

# Senate Calendar

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FRIDAY, APRIL 2, 2021

SENATE CONVENES AT: 11:30 A.M.

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF THURSDAY, APRIL 1, 2021**

**Committee Bill for Second Reading**

**Favorable with Recommendation of Amendment**

**S. 100.**

An act relating to universal school breakfast and lunch for all public school students and to creating incentives for schools to purchase locally produced foods.

**By the Committee on Agriculture. (Sen. Starr for the Committee.)**

**Reported favorably by Senator Campion for the Committee on Education.**

(Committee vote: 6-0-0)

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

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. TITLE

This act shall be known as “Meals for All.”

\* \* \* Statutory Changes; Universal School Breakfast and Lunch \* \* \*

Sec. 2. 16 V.S.A. chapter 27, subchapter 2 is amended to read:

Subchapter 2. School Food Programs

§ 1261a. DEFINITIONS

As used in this subchapter:

(1) “Food programs” means provision of food to persons under programs meeting standards for assistance under the National School Lunch Act, 42 U.S.C. § 1751 et seq. and in the Child Nutrition Act, 42 U.S.C. § 1779 et seq., each as amended.

(2) “School board” means the governing body of a school district responsible for the administration of a public school.

(3) “Independent school board” means a governing body responsible for the administration of a nonprofit independent school exempt from United States U.S. income taxes.

\* \* \*

#### § 1264. FOOD PROGRAM

(a)(1)(A) Each school board operating a public school shall cause to operate within the school district each school in the school district a food program that makes available a school lunch, as provided in the National School Lunch Act as amended, and a school breakfast, as provided in the National Child Nutrition Act as amended, to each attending student who qualifies for those meals under these Acts every school day. School districts shall maximize access to federal funds for the cost of the school breakfast and lunch program under the Community Eligibility Provision, Provision 2, or other provisions under these Acts.

(B) In addition, each school board operating a public school shall cause to operate within each school in the school district the same school lunch and the same school breakfast program made available to students who qualify for those meals under the National School Lunch Act and the National Child Nutrition Act, each as amended, to each attending student every school day at no charge.

(C) To the extent that costs are not reimbursed through federal or State funds or other sources, the cost of making available school lunches and breakfasts shall be borne by school districts.

\* \* \*

(3) In operating its school breakfast and lunch program, a school district shall seek to achieve the highest level of student participation, which may include any or all of the following:

(A) providing breakfast meals that can be picked up by students;

(B) making breakfast available to students in classrooms after the start of the school day; and

(C) collaborating with the school’s wellness community advisory council, as established under subsection 136(e) of this title, in planning school meals.

(4) Each school district shall request the parent or guardian of each student to complete the Household Income Form provided by the Agency of Education, which is used to determine a family’s economic status to determine eligibility for various State and federal programs. This requirement shall not

apply if the school district obtains equivalent information through another means.

\* \* \*

(d) It is a goal of the State that by the year ~~2022~~ 2023 school boards operating a school lunch, breakfast, or summer meals program shall purchase at least 20 percent of all food for those programs from local producers.

(e)(1) On or before December 31, 2020 and annually thereafter, a school board operating a school lunch, breakfast, or summer meals program shall submit to the Agency of Education an estimate of the percentage of the cost of locally produced foods that were purchased by the school board for those programs that were locally produced foods during the one-year period ending on June 30 of that year.

\* \* \*

#### § 1265. EXEMPTION; PUBLIC DISCUSSION

~~(a) The school board of a public school district that wishes to be exempt from the provisions of section 1264 of this title may vote at a meeting warned and held for that purpose to exempt itself from the requirement to offer either the school lunch program or the school breakfast program, or both, for a period of one year.~~

~~(b) If a public school is exempt from offering a breakfast or lunch program, its school board shall conduct a discussion annually on whether to continue the exemption. The pending discussion shall be included on the agenda at a regular or special school board meeting publicly noticed in accordance with 1 V.S.A. § 312(c), and citizens shall be provided an opportunity to participate in the discussion. The school board shall send a copy of the notice to the Secretary and to the superintendent of the supervisory union at least ten days prior to the meeting. Following the discussion, the school board shall vote on whether to continue the exemption for one additional year.~~

~~(c) On or before the first day of November prior to the date on which an exemption voted under this section is due to expire, the Secretary shall notify the boards of the affected school district and supervisory union in writing that the exemption will expire.~~

~~(d) Following a meeting held pursuant to subsection (b) of this section, the school board shall send a copy of the agenda and minutes to the Secretary and the superintendent of the supervisory union.~~

~~(e) The Secretary may grant a supervisory union or a school district a waiver from duties required of it under this subchapter upon a demonstration that the duties would be performed more efficiently and effectively in another manner. [Repealed.]~~

Sec. 3. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

\* \* \*

(xii) Costs incurred by a school district or supervisory union to provide school breakfast and lunch under chapter 27 (transportation and board), subchapter 2 (school food programs) of this title.

\* \* \*

\* \* \* Federal Funds; Data Collection \* \* \*

Sec. 4. 16 V.S.A. § 45 is added to read:

§ 45. FEDERAL FUNDS; DATA COLLECTION

(a) The Secretary of Education shall:

(1) define the term “student poverty” for the purpose of determining qualification for federal funds by school districts;

(2) establish what data should be collected by school districts to qualify for federal funds based on student poverty, the means by which the data should be collected, and the frequency of collection; and

(3) determine how this data shall be reported to the Agency of Education by school districts and the frequency of reporting.

(b) School districts shall collect data that is necessary to qualify for federal funds based on student poverty and report this data to the Agency of Education in accordance with subsection (a) of this section.

\* \* \* Session Law; Universal School Breakfast and Lunch \* \* \*

#### Sec. 5. SCHOOL MEALS CONSUMED DURING CLASS

A school district shall count time spent by students consuming school meals during class as instructional time.

#### Sec. 6. TRANSITION

On or before July 1, 2026, each school district shall comply with 16 V.S.A. chapter 27, subchapter 2, as amended by this act. Until the date upon which a school district complies with 16 V.S.A. chapter 27, subchapter 2, as amended by this act, 16 V.S.A. chapter 27, subchapter 2, as in effect on June 30, 2021, shall be in effect.

#### Sec. 7. AGENCY OF EDUCATION; STAFFING

The following two-year, limited-service position is created in the Agency of Education: one full-time, classified position specializing in the administration of school food programs. The position established in this section shall be transferred and converted from an existing vacant position in the Executive Branch of State government. There is appropriated to the Agency of Education from the American Rescue Plan Act of 2021 pursuant to Section 2001(f)(4), Pub. L. No. 117-2, for fiscal year 2022 the amount of \$100,000.00 for salary, benefits, and operating expenses.

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

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

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

An act relating to universal school breakfast and lunch for all public school students.

(Committee vote: 7-0-0)

**NEW BUSINESS**

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 20.**

An act relating to pretrial risk assessments and pretrial services.

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

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:

Sec. 1. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

~~(a)(1) The objective of a pretrial risk assessment is to provide information to the court for the purpose of determining whether a person presents a risk of nonappearance or a risk of re-offense so the court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.~~

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

~~(3)(2) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.~~

(b)(1) Except as provided in subdivision (2) of this subsection, a judge may request that a pretrial services coordinator perform a risk assessment that assesses risk of flight for a person who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.

(2) A person charged with an offense for which registration as a sex offender is required pursuant to chapter 167, subchapter 3 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.



(3) Participation in risk assessment or needs screening shall be voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.

(4) In the event ~~an assessment or a~~ screening cannot be obtained prior to arraignment, the ~~risk assessment and~~ needs screening shall be conducted as soon as practicable.

(5) A person who qualifies pursuant to subdivision (1) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a ~~risk assessment or~~ needs screening unless the other charge is a listed crime.

(6) Any person charged with a criminal offense ~~or~~ , a person who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, or a person 18 years of age or older who is the subject of a delinquency petition pursuant to 33 V.S.A. § 5201, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.

(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.

(d)(1) At arraignment, the court may order a person who is eligible to engage with a pretrial services coordinator under subdivision (b)(6) of this section to do the following:

(A) meet with a pretrial services coordinator on a schedule set by the court;

(B) participate in a needs screening with a pretrial services coordinator; and

(C) participate in a clinical assessment by a substance abuse or mental health treatment provider and follow the recommendations of the provider.

(2) The court may order the person to engage in pretrial services. Pretrial services may include the pretrial services coordinator:

(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings; and

(B) connecting the person with community-based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.

(3) If possible, the court shall set the date and time for the clinical assessment at arraignment. In the alternative, the pretrial services coordinator shall coordinate the date, time, and location of the clinical assessment and advise the court, the person and his or her attorney, and the prosecutor.

(4) An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any conditions of release permitted by law and shall not limit the court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.

(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.

\* \* \*

## Sec. 2. PILOT PROJECT; DEPARTMENT OF CORRECTIONS REPORT TO COURT; PROBATION CONDITIONS

(a) The Department of Corrections, in consultation with the Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, and the Office of the Defender General, shall establish a pilot project to provide the court with a report prior to the sentencing of any defendant to a term of probation for a felony pursuant to 28 V.S.A. § 205. The report shall be designed to assist the court in setting probation conditions and shall include the defendant's risk and needs assessment results, mental health and substance use disorder screening results, and criminal history.

(b) The Department, the Court Administrator, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, and the Office of the Defender General shall jointly select one or two units in the Criminal Division for participation in the pilot project established by this section. On or before December 1, 2022, the Department shall report the results of the pilot project to the Joint Legislative Justice Oversight Committee. The report shall recommend whether the pilot project should be made permanent throughout the State.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 5, 2021, pages 138-140.)

## NOTICE CALENDAR

### Second Reading

#### Favorable

#### H. 149.

An act relating to modernizing statutes related to the Vermont National Guard.

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal of March 16, 2021, page 325)

#### H. 338.

An act relating to reapportionment proposal deadlines.

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

(Committee vote: 5-0-0)

(No House amendments)

### **Proposed Amendments to the Vermont Constitution**

Pursuant to Rule 83 of the Senate Rules, notice is hereby given that proposed amendments to the Constitution, set forth below, will be read the third time and acted upon, on the seventh legislative day commencing Wednesday, March 31, 2021. At that time, the following question shall be presented: "Shall the Senate concur in the proposal and request the concurrence of the House?"

### **PROPOSAL 2**

#### **(Third day on Notice Calendar pursuant to Rule 83)**

Subject: Declaration of rights; clarifying the prohibition on slavery and indentured servitude

**PENDING ACTION:** Third reading of the proposal (second biennium)

### PROPOSAL 2

#### Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to clarify that slavery and indentured servitude in any form are prohibited.

Sec. 2. Article 1 of Chapter I of the Vermont Constitution is amended to read:

Article 1. [All persons born free; their natural rights; slavery and indentured servitude prohibited]

~~That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; therefore no person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave or apprentice, after arriving to the age of twenty-one years, unless bound by the person's own consent, after arriving to such age, or bound by law for the payment of debts, damages, fines, costs, or the like slavery and indentured servitude in any form are prohibited.~~

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2022 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

## **PROPOSAL 5**

**(Third day on Notice Calendar pursuant to Rule 83)**

Subject: Declaration of rights; right to personal reproductive liberty

**PENDING ACTION:** Third reading of the proposal (second biennium)

## PROPOSAL 5

Sec. 1. PURPOSE

(a) This proposal would amend the Constitution of the State of Vermont to ensure that every Vermonter is afforded personal reproductive liberty. The Constitution is our founding legal document stating the overarching values of our society. This amendment is in keeping with the values espoused by the current Vermont Constitution. Chapter I, Article 1 declares "That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights." Chapter I, Article 7 states "That government is, or ought to be, instituted for the common benefit, protection, and security of the people." The core value reflected in Article 7 is that all people should be afforded all the benefits and protections bestowed by the government, and that the government should not confer special advantages upon the privileged. This amendment would reassert the principles of equality and personal liberty

reflected in Articles 1 and 7 and ensure that government does not create or perpetuate the legal, social, or economic inferiority of any class of people. This proposed constitutional amendment is not intended to limit the scope of rights and protections afforded by Article 7 or any other provision in the Vermont Constitution.

(b) The right to reproductive liberty is central to the exercise of personal autonomy and involves decisions people should be able to make free from compulsion of the State. Enshrining this right in the Constitution is critical to ensuring equal protection and treatment under the law and upholding the right of all people to health, dignity, independence, and freedom.

Sec. 2. Article 22 of Chapter I of the Vermont Constitution is added to read:

Article 22. [Personal reproductive liberty]

That an individual's right to personal reproductive autonomy is central to the liberty and dignity to determine one's own life course and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2022 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

## **CONCURRENT RESOLUTIONS FOR ACTION**

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

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

**S.C.R. 2 - 3** (For text of Resolutions, see Addendum to Senate Calendar for April 1, 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)

Jennifer M. Fitch of Montpelier – Commissioner, Department of Buildings and General Services – By Sen. Benning for the Committee on Institutions. (3/26/21)

Michael Schirling of Burlington – Commissioner, Department of Public Safety – By Senator Ingalls for the Committee on Transportation. (3/26/21)

Sarah Squirrell of Waterbury Center – Commissioner, Department of Mental Health – Sen. Hooker for the Committee on Health and Welfare. (4/2/21)

Cory G. Gustafson of Montpelier – Commissioner, Department of Vermont Health Access – By Sen. Cummings for the Committee on Health and Welfare. (4/6/21)

Michael K. Smith of Westford – Secretary, Agency of Human Services – By Sen. Lyons for the Committee on Health and Welfare. (4/6/21)

## 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://ljfo.vermont.gov/custom\\_reports/grants/default.html](https://ljfo.vermont.gov/custom_reports/grants/default.html)]*

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

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

*[JFO received 3/08/2021]*

**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).**

#### **FOR INFORMATIONAL PURPOSES**

#### **CONSTITUTIONAL AMENDMENTS**

The 2021-2022 Biennium is the Third Reading of two constitutional amendments. They were read the second time during the 2019-2020 Biennium.

The proposals are on the Notice Calendar for six (6) days and will be up for action for Third Reading on the seventh day.

Each proposal is acted upon separately. Senate Rule 83.

At Third Reading:

1. The vote on any constitutional proposal is by roll call. Senate Rule 83.
2. The questions is: “Shall the Senate concur in proposal #, and request the concurrence of the House? Senate Rule 83.
3. For this question to pass, 16 members of the Senate must vote in the affirmative. The Vermont Constitution requires an affirmative vote of a majority of the members of the Senate. Vermont Constitution §72.

There are no amendments at Third Reading of a constitutional amendment