Journal of the House

Thursday, April 15, 2021

At one o'clock and fifteen minutes in the afternoon the Speaker called the House to order.

Devotional Exercises

A moment of silence was held in lieu of a devotional.

Committee Bill Introduced; Referred to Appropriations

H. 449

By the Committee on Government Operations

House bill, entitled

An act relating to the membership and duties of the Vermont Pension Investment Commission and the creation of the Pension Benefits, Design, and Funding Task Force

Pending appearance on the Calendar for Notice, and pursuant to Rule 35(a), carrying an appropriation, was referred to the Committee on Appropriations.

Committee Relieved of Consideration

and Bill Committed to Other Committee

H. 265

Rep. Hooper of Montpelier moved that the Committee on Appropriations be relieved of House bill, entitled

An act relating to the Office of the Child Advocate

And that the bill be recommitted to the Committee on Human Services, which was agreed to.

Second Reading; Amendment Substituted; Consideration Interrupted

H. 175

Rep. Morris of Springfield for the Committee on Natural Resources, Fish, and Wildlife, to which had been referred House bill, entitled

An act relating to the beverage container redemption system

Reported in favor of its passage when amended as follows:

In Sec. 3, effective date, by striking out “2021” and inserting in lieu thereof “2022”
Rep. Ode of Burlington, for the Committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the Committee on Natural Resources, Fish, and Wildlife and when further amended in Sec. 1, 10 V.S.A. chapter 53, as follows:

First: In section 1521, in subdivision (1), after “intended for human consumption, except for milk,” and before the period by striking out “rice milk, soy milk, almond milk, hemp seed milk, and dairy products” and inserting in lieu thereof “dairy products, and plant-based milk”

Second: In section 1521, by striking subdivision (3) in its entirety and inserting in lieu thereof the following:

(3) “Container” means the individual, separate, bottle, can, jar, or carton composed of glass, metal, paper, plastic, or any combination of those materials and containing a consumer product. This definition does not include:

(A) containers made of biodegradable material; or

(B) containers made of material that is not readily recyclable in the State as determined by the Secretary of Natural Resources.

Third: In section 1521, by adding a subdivision (11) to read as follows:

(11) “Plant-based milk” means a liquid intended for human consumption that consists of plant material suspended in water that imitates dairy milk and designates the plant-based milk as the first ingredient in the ingredient list on the container’s label.

Fourth: In section 1522, in subdivision (a), in the first sentence, after “of not less than” and before “cents shall be paid,” by striking out “five ten” and inserting in lieu thereof “five”

The bill having appeared on the Calendar one day for Notice, was taken up and read the second time.

Rep. Bartholomew of Hartland moved to substitute a recommendation of amendment for the recommendation of amendment of the Committee on Ways and Means by recommending that the bill be amended in Sec. 1, 10 V.S.A. chapter 53, as follows:

First: In section 1521, in subdivision (1), after “intended for human consumption, except for milk,” and before the period by striking out “rice milk, soy milk, almond milk, hemp seed milk, and dairy products” and inserting in lieu thereof “dairy products, and plant-based beverages”

Second: In section 1521, by striking subdivision (3) in its entirety and inserting in lieu thereof the following:
(3) “Container” means the individual, separate, bottle, can, jar, or carton composed of glass, metal, paper, plastic, or any combination of those materials and containing a consumer product. This definition shall not include:

(A) containers made of biodegradable material; or

(B) containers made of material that is not readily recyclable in the State as determined by the Secretary of Natural Resources.

Third: In section 1521, by adding a subdivision (11) to read as follows:

(11) “Plant-based beverage” means a liquid intended for human consumption that imitates dairy milk, consists of plant material suspended in water, and the primary protein source in the beverage is from plant material or a derivative of plant materials. Plant-based beverages include beverages made from rice, soy, nuts, oats, and hemp.

Fourth: In section 1522, in subdivision (a), in the first sentence, after “of not less than” and before “cents shall be paid,” by striking out “five ten” and inserting in lieu thereof “five”

Which was agreed to.

Rep. Squirrell of Underhill, for the Committee on Appropriations, recommended that the bill ought to pass when amended by adding a Sec. 2a to read as follows:

Sec. 2a. APPROPRIATIONS; ANR TRANSITION; EXPANDED BEVERAGE CONTAINER REDEMPTION

(a) Prior to deposit of the abandoned beverage container deposits into the Clean Water Fund under 10 V.S.A. § 1388 in fiscal year 2022, the Commissioner of Taxes shall deposit into the General Fund the first $18,000.00 of the abandoned beverage container deposits remitted to the State under 10 V.S.A. § 1530.

(b) In fiscal year 2022, $18,000.00 is appropriated to the Agency of Natural Resources from the General Fund for the purposes of conducting information technology upgrades in order to implement expansion of the beverage container redemption system under Sec. 1 of this act.

Recess

At two o'clock and ten minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and twelve minutes in the afternoon, the Speaker called the House to order.
Consideration Resumed; Bill Amended; Third Reading Ordered

H. 175

Consideration resumed on House bill, entitled
An act relating to the beverage container redemption system

Thereupon, the report of the Committee on Natural Resources, Fish, and Wildlife was agreed to; the bill was amended as recommended by the Committee on Ways and Means, as substituted; then the bill was amended as recommended by the Committee on Appropriations.

Reps. Marcotte of Coventry, Brennan of Cocheste, and Gregoire of Fairfield moved to amend the bill by adding a Sec. 1a to read as follows:

Sec. 1a. 10 V.S.A. § 1523 is amended to read:
§ 1523. ACCEPTANCE OF BEVERAGE CONTAINERS

(a) Except as provided in section 1522 of this title:

(1) A retailer shall not refuse to accept from any person any empty beverage containers, labeled in accordance with section 1524 of this title, of the kind, size, and brand sold by the retailer, or refuse to pay to that person the refund value of a beverage container as established by section 1522 of this title, except as provided in subsection (b) of this section.

(2) A manufacturer or distributor may not refuse to pick up from a retailer that sells its product or a person operating a certified redemption center any empty beverage containers, labeled in accordance with section 1524 of this title, of the kind, size, and brand sold by the manufacturer or distributor, or refuse to pay the retailer or a person operating a redemption center the refund value of a beverage container as established by section 1522 of this title.

(b) A retailer, with the prior approval of the Secretary, may refuse to redeem beverage containers if a redemption center or centers are established that serve the public need.

(c) A retailer or a person operating a redemption center may refuse to redeem beverage containers that are not clean, or are broken, and shall not redeem beverage containers that are not labeled in accordance with section 1524 of this title.

(d)-(f) [Repealed.]

Pending the question, Shall the bill be amended as offered by Rep. Marcotte of Coventry and others?, Rep. Harrison of Chittenden demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The
Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Rep. Marcotte of Coventry and others?, was decided in the negative. Yeas, 64. Nays, 79.

Those who voted in the affirmative are:

Achéy of Middletown  
Springs  
Arrison of Weathersfield  
Batchelor of Derby  
Beck of St. Johnsbury  
Brennan of Colchester  
Burditt of West Rutland  
Canfield of Fair Haven  
Coffey of Guilford  
Corcoran of Bennington  
Cupoli of Rutland City  
Dickinson of St. Albans Town  
Donahue of Northfield  
Donnelly of Hyde Park  
Fagan of Rutland City  
Feltus of Lyndon  
Goslant of Northfield  
Graham of Williamstown  
Gregoire of Fairfield *  
Hango of Berkshire  
Harrison of Chittenden  
Helm of Fair Haven  
Higley of Lowell  
Jerome of Brandon  
Kimbell of Woodstock  
LaClair of Barre Town  
Lefebvre of Newark  
Lefebvre of Orange  
Leffler of Enosburgh  
Marcotte of Coventry  
Martel of Waterford  
McCauley of Poultney  
McCauley of Barre Town  
Morgan, L. of Milton  
Morgan, M. of Milton  
Morrissey of Bennington  
Murphy of Fairfax  
Norris of Sheldon  
Norris of Shoreham  
Noyes of Wolcott  
Page of Newport City  
Pajala of Londonderry  
Palasik of Milton  
Parsons of Newbury  
Pearl of Danville  
Rogers of Waterville  
Rosenquist of Georgia  
Savage of Swanton  
Schaefermann of Stowe  
Shaw of Pittsford  
Sibilia of Dover  
Sims of Craftsbury  
Smith of Derby Town  
Smith of New Haven  
Strong of Albany  
Sullivan of Dorset  
Surprentant of Barnard  
Terenzini of Rutland Town  
Till of Jericho  
Toof of St. Albans Town  
White of Bethel  
Williams of Granby  
Wood of Waterbury  
Yacovone of Morristown

Those who voted in the negative are:

Ancel of Calais  
Anthony of Barre City  
Austin of Colchester  
Bartholomew of Hartland  
Biron of Vergennes  
Black of Essex  
Bluemle of Burlington  
Bock of Chester  
Bongartz of Manchester  
Bos-Lun of Westminster  
Brady of Williston  
Briglin of Thetford  
Brown of Richmond  
Browne of Pownal  
Brumsted of Shelburne  
Burke of Brattleboro  
Burrows of West Windsor  
Campbell of St. Johnsbury  
Chase of Colchester  
Christie of Hartford  
Dolan of Waitsfield  
Durfee of Shaftsbury  
Elder of Starksboro  
Emmons of Springfield  
Gannon of Wilmington  
Goldman of Rockingham *  
Grad of Moretown  
Hooper of Montpelier  
Hooper of Randolph  
Hooper of Burlington  
Houghton of Essex  
Howard of Rutland City  
James of Manchester  
Jessup of Middlesex  
Killacky of South Burlington  
Kornheiser of Brattleboro  
LaLonde of South  
Burlington  
Laplander of Vergennes  
Lippert of Hinesburg  
Nicoll of Ludlow  
Nigro of Bennington  
Notte of Rutland City  
O'Brien of Tunbridge  
Ode of Burlington  
Partridge of Windham  
Patt of Worcester  
Pugh of South Burlington  
Rachelson of Burlington  
Redmond of Essex  
Satowcz of Randolph  
Scheu of Middlebury  
Sheldon of Middlebury  
Small of Winooski  
Squirrel of Underhill  
Stebbins of Burlington  
Stevens of Waterbury  
Taylor of Colchester  
Townsend of South  
Burlington  
Burlington
Rep. Goldman of Rockingham explained her vote as follows:

“Madam Speaker:

I live in an area of the state without a nearby redemption center. I believe that H.175 is good for the environment and have started working with local officials to bring a redemption center to our town to take pressure off our retailers.”

Rep. Gregoire of Fairfield explained his vote as follows:

“Madam Speaker:

A provision in a law that most that it pertains to do not know about and that anyone can be exempted from should tell all of us that it is not a provision that should exist to begin with. That's just common sense. Businesses that already struggle to survive do not need another hurdle to jump through.”

Pending the question, Shall the bill be read a third time?, Rep. McCoy of Poultnay demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time?, was decided in the affirmative. Yeas, 99. Nays, 46.

Those who voted in the affirmative are:
Those who voted in the negative are:

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<tr>
<th>Name</th>
<th>Town</th>
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<tr>
<td>Achey of Middletown Springs</td>
<td>Harrison of Chittenden Beach</td>
<td>Norris of Shoreham Springs</td>
<td>Harrison of Newport City</td>
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<td>Batchelor of Derby</td>
<td>Helm of Fair Haven</td>
<td>Palasik of Milton</td>
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<td>Beck of St. Johnsbury</td>
<td>Higley of Lowell</td>
<td>Parsons of Newbury</td>
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<td>Brennan of Colchester</td>
<td>LaClair of Barre Town</td>
<td>Peterson of Clarendon</td>
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<td>Burditt of West Rutland</td>
<td>Lefebvre of Newark</td>
<td>Rosenquist of Georgia</td>
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<td>Canfield of Fair Haven</td>
<td>Lefebvre of Orange</td>
<td>Savage of Swanton</td>
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<td>Cupoli of Rutland City</td>
<td>Lefler of Enosburgh</td>
<td>Scheuermann of Stowe</td>
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<td>Dickinson of St. Albans Town</td>
<td>Marcotte of Coventry</td>
<td>Shaw of Pittsford</td>
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<td>Donahue of Northfield</td>
<td>Martel of Waterford</td>
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<td>Fagan of Rutland City</td>
<td>McCoy of Poulney</td>
<td>Smith of New Haven</td>
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<td>Feltus of Lyndon</td>
<td>McFaun of Barre Town</td>
<td>Strong of Albany</td>
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<td>Goslan of Northfield</td>
<td>Morgan, M. of Milton</td>
<td>Sullivan of Dorset</td>
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<td>Graham of Williamstown</td>
<td>Morrissey of Bennington</td>
<td>Terenzini of Rutland Town</td>
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<tr>
<td>Gregoire of Fairfield</td>
<td>Norris of Sheldon</td>
<td>Toof of St. Albans Town</td>
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Those members absent with leave of the House and not voting are:

<table>
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<th>Name</th>
<th>Town</th>
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<tbody>
<tr>
<td>Howard of Rutland City</td>
<td>Martin of Franklin</td>
</tr>
<tr>
<td>Kitzmiller of Montpelier</td>
<td>Seymour of Sutton</td>
</tr>
</tbody>
</table>
Rep. Gregoire of Fairfield explained his vote as follows:

“Madam Speaker:

If this bill did not include multi-use containers such as orange, cranberry, apple and other juices and gallons of water then I would have supported it.”

Rep. LaLonde of South Burlington explained his vote as follows:

“Madam Speaker:

H.175 provides a long overdue update to the Bottle Bill. It will further reduce litter, increase the value of recycled material by improving recycling efforts, and cut energy use and climate pollution by processing more recycled materials instead of raw materials into new containers.”

Recess

At five o'clock and thirty-eight minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At six o'clock and twelve minutes in the evening, the Speaker called the House to order.

Second Reading; Proposal of Amendment Offered

S. 53

Rep. Kornheiser of Brattleboro, for the Committee on Ways and Means, to which had been referred Senate bill, entitled

An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: Before Sec. 1, exemption statutory purpose, by inserting a reader assistance heading to read as follows:

* * * Sales and Use Tax; Feminine Hygiene Products * * *

Second: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof:

* * * Corporate Income Tax * * *

Sec. 3. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise As used in this chapter:
(22) “Affiliated group” means a group of two or more corporations in which more than 50 percent of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations, but shall exclude overseas business organizations or foreign corporations and corporations taxable under 8 V.S.A. § 6014.

(23) “Unitary business” means one or more related business organizations engaged in business activity both within and outside the State among which there exists a unity of ownership, operation, and use; or an interdependence in their functions.

(24) “Overseas business organization” means a business organization that ordinarily has 80 percent or more of its payroll and property outside the 50 states and the District of Columbia. [Repealed.]

Sec. 4. 32 V.S.A. § 5832(2)(C)–(E) are amended to read:

(C) For C corporations with Vermont gross receipts from $0–$2,000,000.00 $100,000.00, the greater of the amount determined under subdivision (1) of this section or $300.00 $250.00; or

(D) For C corporations with Vermont gross receipts from $100,001.00–$1,000,000.00, the greater of the amount determined under subdivision (1) of this section or $500.00; or

(E) For C corporations with Vermont gross receipts from $1,000,001.00–$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or $2,000.00; or

(F) For C corporations with Vermont gross receipts from $2,000,001.00 $5,000,000.00 $5,000,001.00–$300,000,000.00, the greater of the amount determined under subdivision (1) of this section or $500.00 $6,000.00; or

(E)(G) For C corporations with Vermont gross receipts greater than $5,000,000.00 $300,000,000.00, the greater of the amount determined under subdivision (1) of this section or $750.00 $100,000.00.

Sec. 5. 32 V.S.A. § 5833 is amended to read:

§ 5833. ALLOCATION AND APPORTIONMENT OF INCOME

(a) If the income of a taxable corporation is derived from any trade, business, or activity conducted entirely within this State, the Vermont net
income of the corporation shall be allocated to this State in full. If the income of a taxable corporation is derived from any trade, business, or activity conducted both within and outside this State, the amount of the corporation’s Vermont net income that shall be apportioned to this State, so as to allocate to this State a fair and equitable portion of that income, shall be determined by multiplying that Vermont net income by the arithmetic average of the following factors, with the sales factor described in subdivision (3) of this subsection double-weighted:

(1) The average of the value of all the real and tangible property within this State (A) at the beginning of the taxable year and (B) at the end of the taxable year (but the Commissioner may require the use of the average of such value on the 15th or other day of each month, in cases where he or she determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year), expressed as a percentage of all such property both within and outside this State;

(2) The total wages, salaries, and other personal service compensation paid during the taxable year to employees within this State, expressed as a percentage of all such compensation paid whether within or outside this State;

(3) The amount of gross sales, or charges for services performed, within this State, expressed as a percentage of such sales or charges whether within or outside this State.

(A)(1) Sales of tangible personal property are made in this State if:

(i) the property is delivered or shipped to a purchaser, other than the U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; or

(ii) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and

(I) the purchaser is the U.S. government; or

(II) the corporation is not taxable in the State in which the purchaser takes possession.

(B)(2) Sales, other than the sale of tangible personal property, are in this State if the taxpayer’s market for the sales is in this State. The taxpayer’s market for sales is in this State:

(i)(A) in the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this State;

(ii)(B) in the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this State;
in the case of sale of a service, if and to the extent the service is delivered to a location in this State; and

in the case of intangible property:

that is rented, leased, or licensed, if and to the extent the property is used in this State, provided that intangible property utilized in marketing a good or service to a consumer is “used in this State” if that good or service is purchased by a consumer who is in this State; and

that is sold, if and to the extent the property is used in this State, provided that:

a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is “used in this State” if the geographic area includes all or part of this State;

receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision (D)(i) of this subdivision (B)(2); and

all other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

If the state or states of assignment under subdivision (B)(2) of this subsection cannot be determined, the state or states of assignment shall be reasonably approximated.

If the taxpayer is not taxable in a state to which a receipt is assigned under subdivision (B)(2) or (C)(3) of this subsection, or if the state of assignment cannot be determined under subdivision (B)(2) of this subsection or reasonably approximated under subdivision (C)(3) of this subsection, such receipt shall be excluded from the denominator of the receipts factor.

The Commissioner of Taxes shall adopt regulations as necessary to carry out the purposes of this section.

A taxable corporation subject to apportionment under this section shall report to the Commissioner of Taxes:

the average of the value of all the real and tangible property within this State at the beginning of the taxable year and at the end of the taxable year, provided the Commissioner may require the use of the average of such value on the 15th or other day of each month in cases where the Commissioner determines that such computation is necessary to more
accurately reflect the average value of property within Vermont during the taxable year, expressed as a percentage of all such property both within and outside this State; and

(B) the total wages, salaries, and other personal service compensation paid to employees within this State during the taxable year, expressed as a percentage of all such compensation paid, whether within or outside this State.

* * *

Sec. 6. 32 V.S.A. § 5862(d) is amended to read:

(d) A taxable corporation which is part of an affiliated group engaged in a unitary business shall be treated as a single taxpayer and shall file a group return containing the combined net income of the affiliated group and such other informational returns as the Commissioner shall require by rule. A unitary combined return shall include the income and apportionment factors of any taxable corporation incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States and in a unitary relationship with the taxpayer. The income, gain, or losses from members of a combined group shall be combined to the extent allowed under the Internal Revenue Code for consolidated filing as if the combined group was a consolidated filing group, provided that a state tax credit shall not be combined and shall be limited to the member to which the credit is attributed.

Sec. 7. TRANSITION FROM JOYCE TO FINNIGAN METHOD

(a) For taxable years beginning on and after January 1, 2022, for purposes of determining whether sales are in Vermont and are included in the numerator of the sales apportionment factor, if the activities of any member of a unitary group create nexus with this State, then sales of tangible personal property into Vermont from outside the State by all members of the unitary group shall be included in the Vermont sales factor numerator.

(b) For taxable years beginning on January 1, 2022 and before January 1, 2023:

(1) If any member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by any member of the unitary group shall be excluded from the Vermont sales factor numerator.

(2) If no member of a unitary group is taxable in another state, then sales of tangible personal property from a Vermont location into that state by all members of the unitary group shall be included in the Vermont sales factor numerator.
Sec. 8. RULEMAKING; REPORT

The Department of Taxes shall adopt rules relating to the unitary combined reporting requirements imposed under this act. The rules required under this section shall include a change from the Joyce to the Finnigan approach to applying Vermont jurisdiction to corporations within a unitary group. The Department shall report to the House Committee on Ways and Means and the Senate Committee on Finance, on or before January 15, 2023, on the Department’s proposed rules and any recommendations for legislation with respect to unitary combined reporting.

*** Sales and Use Tax; Prewritten Computer Software ***

Sec. 9. 32 V.S.A. § 9701(60) is added to read:

(60) “Vendor-hosted prewritten computer software” means prewritten computer software that is accessed through the Internet or a vendor-hosted server or platform, including where possession of the software is maintained by the vendor or a third party, regardless of:

(A) the method of delivery or transfer, including whether any downloading occurs;

(B) whether the access is permanent or temporary; and

(C) whether the charge for the right of access and for the service is on a per use, per user, per license, subscription, or some other basis.

Sec. 10. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this State. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

***

(7) tangible personal property to an advertising agency for its use in providing advertising services or creating advertising materials for transfer in conjunction with the delivery of advertising service; or

(8) specified digital products transferred electronically to an end user regardless of whether for permanent use or less than permanent use and regardless of whether or not conditioned upon continued payment from the purchaser; or
Sec. 11. 32 V.S.A. § 9773 is amended to read:

§ 9773. IMPOSITION OF COMPENSATING USE TAX

Unless property or telecommunications service has already been or will be subject to the sales tax under this chapter, there is imposed on every person a use tax at the rate of six percent for the use within this State, except as otherwise exempted under this chapter:

* * *

(4) specified digital products transferred electronically to an end user; and

(5) telecommunications service except coin-operated telephone service, private telephone service, paging service, private communications service, or value-added non-voice data service; and

(6) vendor-hosted prewritten computer software and the right to access and use vendor-hosted prewritten computer software to perform data processing services.

Sec. 12. REPEAL

2015 Acts and Resolves No. 51, Sec. G.8 (prewritten software accessed remotely) is repealed.

* * * Fees * * *

Sec. 13. 9 V.S.A. § 5302(f) is amended to read:

(f) Investment companies subject to 15 U.S.C. § 80a-1 et seq. shall pay to the Commissioner an initial notice filing fee of $2,000.00 and an annual renewal fee of $1,500.00 $1,750.00 for each portfolio or class of investment company securities for which a notice filing is submitted.

* * * Income Tax; Military Retirement Exclusion * * *

Sec. 14. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

* * *

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and
(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(v) [Reserved.]

(vi) the first $10,000.00 of federally taxable U.S. military retirement pay; and

* * *

Sec. 15. 32 V.S.A. § 5813(y) is added to read:

(y) The statutory purpose of the exclusion of the first $10,000.00 of federally taxable U.S. military retirement pay in subdivision 5811(21)(B)(vi) of this title is to recognize the military service of Vermonters who derive part of their income from military retirement pay.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except:

(1) Secs. 3 (80/20 rule definitions), 4 (minimum corporate income tax), 5 (single sales factor and repeal of throwback), and 6–7 (Finnigan method and 80/20 rule) shall take effect on January 1, 2022 and apply to taxable years beginning on and after January 1, 2022.

(2) Secs. 9–12 (prewritten computer software) shall take effect on June 1, 2022.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 14–15 (military retirement exemption) shall take effect on January 1, 2021 and shall apply to taxable years beginning on and after January 1, 2021.

The bill, having appeared on the Calendar one day for Notice, was taken up, and read the second time.

Reps. Sibilia of Dover, Hango of Berkshire, Birong of Vergennes, Batchelor of Derby, Fagan of Rutland, City, Goslant of Northfield, Harrison of Chittenden, Martel of Waterford, Morgan, M. of Milton, Morrissey of Bennington, Norris of Sheldon, Page of Newport City, Palasik of Milton, and Parsons of Newbury moved to amend the proposal of amendment as offered by the Committee on Ways and Means by striking out Secs. 14–15, military retirement income exemption, in their entireties and inserting in lieu thereof new Secs. 14–15 to read as follows:
Sec. 14. 32 V.S.A. § 5811(21)(B) is amended to read:

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

***

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(v) [Reserved.]

(vi) the first $30,000.00 of federally taxable U.S. military retirement pay; and

***

Sec. 15. 32 V.S.A. § 5813(y) is added to read:

(y) The statutory purpose of the exclusion of the first $30,000.00 of federally taxable U.S. military retirement pay in subdivision 5811(21)(B)(vi) of this title is to recognize the military service of Vermonters who derive part of their income from military retirement pay.

Recess

At seven o'clock and two minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and three minutes in the evening, the Speaker called the House to order.

Consideration Resumed

S. 53

Thereupon, consideration resumed on Senate bill, entitled

An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax

Pending the question, Shall the report of the Committee on Ways and Means be amended as offered by Rep. Sibilia of Dover and others?, Rep. McFaun of Barre Town demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee on Ways and Means be amended as offered by Rep. Sibilia of Dover and others?, was decided in the negative. Yeas, 55. Nays, 79.
Those who voted in the affirmative are:

Achey of Middletown Springs
Austin of Colchester
Batchelor of Derby
Birong of Vergennes
Brennan of Colchester
Brumsted of Shelburne
Burditt of West Rutland
Canfield of Fair Haven
Christie of Hartford
Cina of Burlington
Corcoran of Bennington
Dickinson of St. Albans Town
Donahue of Northfield
Fagan of Rutland City
Goslant of Northfield
Graham of Williamstown
Gregoire of Fairfield
Hango of Berkshire
Harrison of Chittenden
Higley of Lowell
Hooper of Randolph
LaClair of Barre Town
Lefebvre of Orange
Leffler of Enosburgh
Marcotte of Coventry
Martel of Waterford
Morgan, L. of Milton
Morgan, M. of Milton
Murphy of Fairfax
Neyes of Wolcott
Page of Newport City
Pajala of Londonderry
Palasik of Milton
Parsons of Newbury
Peterson of Clarendon
Scheuermann of Stowe
Shaw of Pittsford
Sibilia of Dover
Sims of Craftsbury
Small of Winooski
Smith of Derby
Smith of New Haven
Stebbins of Burlington
Surprenant of Barnard
Taylor of Colchester
Terenzini of Rutland Town
Toof of St. Albans Town
Troiano of Stannard
Vyhovsky of Essex
Williams of Granby

Those who voted in the negative are:

Ancel of Calais
Anthony of Barre City
Arrison of Weathersfield
Bartholomew of Hartland
Beck of St. Johnsbury
Black of Essex
Bluemle of Burlington
Bongartz of Manchester
Bos-Lun of Westminster
Brady of Williston
Briglin of Thetford
Brown of Richmond
Brownell of Pownal
Burke of Brattleboro
Burrows of West Windsor
Campbell of St. Johnsbury
Coffey of Guilford
Colburn of Burlington
Colston of Winooski
Conlon of Cornwall
Copeland Hanzas of Bradford
Cordes of Lincoln
Dolan of Essex
Dolan of Waitsfield
Donnally of Hyde Park
Durfee of Shaftsbury
Emmons of Springfield
Feltus of Lyndon
Gannon of Wilmington
Goldman of Rockingham
Hooper of Montpelier
Hooper of Burlington
Houghton of Essex
James of Manchester
Jerome of Brandon
Jessup of Middlesex
Killacky of South Burlington
Kimbell of Woodstock
Kornheiser of Brattleboro
LaLonde of South
Burlington
Lefebvre of Newark
Lippert of Hinesburg
Long of Newfane
Masland of Thetford
McCarthy of St. Albans City
McCormack of Burlington
McCullough of Williston
Morris of Springfield
Mrowicki of Putney
Mulvaney-Stanak of Burlington
Nicoll of Ludlow
Notte of Rutland City
O'Brien of Tunbridge
Ode of Burlington
Partridge of Windham
Patt of Worcester
Pugh of South Burlington
Rachelson of Burlington
Redmond of Essex
Rogers of Waterville
Satcowitz of Randolph
Scheu of Middlebury
Sheldon of Middlebury
Squirrel of Underhill
Stevens of Waterbury
* Sullivan of Dorset
Till of Jericho
Toleno of Brattleboro
Townsend of South
Burlington
Walz of Barre City
Webb of Shelburne
White of Bethel
White of Hartford
Whitman of Bennington
Wood of Waterbury
Yacovone of Morristown
Yantachka of Charlotte
Those members absent with leave of the House and not voting are:

- Bock of Chester
- Chase of Colchester
- Cupoli of Rutland City
- Grad of Moretown
- Howard of Rutland City
- Kitzmiller of Montpelier
- Martin of Franklin
- Norris of Shoreham
- Pearl of Danville
- Savage of Swanton
- Seymour of Sutton

Those members abstaining:

- Helm of Fair Haven
- Lanpher of Vergennes
- McCoy of Poulney
- Rosenquist of Georgia

**Rep. Cina of Burlington** explained his vote as follows:

“Madam Speaker:

Veterans put their lives on the line to support the economic interests of this country. We should be giving more tax breaks to veterans and less tax breaks to corporations.”

**Rep. Stevens of Waterbury** explained his vote as follows:

“Madam Speaker:

For many years, your General, Housing and Military Affairs Committee has worked to bring benefits to veterans who live in our state, and we have done it largely in the spirit of balancing our support for our soldiers and the needs of all Vermonters. It took us years to allow property tax relief to disabled veterans, and then to slowly raise the limits when it was shown locally that budgets could handle the number of people who applied. It has also taken years for this House to propose any tax benefit on pensions for a vote on the floor, and I am glad that the Ways and Means committee has taken the time to break down the passion behind the request and the fiscal realities, and to finally propose the benefit in the bill. I voted no on this amendment to honor this major step forward for our veterans who qualify for the benefits, many if not most are our soldiers from the National Guard, and to acknowledge the Committee for bringing some relief to a substantial number of retired Vermonters.”

**Rep. Strong of Albany** explained her vote as follows:

“Madam Speaker:

As a Gold Star Mother, I believe this is a small sacrifice that we can make in our state budget to show appreciation for those who have sacrificed so much for us and our freedom. Thank you.”
Thereupon, pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Ways and Means?, **Rep. McCoy of Poultney** asked that the question be divided as follows: First, by considering Secs.14–15 in the second instance of amendment; second, by considering Secs. 9–12 in the second instance of amendment; third, by considering Sec. 13 in the second instance of amendment; and fourth, by considering the remainder of the recommended amendment (the first instance of amendment and Secs. 3–8 and 16 in the second instance of amendment).

**Recess**

At seven o'clock and twenty-seven minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and thirty-one minutes in the evening, the Speaker called the House to order.

**Consideration Resumed; Proposed Amendments Agreed to**

**S. 53**

Consideration resumed on House bill, entitled

An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax

Thereupon, the first instance of division, Secs. 14 and 15 of the proposed amendment, as set forth in the report of the Committee on Ways and Means, was agreed to on a vote by division, Yeas 121; Nays, 4.

Pending the question, Shall the House propose to the Senate to amend the bill in the second division of the recommended proposal of amendment (Secs. 9-12 in the second instance of the amendment) ?, **Rep. McCoy of Poultney** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill in the second division of the recommended proposal of amendment?, was decided in the affirmative. Yeas, 96. Nays, 44.

Those who voted in the affirmative are:

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<th>Ode of Burlington</th>
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<td>Anthony of Barre City</td>
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<td>Pajala of Londonderry</td>
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<td>Bluemle of Burlington</td>
<td>Houghton of Essex</td>
<td>Satcowitz of Randolph</td>
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Those who voted in the negative are:

Achey of Middletown
Springs
Batchelor of Derby
Brennan of Colchester
Burditt of West Rutland
Canfield of Fair Haven
Dickinson of St. Albans
Town
Donahue of Northfield
Fagan of Rutland City
Feltus of Lyndon
Goslan of Northfield
Graham of Williamstown
Gregoire of Fairfield
Hango of Berkshire
Harrison of Chittenden

Bock of Chester
Bongartz of Manchester
Bos-Lun of Westminster
Brady of Williston
Briglin of Thetford
Brown of Richmond
Brownell of Pownal
Brumsted of Shelburne
Burke of Brattleboro
Burrows of West Windsor
Campbell of St. Johnsbury
Chase of Colchester
Christie of Hartford
Cina of Burlington
Coffey of Guilford
Colburn of Burlington
Colston of Winooski
Conlon of Cornwall
Copeland Hanzas of Bradford
Corcoran of Bennington
Cordes of Lincoln
Dolan of Essex
Dolan of Waitsfield
Donnally of Hyde Park

James of Manchester
Jerome of Brandon
Jessup of Middlesex
Killacky of South Burlington
Kornheiser of Brattleboro
LaLonde of South
Lanpher of Vergennes
Lefebvre of Newark
Lippert of Tilton
Long of Newfane
Masland of Thetford McConahie of St. Albans City
McCormack of Burlington
McCullough of Williston
Morris of Springfield
Mrowicki of Putney
Mulvaney-Stanak of Burlington
Murphy of Fairfield
Nicoll of Ludlow
Nigro of Bennington
Notte of Rutland City
Morgan of Moretown
Morgan of Pownal
Morgan, L. of Milton
Morgan, M. of Milton
Morrissey of Bennington
Norris of Sheldon
O'Brien of Tunbridge

Those members absent with leave of the House and not voting are:

Cupoli of Rutland City
Grad of Moretown
Howard of Rutland City

Kitzmiller of Montpelier
Martin of Franklin
Norm of Shoreham

Palasik of Milton
Peterson of Clarendon
Rosenquist of Georgia
Savage of Swanton
Scheuermann of Stowe
Shaw of Pittsford
Sibilia of Dover
Smith of Derby
Smith of New Haven
Strong of Albany
Sullivan of Dorset
Terenzini of Rutland Town
Toof of St. Albans Town
Williams of Granby

Parsons of Newbury
Pearl of Danville
Seymour of Sutton
Rep. Martel of Waterford explained her vote as follows:

“Madam Speaker:

I voted no on this cloud bill.

Before we always laughed about how money grows on trees. Apparently the trees have all died, because now we are going to move up to the clouds to fill our state coffers. How sad it has come to this. By the way if I buy a Turbo Tax at the store I only pay sales tax once, not monthly or whenever you decide to tax us.”

Thereupon, the third division of the recommended proposal of amendment (Sec. 13 in the second instance of amendment) was agreed to in a vote by division, Yeas, 94; Nays, 37.

Pending the question, Shall the House propose to the Senate to amend the bill as set forth in the fourth division of the recommended proposal of amendment, which was the remainder of the recommended proposal of amendment (the first instance of amendment and Secs. 3–8 and 16 in the second instance of amendment)?, Rep. Colburn of Burlington asked that the question be further divided so that Sec. 5 be considered first and the remainder be considered thereafter.

Recess

At eight o'clock and nineteen minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At eight o'clock and twenty minutes in the evening, the Speaker called the House to order.

Consideration Resumed; Proposed Amendments Agreed to;

Third Reading Ordered

S. 53

Consideration resumed on House bill, entitled

An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax


Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Ways and Means in Sec. 5 of its second instance of amendment?, Rep. Small of Winooski demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The
Clerk proceeded to call the roll and the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Ways and Means in Sec. 5 of its second instance of amendment?, was decided in the affirmative. Yeas, 129. Nays, 6.

Those who voted in the affirmative are:

Achey of Middletown  Gannon of Wilmington  Noyes of Wolcott
Springs  Goldman of Rockingham  O’Brien of Tunbridge
Ancel of Calais  Goslant of Northfield  Ode of Burlington
Anthony of Barre City  Gregoire of Fairfield  Page of Newport City
Arrison of Weathersfield  Hango of Berkshire  Pajala of Londonderry
Austin of Colchester  Harrison of Chittenden  Palasik of Milton
Bartholomew of Hartland  Helm of Fair Haven  Partridge of Windham
Beck of St. Johnsbury  Higley of Lowell  Patt of Worcester
Biron of Vergennes  Hooper of Montpelier  Peterson of Clarendon
Black of Essex  Hooper of Randolph  Pugh of South Burlington
Bluemle of Burlington  Hooper of Burlington  RACHELSON of Burlington
Bock of Chester  Houghton of Essex  Redmond of Essex
Bongartz of Manchester  James of Manchester  Rogers of Waterville
Bos-Lun of Westminster  Jerome of Brandon  Rosenquist of Georgia
Brady of Williston  Jessup of Middlesex  Satcowitz of Randolph
Brennan of Colchester  Killacky of South Burlington  Savage of Swanton
Briglin of Thetford  Kimbell of Woodstock  Scheu of Middlebury
Brown of Richmond  Kornheiser of Brattleboro  Scheuermann of Stowe
Brownell of Pownal  LaClair of Barre Town  Shaw of Pittsford
Brumsted of Shelburne  LaLonde of South  Sheldon of Middlebury
Burditt of West Rutland  Burlington  Sibilia of Dover
Burke of Brattleboro  Lanpher of Vergennes  Sims of Craftsbury
Burrows of West Windsor  LeFebvre of Newark  Squirrel of Underhill
Campbell of St. Johnsbury  LeFebvre of Orange  Stebbins of Burlington
Canfield of Fair Haven  Leffler of Enosburgh  Stevens of Waterbury
Chase of Colchester  Lippert of Hinesburg  Strong of Albany
Coffey of Guilford  Long of Newfane  Sullivan of Dorset
Colston of Winooski  Marcotte of Coventry  Taylor of Colchester
Conlon of Cornwall  Masland of Thetford  Terenzini of Rutland Town
Copeland Hanzas of Bradford  Mattos of Milton  Till of Jericho
Corcoran of Bennington  McCarthy of St. Albans City  Toleno of Brattleboro
Cordes of Lincoln  McCormack of Burlington  Too of St. Albans Town
Cupoli of Rutland City  McCoy of Poultney  Townsend of South
Dickinson of St. Albans Town  McCullough of Williston  Burlington
Dolan of Essex  Mcaun of Barre Town  Troiano of Stannard
Dolan of Waitsfield  Morgan, L. of Milton  Walz of Barre City
Donahue of Northfield  Morgan, M. of Milton  Webb of Shelburne
Donnally of Hyde Park  Morris of Springfield  White of Bethel
Durfee of Shafsbury  Morrisey of Bennington  White of Hartford
Elder of Starksboro  Mrowicki of Putney  Whittman of Bennington
Emmons of Springfield  Murphy of Fairfax  Williams of Granby
Fagan of Rutland City  Nicoll of Ludlow  Wood of Waterbury
Fagan of Rutland City  Norris of Sheldon  Yacovone of Morristown
Fagan of Rutland City  Norris of Sheldon  Yantachka of Charlotte
Those who voted in the negative are:

- Cina of Burlington
- Colburn of Burlington
- Mulvaney-Stanak of Winooski
- Surprenant of Barnard
- Vyhovsky of Essex

Those members absent with leave of the House and not voting are:

- Batchelor of Derby
- Christie of Hartford
- Grad of Moretown
- Graham of Williamstown
- Howard of Rutland City
- Kitzmiller of Montpelier
- Martel of Waterford
- Martin of Franklin
- Norris of Shoreham
- Parsons of Newbury
- Pearl of Danville
- Seymound of Sutton
- Smith of Derby
- Smith of New Haven

Thereupon, the remainder of the proposal of amendment recommended by the Committee on Ways and Means (the first instance of amendment and Secs. 3, 4, 6–8, and 16 in the second instance of amendment), was agreed to.

Pending the question, Shall the bill be read a third time? Rep. McCoy of Poultney demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time?, was decided in the affirmative. Yeas, 98. Nays, 38.

Those who voted in the affirmative are:

- Ancel of Calais
- Anthony of Barre City
- Arrison of Weathersfield
- Austin of Colchester
- Bartholomew of Hartland
- Beck of St. Johnsbury
- Biron of Vergennes
- Black of Essex
- Bluemle of Burlington
- Bock of Chester
- Bongartz of Manchester
- Bos-Lun of Westminster
- Brady of Williston
- Braglin of Thetford
- Brown of Richmond
- Brownell of Pownal
- Brumsted of Shelburne
- Burke of Brattleboro
- Burrows of West Windsor
- Campbell of St. Johnsbury
- Chase of Colchester
- Christie of Hartford
- Cina of Burlington
- Elder of Starksboro
- Emmons of Springfield
- Fagan of Rutland City
- Feltus of Lyndon
- Gannon of Wilmington
- Goldman of Rockingham
- Hooper of Montpelier
- Hooper of Randolph
- Hooper of Burlington
- Houghton of Essex
- James of Manchester
- Jerome of Brandon
- Jessup of Middlesex
- Killacky of South Burlington
- Kornheiser of Brattleboro
- LaLonde of South
- Burlington
- Lanpher of Vergennes
- Lefebvre of Newark
- Lippert of Hinesburg
- Long of Newfane
- Masland of Thetford
- McCarthy of St. Albans City
- Ode of Burlington
- Pajala of Londonderry
- Partridge of Windham
- Patt of Worcester
- Pugh of South Burlington
- Rachelson of Burlington
- Redmond of Essex
- Rogers of Waterville
- Satcowitz of Randolph
- Sheu of Middlebury
- Sheldon of Middlebury
- Sims of Craftsbury
- Small of Winooski
- Squirrel of Underhill
- Stebbins of Burlington
- Stevens of Waterbury
- Surprenant of Barnard
- Taylor of Colchester
- Till of Jericho
- Toleno of Brattleboro
- Townsend of South
- Burlington
- Troiano of Stannard
Rep. Colburn of Burlington explained her vote as follows:

“Madam Speaker:

While I am disappointed that this body chose to enact 20 million dollars’ worth of annual corporate tax cuts through the single sales factor policy, I believe the good in other portions of this bill outweighs the bad.”

Rep. Long of Newfane explained her vote as follows:

“Madam Speaker:
I vote in support of this bill. It accomplishes many things, including a new exemption to the sales tax for menstrual products, it updates the calculation for corporate income tax liability and repeals a sales tax exemption on vendor-hosted pre-written computer software. It also creates an exemption on the first $10,000 of federally taxable US Military retirement pay. These provisions will have an overall positive impact on Vermonters.”

**Rep. McCoy of Poultney** explained her vote as follows:

“Madam Speaker:

With a 300 million dollar surplus, one billion dollars in CRF funding and an additional one billion dollars in ARPA funds, which should hit our bank account sometime in May, I cannot support tax increases to businesses at this time.”

**Rep. Small of Winooski** explained her vote as follows:

“Madam Speaker:

Though this bill strayed far from its original intention, I support this bill because of the positive impacts it will have in our community.”

**Rep. Till of Jericho** explained his vote as follows:

“Madam Speaker:

Lest we forget, this bill is entitled: An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax. It is way past due time to remove this unfair, gender specific tax on the women of Vermont.”

**Rep. Vyhovsky of Essex** explained her vote as follows:

“Madam Speaker:

I voted yes because of the good in this bill This bill gets us towards a long fought goal of equity for those of us who menstruate and for our veterans. However, I find it troubling that in a bill entitled an act relating to exempting feminine hygiene products from sales tax that I am forced to also accept amendments to our tax structure that are likely only to benefit our top one hundred tax filers most. Thank you.”

**Message from the Senate No. 44**

A message was received from the Senate by Mr. Bloomer, its Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:
S. 135. An act relating to separating the individual and small group health insurance markets for plan year 2022.

In the passage of which the concurrence of the House is requested.

The Senate has considered a bill originating in the House of the following title:

H. 151. An act relating to vital records, mausoleums and columbaria, and emergency health orders.

And has passed the same in concurrence.

Adjournment

At nine o'clock and thirty-two minutes in the evening, on motion of Rep. McCoy of Poultney, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.