ~~term terms~~ terms “debt adjuster,” “debt reduction,” or “budget planning,” or, in each case, words of similar import in any public advertisement, business card, or letterhead.

* * *

Sec. 2. 8 V.S.A. § 2102 is amended to read:

§ 2102. APPLICATION FOR LICENSE

* * *

(b) At the time of making an application, the applicant shall pay to the Commissioner a fee for investigating the application and a license or registration fee for a period terminating on the last day of the current calendar year. The following fees are imposed on applicants:

* * *

(8) ~~For an application for any combination of lender license under chapter 73 of this title, mortgage broker license under chapter 73 of this title, loan solicitation license under chapter 73 of this title, or loan servicer license under chapter 85 of this title, \$1,500.00 as a license fee and \$1,500.00 as an application and investigation fee. [Repealed.]~~

* * *

Sec. 3. 8 V.S.A. § 2109 is amended to read:

§ 2109. ANNUAL RENEWAL OF LICENSE

(a) On or before December 1 of each year, every licensee shall renew its license or registration for the next succeeding calendar year and shall pay to the Commissioner the applicable renewal of license or registration fee. At a

minimum, the licensee or registree shall continue to meet the applicable standards for licensure or registration. At the same time, the licensee or registree shall maintain with the Commissioner any required bond in the amount and of the character as required by the applicable chapter. The annual license or registration renewal fee shall be:

* * *

~~(8) For any combination of lender license under chapter 73 of this title, mortgage broker license under chapter 73 of this title, loan solicitation license under chapter 73 of this title, or loan servicer license under chapter 85 of this title, \$1,700.00. [Repealed.]~~

* * *

Sec. 4. 8 V.S.A. § 2120(a)(4) is amended to read:

(4) If a licensee does not file its annual report on or before April 1, or within any extension of time granted by the Commissioner, the licensee shall pay to the Department ~~\$100.00~~ \$1,000.00 for each month or part of a month that the report is past due, beginning on the date that is five business days after April 1 or the last date of such extension, as applicable.

Sec. 5. 8 V.S.A. § 2405(a) shall be amended to read:

~~(a) Each independent trust company shall annually file a report on its financial condition with the Commissioner on or before February 15 for the preceding year ending December 31. The Commissioner may require reports from any independent trust company doing a trust business in this State, containing such information, including on its financial condition, at such times and in such format as the Commissioner may prescribe. The Commissioner may require additional reports from any independent trust company that is doing a trust business in this State. The Commissioner may accept a copy of any report from the primary regulator of the independent trust company if the Commissioner determines that the report is substantially similar to a report required under this section.~~

Sec. 6. 8 V.S.A. § 2105 is amended to read:

§ 2105. CONTENTS OF LICENSE; NONTRANSFERABLE

(a) A license shall state the address at which a licensee will conduct its business, shall state fully the name of the licensee, and, if the licensee is not an individual, shall state the date and place of its organization or incorporation.

(b) A mortgage loan originator license shall state fully the name of the individual, his or her sponsoring company, and the licensed location at to which he or she is employed assigned.

* * *

Sec. 7. 8 V.S.A. § 2122 is amended to read:

§ 2122. USE OF OTHER NAMES OR BUSINESS PLACES

(a) A licensee shall not conduct business or make a loan subject to regulation under this part under any other name or at any other place of business than as specified in its license.

(b) Mortgage loan originators and employees of licensees may work remotely through a licensed location without being physically present at such location, provided the mortgage loan originator or employee is assigned to a licensed location, is adequately supervised by the licensee, and the licensee and the mortgage loan originator or employee meet such additional conditions as the Commissioner may require.

(c) This section does not apply to a commercial loan made to a borrower located outside Vermont for use outside Vermont.

Sec. 8. 8 V.S.A. § 2201 is amended to read:

§ 2201. LICENSES REQUIRED

* * *

(b) A licensed mortgage loan originator shall register and maintain a valid unique identifier with the Nationwide Multistate Licensing System and Registry and shall be either:

(1) An employee actively employed at or assigned to a licensed location of, and supervised and sponsored by, only one licensed lender or licensed mortgage broker operating in this State.

(2) An individual sole proprietor who is also a licensed lender or licensed mortgage broker.

(3) An employee engaged in loan modifications employed at or assigned to a licensed location of, and supervised and sponsored by, only one third-party loan servicer licensed to operate in this State pursuant to chapter 85 of this title. As used in this subsection, “loan modification” means an adjustment or compromise of an existing residential mortgage loan. The term “loan modification” does not include a refinancing transaction.

* * *

Sec. 9. 8 V.S.A. § 4806 is amended to read:

§ 4806. ~~SURRENDER OF LICENSE; LOSS OR DESTRUCTION
SUSPENSION, REVOCATION, OR TERMINATION OF
LICENSE~~

* * *

~~(c) Upon suspension, revocation, or termination of a license, the licensee shall forthwith deliver it to the Commissioner by personal delivery or by mail. [Repealed.]~~

~~(d) Any licensee who ceases to maintain his or her residency in this State as defined in subdivision 4800(3) of this title, shall deliver his or her insurance license or licenses to the Commissioner by personal delivery or by mail within 30 days after terminating his or her residency. [Repealed.]~~

~~(e) The Commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this subchapter upon an affidavit of the licensee prescribed by the Commissioner concerning the facts of the loss, theft, or destruction. [Repealed.]~~

Sec. 10. 8 V.S.A. § 23(a) is amended to read:

(a) This section shall apply to all persons licensed, authorized, or registered, or required to be licensed, authorized, or registered, under ~~Parts 2 and 4~~ of this title.

Sec. 11. 8 V.S.A. § 8301 is amended to read:

§ 8301. DEFINITIONS

As used in this chapter:

(1) “Adjusted risk based capital report” means a risk based capital report ~~which~~ that has been adjusted by the Commissioner in accordance with subsection 8302(e) of this title.

(2) “Commissioner” means the Commissioner of Financial Regulation.

(3) “Corrective order” means an order issued by the Commissioner specifying corrective actions ~~which~~ that the Commissioner has determined are required under this chapter.

(4) “Domestic insurer” means any insurance company organized in this State under subchapter 1 of chapter 101 of this title, any fraternal benefit society organized in this State under chapter 121 of this title, any health maintenance organization organized in this State under chapter 139 of this

title, and any entity organized in this State under chapter 123 or 125 of this title.

(5) “Fraternal benefit society” means any insurance company licensed under chapter 121 of this title.

(6) “Foreign insurer” means any entity licensed to transact business in this State that is required to file a risk based capital statement in the state where the entity is domiciled.

(7) “Health maintenance organization” means any entity organized in the State under chapter 139 of this title.

~~(8) “Life or health insurer” means any an insurance company who that insures lives or health as defined in subdivisions 3301(a)(1) and (2) of this title, any health maintenance organization organized in this State under chapter 139 of this title, any an entity organized in this State under chapter 123 or 125 of this title, or a licensed property and casualty insurer writing only accident and health insurance.~~

~~(8)(9)~~ “NAIC” means the National Association of Insurance Commissioners.

~~(9)(10)~~ “Negative trend” means, with respect to a life or health insurer or fraternal benefit society, negative trend over a period of time as determined in accordance with the trend test calculation included in the life or fraternal risk based capital instructions.

~~(10)(11)~~ “Property and casualty insurer” means any insurance company who that insures property or casualty as defined in subdivisions 3301(a)(3) and (7) of this title, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers, and or title insurers.

~~(11)(12)~~ “Risk based capital instructions” means the risk based capital report form and the related instructions adopted by the NAIC and approved by the Commissioner.

~~(12)(13)~~ “Risk based capital level” means one of the following four levels: company action level risk based capital, regulatory action level risk based capital, authorized control level risk based capital, or mandatory control level risk based capital.

(A) “Company action level risk based capital” means, with respect to any insurer, the product of 2.0 and its authorized control level risk based capital.

(B) “Regulatory action level risk based capital” means, with respect to any insurer, the product of 1.5 and its authorized control level risk based capital.

(C) “Authorized control level risk based capital” means the number determined under the risk based capital formula in accordance with the risk based capital instructions.

(D) “Mandatory control level risk based capital” means, with respect to any insurer, the product of 0.70 and its authorized control level risk based capital.

~~(13)~~(14) “Risk based capital plan” means a comprehensive financial plan containing the elements specified in subsection 8303(b) of this title. If the Commissioner rejects the risk based capital plan and it is revised by the insurer, with or without the Commissioner’s recommendation, the plan shall be called the “revised risk based capital plan.”

~~(14)~~(15) “Risk based capital report” means the report required in section 8302 of this title.

~~(15)~~(16) “Total adjusted capital” means the sum of:

(A) the insurer’s statutory capital and surplus reported in the insurer’s annual statement under section 3561 of this title; and

(B) such other items, if any, as the risk based capital instructions may provide.

Sec. 12. 8 V.S.A. § 8302 is amended to read:

§ 8302. RISK BASED CAPITAL REPORT

* * *

(d) A property and casualty insurer’s or health maintenance organization’s risk based capital shall be determined in accordance with the formula set forth in the risk based capital instructions. The formula shall take into account and may adjust for the covariance between the following factors determined in each case by applying the factors in the manner set forth in the risk based capital instructions:

- (1) asset risk;
- (2) credit risk;
- (3) underwriting risk; and

(4) all other business risks and such other relevant risks as are set forth in the risk based capital instructions.

(e) If a domestic insurer files a risk based capital report ~~which~~ that in the judgment of the Commissioner is inaccurate, then the Commissioner shall adjust the risk based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. A risk based capital report adjusted by the Commissioner under this subsection shall be referred to as an “adjusted risk based capital report.”

Sec. 13. 8 V.S.A. § 8303 is amended to read:

§ 8303. COMPANY ACTION LEVEL EVENT

(a) “Company action level event” means any of the following events:

(1) The filing of a risk based capital report by an insurer ~~which~~ that indicates that:

(A) the insurer’s total adjusted capital is greater than or equal to its regulatory action level risk based capital but less than its company action level risk based capital;

(B) if in the case of a life or health insurer or a fraternal benefit society, the insurer or society has total adjusted capital ~~which~~ that is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and has a negative trend; ~~or~~

(C) if in the case of a property and casualty insurer, the insurer has total adjusted capital ~~which~~ that is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty risk based capital instructions; or

(D) in the case of a health maintenance organization, the insurer has total adjusted capital that is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the health risk based capital instructions.

(2) The notification by the Commissioner to the insurer of an adjusted risk based capital report that indicates an event in subdivision (1) of this subsection, provided the insurer does not challenge the adjusted risk based capital report under section 8307 of this title.

(3) If, under section 8307 of this title, an insurer challenges an adjusted risk based capital report that indicates the event in subdivision (1) of this subsection, the notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge.

(b) An insurer shall prepare and submit to the Commissioner a risk based capital plan within 45 days of filing a risk based capital report or within 45 days of a final adjusted risk based capital report showing a company action level event. The risk based capital plan shall be a comprehensive financial plan and shall:

(1) ~~identify~~ Identify the conditions in the insurer ~~which~~ that contribute to the company action level event~~;~~.

(2) ~~contain~~ Contain proposals of corrective actions ~~which~~ that the insurer intends to take that would result in the elimination of the company action level event~~;~~.

(3) ~~provide~~ Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business should include separate projections for each major line of business and separately identify each significant income, expense, and benefit component~~;~~.

(4) ~~identify~~ Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions~~;~~ ~~and~~.

(5) ~~identify~~ Identify the quality of, and problems associated with, the insurer's business, including its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance.

(c) The Commissioner shall notify the insurer whether the proposed risk based capital plan is approved within 60 days of its submission. If the Commissioner disapproves the plan, the notice shall set forth the reasons for the disapproval and may notify the insurer of revisions ~~which~~ that will render the risk based capital plan satisfactory to the Commissioner. Upon notice that a proposed plan is disapproved, the insurer shall prepare and submit a revised risk based capital plan within 45 days of the Commissioner's notice of disapproval or, if the Commissioner's notice of disapproval is appealed under section 8307 of this title, within 45 days of a Commissioner's determination adverse to the insurer.

(d) In the event of a notification by the Commissioner to an insurer that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, the Commissioner may at the Commissioner's discretion, subject to the insurer's right to a hearing under section 8307 of this title, specify in the notification that the notification constitutes a regulatory action level event.

(e) Each domestic insurer required to file a risk based capital plan or revised risk based capital plan under this section shall file a copy of the plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(1) such state has a provision that is substantially similar to section 8308 of this title; ~~and~~ or

(2) the insurance commissioner of that state has notified the insurer of its request for the filing in writing. Plans required to be filed under this subdivision shall be filed ~~no~~ not later than the later of:

(A) 15 days after notice to file a copy of its risk based capital plan or revised risk based capital plan with the state; or

(B) the date on which the risk based capital plan or revised risk based capital plan is required to be filed under section 8304 of this title.

Sec. 14. 8 V.S.A. § 8307 is amended to read:

§ 8307. HEARINGS

Upon receipt of any notice required under ~~subsections~~ subsection 8302(e), 8303(c) ~~and~~ or (d), ~~and subdivisions~~ subdivision 8304(a)(4) ~~and~~ or (5), ~~and~~ or subsection 8304(c) of this title, any insurer aggrieved by any action taken under those sections may appeal to the Commissioner within five days of receipt of notice of the action. The hearing shall be subject to 3 V.S.A. chapter 25. Upon receipt of the insurer's request for a hearing, the Commissioner shall set a date for the hearing, which date shall be ~~no~~ not less than 10 nor more than 30 days after the date of the insurer's request.

Sec. 15. 8 V.S.A. § 8308(a) is amended to read:

(a) All risk based capital reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and risk based capital plans, including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the Commissioner pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer ~~which~~ that are filed with the Commissioner, constitute information that might be damaging to the insurer if

made available to its competitors, and therefore shall be kept confidential and privileged by the Commissioner. This information shall not be made available for public inspection and copying under the Public Records Act, shall not be subject to subpoena, shall not be subject to discovery, and shall not be admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information for the purpose of enforcement actions taken by the Commissioner under this chapter or any other provision of the insurance laws of this State.

Sec. 16. 8 V.S.A. § 8312 is amended to read:

§ 8312. CONFIDENTIALITY OF RISK BASED CAPITAL REPORTS

All risk based capital reports concerning insurance companies that are not included in section 8308 of this title that are submitted to the Department by the ~~National Association of Insurance Commissioners~~ NAIC or by other states are confidential and ~~may~~ shall not be disclosed by the Department.

Sec. 17. 8 V.S.A. § 15a is amended to read:

§ 15a. INSURANCE REGULATORY SANDBOX; INNOVATION
WAIVER; SUNSET.

* * *

(o) No new waivers or extensions shall be granted after July 1, ~~2024~~ 2023.

(p) This section shall be repealed on July 1, ~~2023~~ 2025.

Sec. 18. 9 V.S.A. § 5410 is amended to read:

§ 5410. FILING FEES

(a) A person shall pay a fee of \$300.00 when initially filing an application for registration as a broker-dealer and a fee of \$300.00 when filing a renewal of registration as a broker-dealer. A separate application in writing for branch office registration or renewal, accompanied by a filing fee of \$120.00 per branch office, shall be filed in the Office of the Commissioner in such form as the Commissioner may prescribe by any broker-dealer who transacts business in this State from any place of business located within this State. ~~If the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(b) The fee for an individual is \$120.00 when filing an application for registration as an agent, \$120.00 when filing a renewal of registration as an agent, and \$120.00 when filing for a change of registration as an agent. ~~If the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(c) A person shall pay a fee of \$300.00 when filing an application for registration as an investment adviser and a fee of \$300.00 when filing a renewal of registration as an investment adviser. A separate application in writing for branch office registration or renewal, accompanied by a filing fee of \$120.00 per branch office, shall be filed in the Office of the Commissioner in such form as the Commissioner may prescribe by any investment adviser who transacts business in this State from any place of business located within the State. ~~If the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(d) The fee for an individual is \$80.00 when filing an application for registration as an investment adviser representative, \$80.00 when filing a renewal of registration as an investment adviser representative, and \$80.00 when filing a change of registration as an investment adviser representative. ~~If the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(e) A federal covered investment adviser required to file a notice under section 5405 of this title shall pay an initial fee of \$300.00 and an annual notice fee of \$300.00. A notice filing may be terminated by filing notice of such termination with the Commissioner. ~~If a notice filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

Sec. 19. 8 V.S.A. § 4077 is added to read:

§ 4077. TERMINATION; COMPREHENSIVE MAJOR MEDICAL POLICIES; GRACE PERIOD

(a) A comprehensive major medical insurance policy issued by a health insurance company, nonprofit hospital or medical service corporation, or health maintenance organization that insures employees, members, or subscribers for hospital and medical insurance on an expense-incurred, service, or prepaid basis shall:

(1) provide notice to the policyholder or other responsible party of any premium payment due on a policy at least 21 days before the due date; and

(2) provide a grace period of at least one month for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force and the issuer of the policy shall be liable for valid claims for covered losses incurred prior to the end of the grace period.

(b) If the issuer of a policy described in subsection (a) of this section does not receive payment by the due date, the issuer shall send a termination notice to the policyholder at least 21 days prior to termination notifying the policyholder that the issuer may terminate the policy if payment is not received by the termination date.

(c) The termination date of a policy described in subsection (a) of this section shall not be earlier than the day following the last day of the grace period set forth in subdivision (a)(1) of this section.

Sec. 20. 8 V.S.A. § 4089h is amended to read:

§ 4089h. CANCELLATION OR NONRENEWAL OF HEALTH
INSURANCE COVERAGE

(a) A Except as otherwise provided for comprehensive major medical insurance coverage in section 4077 of this chapter, a health insurer shall notify a policyholder of any premium payment due on a policy at least 21 days before the due date. If an insurer does not receive payment by the due date, an insurer shall send a termination notice to the policyholder notifying the policyholder that the insurer will terminate the policy effective on the due date if payment is not received within 14 days from the date of mailing of the termination notice. If an insurer does not receive payment within 14 days from the date of mailing of the termination notice an insurer may cancel coverage effective on the due date.

(b) As used in this section, “health insurer” means a health insurance company, a hospital or medical service corporation, or a health maintenance organization ~~which~~ that issues or renews any individual policy, service contract, or benefit plan in this State.

Sec. 21. 8 V.S.A. § 6002 is amended to read:

§ 6002. LICENSING; AUTHORITY

* * *

(b) No captive insurance company shall do any insurance business in this State unless:

(1) it first obtains from the Commissioner a license authorizing it to do insurance business in this State;

(2) its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers’ advisory committee holds at least one meeting each year in this State;

(3) it maintains its principal place of business in this State; and

(4) it appoints a registered agent to accept service of process and to otherwise act on its behalf in this State; provided that whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the ~~Secretary of State~~ Commissioner shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.

(c)(1) Before receiving a license, a captive insurance company shall:

(A) File with the Commissioner a ~~certified~~ copy of its organizational documents, ~~a statement under oath of its president and secretary showing its financial condition,~~ and any other statements or documents required by the Commissioner.

(B) Submit to the Commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the Commissioner may reasonably require. In the event of any subsequent material change in any item in such description, the captive insurance company shall submit to the Commissioner for approval an appropriate revision and shall not offer any additional kinds of insurance until a revision of such description is approved by the Commissioner. The captive insurance company shall inform the Commissioner of any material change in rates within 30 days of the adoption of such change.

(2) Each applicant captive insurance company shall also file with the Commissioner evidence of the following:

(A) the amount and liquidity of its assets relative to the risks to be assumed;

(B) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(C) the overall soundness of its plan of operation;

(D) the adequacy of the loss prevention programs of its insureds; and

(E) such other factors deemed relevant by the Commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted pursuant to this subsection shall be and remain confidential, and may not be made public by the Commissioner or an employee or agent of the Commissioner without the written consent of the company, except that:

(A) such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

(i) the information sought is relevant to and necessary for the furtherance of such action or case;

(ii) the information sought is unavailable from other nonconfidential sources; and

(iii) a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the Commissioner; provided, however, that the provisions of this subdivision (3) shall not apply to any risk retention group; and

(B) the Commissioner may, in the Commissioner's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that:

(i) such public official shall agree in writing to maintain the confidentiality of such information; and

(ii) the laws of the state in which such public official serves require such information to be and to remain confidential.

* * *

(e) If the Commissioner is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of this chapter, and that such captive insurance company has been duly organized, the Commissioner may grant a license authorizing it to do insurance business in this State until April 1 thereafter, which license may be renewed.

Sec. 22. 8 V.S.A. § 6004 is amended to read:

§ 6004. MINIMUM CAPITAL AND SURPLUS; LETTER OF CREDIT

(a) ~~No captive insurance company shall be issued a license unless it~~ Prior to issuing any policies of insurance or entering into any contracts of reinsurance, each captive insurance company shall possess and thereafter maintain unimpaired paid-in capital and surplus of:

(1) in the case of a pure captive insurance company, not less than \$250,000.00;

(2) in the case of an association captive insurance company, not less than \$500,000.00;

(3) in the case of an industrial insured captive insurance company, not less than \$500,000.00;

(4) in the case of an agency captive insurance company, not less than \$500,000.00;

(5) in the case of a risk retention group, not less than \$1,000,000.00; and

(6) in the case of a sponsored captive insurance company, not less than \$100,000.00.

(b) The Commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

(c) Capital and surplus may be in the form of cash, marketable securities, a trust approved by the Commissioner and of which the Commissioner is the sole beneficiary, or an irrevocable letter of credit issued by a bank approved by the Commissioner. The Commissioner may reduce or waive the capital and surplus amounts required by this section pursuant to a plan of dissolution for the company approved by the Commissioner.

(d) Within 30 days after commencing business, each captive insurance company shall file with the Commissioner a statement under oath of its president and secretary certifying that the captive insurance company possessed the requisite unimpaired paid-in capital and surplus prior to commencing business.

Sec. 23. 8 V.S.A. § 6007 is amended to read:

§ 6007. REPORTS AND STATEMENTS

(a) Captive insurance companies shall not be required to make any annual report except as provided in this chapter.

(b) Prior to March 1 of each year, and prior to March 15 of each year in the case of pure captive insurance companies, association captive insurance companies, sponsored captive insurance companies, ~~or~~ industrial insured captive insurance companies, or agency captive insurance companies, each captive insurance company shall submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers. Each captive insurance company shall report using generally accepted accounting principles, statutory accounting principles, or international financial reporting standards unless the Commissioner requires, approves, or accepts the use of any other comprehensive basis of accounting, in each case with any appropriate or necessary modifications or adaptations thereof required or approved or accepted by the Commissioner for the type of insurance and kinds

of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. As used in this section, statutory accounting principles shall mean the accounting principles codified in the NAIC Accounting Practices and Procedures Manual. Upon application for admission, a captive insurance company shall select, with explanation, an accounting method for reporting. Any change in a captive insurance company's accounting method shall require prior approval. Except as otherwise provided, each risk retention group shall file its report in the form required by subsection 3561(a) of this title, and each risk retention group shall comply with the requirements set forth in section 3569 of this title. The Commissioner shall by rule propose the forms in which pure captive insurance companies, association captive insurance companies, sponsored captive insurance companies, and industrial insured captive insurance companies shall report. Subdivision 6002(c)(3) of this title shall apply to each report filed pursuant to this section, except that such subdivision shall not apply to reports filed by risk retention groups.

(c) Any pure captive insurance company, association captive insurance company, sponsored captive insurance company, ~~or industrial insured captive insurance company, or agency captive insurance company~~ may make written application for filing the required report on a fiscal year-end. If an alternative reporting date is granted:

(1) the annual report is due 75 days after the fiscal year-end; and

(2) in order to provide sufficient detail to support the premium tax return, the pure captive insurance company, association captive insurance company, sponsored captive insurance company, or industrial insured captive insurance company shall file prior to March 15 of each year for each calendar year-end, pages 1, 2, 3, and 5 of the "Vermont Captive Insurance Company Annual Report - Short Form" verified by oath of two of its executive officers.

Sec. 24. 8 V.S.A. § 6034c is amended to read:

§ 6034c. ~~PROTECTED CELL CONVERSION INTO AN INCORPORATED~~
~~PROTECTED CELL~~

(a)(1) Subject to the prior written approval of the Commissioner, on application of the sponsor and with the prior consent of each participant of the affected protected ~~cell~~ cells or as otherwise permitted pursuant to a participation agreement and the consent of each affected incorporated protected cell, a sponsored captive insurance company or a sponsored captive insurance company licensed as a special purpose financial insurance company may convert a ~~protected cell into an incorporated protected cell pursuant to the provisions of section 6034a of this title, without affecting the protected cell's~~

assets, rights, benefits, obligations, and liabilities one or more protected cells or incorporated protected cells into a:

- (A) single protected cell or incorporated protected cell;
- (B) new sponsored captive insurance company;
- (C) new sponsored captive insurance company licensed as a special purpose financial insurance company;
- (D) new special purpose financial insurance company;
- (E) new pure captive insurance company;
- (F) new risk retention group;
- (G) new agency captive insurance company;
- (H) new industrial insured captive insurance company; or
- (I) new association captive insurance company.

(2) Any such conversion shall be subject to section 6031 and subchapters 1 and 4 of this chapter, as applicable, as well as to a plan or plans of operation approved by the Commissioner, without affecting any protected cell's or incorporated protected cell's assets, rights, benefits, obligations, and liabilities.

(b) Any such conversion shall be deemed for all purposes to be a continuation of the each such protected cell's or incorporated protected cell's existence together with all of its assets, rights, benefits, obligations, and liabilities, as ~~an~~ a new protected cell or incorporated protected cell of the, a licensed sponsored captive insurance company or, a sponsored captive insurance company licensed as a special purpose financial insurance company, a special purpose financial insurance company, a pure captive insurance captive, a risk retention group, an industrial insured captive insurance company, or an association captive insurance company, as applicable. Any such conversion shall be deemed to occur without any transfer or assignment of any such assets, rights, benefits, obligations, or liabilities and without the creation of any reversionary interest in, or impairment of, any such assets, rights, benefits, obligations, and liabilities.

(c) Any such conversion shall not be construed to limit any rights or protections applicable to any converted protected cell or incorporated protected cell and such sponsored captive insurance company or sponsored captive insurance company licensed as a special purpose financial insurance company under this subchapter or under subchapter 4 of this chapter, as applicable, that existed immediately prior to the date of any such conversion.

(d)(1) Any protected cell converting into an incorporated protected cell pursuant to this section, or converting into a new captive insurance company or risk retention group pursuant to this section, shall perform such conversion in accordance with:

(A) the provisions of 11A V.S.A. chapter 11 if the converted entity is to be a corporation;

(B) the provisions of 11 V.S.A. chapter 25, subchapter 10 if the converted entity is to be a limited liability company; or

(C) the provisions applicable to any other type of entity permissible under Vermont law if the converted entity is to be such an entity.

(2) As used in this subdivision, a protected cell that is not an incorporated protected cell shall be considered an “organization” as that term is defined in 11A V.S.A. § 11.01 and 11 V.S.A. § 4141; an “other insurer” as that term is defined in 8 V.S.A. § 6020; and an “entity” as that term is defined in 11C V.S.A. § 102.

Sec. 25. REPEAL

8 V.S.A. § 6034e is repealed.

Sec. 26. 8 V.S.A. § 6006(j) is amended to read:

(j) The provisions of chapter 101, subchapters 3 and 3A of this title, pertaining to mergers, consolidations, conversions, mutualizations, redomestications, and mutual holding companies, shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein, except that:

(1) If the shareholders, members, or policyholders of the captive insurance company have unanimously approved of the merger, the procedures set forth in section 6006a of this title shall apply.

(2) The Commissioner may, upon request of an insurer party to a merger authorized under this subsection, waive the requirement of subdivision 3424(6) of this title.

(2)(3) The Commissioner may waive the requirements for public notice and hearing or, in accordance with rules which that the Commissioner may adopt addressing categories of transactions, modify the requirements for public notice and hearing. If a notice of public hearing is required, but no one requests a hearing ten days before the day set for the hearing, then the Commissioner may cancel the hearing.

~~(3)~~(4) The provisions of subsections 3423(f) and (h) of this title shall not apply, and the Commissioner may waive or modify the requirement of subdivision 3423(b)(4) of this title, with respect to market value of a converted company as necessary or desirable to reflect applicable restrictions on ownership of companies formed under this chapter.

~~(4)~~(5) An alien insurer may be a party to a merger authorized under this subsection; provided that the requirements for a merger between a captive insurance company and a foreign insurer under section 3431 of this title shall apply to a merger between a captive insurance company and an alien insurer under this subsection. Such alien insurer shall be treated as a foreign insurer under section 3431 and such other jurisdictions shall be the equivalent of a state for purposes of section 3431.

~~(5)~~(6) The Commissioner may issue a certificate of general good to permit the formation of a captive insurance company that is established for the purpose of consolidating or merging with or assuming existing insurance or reinsurance business from an existing licensed captive insurance company. The Commissioner may, upon request of such newly formed captive insurance company, waive or modify the requirements of subdivisions 6002(c)(1)(B) and (2) of this title.

~~(6)~~(7) The Commissioner may waive or modify application of the provisions of chapter 132 and chapter 101, subchapters 3 and 3A of this title and the provisions of Titles 11, 11A, and 11B in order to permit mergers of a non-insurer subsidiary of a captive insurance company with and into the captive insurance company or another of its subsidiaries without approval of the shareholders, members, or subscribers of such captive insurance company and without making available to the shareholders, members, or subscribers dissenters' rights otherwise made available in such a merger; provided, however, that the board of directors, managers, or subscribers' advisory committee of each of the merging entities shall approve such merger. The Commissioner may condition any such waiver or modification upon a good faith effort by the captive insurance company to provide notice of the merger to its shareholders, members, or subscribers.

Sec. 27. 8 V.S.A. § 6006a is added to read:

§ 6006a. MERGERS

(a) Any captive insurance company meeting the qualifications set forth in subdivision 6006(j)(1) of this title may merge with any other insurer, whether licensed in this State or elsewhere, in the following manner:

(1) The board of directors of each insurer shall, by a resolution adopted by a majority vote of the members of such board, approve a joint agreement of merger setting forth:

(A) the names of the insurers proposed to merge, and the name of the insurer into which they propose to merge, which is hereafter designated as the surviving company;

(B) the terms and conditions of the proposed merger and the mode of carrying the same into effect;

(C) the manner and basis of converting the ownership interests, if applicable, in other than the surviving insurer into ownership interests or other consideration, securities, or obligations of the surviving insurer;

(D) a restatement of such provisions of the articles of incorporation of the surviving insurer as may be deemed necessary or advisable to give effect to the proposed merger; and

(E) any other provisions with respect to the proposed merger as are deemed necessary or desirable.

(2) The resolution of the board of directors of each insurer approving the agreement shall direct that the agreement be submitted to a vote of the shareholders, members, or policyholders, as the case may be, of each insurer entitled to vote in respect thereof at a designated meeting thereof, or via unanimous written consent of such shareholders, members, or policyholders in lieu of a meeting. Notice of the meeting shall be given as provided in the bylaws, charter, or articles of association, or other governance document, as the case may be, of each insurer and shall specifically reflect the agreement as a matter to be considered at the meeting.

(3) The agreement of merger so approved shall be submitted to a vote of the shareholders, members, or policyholders, as the case may be, of each insurer entitled to vote in respect thereof at the meeting directed by the resolution of the board of directors of such company approving the agreement, and the agreement shall be unanimously adopted by the shareholders, members, or policyholders, as the case may be.

(4) Following the adoption of the agreement by any insurer, articles of merger shall be adopted in the following manner:

(A) Upon the execution of the agreement of merger by all of the insurers parties thereto, there shall be executed and filed, in the manner hereafter provided, articles of merger setting forth the agreement of merger, the signatures of the several insurers parties thereto, the manner of its adoption, and the vote by which adopted by each insurer.

(B) The articles of merger shall be signed on behalf of each insurer by a duly authorized officer, in such multiple copies as shall be required to enable the insurers to comply with the provisions of this subchapter with respect to filing and recording the articles of merger, and shall then be presented to the Commissioner.

(C) The Commissioner shall approve the articles of merger if he or she finds that the merger will promote the general good of the State in conformity with those standards set forth in section 3305 of this title. If he or she approves the articles of merger, he or she shall issue a certificate of approval of merger.

(5) The insurer shall file the articles of merger, accompanied by the agreement of merger and the certificate of approval of merger, with the Secretary of State and pay all fees as required by law. If the Secretary of State finds that they conform to law, he or she shall issue a certificate of merger and return it to the surviving insurer or its representatives. The merger shall take effect upon the filing of articles of merger with the Secretary of State, unless a later effective date is specified therein.

(6) The surviving insurer shall file a copy of the certificate of merger from the Secretary of State with the Commissioner.

(b) When such merger or consolidation has been effected as provided in this section:

(1) The several insurers parties to the agreement of merger shall be a single captive insurance company that shall be the surviving insurer a party to the agreement of merger into which it has been agreed the other insurers parties to the agreement shall be merged, which surviving insurer shall survive the merger.

(2) The separate existence of all of the insurers parties to the agreement of merger, except the surviving captive insurance company, shall cease.

(3) The single captive insurance company shall have all of the rights, privileges, immunities, and powers and shall be subject to all of the duties and liabilities of a captive insurance company organized under this chapter.

(4) The single captive insurance company shall possess all the rights, privileges, immunities, powers, and franchises of a public as well as of a private nature of each of the insurers so merged; and all property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares of capital stock, and all other choses in action and all and every other interest, of or belonging to or due to each of the insurers so merged shall be taken and deemed to be transferred to and vested in such

single captive insurance company without further act or deed; and the title to any real estate, or any interest therein, under the laws of this State vested in any such insurers shall not revert or be in any way impaired by reason of the merger.

(5) The single captive insurance company shall be responsible and liable for all the liabilities and obligations of each of the insurers so merged in the same manner and to the same extent as if the single insurer had itself incurred the same or contracted therefor; and any claim existing or action or proceeding pending by or against any of the insurers may be prosecuted to judgment as if the merger had not taken place. Neither the rights of creditors nor any liens upon the property of any insurers shall be impaired by the merger, but such liens shall be limited to the property upon which they were liens immediately prior to the time of the merger unless otherwise provided in the agreement of merger.

(6) The articles of association or other governing document of the surviving captive insurance company shall be supplanted and superseded to the extent, if any, that any provision or provisions of the articles are restated in the agreement of merger as provided in subsection (a) of this section, and such articles of association or other governing document shall be deemed to be thereby and to that extent amended.

(c)(1) In the case of a merger between a domestic and a foreign or alien insurer, the articles of merger shall be regarded as executed by the proper officers of said foreign or alien insurer when such officers are duly authorized to execute same through such action on the part of the directors, shareholders, members, or policyholders, as the case may be, of said foreign or alien insurer as may be required by the laws of the state where the same is incorporated, and upon execution, the articles of merger shall be submitted to the Insurance Commissioner or other officer at the head of the insurance department of the jurisdiction where such foreign or alien insurer is domiciled. No merger shall take effect until it has been approved by the insurance official of the jurisdiction where the foreign or alien insurer is domiciled nor until a certificate of his or her approval has been filed with the Commissioner, provided that such submission to and approval by the proper official of the other jurisdiction shall not be required unless the same are required by the laws of the foreign or alien jurisdiction. Provided, further, that the domestic captive insurance company involved in the merger shall not through anything contained in this section be relieved of any of the procedural requirements enumerated elsewhere in this section.

(2) A merger between a domestic and a foreign or alien captive insurance company shall not take effect unless and until the surviving captive insurance company, if such is a foreign or alien insurer, files with the Commissioner a power of attorney appointing the Commissioner the attorney for service of the foreign or alien insurer, upon whom all lawful process against the insurers may be served. Said power of attorney shall be irrevocable if the foreign or alien insurer has outstanding in this State any contract of insurance, or other obligation whatsoever, and shall by its terms so provide. Service upon the Commissioner shall be deemed sufficient service upon the insurer.

Sec. 28. 8 V.S.A. § 6006b is added to read:

§ 6006b. REDOMESTICATION

(a) Any foreign or alien insurer that qualifies for licensure as a captive insurance company in this State may redomesticate to this State by complying with all of the requirements of law relative to the organization and licensing of a captive insurance company and by filing with the Secretary of State its articles of association, charter, or other organization document, together with appropriate amendments thereto adopted in accordance with the laws of this State bringing such articles of association, charter, or other organizational document into compliance with the laws of this State, along with a certificate of general good issued by the Commissioner and a filing fee per section 3440 of this title. An insurer becoming a domestic captive insurance company through this redomestication process shall pay to the Commissioner such fees as would otherwise be payable by a captive insurance company organizing and becoming licensed or transacting business in this State. The Commissioner may issue a conditional license prior to the effective date of the redomestication in order to facilitate the transaction and provide notice of approval of the transaction to the outgoing jurisdiction. The domestic insurer shall be entitled to the necessary or appropriate certificates and licenses to continue its business and to transact business in this State and shall be subject to the authority and jurisdiction of this State. No insurer redomesticating into this State as a captive insurance company need merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section.

(b) Upon the approval of and compliance with such conditions as may be imposed by the Commissioner, any captive insurance company may transfer its domicile, in accordance with the laws thereof, to any other state or jurisdiction and upon such a transfer shall cease to be a domestic captive insurance company, and its corporate or other legal existence in this State shall cease upon the filing of articles of redomestication with the Secretary of State, or

upon such later date if a delayed effective date is specified in the articles of redomestication, accompanied by a certificate of approval of redomestication issued by the Commissioner and proof of acceptance of the insurer by the Secretary of State or analogous officer of the jurisdiction to which the captive insurance company is redomesticating, and upon payment to the Secretary of State of a filing fee per section 3438 of this title. Said articles of redomestication shall contain, at a minimum, the following information:

(1) the name, organizational form, date of formation, and jurisdiction of formation of the redomesticating entity;

(2) the jurisdiction to which the redomesticating entity will be transferring its domicile and its name following the redomestication date;

(3) the registered office and agent of the redomesticating entity following the redomestication date; and

(4) a statement that the redomestication has been approved by the appropriate vote of the shareholders or other owners of the redomesticating entity.

(c) Upon redomestication in accordance with this section, the foreign or alien insurer shall become a captive insurance company organized under the laws of this State and have all the rights, privileges, immunities, and powers, and be subject to all applicable laws, duties, and liabilities, of domestic insurers of the same type. Such captive insurance company shall possess all rights that obtained prior to the redomestication to the extent permitted by the laws of this State, and shall be responsible and liable for all the liabilities and obligations that obtained prior to the redomestication. The certificate of authority, agents, appointments and licenses, rates, and other items that the Commissioner allows, in his or her discretion, that are in existence at the time any insurer transfers its corporate domicile to this or any other state or jurisdiction by redomestication pursuant to this section shall continue in full force and effect upon such transfer. All outstanding policies of any transferring insurer shall remain in full force and effect.

Sec. 29. 8 V.S.A. § 6053(1) is amended to read:

(1) Notice of operations and designation of ~~Secretary of State Commissioner~~ as agent. Before offering insurance in this State, a risk retention group shall submit to the Commissioner:

(A) a statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, charter date, its principal place of business, and such other information, including information on its membership, as the Commissioner of this State

may require to verify that the risk retention group is qualified under subdivision 6051(11) of this title;

(B) a copy of its plan of operations and feasibility study and revisions of such plan or study submitted to the state in which the risk retention group is chartered and licensed; provided, however, that the provision relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which:

(i) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(ii) was offered before such date by any risk retention group which had been chartered and operating for not less than three years before such date; and

(iii) the risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by subsection 6052(b) of this title at the time that such revision has become effective in its chartering state; and

(C) a statement of registration, for which a filing fee shall be determined by the Commissioner, which designates the ~~Secretary of State~~ Commissioner as its agent for the purpose of receiving service of legal documents or process.

* * *

Sec. 30. 8 V.S.A. § 6056(b) is amended to read:

(b) The purchasing group shall register with and designate the ~~Secretary of State~~ Commissioner as its agent solely for the purpose of receiving service of legal documents or process, except for any groups exempted under 15 U.S.C. § 3903(e). Service shall be effected in the manner provided in section 3383 of this title.

Sec. 31. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-0)

UNFINISHED BUSINESS OF THURSDAY, MARCH 18, 2021

Third Reading

S. 20.

An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products.

Amendment to S. 20 to be offered by Senator Lyons before Third Reading

Senator Lyons moves to amend the bill in Sec. 5, 18 V.S.A. § 1773(a)(67), by striking out “or a chemical compound meant to replace perfluoroalkyl and polyfluoroalkyl substances that has similar chemical properties”

Second Reading

Favorable with Proposal of Amendment

H. 315.

An act relating to COVID-19 relief.

Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.

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

* * * Federal Funding, Administration * * *

Sec. 1. FEDERAL FUNDS; ANTICIPATED RECEIPTS

(a) To the extent that appropriations in this act are made from federal funds provided by the American Rescue Plan Act of 2021 (ARPA), including state holding funds that are established as a result of the ARPA, the Commissioner of Finance and Management is authorized, to make expenditures in anticipation of receipts as necessary. The Commissioner shall immediately notify the House and Senate Appropriations Committees, or the Joint Fiscal Committee through the Joint Fiscal Office when the General Assembly is not in session, if any such expenditure is later deemed impermissible by subsequent federal guidance.

(b) The appropriations in this act from funds provided by ARPA of 2021 shall carry forward from fiscal year 2021 until expended.

Sec. 2. REMAINING CORONAVIRUS RELIEF FUNDS;
CARRYFORWARD, REVERSION, AND APPLICATION

(a) To the extent that Coronavirus Relief Fund (CRF) spending authority made through appropriation or approval of the Joint Fiscal Committee remains available as of June 30, 2021, any amounts necessary to pay for expenditures that have been obligated but not paid out as of June 30, 2021 shall carry forward to fiscal year 2022.

(b) Prior to the close of fiscal year 2021, the Commissioner of Finance and Management is authorized to revert all unobligated CRF appropriations to the State CRF. In fiscal year 2021, the total amount of CRF reverted under this subsection shall be appropriated to the Department of Corrections for eligible costs and the same amount of general funds appropriated to the Department of Corrections shall be reverted.

(c) The Commissioner shall report to the House and Senate Committees on Appropriations on or before June 1, 2021 with estimates of each of the following: CRF carryforward need, CRF reversions, and total CRF appropriation to the Department of Corrections and the General Fund reversion from Department of Corrections anticipated on or before June 30, 2021 as authorized under this section. The report shall also include a brief description of the degree to which FEMA funding applications and awards are impacting these estimates. The Commissioner shall provide a final report on these amounts to the Joint Fiscal Committee at its meeting in July 2021.

* * * Commerce and Community Development; Targeted Business Grants * * *

Sec. 3. GAP ECONOMIC RECOVERY GRANTS; FISCAL YEAR 2021
ONE-TIME APPROPRIATION

(a) Appropriation.

(1)(A) In fiscal year 2021, the amount of \$10,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Commerce and Community Development to provide gap economic recovery grants to eligible businesses pursuant to this act.

(B) Of this amount, the Agency shall work with community partners to allocate \$1,000,000.00 for eligible businesses owned by Vermonters who are members of underrepresented communities that have historically experienced unequal access to State economic benefits and services or suffered discrimination due to race, gender, socioeconomic status, citizenship status, disability status, or other similar factors.

(2) The Agency may use not more than five percent of the appropriated funds for the costs of administration, including technical assistance and guidance concerning potential eligibility for federal programs.

(b) Eligibility. To be eligible for a grant, a business shall meet the following criteria:

(1) The business is domiciled or has its primary place of business in Vermont.

(2) The business is organized and operated:

(A) on a for-profit basis, including a sole proprietor, partnership, limited liability company, business corporation, cooperative, or mutual benefit enterprise; or

(B) on a nonprofit or low-profit basis, including a mutual benefit corporation, public benefit corporation, and a low-profit limited liability company.

(3) The business submits a written plan that demonstrates that the business will use grant funds for business-related operations and economic recovery and that:

(A) the business is open at the time of application; or

(B) the business is closed due to the COVID-19 public health emergency but has a good-faith plan to reopen within 60 days of receiving the grant award and will use grant funds for reopening.

(4) The business suffered an economic loss due to the COVID-19 public health emergency and has filed a 2020 tax return that demonstrates a tax loss.

(5) At the time the business submits its application to the Agency, the business demonstrates that it has not received prior COVID-19-related State assistance and:

(A) the business has applied for the forgivable loans and grants made available through the Paycheck Protection Program, the Economic Injury Disaster Relief Advance program, or other COVID-19-related business financial assistance programs created by, or as modified by, the Consolidated Appropriations Act of 2021, P.L. 116-260, but was denied assistance because the business does not meet the eligibility criteria for any program; or

(B) the business has not applied for any such assistance based on a determination by a financial institution or other participating lender, an attorney, an accountant, or another qualified financial professional that the

business is not eligible for such assistance because the business does not meet the eligibility criteria for any program.

(6) The business is in compliance with current State health and safety protocols established by Executive Order.

(c) Amount of grant. A grant shall not exceed the lesser of:

(1) the loss demonstrated on the business's 2020 tax return;

(2) three times the eligible business's fixed monthly expenses for commercial mortgage or rent, insurance, electricity, heat, water, sewer service, telecommunications service, and Internet service; or

(3) \$150,000.00.

(d) Grant administration; use of funds; future grant awards. Any amounts that remain unspent through the program shall revert to the Agency of Commerce and Community Development for purposes of supplementing any future economic recovery grant program established prior to January 1, 2022, and if no program is established, then to the General Fund.

(e) Guidelines. Not later than 10 days after the effective date of this act, the Agency shall publish guidelines governing the implementation of the program, which at minimum shall:

(1) establish application award procedures, and a timeline for accepting applications and awarding grants;

(2) establish standards to determine whether an eligible business has its primary place of business in Vermont;

(3) establish standards for the use of grant funds for the purpose of business-related economic recovery;

(4) establish procedures to ensure that grant awards comply with the requirements of this section and that the State maintains adequate records to demonstrate compliance with this section;

(5) establish procedures to prevent, detect, and mitigate fraud, waste, error, and abuse; and

(6) establish procedures to ensure that grant applicants comply with State and federal employment and labor laws.

(f) Reporting. The Agency shall submit two reports to the House Committees on Appropriations and on Commerce and Economic Development and the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs detailing the implementation of this section,

including specific information concerning the amount, identity, and demographic information of grant recipients, which shall be publicly available:

(1) an initial report following the 30-day approval period specified in subdivision (d)(1) of this section; and

(2) a final report not later than 30 days after program funds are exhausted.

(g) Auditing; compliance. The Agency shall include in all grant awards standard audit provisions, substantially similar to the audit provisions included pursuant to administrative bulletins 3.5 and 5.0, that provide that records pertaining to grant awards shall be retained and remain subject to audit and inspection by the Agency and the State Auditor of Accounts for a period of time specified by the Agency.

(h) Recapture. The Agency shall include in all grant awards standard recapture provisions, which shall include that a grant award may be subject to recapture if a recipient is found to be ineligible for the award or to have used an award for an ineligible purpose, consistent with the guidelines the Agency adopts pursuant to subsection (e) of this section.

Sec. 3a. AMERICAN RESCUE PLAN ACT OF 2021;
FUTURE BUSINESS GRANT AWARDS

The Agency of Commerce and Community Development and other relevant Executive Branch agencies and departments shall consult and coordinate in a timely manner with legislative policy committees of jurisdiction through the Office of Legislative Counsel and the Joint Fiscal Office in the development of proposals for future distributions of funds for business recovery through the American Rescue Plan Act of 2021.

Sec. 3b. VERMONT MICROBUSINESS DEVELOPMENT FUNDING

The sum of \$500,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund in fiscal year 2021 to Department for Children and Families, Office of Economic Opportunity, to be granted to the Community Action Agencies for the Statewide Community Action Network's Economic Micro Business Recovery Assistance for the COVID-19 Epidemic (EMBRACE) to assist the Vermont microbusiness owners impacted by COVID-19.

* * * Housing and Homeowner Assistance * * *

Sec. 4. VERMONT HOUSING AND CONSERVATION BOARD,
HOUSING AND FACILITIES

The sum of \$10,000,000.00 of General Fund is appropriated to the Vermont Housing and Conservation Board in fiscal year 2021, which the Board shall use, in part through grants to nonprofit housing partners and service organizations, for housing and facilities necessary to provide safe shelter to lower-income and at-risk populations. These funds are intended to be expended as expeditiously as possible on projects ready to proceed in 2021 and designed to meet immediate housing needs.

Sec. 5. HOMEOWNER; MORTGAGE ASSISTANCE FORECLOSURE
PREVENTION

The sum of \$5,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Homeowner Assistance Fund in fiscal year 2021 to the Department of Housing and Community Development for a grant to the Vermont Housing Finance Agency to provide financial and technical assistance to stabilize low- and moderate-income homeowners and prevent home foreclosures for Vermont families. To the extent permitted by federal law and guidance, these funds may be used to provide mortgage assistance retroactively to January 1, 2021.

* * * Human Services, Mental Health and Health Care * * *

Sec. 6. DEPARTMENT OF MENTAL HEALTH; EMERGENCY
OUTREACH SERVICES GRANTS

The sum of \$300,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 for grants to peer-led and impacted member-led organizations for emergency outreach services to address COVID-19-related needs. Of these funds, the Department shall allocate \$150,000.00 to a mental health peer-support organization and \$150,000.00 to an organization supporting the needs of LGBTQ youths.

Sec. 7. DEPARTMENT OF MENTAL HEALTH; HOUSING

The sum of \$4,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 to make existing housing and community-based service facilities providing mental health services more accessible, safe, and compliant with the Americans with Disabilities Act or to expand capacity in community settings. The Department shall select the projects in consultation with the Agency of Human Services Secretary's Office, the

Department of Disabilities, Aging, and Independent Living, and representatives of the designated agencies, specialized service agencies, and peer organizations. The grants shall be awarded to organizations that demonstrate the greatest ability to respond immediately to the need for housing and shall be for projects that will not require additional State funds for operating costs in future years. At least one grant shall be awarded to a peer-run or peer-directed housing organization. The Department of Mental Health shall partner with the Agency of Human Services Secretary's Office and the Department of Disabilities, Aging, and Independent Living to include as potential grant candidates all designated and specialized service agencies that provide developmental and mental health services.

Sec. 8. DEPARTMENT OF MENTAL HEALTH; CASE MANAGEMENT SERVICES

The sum of \$850,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 to provide funds to the mental health designated agencies to enable them each to hire an additional case manager to provide case management services to Vermont residents who may not previously have been part of an agency's caseload but whose lives have been significantly disrupted by the COVID-19 pandemic and who are now urgently in need of these agencies' supports. Agencies have the flexibility to identify where the targeted need exists within their agency, across all programs. The purpose funded in this section is limited to addressing the impacts related to the COVID-19 pandemic and not intended to create an ongoing funding commitment.

Sec. 9. DEPARTMENT OF MENTAL HEALTH; WORKFORCE TRAINING AND WELLNESS SUPPORTS

The sum of \$150,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 for training and wellness supports for frontline health care workers to help them meet Vermont residents' current mental health needs, such as training for emergency department personnel responding to an increased demand for crisis services as a result of the COVID-19 pandemic and training on trauma-informed and trauma-specific care for mental health professionals responding to the surge in mental health treatment needs. These workers would also benefit from wellness supports as they continue to care for people in crisis while experiencing their own stress, anxiety, and trauma as a result of the pandemic.

Sec. 10. SUPPORTS FOR NEW AMERICANS, REFUGEES, AND IMMIGRANTS

(a) The sum of \$700,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Human Services in fiscal year 2021 for distribution in equal amounts to the Association of Africans Living in Vermont and the U.S. Committee for Refugees and Immigrants' Vermont Refugee Resettlement Program for various purposes related to COVID-19, including:

(1) interpretation and translation services related to COVID-19, including accessing testing and vaccines;

(2) purchasing laptops and providing digital literacy for households to ensure that children can attend school remotely, that families can access telehealth services, and that adult family members can find employment;

(3) providing case management services related to an increased need related to housing assistance, workforce development, and employment coaching; and

(4) providing navigation of Reach Up, 3SquaresVT, and other public assistance programs following job losses.

Sec. 11. GRANTS TO REACH UP PARTICIPANTS

The sum of \$1,300,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department for Children and Families in fiscal year 2021 for the purposes of distributing monies to families participating in the Reach Up program. These funds shall be distributed in a manner similar to the distribution funds made to the population under 2020 Acts and Resolves No. 136, Sec. 15.

Sec. 12. VERMONT FOOD BANK

(a) The sum of \$1,376,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund in fiscal year 2021 to the Agency of Human Services' Central Office to be granted to the Vermont Food Bank to pay the costs of the Vermont Farmers to Families Food Box Program for the months of January and February 2021.

(b) The sum of \$82,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund in fiscal year 2021 to the Agency of Human Services' Central Office to be granted to the Vermont Food Bank for statewide provision of diapers to families in need.

Sec. 13. GRANT TO THE ASSOCIATION FOR THE BLIND AND VISUALLY IMPAIRED

(a) The sum of \$100,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Disabilities, Aging, and Independent Living in fiscal year 2021 to be granted to the Vermont Association for the Blind and Visually Impaired for a technology training program for older Vermonters who experience decreased vision and blindness and others who are blind or visually impaired to address social isolation resulting from social distancing.

Sec. 14. GREEN MOUNTAIN CARE BOARD; DEPARTMENT OF HEALTH; HEALTH CARE DISPARITIES; DATA COLLECTION AND ANALYSIS

(a) The sum of \$66,000.00 is appropriated from the General Fund to the Green Mountain Care Board in fiscal year 2021 to provide the State share pursuant to 18 V.S.A. § 9374(h) for updates to the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES) to improve data collection related to health equity.

(b) The sum of \$134,000.00 is appropriated from the General Fund to the Department of Health in fiscal year 2021 for collection and analysis of demographic data, including race and ethnicity data, regarding Vermont residents who experience health disparities.

* * * Education * * *

Sec. 15. SCHOOL INDOOR AIR QUALITY GRANT PROGRAM

(a) Appropriation. In fiscal year 2021, \$15,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund for the Pre-K–12 Education Pandemic - School Indoor Air Quality Grant Program established in 2020 Acts and Resolves No. 120, Sec. A.51. This appropriation may be adjusted if the Commissioner of Finance and Management determines that federal FEMA funds will be awarded for this purpose. The funds authorized by this section shall be either granted by the Agency of Education or paid to Efficiency Vermont to carry out the duties listed in 2020 Acts and Resolves No. 120, Sec. A.51(e). Efficiency Vermont is authorized to use up to \$250,000.00 of the \$15,000,000.00 appropriated under this section for direct labor costs.

(b) Authorization. Efficiency Vermont shall require that any school that receives a grant through the School Indoor Air Quality Grant Program established in 2020 Acts and Resolves No. 120, Sec. A.51 authorize Efficiency Vermont to release the school name and grant amount in any report requested by the General Assembly.

(c) Reporting. Upon expenditure of the funds, the Agency of Education shall report to the House and Senate Committees on Appropriations on the specific uses of the funds appropriated in subsection (a) of this section on or before March 15, 2022.

Sec. 16. EDUCATION SERVICES; FEDERAL FUNDS APPROPRIATIONS

In fiscal year 2021 and to be carried forward, appropriations are made to the Agency of Education from federal funds for Elementary and Secondary School Relief (ESSR) funds provided in the American Rescue Plan Act of 2021 Section 2001(f) as follows:

(1) Literacy Training. \$3,000,000.00 for the Agency of Education to provide grants to supervisory districts and supervisory unions, on behalf of their member school districts, to provide professional development for teachers in methods of teaching literacy.

(A) The Agency shall administer the grant program and determine which supervisory districts and supervisory unions are eligible and the amount to be granted to each applicant based on its assessment of the relative need for this funding, taking into account the following factors across applicants:

(i) literacy assessments of students;

(ii) the number of literacy instructors per enrolled students;

(iii) the percentage of students eligible for free or reduced-priced meals;

(iv) the percentage of students who are English language learners;

(v) discrepancies in outcome data on literacy for students from historically underserved populations, including, to the extent that data is available in compliance with privacy laws, students who are Black, Indigenous, and Persons of Color and students on individualized education programs; and

(vi) the extent to which teacher professional development is integrated with a multitiered system of supports.

(B) There is established one limited service position, Education Programs Manager, within the Agency of Education for the literacy training program established by this section. The Agency of Education may utilize funds appropriated in this subdivision (1) for this position.

(2) Student Mental Health. \$500,000.00 to fund collaboration with the Department of Mental Health and Health programs in schools to educate parents and school faculty on the signs of depression and suicide and to provide information and resources for assistance.

(3) Truancy. \$1,000,000.00 to provide services to school districts and supervisory unions to address the needs of students who have been truant during the pandemic and integrate them into a supportive school culture.

(4) Afterschool and Summer Programs. \$4,000,000.00 that shall be transferred to the Department for Children and Families – Child Development Division to be distributed to the Afterschool for All program. These funds shall be used for grants to afterschool and summer programs that fulfill requirements specified in American Rescue Plan Act of 2021 pursuant to Section 2001(f)(2) and (3).

(5) Summer Meals: In fiscal year 2021 and to be carried forward, \$5,500,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Education to ensure that children and families have access to nutritious foods throughout the summer. This appropriation may be adjusted if the Commissioner of Finance and Management determines that federal FEMA funds will be awarded for this purpose.

Sec. 17. PRACTICAL NURSE; WORKFORCE FUNDING

(a) The sum of \$1,400,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Vermont State Colleges to open 40 to 45 seats in the Practical Nurse Program in partnership with skilled nursing facilities across the State to upskill existing staff to achieve certification as a Practical Nurse. These funds may be used as follows:

(1) Up to \$500,000.00 for administrative and start-up costs for Vermont Technical College.

(2) Up to \$260,000.00 in incentive payments in the amount of \$6,000.00 per student to offset lost income during enrollment in the Program.

(3) All remaining funds are allocated for tuition payments for required prerequisite courses at Community College of Vermont and for the Practical Nurse Program at Vermont Technical College.

(b) To be eligible to participate in the program, a skilled nursing facility shall provide an incentive match in the amount of \$4,000.00 per student during enrollment in the Program.

Sec. 18. WORKFORCE UPSKILL OPPORTUNITY

(a) The sum of \$3,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Vermont State Colleges to provide up to two free classes in the summer or fall of 2021 and spring 2022 at any of the Vermont State Colleges for any Vermont resident who is seeking to transition to a new career or to enhance the resident's job skills.

(b) The sum of \$1,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the University of Vermont to provide up to two free classes in summer or fall of 2021 and spring 2022 for any Vermont resident who is seeking to transition to a new career or to enhance the resident's job skills.

Sec. 19. RECENT HIGH SCHOOL GRADUATES; ADVANCEMENT OPPORTUNITY

(a) The sum of \$2,800,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Vermont Student Assistance Corporation (VSAC) to provide up to two free class in the summer or fall of 2021 and spring 2022 at any of the Vermont State Colleges for any Vermont 2020 or 2021 high school graduate to enhance the graduate's work or academic skills. VSAC may provide a stipend of \$200.00 per student per class for transportation, books, or other class or attendance-related costs, and may allocate up to \$100,000.00 for the cost of administering this program.

* * * Reserve for Retirement Related Obligations * * *

Sec. 20. PENSION AND OTHER POSTEMPLOYMENT BENEFIT OBLIGATIONS; LONG-TERM PLAN

(a) In fiscal year 2021, the amount of \$20,000,000.00 in General Fund monies is hereby reserved to be part of pension funding initiatives and prefunding of other postemployment benefits (OPEB).

(b) On or before May 30, 2021, the General Assembly and the Administration, in collaboration with the Treasurer and interested parties, shall develop a long-term plan to address pension and OPEB liabilities. The funds reserved in subsection (a) of this section are available for an appropriation as part of this long-term funding initiative.

* * * Public Service; Broadband * * *

Sec. 21. BROADBAND ALLOCATIONS AND APPROPRIATIONS

(a) Coronavirus Relief Fund (CRF) Authorization and Allocation: Notwithstanding any other provision of law to the contrary, the Department of Public Service is authorized to use \$3,200,000.00 of the unobligated balance remaining from the CRF appropriated to the Department for broadband programs in 2020 Acts and Resolves No. 137 as follows:

(1) \$1,600,000.00 shall be allocated for additional assistance under the COVID-Response Line Extension Customer Assistance Program established in 2020 Acts and Resolves No. 137, Sec. 13. The customer costs eligible for financial assistance under this Program shall include costs for associated equipment such as routers and modems; and

(2) \$1,600,000.00 shall be allocated to extend the COVID-Response Temporary Broadband Lifeline Program established in 2020 Acts and Resolves No. 137, Sec. 13(d) for the covered period beginning on March 1, 2021 and extending until such funds are depleted. The subsidy under this Program may be used for the provision of broadband service and connected devices.

(b) The sum of \$1,800,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Public Service as follows:

(1) \$1,600,000.00 for the COVID-Response Connected Community Resilience Program established in 2020 Acts and Resolves No. 137, Sec. 14, and for a broadband infrastructure program to assist CUDs with preconstruction costs and general support services; and

(2) \$200,000.00 to fund the following:

(A) one or more limited-term employment positions to provide outreach, technical assistance, and other support services to communications union districts;

(B) restoration of the Vermont Relay Conference Captioning (RCC) service for remote conference calling service for the deaf or hard of hearing; and

(C) Wi-Fi hotspot license renewals.

* * * Natural Resources and Agriculture * * *

Sec. 22. NATURAL RESOURCES AND AGRICULTURE

(a) In fiscal year 2021, funds are appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund as follows:

(1) \$3,000,000.00 to the Agency of Agriculture, Food and Markets for the Working Lands Program. Of these funds, \$500,000.00 is allocated for a grants related to slaughter, meat processing and meat processing training proposals.

(2) \$10,000,000.00 to the Agency of Natural Resources for the following:

(A) \$5,000,000.00 to the Department of Forests, Parks and Recreation for the Vermont Outdoor Recreation Economic Collaborative (VOREC); and

(B) \$5,000,000.00 to the Vermont Agency of Natural Resources' Central Office for investments to improve recreational infrastructure and access on State lands and to fund repairs and improvements to Vermont's trail network on both private and public land.

(b) In fiscal year 2021, funds are appropriated from the General Fund as follows:

(1) \$14,000,000.00 to the Department of Environmental Conservation for brownfield remediation and environmental clean-up and related administrative costs; and

(2) \$250,000.00 to the Agency of Agriculture for continuation of work in soil conservation practice and payment for ecosystem services including the costs of the task force established by 2019 Acts and Resolves No. 83.

* * * Taxation; Annual Link to Federal Statutes * * *

Sec. 23. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect on December 31, ~~2019~~ 2020, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 24. 32 V.S.A. § 7402(8) is amended to read:

(8) "Laws of the United States" means the U.S. Internal Revenue Code of 1986, as amended through December 31, ~~2019~~ 2020. As used in this chapter, "Internal Revenue Code" has the same meaning as "laws of the United States" as defined in this subdivision.

* * * Technical Assistance * * *

Sec. 25. PROVISION OF TECHNICAL ASSISTANCE SERVICES TO
LOCAL EDUCATION AGENCIES

(a) The sum of \$2,800,000.00 of Federal Elementary and Secondary Education Relief Funding is appropriated to the Agency of Education to fund a contract or contracts, for the period of award through December 2023, to provide support for Local Educational Agencies (LEAs) including charter schools that are LEAs, in their utilization of Federal Elementary and Secondary School Emergency Relief Funds and with assistance in utilization of other federal funds received through the various federal budget processes.

(b) Specifically, the contractor or contractors shall assist the LEAs with activities:

(1) to address learning loss by supporting the implementation of evidence-based interventions;

(2) to address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care;

(3) to aid LEAs with planning and implementation to effectively use these federal funds for other areas of need consistent with state and federal law and regulations; including but not limited to facilities improvements and technological needs.

(4) to aid LEAs in prioritizing activities that will effectively use these federal funds without creating an ongoing funding demand.

(5) to assist in fund reporting and to provide other guidance to ensure that the funds are used in accordance with federal law and regulations within the time period allowed by law.

(c) The Agency may go through a bidding process or is authorized to award a sole source contract consistent with 3 V.S.A. § 3026 to the University of Vermont.

Sec. 26. PROVISION OF TECHNICAL ASSISTANCE SERVICES TO
LOCAL GOVERNMENTS

(a) The sum of \$950,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Commerce and Community Development to be granted as follows:

(1) \$650,000.00 to the Vermont League of Cities and Towns (VLCT), to be used through State fiscal year 2024, to establish a support program for the use of federal funds received under 42 U.S.C. 801 Sec. 603, the Coronavirus Local Fiscal Recovery Fund. The VLCT shall use these resources to work with local governments to facilitate the local communities' efforts to:

(A) respond to the public health emergency with respect to COVID-19 and its negative economic impacts;

(B) assist with fund reporting, accountability, transparency, and usage technical assistance where necessary;

(C) provide for other guidance to ensure that 42 U.S.C. 801 Sec. 603 funds are used in accordance with federal law and regulations; and

(D) provide guidance; model templates and policies; and training on ARP compliant finance and program management.

(2) \$300,000 to one or more regional planning commissions, to be used through state fiscal year 2024, to establish and implement a capacity to assist local communities with specific project management needs in expending federal funds received under 42 U.S.C. 801 Sec. 603. The Regional Planning Entities shall use these resources to work with local governments to facilitate the local communities' efforts to:

(A) identify needs and top priorities for designing and building projects that are consistent with state and federal law; implement existing State, regional and local plans; and do not duplicate investments made by other federal recovery funds;

(B) respond to inquiries on eligibility and to facilitate local discussions among stakeholders on specific projects; and

(C) provide other assistance as needed from local communities in coordination with the VLCT.

* * * Other Miscellaneous Amendments * * *

Sec. 27. VERMONT CENTER FOR CRIME VICTIM SERVICES

The amount of \$27,500.00 is appropriated from the General Fund in fiscal year 2021 to the Vermont Center for Crime Victim Services for a grant to the Burlington Community Justice Center for the St. Joseph's Orphanage Restorative Inquiry.

Sec. 28. AUDIT OF SHERIFFS’ USE OF STATE PAID DEPUTIES

The amount of \$25,000.00 is appropriated from the General Fund in fiscal year 2021 to the Vermont State Auditor to contract for up to five audits of the use of State paid deputies by county sheriffs during the state of emergency in calendar year 2020.

Sec. 29. HEALTHCARE WAIVERS: LEGISLATIVE CAPACITY

The Joint Fiscal Office is authorized to use available legislative appropriations including carryforward funds to engage a consultant to assist the legislative health care and fiscal committees on the policy and fiscal implications and opportunities related to the Global Commitment waiver and All Payer agreement renewals with Center for Medicaid and Medicare Services.

Sec. 30. 2020 Acts and Resolves No. 154, Sec. B.1123.1 is amended to read:

Sec. B.1123.1 FISCAL YEAR 2021 YEAR-END CLOSEOUT TRANSFERS

(a) At the close of fiscal year 2021, after the application of the provisions of 32 V.S.A. § 308(b), and before the application of 32 V.S.A. § 308(e) 308c up to \$5,000,000 of any remaining unreserved and undesignated end of fiscal year 2021 General Fund surplus shall be allocated as follows:

* * *

Sec. 31. 2020 Acts and Resolves No. 154, Sec. B.330 as amended by 2021 Acts and Resolves No. 3 (Budget Adjustment Act) Sec. 25 is further amended to read:

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	<u>19,375,620</u>	<u>19,375,620</u>
Total	19,375,620	19,375,620
Source of funds		
General fund	7,454,782	7,454,782
Federal funds	7,748,373	7,148,466
Global Commitment fund	<u>4,172,465</u>	<u>4,772,372</u>
Total	19,375,620	19,375,620

Sec. 32. 2020 Acts and Resolves No. 154, Sec. B.346, as amended by 2021 Acts and Resolves No. 3, Sec. 30, is further amended to read:

Sec. B.346 Total human services

Source of funds

General fund	977,495,760	977,495,760
Special funds	116,403,523	116,403,523
Tobacco fund	25,088,208	25,088,208
State health care resources fund	17,078,501	17,078,501
Federal Coronavirus Relief Fund	17,774,276	17,774,276
Federal funds	1,471,852,944	1,471,253,037
Global Commitment fund	1,592,184,231	1,592,784,138
Internal service funds	1,930,685	1,930,685
Interdepartmental transfers	46,869,842	46,869,842
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	4,266,702,970	4,266,702,970

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

This act shall take passage, except that, notwithstanding 1 V.S.A. § 214:

(1) Sec. 5 (mortgage assistance foreclosure assistance) shall take effect retroactively on January 1, 2021; and

(2) Secs. 23 and 24 (annual link to federal statutes) shall take effect retroactively on January 1, 2021 and apply to taxable years beginning on and after January 1, 2020.

(Committee vote: 7-0-0)

(For House amendments, see House Journal for February 25, 2021, page 261.)

Amendments to proposal of amendment of the Committee on Appropriations to H. 315 to be offered by Senator Kitchel

Senator Kitchel moves to amend the proposal of amendment of the Committee on Appropriations as follows:

First: By adding a new Sec. 1a to read follows:

Sec. 1a. AMERICAN RESCUE PLAN ACT OF 2021: ACCEPTANCE OF SPECIFIC FEDERAL GRANTS

(a) Notwithstanding 32 V.S.A § 5, funds from the American Rescue Plan Act of 2021, the Coronavirus State Fiscal Recovery Fund, the Coronavirus

Capital Projects Fund, and the Homeowner Assistance Fund shall be deposited into the State Treasury and are hereby accepted and may be spent subject to appropriation.

(b) Notwithstanding 32 V.S.A § 5, any funds received through Section 2001 of the Elementary and Secondary School Emergency Relief Fund and not required to be made as subgrants to local educational agencies in the American Rescue Plan Act of 2021 shall be spent subject to appropriation.

Second: In Sec. 2, remaining coronavirus relief funds; carry forward, reversion, and application, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Prior to the close of fiscal year 2021, the Commissioner of Finance and Management is authorized to revert all unobligated CRF appropriations to the State CRF. In fiscal year 2021, the total amount of CRF reverted under this subsection shall be appropriated to the Department of Corrections for CRF eligible public safety payroll and benefits costs and the same amount of General Fund appropriated to the Department of Corrections shall be reverted. To the extent there are insufficient eligible public safety payroll and benefits costs, any remaining reverted CRF balance shall be appropriated to the Department of Corrections and the same amount of General Fund appropriated to the Department of Corrections shall be reverted in fiscal year 2022.

Third: By adding a new Sec. 9a. to read as follows:

Sec. 9a. RECOVERY CENTER SUPPLEMENTAL GRANTS

(a) The sum of \$240,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Health to make grants of \$20,000.00 to cover the financial impacts of the ongoing COVID-19 pandemic at each of the recovery centers statewide.

Fourth: In Sec. 17, practical nurse; workforce funding, in subsection (a), in subdivision (3), after the words “Vermont Technical College” by inserting, after available federal and State financial aid is applied to ensure no cost to the student

Fifth: In Sec. 25, provision of technical assistance services to local education agencies, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The sum of \$2,800,000.00 is appropriated in fiscal year 2021 and to be carried forward, to the Agency of Education from federal funds for Elementary and Secondary School Relief (ESSR) funds provided in the American Rescue Plan Act of 2021 Section 2001(f)(1), to fund a contract or contracts, for the period of award through December 2023, to provide support

for Local Educational Agencies (LEAs), including charter schools that are LEAs, in their utilization of Federal Elementary and Secondary School Emergency Relief Funds and with assistance in utilization of other federal funds received through the various federal budget processes.

Sixth: In Sec. 33, effective dates, in the first sentence after the words “This act shall”, by inserting the words take effect

NEW BUSINESS

Third Reading

S. 30.

An act relating to prohibiting possession of firearms at childcare facilities, hospitals, and certain public buildings.

S. 47.

An act relating to motor vehicle manufacturers and motor vehicle warranty or service facilities.

Committee Bills for Second Reading

Favorable

S. 102.

An act relating to the regulation of agricultural inputs for farming.

By the Committee on Agriculture. (Senator Starr for the Committee.)

Reported favorably by Senator MacDonald for the Committee on Natural Resources and Energy.

(Committee vote: 5-0-0)

Reported favorably by Senator MacDonald for the Committee on Finance.

(Committee vote: 7-0-0)

Favorable with Recommendation of Amendment

S. 114.

An act relating to improving prekindergarten through grade 12 literacy within the State.

By the Committee on Education. (Senator Campion for the Committee.)

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

The Committee recommends that the bill be amended as follows:

First: By striking out Sec. 3 (Literacy grant funding; appropriation) in its entirety.

Second: By striking out Sec. 4 (Agency of Education; staffing) in its entirety.

Third: By striking out Sec. 8 (Agency of Education; annual budget request) in its entirety.

And by renumbering the remaining sections of the bill to be numerically correct.

(Committee vote: 7-0-0)

Second Reading

Favorable with Recommendation of Amendment

S. 3.

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

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

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

Sec. 1. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to one or both of the following:

(1) ~~mental~~ Mental competency of the person examined to stand trial for the alleged offense; ~~and~~.

(2) ~~sanity~~ Sanity of the person examined at the time of the alleged offense.

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c)(1) As soon as practicable after the examination has been completed, the examining psychiatrist or psychologist, ~~if applicable,~~ shall prepare a report containing findings in regard to ~~each of the applicable matters listed in provisions of~~ subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, ~~and,~~ to the respondent's attorney if the respondent is represented by counsel, and to the Commissioner of Mental Health.

(2) If the psychiatrist or psychologist has been asked to provide opinions as to both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or psychologist is able to form the opinion that the person is competent to stand trial.

* * *

Sec. 2. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) Is reported by the examining psychiatrist following examination pursuant to sections 4814–4816 of this title to have been insane at the time of the alleged offense.

(2) Is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect.

(3) Is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court.

(4) Upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding 15 days.

(b) When a person is found to be incompetent to stand trial pursuant to subdivision (a)(2) of this section, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health shall be entitled to appear and call witnesses at the proceeding.

Sec. 3. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

(a) If the court finds that the person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the Commissioner of Mental Health that shall admit the person to the care and custody of the Department of Mental Health for an indeterminate period. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

(b) An order of commitment issued pursuant to this section shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and a person committed under this order shall have the same status and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of his or her case, as a person ordered committed under 18 V.S.A. §§ 7611–7622.

(c)(1) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section, the Commissioner of Mental Health shall give notice of the discharge to the committing court and State’s Attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the Commissioner of Mental Health, a hearing should be held prior to the discharge, the hearing shall be held in the Family Division of the Superior Court to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the Commissioner, the State’s Attorney of the county where the prosecution originated, the committed person, and the person’s attorney. Prior to the hearing, the State’s Attorney

may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

(2)(A) This subdivision (2) shall apply when a person is committed to the care and custody of the Commissioner of Mental Health under this section after having been found:

(i) not guilty by reason of insanity; or

(ii) incompetent to stand trial, provided that the person's criminal case has not been dismissed.

(B)(i) When a person has been committed under this section, the Commissioner shall provide notice to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that office prosecuted the case:

(I) at least 10 days prior to discharging the person from:

(aa) the care and custody of the Commissioner; or

(bb) commitment in a hospital or a secure residential recovery facility to the community on an order of nonhospitalization pursuant to 18 V.S.A. § 7618;

(II) at least 10 days prior to the expiration of a commitment order issued under this section if the Commissioner does not seek continued treatment; or

(III) any time that the person absconds from the custody of the Commissioner.

(ii) When the State's Attorney or Attorney General receives notice under subdivision (i) of this subdivision (B), the Office shall provide notice of the action to any victim of the offense who has not opted out of receiving notice.

(iii) As used in this subdivision (B), "victim" has the same meaning as in section 5301 of this title.

(C) When a person has been committed under this section and is subject to a nonhospitalization order as a result of that commitment under 18 V.S.A. § 7618, the Commissioner shall provide notice to the committing court and to the State's Attorney of the county where the prosecution originated, or to the Office of the Attorney General if that office prosecuted the case, if the Commissioner becomes aware that:

(i) the person is not complying with the order; or

(ii) the alternative treatment has not been adequate to meet the person's treatment needs.

* * *

Sec. 4. Vermont Rule of Criminal Procedure 16.1 is amended to read:

RULE 16.1. DISCLOSURE TO THE PROSECUTION

(a) The Person of the Defendant.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, upon motion and notice a judicial officer may require the defendant to:

* * *

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

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

(J) submit to a reasonable mental examination by a psychiatrist or other expert when a court ordered examiner pursuant to 13 V.S.A. § 4814(a)(2) or (4) reports that a defendant is not competent to stand trial.

* * *

Sec. 5. CORRECTIONS; ASSESSMENT OF MENTAL HEALTH SERVICES

On or before November 1, 2021, the Departments of Corrections and of Mental Health shall jointly submit an inventory and evaluation of the mental health services provided by the entity with whom the Department of Corrections contracts for health care services to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary. The evaluation shall include a comparison as to how the type, frequency, and timeliness of mental health services provided in a correctional setting differ from those services available in the community. The evaluation shall further address how the memorandum of understanding executed by the Departments of Corrections and of Mental Health impacts the mental health services provided by the entity with whom the Department of Corrections contracts for health care services.

Sec. 6. FORENSIC CARE WORKING GROUP

(a) On or before August 1, 2021, the Department of Mental Health shall convene a working group of interested stakeholders, including as appropriate, the Department of Corrections, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, the Office of the Defender General, the Director of Health Care Reform, the Department of Buildings and General Services, a representative appointed by Vermont Care Partners, a representative appointed by Vermont Legal Aid's Mental Health Project, two crime victims representatives appointed by the Vermont Center for Crime Victim Services, the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259, a representative of the designated hospitals appointed by the Vermont Association of Hospitals and Health Care Systems, a person with lived experience of mental illness, and any other interested party permitted by the Commissioner of Mental Health, to:

(1) Identify any gaps in the current mental health and criminal justice system structure and opportunities to improve public safety and the coordination of treatment for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The working group shall review competency restoration models used in other states and explore models used in other states that balance the treatment and public safety risks posed by individuals found not guilty by reason of insanity, such as Psychiatric Security Review Boards, including the Connecticut Psychiatric Security Review Board, and guilty but mentally ill verdicts in criminal cases.

(2) Evaluate various models for the establishment of a State-funded forensic treatment facility for individuals found incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The evaluation shall address:

(A) the need for a forensic treatment facility in Vermont;

(B) the entity or entities most appropriate to operate a forensic treatment facility;

(C) the feasibility and appropriateness of repurposing an existing facility for the purpose of establishing a forensic treatment facility versus constructing a new facility for this purpose;

(D) the number of beds needed in a forensic treatment facility and the impact that repurposing an existing mental health treatment facility would have on the availability of beds for persons seeking mental health treatment in the community or through the civil commitment system; and

(E) the fiscal impact of constructing or repurposing a forensic treatment facility and estimated annual operational costs considering “institutions of mental disease” waivers available through the Center for Medicare and Medicaid Services that do not provide federal fiscal participation for forensic mental health patients.

(b) Members of the working group who are not State employees shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010.

(c) On or before November 1, 2021, the Department of Mental Health shall submit a report containing the findings and recommendations of the working group to the Joint Legislative Justice Oversight Committee. The report shall include proposed draft legislation addressing any identified needed changes to statute.

Sec. 7. APPROPRIATIONS

(a) The sum of \$250,000.00 is appropriated from the General Fund to Vermont Legal Aid for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820(b).

(b) The sum of \$250,000.00 is appropriated from the General Fund to the Department of Mental Health. for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820(b).

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

(Committee vote: 4-0-1)

Reported favorably by Senator Sears for the Committee on Appropriations.

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

By striking out Sec. 7 in its entirety and by renumbering the remaining section to be numerically correct.

(Committee vote: 7-0-0)

S. 97.

An act relating to miscellaneous judiciary procedures.

Reported favorably with recommendation of amendment by Senator Nitka 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:

* * * Sunset Repeals and Extension * * *

Sec. 1. SUNSET REPEAL; COURT DIVERSION PROGRAM CHANGES

2017 Acts and Resolves No. 61, Sec. 7, as amended by 2020 Acts and Resolves No. 134, Sec. 1 (July 1, 2020 repeal of changes to the court diversion program), is repealed.

Sec. 2. SUNSET REPEAL; RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS ADVISORY PANEL

2017 Acts and Resolves No. 54, Sec. 6a, as amended by 2020 Acts and Resolves No. 134, Sec. 2 (July 1, 2020 repeal of 3 V.S.A. § 168, Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel), is repealed.

Sec. 3. SUNSET REPEAL; SPOUSAL MAINTENANCE AND SUPPORT GUIDELINES

2017 Acts and Resolves No. 60, Sec. 3, as amended by 2018 Acts and Resolves No. 203, Sec. 1 (July 1, 2021 repeal of spousal maintenance and support guidelines), is repealed.

Sec. 4. 2017 Acts and Resolves No. 142, Sec. 5, is amended to read:

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, ~~2021~~ 2022.

* * * Repeals * * *

Sec. 5. 13 V.S.A. § 2579 is amended to read:

§ 2579. CIVIL RECOVERY FOR RETAIL THEFT

~~(a) Any person over the age of 16 years or any emancipated minor who commits the offense of retail theft against a retail mercantile establishment in violation of section 2575 of this title shall be civilly liable to the retail mercantile establishment in an amount consisting of:~~

~~(1) damages equal to the retail price of the merchandise if the item is not returned in a merchantable condition; and~~

~~(2) a civil penalty of two times the retail price of the merchandise, to be not less than \$25.00 and not more than \$300.00.~~

~~(b) The fact that an action may be brought against an individual as provided in this section shall not limit the right of a retail mercantile establishment to demand, in writing, that a person who is liable for damages and penalties under this section remit the damages and penalties prior to the commencement of any legal action.~~

~~(c) If the person to whom a demand is made complies with the demand, that person shall incur no further civil liability for that specific act of retail theft.~~

~~(d) Any demand made under this section shall be accompanied by a copy of this law.~~

~~(e) A criminal prosecution under section 2575 of this title is not a prerequisite to the applicability of this section and such a criminal prosecution shall not bar an action under this section. An action under this section shall not bar a criminal prosecution under section 2575 of this title.~~

~~(f) The provisions of this section shall not be construed to prohibit or limit any other cause of action that a retail mercantile establishment may have against a person who unlawfully takes merchandise from a retail mercantile establishment, except as provided in subsection (c) of this section.~~

~~(g) Any testimony or statements by the defendant or any evidence derived from an attempt to reach a civil settlement or from a civil proceeding brought under this section shall be inadmissible in any other court proceeding relating to such retail theft.~~

~~(h) If a retail mercantile establishment files suit to recover damages and penalties pursuant to subsection (a) of this section and the mercantile establishment fails to appear at a hearing in such proceedings without excuse from the court, the court shall dismiss the suit with prejudice and award costs to the defendant.~~

~~(i) A person who knowingly uses the provisions of this section to demand or extract money from a person who is not legally obligated to pay a penalty shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. [Repealed.]~~

Sec. 6. 20 V.S.A. § 187 is amended to read:

§ 187. ~~SPECIAL EMERGENCY JUDGES~~

~~In the event that any district judge is unavailable to exercise the powers and discharge the duties of his or her office, the duties of the office shall be discharged and the powers exercised by one of three special emergency judges residing in the district served by such judge, and designated by him or her within 60 days after the approval of this chapter, and thereafter immediately after the date that he or she shall have been appointed and qualified as such. Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or persons immediately preceding them in the designation. The designating authority shall, each year, review and shall revise, as necessary, designations made pursuant to this chapter to insure their current status. Forthwith after such designations are made and after a revision thereof copies shall be filed in the offices of the governor and the county clerk. Said emergency special judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of designation becomes available to exercise the powers and discharge the duties of his or her office. While exercising the powers and discharging the duties of the office of a district judge a special emergency judge shall receive the pro rata salary and perquisites thereof. [Repealed.]~~

* * * Probate Fees * * *

* * *

Sec. 7. 14 V.S.A. § 1492 is amended to read:

§ 1492. ACTION FOR DEATH FROM WRONGFUL ACT; PROCEDURE;
DAMAGES

(a) The action shall be brought in the name of the personal representative of the deceased person and commenced within two years from the discovery of the death of the person, but if the person against whom the action accrues is out of the State, the action may be commenced within two years after the person comes into the State. After the cause of action accrues and before the two years have run, if the person against whom it accrues is absent from and resides out of the State and has no known property within the State that can by common process of law be attached, the time of his or her absence shall not be taken as part of the time limited for the commencement of the action. If the death of the decedent occurred under circumstances such that probable cause is

found to charge a person with homicide, the action shall be commenced within seven years after the discovery of the death of the decedent or not more than two years after the judgment in that criminal action has become final, whichever occurs later.

* * *

(f) The fee for the appointment of a personal representative to bring an action pursuant to subsection(a) of this section shall be the entry fee established by 32 V.S.A. § 1434(a)(1).

Sec. 8. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

(a) The following entry fees shall be paid to the Probate Division of the Superior Court for the benefit of the State, except for subdivisions (18) and (19) of this subsection, which shall be for the benefit of the county in which the fee was collected:

(1) Estates of \$10,000.00 or less \$50.00

* * *

(34) Registration of foreign guardianship order \$90.00

* * *

* * * Judicial Bureau; Agricultural Product Identification
Labels Misuse * * *

Sec. 9. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(7) Violations of 16 V.S.A. chapter 4 9, subchapter 9 5, relating to hazing.

* * *

~~(19) Violations of 6 V.S.A. § 2965, relating to the misuse of identification labels for agricultural products produced in Vermont and meeting standards of quality established by the Secretary of Agriculture, Food and Markets. [Repealed.]~~

* * *

* * * Roadside Safety Technical Correction * * *

Sec. 10. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b)(1) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may, at a medical facility, police or fire department, or other safe and clean location as determined by the individual withdrawing blood, withdraw blood for the purpose of determining the presence of alcohol or another drug. A Any withdrawal of blood shall not be taken at roadside, and a law enforcement officer, even if trained to withdraw blood, acting in that official capacity may not withdraw blood for the purpose of determining the presence of alcohol or another drug. These limitations do not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an evidentiary blood sample or when an emergency medical technician or paramedic draws an evidentiary blood sample.

(2) A saliva sample may be obtained by a person authorized by the Vermont Criminal Justice Council to collect a saliva sample for the purpose of evidentiary testing to determine the presence of a drug. Any saliva sample obtained pursuant to this section shall not be taken at roadside.

(c) ~~When a breath test that is intended to be introduced in evidence is taken with a erimper device or when~~ blood or saliva is withdrawn at an officer's request, a sufficient amount of ~~breath~~ saliva or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample and shall be held for at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option

of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath, saliva, or blood test ~~administered using an infrared breath testing instrument~~, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. ~~Analysis~~ An analysis of the person's breath saliva or blood that is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening ~~test~~. The results of this preliminary screening ~~test~~ may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening, ~~test~~ additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

* * *

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva, or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

* * *

Sec. 11. REPEAL

2020 Acts and Resolves No. 164, Sec. 24 (administration of tests; 23 V.S.A. § 1203) is repealed.

Sec. 12. 2020 Acts and Resolves No. 164, Sec. 33(c) is amended to read:

(c) Secs. 10 (implementation of Medical Cannabis Registry), 13 (implementation of medical cannabis dispensaries), 18 (income tax deduction), 18c (legislative intent), 21 (definition of evidentiary test), 22 (operating vehicle under the influence of alcohol or other substance), 23 (consent to taking of tests to determine blood alcohol content or presence of other drug), 24 (~~administration of tests~~), and 25 (independent testing of evidentiary sample) shall take effect January 1, 2022.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 10 shall take effect on January 1, 2022.

(Committee vote: 4-0-1)

Reported favorably by Senator Sirotkin for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Judiciary and when so amended ought to pass.

(Committee vote: 7-0-0)

House Proposal of Amendment

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.

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

By striking out Sec. 11, 18 V.S.A. § 1129, in its entirety and inserting in lieu thereof the following:

Sec. 11. [Deleted.]

NOTICE CALENDAR

Second Reading

Favorable

S. 66.

An act relating to electric bicycles.

Reported favorably by Senator Chittenden for the Committee on Transportation.

(Committee vote: 5-0-0)

Reported favorably by Senator Pearson for the Committee on Finance.

(Committee vote: 5-0-2)

Favorable with Recommendation of Amendment

S. 25.

An act relating to miscellaneous cannabis regulation procedures.

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

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

* * * Town Vote on Retail Sales * * *

Sec. 1. 7 V.S.A. § 863 is amended to read:

§ 863. REGULATION BY LOCAL GOVERNMENT

(a)(1) Prior to a cannabis retailer or the retail portion of an integrated licensee operating within a municipality, the municipality shall affirmatively permit the operation of such cannabis establishments by majority vote of those present and voting by Australian ballot at an annual or special meeting warned for that purpose. A municipality may place retailers or integrated licensees, or both, on the ballot for approval.

* * *

(3) On March 8, 2023, any municipality that has not previously voted on the question of permitting the operation of cannabis establishments pursuant to subdivision (1) of this subsection shall be deemed to permit the operation of both cannabis retailers and integrated licensees.

* * *

* * * Cannabis Control Board Advisory Committee * * *

Sec. 2. 7 V.S.A. § 843 is amended to read:

§ 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

* * *

(c) Membership.

* * *

(4) A member may be removed only for cause by either the remaining members of the Commission or a two-thirds vote of the advisory committee in accordance with the Vermont Administrative Procedure Act. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for removal.

* * *

(h) Advisory committee.

(1) There is an advisory committee established within the Board that shall be composed of members with expertise and knowledge relevant to the Board's mission. The Board shall collaborate with the advisory committee on recommendations to the General Assembly. The advisory committee shall be composed of the following ~~12~~ 13 members:

(A) one member with an expertise in public health, appointed by the Governor;

(B) the Secretary of Agriculture, Food and Markets or designee;

(C) one member with an expertise in laboratory science or toxicology, appointed by the Governor;

(D) one member with an expertise in systemic social justice and equity issues, appointed by the Speaker of the House;

(E) one member with an expertise in ~~women~~ women- and minority-owned business ownership, appointed by the Speaker of the House;

(F) one member with an expertise in substance misuse prevention, appointed by the Senate Committee on Committees;

(G) one member with an expertise in the cannabis industry, appointed by the Senate Committee on Committees;

(H) one member with an expertise in business management or regulatory compliance, appointed by the Treasurer;

(I) one member with an expertise in municipal issues, appointed by the Treasurer;

(J) one member with an expertise in public safety, appointed by the Attorney General;

(K) one member with an expertise in criminal justice reform, appointed by the Attorney General; and

(L) the Secretary of Natural Resources or designee; and

(M) one member appointed by the Vermont Cannabis Trade Association.

(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before ~~May 1, 2021~~ April 1, 2021, and the Secretary of Agriculture, Food and Markets shall convene the first meeting on or before April 15, 2021.

* * *

* * * Advertising * * *

Sec. 3. 7 V.S.A. § 845 is amended to read:

§ 845. CANNABIS REGULATION FUND

* * *

(b) The Fund shall be composed of:

(1) all State application fees, annual license fees, renewal fees, advertising review fees, and civil penalties collected by the Board pursuant to chapters 33 (cannabis establishments) and 37 (medical cannabis dispensaries) of this title; and

(2) all annual and renewal fees collected by the Board pursuant to chapter 35 (medical cannabis registry) of this title.

* * *

Sec. 4. 2019 Acts and Resolves No. 164, Sec. 5 is amended to read:

Sec. 5. CANNABIS CONTROL BOARD REPORT TO THE GENERAL ASSEMBLY; PROPOSAL FOR POSITIONS, FEES, AND APPROPRIATIONS FOR FISCAL YEARS 2022 AND 2023; LAND USE, ENVIRONMENTAL, ENERGY, AND EFFICIENCY REQUIREMENTS OR STANDARDS; ADVERTISING; OUTREACH, TRAINING, AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND DELIVERY; ADDITIONAL TYPES OF LICENSES

(a) On or before April 1, 2021, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the following :

* * *

(2) State fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 846. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The State fees submitted in accordance with this subdivision shall be projected to be sufficient to fund the duties of the Cannabis Control Board as provided in 7 V.S.A. § 843. To the extent possible, the recommend fees shall include an amount to repay over a period, not greater than 10 years, to the General Fund any application of excise taxes to the Cannabis Regulation Fund made pursuant to Sec. 6c of this act.

(A) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 846: cultivator, product manufacturer, wholesaler, retailer, testing laboratory, and integrated. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(B) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(C) Fee for advertisement review for a cannabis establishment licensee as provided in 7 V.S.A. § 865.

* * *

Sec. 5. 7 V.S.A. § 861 is amended to read:

§ 861. DEFINITIONS

As used in this chapter:

(1) “Advertise” means the publication or dissemination of an advertisement.

(2) “Advertisement” means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, other periodical literature, publication, or in a radio or television broadcast, the Internet, or in any other media. The term does not include:

(A) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

(3) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

~~(2)~~(4) “Applicant” means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

~~(3)~~(5) “Board” means the Cannabis Control Board.

~~(4)~~(6) “Cannabis” shall have the same meaning as provided in section 831 of this title.

~~(5)~~(7) “Cannabis cultivator” or “cultivator” means a person licensed by the Board to engage in the cultivation of cannabis in accordance with this chapter.

~~(6)~~(8) “Cannabis establishment” means a cannabis cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

~~(7)~~(9) “Cannabis product” shall have the same meaning as provided in section 831 of this title.

~~(8)~~(10) “Cannabis product manufacturer” or “product manufacturer” means a person licensed by the Board to manufacture cannabis products in accordance with this chapter.

~~(9)~~(11) “Cannabis retailer” or “retailer” means a person licensed by the Board to sell cannabis and cannabis products to adults 21 years of age and older for off-site consumption in accordance with this chapter.

~~(10)~~(12) “Cannabis testing laboratory” or “testing laboratory” means a person licensed by the Board to test cannabis and cannabis products in accordance with this chapter.

~~(11)~~(13) “Cannabis wholesaler” or “wholesaler” means a person licensed by the Board to purchase, process, transport, and sell cannabis and cannabis products in accordance with this chapter.

~~(12)~~(14) “Chair” means the Chair of the Cannabis Control Board.

~~(13)~~(15) “Characterizing flavor” means a taste or aroma, other than the taste or aroma of cannabis, imparted either prior to or during consumption of a cannabis product. The term includes tastes or aromas relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink or to any conceptual flavor that imparts a taste or aroma that is distinguishable from cannabis flavor but may not relate to any particular known flavor.

~~(14)~~(16) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

~~(15)~~(17) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

~~(16)~~(18) “Dispensary” means a business organization licensed pursuant to chapter 37 of this title or 18 V.S.A. chapter 86.

~~(17)~~(19) “Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

~~(18)~~(20) “Flavored oil cannabis product” means any oil cannabis product that contains an additive to give it a characterizing flavor.

~~(19)~~(21) “Integrated licensee” means a person licensed by the Board to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

~~(20)~~(22) “Municipality” means a town, city, or incorporated village.

~~(21)~~(23) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

~~(22)~~(24) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

~~(23)~~(25) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

~~(24)~~(26) “Small cultivator” means a cultivator with a plant canopy or space for cultivating plants for breeding stock of not more than 1,000 square feet.

Sec. 6. 7 V.S.A. § 864 is added to read:

§ 864. ADVERTISING

(a) “Advertise” and “advertisement” have the same meaning as in section 861 of this title.

(b) A cannabis establishment advertisement shall not contain any statement or illustration that:

(1) is deceptive, false, or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;

(5) offers free samples of cannabis or cannabis products;

(6) depicts a person under 21 years of age consuming cannabis or cannabis products; or

(7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.

(e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:

(1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or

(2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review.

(f) The Board may charge and collect fees for review of advertisements.

Sec. 7. 7 V.S.A. § 866(d) is added to read:

(d) In accordance with section 864 of this title, advertising by a cannabis establishment shall not depict a person under 21 years of age consuming cannabis or cannabis products or be designed to be or have the effect of being particularly appealing to persons under 21 years of age. Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

Sec. 8. 7 V.S.A. § 881 is amended to read:

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)-(7) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

* * *

(P) disclosure or eligibility requirements for a financier, its owners and principals, and its affiliates, which may include:

(i) requirements to disclose information to a licensed establishment, the Board, or the Department of Financial Regulation;

(ii) a minimum age requirement and a requirement to conduct a background check for natural persons;

(iii) requirements to ensure that a financier complies with applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers; and

(iv) any other requirements, conditions, or limitations on the type or amount of loans or capital investments made by a financier or its affiliates, which the Board, in consultation with the Department of Financial Regulation, determines is necessary to protect the public health, safety, and general welfare; ~~and~~

(Q) policies and procedures for conducting outreach and promoting participation in the regulated cannabis market by diverse groups of individuals, including those who have been disproportionately harmed by cannabis prohibition; and

(R) advertising and marketing.

Sec. 9. 7 V.S.A. § 978 is added to read:

§ 978. ADVERTISING

(a) “Advertise” and “advertisement” have the same meaning as in section 861 of this title.

(b) A dispensary advertisement shall not contain any statement or illustration that:

(1) is deceptive, false, or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;

(5) offers free samples of cannabis or cannabis products;

(6) depicts a person under 21 years of age consuming cannabis or cannabis products; or

(7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(c) Dispensaries shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.

(e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:

(1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or

(2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review.

(f) The Board may charge and collect fees for review of advertisements.

* * * Cultivation * * *

Sec. 10. 2019 Acts and Resolves No. 164, Sec. 8 is amended to read:

Sec. 8. IMPLEMENTATION OF LICENSING CANNABIS ESTABLISHMENTS

(a)(1) The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after February 1, 2022. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling such products to an integrated licensee on or after April 1, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

(2) On or before April 1, 2022, the Board shall begin accepting applications for integrated licenses.

(3) On or before May 1, 2022, the Board shall begin issuing integrated licenses to qualified applicants. An integrated licensee may begin selling cannabis and cannabis products transferred or purchased from a dispensary immediately. Between August 1, 2022 and October 1, 2022, 25 percent of cannabis flower sold by an integrated licensee shall be obtained from a licensed small cultivator, if available.

(b)(1) On or before April 1, 2022, the Board shall begin accepting applications for small cultivator licenses and testing laboratories. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before May 1, 2022, the Board shall begin issuing small cultivator and testing laboratories licenses to qualified applicants. Upon licensing, small cultivators shall be permitted to sell cannabis legally grown pursuant to the license to an integrated licensee and a dispensary licensed pursuant to 18 V.S.A. chapter 86 prior to other types of cannabis establishment licensees beginning operations.

(c)(1) On or before May 1, 2022, the Board shall begin accepting applications for all cultivator licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before June 1, 2022, the Board shall begin issuing all cultivator licenses to qualified applicants.

(d)(1) On or before July 1, 2022, the Board shall begin accepting applications for product manufacturer licenses and wholesaler licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before August 1, 2022, the Board shall begin issuing product manufacturer and wholesaler licenses to qualified applicants.

(e)(1) On or before September 1, 2022, the Board shall begin accepting applications for retailer licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before October 1, 2022, the Board shall begin issuing retailer licenses to qualified applicants and sales of cannabis and cannabis products by licensed retailers to the public shall be allowed immediately.

* * * Social Equity * * *

Sec. 11. FEES; SOCIAL EQUITY

When reporting to the General Assembly regarding recommended fees for licensing cannabis establishments pursuant to Sec. 5 of the 2019 Acts and Resolves No. 164, the Cannabis Control Board shall propose a plan for reducing or eliminating licensing fees for individuals from communities that historically have been disproportionately impacted by cannabis prohibition or individuals directly and personally impacted by cannabis prohibition.

Sec. 12. 7 V.S.A. chapter 39 is added to read:

CHAPTER 39. CANNABIS SOCIAL EQUITY PROGRAMS

§ 986. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Commerce and Community Development.

(2) “Board” means the Cannabis Control Board.

§ 987. CANNABIS BUSINESS DEVELOPMENT FUND

(a) There is established the Cannabis Business Development Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) The Fund shall comprise:

(1) three percent of gross sales made by integrated licensees prior to October 15, 2022, with a maximum contribution of \$50,000.00 per integrated licensee; and

(2) monies allocated to the fund by the General Assembly.

(c) The Fund shall be used for the following purposes:

(1) to provide low-interest rate loans and grants to social equity applicants to pay for ordinary and necessary expenses to start and operate a licensed cannabis establishment;

(2) to pay for outreach that may be provided or targeted to attract and support social equity applicants; and

(3) necessary costs incurred in administering the Fund.

(d) Amounts from loans that are repaid shall provide additional funding through the Fund.

§ 988. SOCIAL EQUITY LOANS AND GRANTS

The Agency of Commerce and Community Development shall establish a program using funds from the Cannabis Business Development Fund for the purpose of providing financial assistance, loans, grants, and outreach to social equity applicants.

Sec. 13. SOCIAL EQUITY APPLICANTS; CANNABIS CONTROL BOARD ADVISORY COMMITTEE

The Cannabis Control Board Advisory Committee, in consultation with the Board, shall develop criteria for social equity applicants for the purpose of obtaining social equity loans and grants from the Cannabis Business Development Fund pursuant to 7 V.S.A. chapter 39. The Board shall provide the criteria to the General Assembly not later than October 15, 2021.

Sec. 14. APPROPRIATION

In fiscal year 2022, \$500,000.00 is appropriated to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987.

* * * Transfer of Medical Cannabis Program * * *

Sec. 15. IMPLEMENTATION OF MEDICAL CANNABIS REGISTRY

(a) On July 1, 2021, the following shall transfer from the Department of Public Safety to the Cannabis Control Board.

(1) the authority to administer the Medical Cannabis Registry and the regulation of cannabis dispensaries pursuant to 18 V.S.A. chapter 86;

(2) the cannabis registration fee fund established pursuant to 18 V.S.A. chapter 86; and

(3) the positions dedicated to administering 18 V.S.A. chapter 86.

(b) The Registry shall continue to be governed by 18 V.S.A. chapter 86 and the rules adopted pursuant to that chapter until 7 V.S.A. chapters 35 and 37 and the rules adopted by the Board pursuant to those chapters take effect on March 1, 2022 as provided in 2019 Acts and Resolves No. 164.

Sec. 16. REPEAL

Secs. 10 and 13 of 2019 Acts and Resolves No. 164 are repealed.

* * * Highway Safety * * *

Sec. 17. VERMONT CRIMINAL JUSTICE COUNCIL

Not later than July 1, 2021, the Vermont Criminal Justice Council shall report to the Joint Legislative Justice Oversight Committee regarding funding for the requirement that on or before December 31, 2021 all law enforcement officers receive a minimum of 16 hours of Advanced Roadside Impaired Driving Enforcement training as required by Sec. 20 of 2019 Acts and Resolves No. 164.

* * * Substance Misuse Prevention Funding * * *

Sec. 18. 32 V.S.A. § 7909 is added to read:

§ 7909. SUBSTANCE MISUSE PREVENTION FUNDING

(a) Thirty percent of the revenues raised by the cannabis excise tax imposed by section 7902 of this title, not to exceed \$10,000,000.00 per fiscal year, shall be used to fund substance misuse prevention programming.

(b) If any General Fund appropriations for substance misuse prevention programming remain unexpended at the end of a fiscal year, that balance shall be carried forward and shall only be used for the purpose of funding substance misuse prevention programming in the subsequent fiscal year.

(c) Any appropriation balance carried forward pursuant to subsection (b) of this section shall be in addition to revenues allocated for substance misuse prevention programming pursuant to subsection (a) of this section.

Sec. 19. REPEAL

2019 Acts and Resolves No. 164, Sec. 19 (substance misuse prevention funding) is repealed.

* * * Effective Date * * *

Sec. 20. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 3-1-1)

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

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

By striking out Sec. 14, appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 14. TRANSFER AND APPROPRIATION

(a) In fiscal year 2022, \$500,000.00 is transferred from General Fund to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987.

(b) In fiscal year 2022, \$500,000.00 is appropriated from the Cannabis Business Development Fund to the Agency of Commerce and Community Development to make grants pursuant to 7 V.S.A. § 987.

(Committee vote: 6-1-0)

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)

Reported favorably by Senator Starr for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations and when so amended ought to pass.

(Committee vote: 6-1-0)

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)

Reported favorably by Senator Baruth for the Committee on Appropriations.

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

By striking out Sec. 5 in its entirety

And by renumbering the remaining section to be numerically correct.

(Committee vote:7-0-0)

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.

H.C.R. 27 - 28 (For text of Resolutions, see Addendum to House Calendar for March 18, 2021)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Joseph Flynn of South Hero – Secretary, Agency of Transportation – By Sen. Mazza for the Committee on Transportation. (3/19/21)

Wanda L. Minoli of Montpelier – Commissioner, Department of Motor Vehicles – By Sen. Ingalls for the Committee on Transportation. (3/19/21)

NOTICE OF JOINT ASSEMBLY

March 25, 2021 - 10:30 A.M. - House Chamber - Retention of two Superior Judges and three Magistrates.

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 #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://jfo.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]

JFO #3042 - \$50,000 to the VT Judiciary from the State Justice Institute to secure consulting services of the National Center for State Courts to advise on the creation of an Access and Resource Center (ARC) which would serve self-represented parties and others looking for support navigating the justice process. *[Note: The budget materials include a \$5,000 Judiciary cash match and \$20,000 of in-kind match.]*

[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.