

# Journal of the House

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Thursday, March 17, 2022

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

## Devotional Exercises

Devotional exercises were conducted by Rep. Burke of Brattleboro.

## Message from the Senate No. 36

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

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

**J.R.S. 46.** Joint resolution relating to weekend adjournment.

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

## Bill Referred to Committee on Appropriations

### H. 512

House bill, entitled

An act relating to modernizing land records and notarial acts law

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

## Bill Referred to Committee on Ways and Means

### H. 718

House bill, entitled

An act relating to approval of the dissolution of Colchester Fire District No. 1

Pending appearance on the Notice Calendar, and pursuant to House Rule 35(a), affecting the revenue of the State or materially affecting the revenue of one or more municipalities, was referred to the Committee on Ways and Means.

**Bill Referred to Committee on Appropriations****H. 729**

House bill, entitled

An act relating to miscellaneous judiciary procedures

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

**Joint Resolution Adopted in Concurrence****J.R.S. 46**

By Senator Balint,

**J.R.S. 46.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, March 18, 2022, it be to meet again no later than Tuesday, March 22, 2022.

Was taken up, read, and adopted in concurrence.

**House Resolution Adopted****H.R. 21**

House resolution commemorating St. Patrick's Day, celebrating the contributions of Vermonters of Irish heritage, and expressing the hope that the calm and cooperation that the 1998 Good Friday Agreement has engendered in Ireland will endure

Offered by: Representatives Burke of Brattleboro, Lanpher of Vergennes, Brady of Williston, Brumsted of Shelburne, Canfield of Fair Haven, Coffey of Guilford, Conlon of Cornwall, Copeland Hanzas of Bradford, Cupoli of Rutland City, Dolan of Waitsfield, Fagan of Rutland City, Killacky of South Burlington, Lippert of Hinesburg, Masland of Thetford, McCormack of Burlington, McCoy of Poultney, McCullough of Williston, McFaun of Barre Town, Ode of Burlington, Page of Newport City, Toof of St. Albans Town, Wood of Waterbury, and Yantachka of Charlotte

Whereas, Irish immigrants contributed significantly to the formation of the cultural and societal foundation of our nation, and

Whereas, 17 percent of Vermonters are of Irish heritage, the fourth highest percentage nationally, and Irish Vermonters have risen to leadership roles in many fields of endeavor, and

Whereas, Irish Americans remain proudly supportive of their ancestral homeland, and desire that Ireland be economically prosperous and at peace, and

Whereas, the lyrics and music of the songs of Ireland convey the tragedy and joy and the sorrows and glories of the Emerald Isle, and

Whereas, the American Irish State Legislators Caucus was recently established to foster and strengthen the longstanding cordial bilateral relationship between the United States and Ireland, for the continuing mutual benefit of both nations, and

Whereas, the 1998 Good Friday Agreement ushered in a new era of peace on the island of Ireland, and the calm and cooperation the agreement has engendered is of the utmost importance for future peaceful coexistence on the Emerald Isle, and

Whereas, annually, on St. Patrick's Day, Americans, regardless of their ancestral heritage, become Irish for the day and jointly celebrate their love of Ireland, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly commemorates St. Patrick's Day, celebrates the contributions of Vermonters of Irish heritage, and expresses the hope that the calm and cooperation that the 1998 Good Friday Agreement has engendered in Ireland will endure, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the National Co-Chairs of the American Irish State Legislators Caucus, and to Senator Mark Daly, the Cathaoirleach of Seanad Éireann (Chair of the Senate of Ireland).

Was read and adopted.

**Second Reading; Bill Amended; Third Reading Ordered**

**H. 629**

**Rep. Goslant of Northfield**, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to access to adoption records

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

## Sec. 1. PURPOSE

The purpose of this act is to permit an adopted person who is 18 years of age or older to obtain a certified copy of the person's original birth certificate regardless of whether the adoptee's former parent has consented to such disclosure.

Sec. 2. 15A V.S.A. § 3-802 is amended to read:

## § 3-802. ISSUANCE OF NEW, AMENDED BIRTH CERTIFICATE

\* \* \*

(c) In the case of birth certificates registered prior to July 1, 2019 that are to be replaced or amended pursuant to subdivision (a)(1) or (5) of this section, the State Registrar shall notify the town clerk or clerks with custody of the certificate, who shall substitute the new or amended birth certificate for the original birth certificate. The Except as otherwise provided in this title, the original certificate and all copies of the certificate in the files shall be sealed and shall not be subject to inspection or copying until 99 years after the adoptee's date of birth, except as provided by this title.

\* \* \*

Sec. 3. 15A V.S.A. § 6-105 is amended to read:

## § 6-105. DISCLOSURE OF IDENTIFYING INFORMATION

(a) ~~Identifying~~ Unless a former parent has filed a request for nondisclosure, identifying information about an adoptee's former parent shall be disclosed by the registry to any of the following persons upon request:

(1) ~~An an~~ an adoptee who is 18 ~~or more~~ years old; ~~of age or older;~~

(2) ~~An an~~ an adoptee who is emancipated; ~~and~~

(3) A a deceased adoptee's direct descendant who is 18 ~~or more~~ years old ~~of age or older~~ or the parent or guardian of a direct descendant who is less than 18 years ~~old~~ of age.

(b) ~~From July 1, 1996 to December 31, 1997, the registry shall disclose identifying information under subsection (a) of this section only if the former parent consents to such disclosure. After December 31, 1997, the registry shall disclose information under subsection (a) of this section as follows:~~

(1) ~~For adoptions that were finalized prior to July 1, 1986, the registry shall disclose identifying information if the former parent has filed in any Probate Division of the Superior Court or agency any kind of document that clearly indicates that he or she consents to such disclosure.~~

~~(2) For adoptions that were finalized on or after July 1, 1986, the registry shall disclose identifying information without requiring the consent of the former parent except the registry shall not disclose such information if the former parent has filed a request for nondisclosure in accordance with the provisions of section 6-106 of this title and has not withdrawn the request or, prior to July 1, 1996, has filed in any court or agency any kind of document that clearly indicates that his or her identity not be disclosed and has not withdrawn the document. [Repealed]~~

(c) An adult descendant of a deceased former parent or the guardian of a former parent who has been declared incompetent may consent to the disclosure of information as provided for in subsection (a) of this section.

(d) If an adoptee, who is 18 ~~or more~~ years ~~old~~, of age or older consents, identifying information about the adoptee shall be disclosed by the registry to any of the following persons upon request:

(1) The the adoptee's former parent; and

(2) The the adoptee's sibling who is 18 ~~or more~~ years ~~old~~ of age or older.

(e) Identifying information about the adoptee shall be disclosed to the adoptee's former parent if the parent of an adoptee who is less than 18 years ~~old~~ of age consents to the disclosure.

(f) Identifying information about a deceased adoptee shall be disclosed by the registry to the adoptee's former parent or sibling upon request if:

(1) the deceased adoptee's direct descendant is 18 ~~or more~~ years ~~old~~ of age or older and consents to the disclosure; or

(2) the parent or guardian of a direct descendant who is less than 18 years ~~old~~ of age consents to the disclosure.

(g) Identifying information about a sibling of an adoptee shall be disclosed by the registry to the adoptee upon request if both the sibling and the adoptee are 18 ~~or more~~ years ~~old~~ of age or older and the sibling consents to disclosure.

Sec. 4. 15A V.S.A. § 6-106 is amended to read:

#### § 6-106. REQUEST FOR NONDISCLOSURE

~~A former parent of an adoptee may prevent disclosure of identifying information about himself or herself by filing a request for nondisclosure with the registry as provided in section 6-105 of this title. A request for nondisclosure may be withdrawn by a former parent at any time. If a former parent of an adoptee filed a request for nondisclosure of identifying information prior to July 1, 2024, the request shall be honored and a request~~

for disclosure of identifying information made pursuant to section 6-105 of this title shall be denied. This section shall not be interpreted to interfere with a person's right to obtain a copy of an original birth certificate pursuant to section 6-107 of this title.

Sec. 5. 15A V.S.A. § 6-107 is amended to read:

§ 6-107. RELEASE OF ORIGINAL BIRTH CERTIFICATE

(a) A copy of the adoptee's original birth certificate may be released to the adoptee upon the request of an adoptee who has attained the age of 18 and who has access to identifying information under this article certified copy of an adoptee's original birth certificate and any evidence of the adoption previously filed with the State Registrar shall be released to persons identified in subsection 6-105(a) of this title upon request. The copy of the original birth certificate shall clearly indicate that it may not be used for identification purposes. The State Registrar shall develop a notice to accompany an original birth certificate requested pursuant to this section that advises the requestor of the potential availability of former parent contact preference information that may be obtained through the Registry.

(b) When 99 years have elapsed after the date of birth of an adoptee whose original birth certificate is sealed under this title, the Department of Health shall unseal the original certificate and file it with any new or amended certificate that has been issued. The unsealed certificate becomes a public record in accordance with any statute or regulation applicable to the retention and disclosure of birth certificates.

(c)(1) A person who is listed as a parent on an adoptee's original birth certificate may file a contact preference form with the Registry. The contact preference form shall be developed by the Registry and shall indicate whether the parent would:

(A) like to be contacted by the adoptee;

(B) prefer to be contacted by the adoptee only through an intermediary; or

(C) prefer not to be contacted by the adoptee at this time.

(2) A contact preference form may be withdrawn or revised at any time.

(d) Upon filing with the Registry, the contact preference form shall be confidential and exempt from public inspection and copying under the Public Records Act pursuant to section 6-102 of this title.

(e) Upon request, persons identified in subsection 6-105(a) of this title may receive from the Registry the indicated contact preference choice from the

filed contact preference form or nondisclosure form provided by the adoptee's former parent.

Sec. 6. 15A V.S.A. § 6-111 is amended to read:

§ 6-111. PUBLIC NOTICE OF STATUTORY CHANGE

The Department, with the cooperation of other departments of State government, shall make reasonable efforts to notify members of the public who may be affected by changes in statute governing the release of identifying and nonidentifying information and access to original birth certificates, including:

- (1) informing the general public by submitting press releases to the news media in Vermont and other states;
- (2) informing adoptee, birth parent, and genealogy groups in Vermont and other states;
- (3) including information in motor vehicle registration and license renewals;
- (4) including information in appropriate locations on the Internet; and
- (5) contacting the adoption coordinators in each state and determining what agencies or groups in that state should be notified.

Sec. 7. 15A V.S.A. § 6-112 is amended to read:

§ 6-112. ACTION FOR DISCLOSURE OF INFORMATION

(a) A person denied disclosure of information under section 6-104, ~~subdivision 6-105(b)(1) or (2), or section 6-107~~ of this title may file a petition in the court to obtain the information being sought.

(b) In determining whether to grant a petition under this section, the court shall review the records of the relevant proceeding for adoption and shall make specific findings concerning:

- (1) the reasons the information is sought;
- (2) ~~whether the individual about whom information is sought has filed a request for nondisclosure under section 6-106 of this title or any other kind of document requesting that his or her identity not be disclosed, has not filed any document, or has otherwise indicated a preference regarding the disclosure of his or her identity; [Repealed.]~~
- (3) if known, whether the individual about whom information is sought is alive;

(4) whether it is possible to satisfy the petitioner's request without disclosing the identity of another individual; and

(5) the expressed needs of the adoptee, including the emotional and mental health needs of the adoptee.

(c) Before making a determination under this section, the court shall make a reasonable effort to confidentially contact the person whose identity is being sought in order to determine that person's response to the petition and shall consider any response in reaching its decision.

~~(d) If the reason the petitioner was denied disclosure was due to the fact that there was no consent on file and there is no request for nondisclosure filed under section 6-106 or any other kind of document in the court or agency that clearly indicates that the identity of the person being sought not be disclosed, the court shall order disclosure of the requested information if the court finds by a preponderance of the evidence that disclosure is in the best interests of the petitioner and that disclosure is unlikely to cause harm to the person whose identity is being sought. [Repealed.]~~

~~(e) If the reason the petitioner was denied disclosure was due to the fact that there was no consent on file and a request for nondisclosure was filed under section 6-106 or any kind of document was filed in the court or agency that clearly indicates that the identity of the person being sought not be disclosed, the court shall not make a search under subsection (c) of this section and shall not order the disclosure of the requested information except for compelling reasons. [Repealed.]~~

#### Sec. 8. IMPLEMENTATION

Not later than September 1, 2022, the Department for Children and Families shall:

(1) develop contact preference forms and make such forms readily available to the public; and

(2) initiate plans to notify members of the public about this act.

#### Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 and 8 shall take effect on passage.

(b) Secs. 2-7 shall take effect July 1, 2024.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, report of the Committee on Judiciary agreed to, and third reading ordered.



**Second Reading; Bill Amended; Third Reading Ordered****H. 287**

**Rep. Black of Essex**, for the Committee on Health Care, to which had been referred House bill, entitled

An act relating to patient financial assistance policies and medical debt protection

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 221, subchapter 10 is added to read:

Subchapter 10. Patient Financial Assistance

§ 9481. DEFINITIONS

As used in this subchapter:

(1) “Amount generally billed” means the amount a large health care facility generally bills to individuals for emergency or other medically necessary health care services, determined using the “look-back method” set forth in 26 C.F.R. § 1.501(r)-5(b)(3).

(2) “Credit reporting agency” means a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer’s credit or other information for the purpose of furnishing a credit report to another person.

(3) “Health care provider” means a person, partnership, corporation, facility, or institution licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual’s medical care, treatment, or confinement.

(4) “Health care services” means services for the diagnosis, prevention, treatment, cure, or relief of a physical, dental, behavioral, or mental health condition or substance use disorder, including procedures, products, devices, and medications.

(5) “Household income” means income calculated in accordance with the financial methodologies for determining financial eligibility for advance premium tax credits under 26 C.F.R. § 1.36B-2, including the method used to calculate household size, with the following modifications:

(A) domestic partners, and any individual who is considered a dependent of either partner for federal income tax purposes, shall be treated as members of the same household;

(B) married individuals who file federal income tax returns separately but could file jointly, and any individual who is considered a dependent of one or both spouses for federal income tax purposes, shall be treated as members of the same household;

(C) married individuals who are living separately while their divorce is pending shall not be treated as members of the same household, regardless of whether they are filing federal income tax returns jointly or separately; and

(D) household income for individuals who are not required to file a federal income tax return, and for undocumented immigrants who have not filed a federal income tax return, shall be calculated as if they had filed a federal income tax return.

(6) “Large health care facility” means each of the following health care providers:

(A) a hospital licensed pursuant to chapter 43 of this title;

(B) an outpatient clinic or facility affiliated with or operating under the license of a hospital licensed pursuant to chapter 43 of this title; and

(C) an ambulatory surgical center licensed pursuant to chapter 49 of this title.

(7) “Medical creditor” means a large health care facility to whom a consumer owes money for health care services.

(8) “Medical debt” means a debt arising from the receipt of health care services.

(9) “Medical debt collector” means an individual or entity that regularly collects or attempts to collect, directly or indirectly, medical debts originally owed or due, or asserted to be owed or due, to another individual or entity.

(10) “Medically necessary health care services” means health care services, including diagnostic testing, preventive services, and after care, that are appropriate to the patient’s diagnosis or condition in terms of type, amount, frequency, level, setting, and duration. Medically necessary care must:

(A) be informed by generally accepted medical or scientific evidence and be consistent with generally accepted practice parameters as recognized by health care professions in the same specialties as typically provide the procedure or treatment, or diagnose or manage the medical condition;

(B) be informed by the unique needs of each individual patient and each presenting situation; and

(C) meet one or more of the following criteria:

- (i) help restore or maintain the patient's health;
- (ii) prevent deterioration of or palliate the patient's condition; or
- (iii) prevent the reasonably likely onset of a health problem or detect an incipient problem.

(11) "Patient" means the individual who receives or received health care services and shall include a parent if the patient is a minor or a legal guardian if the patient is a minor or adult under guardianship.

(12) "Vermont resident" means an individual, regardless of citizenship and including undocumented immigrants, who resides in Vermont, is employed by a Vermont employer to deliver services for the employer in this State in the normal course of the employee's employment, or attends school in Vermont, or a combination of these. The term includes an individual who is living in Vermont at the time that services are received but who lacks stable permanent housing.

#### § 9482. FINANCIAL ASSISTANCE POLICIES FOR LARGE HEALTH

##### CARE FACILITIES

(a) Each large health care facility in this State shall develop a written financial assistance policy that, at a minimum, complies with the provisions of this subchapter and any applicable federal requirements.

(b) The financial assistance policy shall:

(1) apply, at a minimum, to all emergency and other medically necessary health care services that the large health care facility offers;

(2) provide free or discounted care to Vermont residents and to individuals who live in Vermont at the time the services are delivered but who lack stable permanent housing, as follows:

(A) for an uninsured patient with household income at or below 250 percent of the federal poverty level (FPL), a 100 percent discount from the amount generally billed for the services received, resulting in free care;

(B) for an uninsured patient with household income between 250 and 400 percent FPL, a minimum of a 40 percent discount from the amount generally billed for the services received;

(C) for a patient with health insurance or other coverage for the services delivered and with household income at or below 250 percent FPL, a waiver of all out-of-pocket costs that would otherwise be due from the patient;

(D) for a patient with health insurance or other coverage for the services delivered and with household income between 250 and 400 percent

FPL, a minimum of a 40 percent discount on the patient's out-of-pocket costs; and

(E) for patients with household income at or below 600 percent FPL, catastrophic assistance in the event that the large health care facility's medical bills for a patient's care exceed 20 percent of the patient's household income, in which case the facility shall reduce the amount due from the patient to 20 percent of the patient's household income; and

(3) include all of the following:

(A) the eligibility criteria for financial assistance;

(B) the basis for calculating amounts charged to patients;

(C) the method and process for applying for financial assistance, including the information and documentation that the facility may require a patient to provide as part of the application;

(D) the reasonable steps that the facility will take to determine whether a patient is eligible for financial assistance;

(E) the facility's billing and collections policy, including the actions the facility may take in the event of nonpayment, such as collections action and reporting to credit reporting agencies;

(F) an appeals process for patients who are denied financial assistance or who believe the amount of financial assistance granted is inconsistent with the policy or the provisions of this subchapter; and

(G) a plain language summary of the policy.

(c) The owners or governing body of the large health care facility shall approve the facility's financial assistance policy and shall review and approve the policy at least once every three years.

(d) A large health care facility may require a patient to be a Vermont resident as a condition of eligibility for financial assistance but shall not impose any requirements regarding the duration of a patient's status as a Vermont resident.

#### § 9483. IMPLEMENTATION OF FINANCIAL ASSISTANCE POLICY

(a) In addition to any other actions required by applicable State or federal law, a large health care facility shall take the following steps before seeking payment for any emergency or medically necessary health care services:

(1) determine whether the patient has health insurance or other coverage for the services delivered, including whether the health care services may be

covered in whole or in part by an automobile insurance, a worker's compensation, or other type of policy;

(2) if the patient is uninsured, offer to provide the patient with information on how to apply for, and offer to connect the patient with help in applying for, public programs that may assist with health care costs; provided, however, that an undocumented immigrant's refusal to apply for public programs shall not be grounds for denying financial assistance under the facility's financial assistance policy;

(3) offer to provide the patient with information on how to apply for, and offer to connect the patient with help in applying for, health insurance and private programs that may assist with health care costs; provided, however, that a patient's refusal to apply for private health insurance shall not be grounds for denying financial assistance under the facility's financial assistance policy;

(4) if available, use information in the facility's possession to determine the patient's eligibility for free or discounted care based on the criteria set forth in subdivision 9482(b)(2) of this subchapter; and

(5) offer to the patient, at no charge, a financial assistance policy application and assistance in completing the application.

(b) A large health care facility shall determine a patient's eligibility for financial assistance as follows:

(1)(A) The facility shall determine a patient's household income using the patient's most recent federal or state income tax return.

(B)(i) The facility shall give each patient the option to submit pay stubs, documentation of public assistance, or other documentation of household income that the Department of Vermont Health Access identifies as valid documentation for purposes of this subchapter in lieu of or in addition to an income tax return.

(ii) A patient who is an undocumented immigrant shall also be given the option to submit other documentation of household income, such as a profit and loss statement, in lieu of an income tax return.

(C) The facility shall not require any additional information to verify income beyond the sources of information set forth in subdivisions (A) and (B) of this subdivision (1).

(2) The facility may grant financial assistance to a patient notwithstanding the patient's failure to provide one of the required forms of household income documentation and may rely on, but not require, other evidence of eligibility.

(3) The facility may grant financial assistance based on a determination of presumptive eligibility relying on information in the facility's possession but shall not presumptively deny an application based on that information.

(4)(A) The facility may, but is not required to, include an asset test in its financial assistance eligibility criteria. If the facility chooses to include an asset test in its financial assistance eligibility criteria, the asset test shall only apply to liquid assets. For purposes of determining financial assistance eligibility, liquid assets shall not include the household's primary residence, any 401(k) or individual retirement accounts, or any pension plans.

(B) Any limit on liquid assets for purposes of financial assistance eligibility shall be set at a dollar amount not less than 400 percent of the federal poverty level for the relevant household size for the year in which the health care services were delivered.

(c)(1) Within 30 calendar days following receipt of an application for financial assistance, the large health care facility shall notify the patient in writing as to whether the application is approved or disapproved or, if the application is incomplete, what information is needed to complete the application.

(2) If the facility approves the application for financial assistance, the facility shall provide the patient with a calculation of the financial assistance granted and a revised bill.

(3) If the facility denies the application for financial assistance, the facility shall allow the patient to submit an appeal within 60 days following receipt of the facility's decision. The facility shall notify the patient of its approval or denial of the patient's appeal within 60 days following receipt of the appeal.

(d)(1) A large health care facility or medical debt collector shall, at a minimum, offer to any patient who qualifies for financial assistance a payment plan and shall not require the patient to make monthly payments that exceed five percent of the patient's gross monthly household income.

(2) A large health care facility or medical debt collector shall not impose any prepayment or early payment penalty or fee on any patient and shall not charge interest on any medical debt owed by a patient who qualifies for the facility's financial assistance program.

(e) A large health care facility shall not discriminate on the basis of race, color, sex, sexual orientation, gender identity, marital status, religion, ancestry, national origin, citizenship, immigration status, primary language, disability, medical condition, or genetic information in its provision of financial assistance or in the implementation of its financial assistance policy.

§ 9484. PUBLIC EDUCATION AND INFORMATION

(a) Each large health care facility shall publicize its financial assistance policy widely by:

(1) making the financial assistance policy and application form easily accessible online through the facility's website and through any patient portal or other online communication portal used by the facility's patients;

(2) providing paper copies of the financial assistance policy and application form upon request at no charge, both by mail and at the facility's office; for hospitals, copies shall also be available in the hospital's patient reception and admissions areas and in the locations in which patient billing and financial assistance services are provided;

(3) providing oral and written translations of the financial assistance policy upon request;

(4) notifying and informing members of the community served by the facility about the financial assistance policy in a manner reasonably calculated to reach the members of the community who are most likely to need financial assistance, including members who are non-native English speakers, provided that these efforts shall be commensurate with the facility's size and income; and

(5) conspicuously displaying notices of and information regarding the financial assistance policy in the facility's offices; for hospitals, the notices and information shall be posted in the hospital's patient reception and admissions areas and in the locations in which patient billing and financial assistance services are provided.

(b) Each large health care facility shall directly notify individuals who receive care from the facility about the facility's financial assistance policy by, at a minimum:

(1) offering a paper copy of the financial assistance policy to each patient as part of the patient's first visit or, in the case of a hospital, during the intake and discharge processes; and

(2) including a conspicuous written notice on billing statements, whether sent by the facility or by a medical debt collector, stating that financial assistance is available to some patients based on income and including:

(A) a telephone number that the patient can call to request a financial assistance application and to receive information about the financial assistance policy and the application process; and

(B) the specific website address at which copies of the policy and application are available.

(c) All written or oral attempts by a medical creditor or medical debt collector to collect a medical debt arising from health care services delivered by a large health care facility shall include information for the patient about the relevant financial assistance policy or policies.

§ 9485. PROHIBITION ON SALE OF MEDICAL DEBT

No large health care facility shall sell its medical debt.

§ 9486. PROHIBITION OF WAIVER OF RIGHTS

Any waiver by a patient or other individual of any protection provided by or any right of the patient or other individual under this subchapter is void and shall not be enforced by any court or any other person.

§ 9487. ENFORCEMENT

The Office of the Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions for violations of this subchapter as is provided under 9 V.S.A. chapter 63, subchapter 1.

Sec. 2. HOSPITAL FINANCIAL ASSISTANCE POLICIES; PLAIN

LANGUAGE SUMMARY; 2025 HOSPITAL BUDGET REVIEW

Each hospital licensed under 18 V.S.A. chapter 43 shall submit a plain language summary of its financial assistance policy to the Green Mountain Care Board during the hospital fiscal year 2025 budget review process.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022, with large health care facilities coming into compliance with the provisions of Sec. 1 (18 V.S.A. 221, subchapter 10) not later than July 1, 2024.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, report of the Committee on Health Care agreed to, and third reading ordered.

**Joint Resolution; Adopted in Concurrence with Proposal of Amendment**

**J.R.S. 44**

Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges

Was taken up.



**Reps. Long of Newfane and McCoy of Poultney** moved to propose to the Senate to amend the resolution as follows:

By striking out the Resolved Clause and inserting in lieu thereof the following:

***Resolved by the Senate and House of Representatives:***

That the two Houses meet in Joint Assembly on Thursday, March 24, 2022, at ten o'clock and thirty minutes in the forenoon to vote on the retention of six Superior Judges, *and be it further*

***Resolved:*** That the Joint Assembly shall be concurrently conducted electronically at which members of the General Assembly may participate and debate from a remote location if they notify the Speaker of the House in the case of House members, or the President of the Senate in the case of Senators, that the member meets one of the COVID-19-related conditions set forth in 2022, J.R.H. 17 (remote participation in joint committees under restricted, COVID-19-related circumstances), *and be it further*

***Resolved:*** That balloting for any members participating remotely shall be conducted through electronic means in a timeframe prescribed in the Joint Assembly, whereby remote members' completed ballots shall be submitted electronically to the Secretary of the Senate and the Clerk of the House, who may provide assistance to those remote voters in accordance with 17 V.S.A. § 2569 (assistance to voter) in order to ensure that remote members' votes are not distinguishable from in-person members' votes in order to maintain the confidentiality of the votes of remote members, and who shall commingle those completed ballots with those of the members who vote in-person at the Joint Assembly, *and be it further*

***Resolved:*** That in case the vote to retain the Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays, Sundays, and Mondays excepted, and proceed until the above is completed.

Which was agreed to. Thereupon, the resolution was adopted in concurrence with proposal of amendment.

[For text of J.R.S. 44, see House Journal of Friday, March 11, 2022.]

### **Third Reading; Bills Passed**

House bills of the following titles were severally taken up, read the third time, and passed:

**H. 266**

House bill, entitled

An act relating to an incremental approach to health insurance coverage for hearing aids

**H. 399**

House bill, entitled

An act relating to incarceration terms for criminal defendants who are primary caretakers of dependent children

**H. 475**

House bill, entitled

An act relating to the classification system for criminal offenses

**H. 482**

House bill, entitled

An act relating to the Petroleum Cleanup Fund

**H. 548**

House bill, entitled

An act relating to miscellaneous cannabis establishment procedures

**H. 551**

House bill, entitled

An act relating to prohibiting racially and religiously restrictive covenants in deeds

**Bill Read Third Time; Consideration Interrupted; Recess;  
Consideration Resumed; Bill Passed**

**H. 715**

House bill, entitled

An act relating to the Clean Heat Standard

Was read the third time.

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

At two o'clock and thirty-three minutes in the afternoon, the Speaker called the House to order.

Thereupon, the bill was passed.

**Third Reading; Bill Passed**

**H. 722**

House bill, entitled

An act relating to final reapportionment of the House of Representatives

Was taken up, read the third time, and passed.

**Committee Bill; Second Reading; Amendment Offered;  
Third Reading Ordered**

**H. 727**

**Rep. Conlon of Cornwall** spoke for the Committee on Education.

House bill, entitled

An act relating to the exploration, formation, and organization of union school districts and unified union school districts

Having appeared on the Notice Calendar and appearing on the Action Calendar, was taken up and read the second time.

Pending the question, Shall the bill be read a third time?, **Reps. Leffler of Enosburgh, Colburn of Burlington, Cordes of Lincoln, Higley of Lowell, LaClair of Barre Town, Laroche of Franklin, Lefebvre of Orange, Mrowicki of Putney, Norris of Sheldon, Page of Newport City, Patt of Worcester, Small of Winooski, Strong of Albany, Surprenant of Barnard, Vyhovsky of Essex, and Yacovone of Morristown** moved to amend the bill as follows:

First: In Sec. 3, 16 V.S.A. chapter 11, by striking out section 724, withdrawal from or dissolution of a unified union school district, in its entirety and inserting in lieu thereof the following:

§ 724. WITHDRAWAL FROM OR DISSOLUTION OF A UNIFIED  
UNION SCHOOL DISTRICT

(a) A town or city corresponding to a preexisting school district that voted to form a unified union school district may vote to withdraw from the district if one year has elapsed since the unified union school district became a body politic and corporate as provided under section 713 of this title.

(b) When a majority of the voters of the town or city present and voting at a meeting duly warned for that purpose votes to withdraw from a unified union

school district, the vote shall be certified by the clerk of the town or city to the Secretary of State who shall record the certificate in the Secretary's office and give notice of the vote to the other towns or cities corresponding to the preexisting school districts that voted to form the unified union school district. Such other towns and cities shall vote by Australian ballot on the same day during the same hours whether to ratify the withdrawal of the town or city. To be effective, action to withdraw shall be approved by an affirmative vote of each of the other towns or cities within the unified union school district.

(c) If the vote to ratify the withdrawal of the town or city is approved by each of the other towns or cities, the unified union school district clerk shall notify the Secretary of Education who shall advise the State Board. At a meeting held thereafter, if the State Board finds that the students in the withdrawing town or city will attend a school that is in compliance with the rules adopted by the State Board pertaining to educational programs, the State Board shall declare the membership of the withdrawing town or city to be at an end as of July 1 immediately following or as soon thereafter as the obligations of the withdrawing district have been paid to, or an agreement made with, the union school district in an amount satisfactory to the electorate of each of the other towns and cities within the unified union school district. In addition, the State Board shall declare the preexisting school district corresponding to the withdrawing town or city to be reconstituted. The State Board shall give notice to the remaining towns and cities in the unified union school district of its meeting and give the relevant representatives an opportunity to be heard. It shall then determine whether it is in the best interests of the State, the students, and the school districts remaining in the unified union school district that the unified union district continue to exist. The State Board may declare the unified union school district dissolved as of July 1 immediately following or as soon thereafter as each remaining town's or city's obligations have been satisfied, or it may declare that the unified union district shall continue to exist despite the withdrawal of the former town or city member. The State Board shall file its declaration with the Secretary of State, the clerk of the withdrawing town or city, and the clerk of the affected unified union school district.

(d) A vote of withdrawal taken after a unified union school district has become a body politic and corporate as provided in section 713 of this title but less than one year after that date is void.

Second: In Sec. 3, 16 V.S.A. chapter 11, by striking out section 725, withdrawal from or dissolution of a union elementary or union high school district, in its entirety and inserting in lieu thereof the following:

§ 725. WITHDRAWAL FROM DISTRICT

(a) A school district that is a member of a union school district may vote to withdraw from the union school district if one year has elapsed since the union school district has become a body politic and corporate as provided in section 713 of this title.

(b) When a majority of the voters of a school district that is a member of a union school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from the union school district, the vote shall be certified by the clerk of the school district to the Secretary of State who shall record the certificate in the Secretary of State's office and give notice of the vote to the Secretary of Education and to the other members of the union school district. Within 90 days after receiving notice, those other members shall vote by Australian ballot on the same day during the same hours whether to ratify withdrawal of the member. Withdrawal by a member shall be effective only if approved by an affirmative vote of each of the other members of the union school district.

(c) If the vote to ratify the withdrawal of a member is approved by each of the other members, the union school district shall notify the Secretary of Education who shall advise the State Board. At a meeting held thereafter, if the State Board finds that the students in the withdrawing member will attend a school that is in compliance with the rules adopted by the Board pertaining to educational programs, then the State Board shall declare the membership of the withdrawing member in the union school district to end as of July 1 immediately following or as soon thereafter as the obligations of the withdrawing member have been paid to, or an agreement made with, the union school district in an amount satisfactory to the electorate of each member of the union school district. The State Board shall give notice to the remaining members in the union of its meeting and give representatives of the remaining members an opportunity to be heard. It shall then determine whether it is in the best interests of the State, the students, and the members remaining in the union district for the union to continue to exist. The State Board may declare the union district dissolved as of July 1 immediately following or as soon thereafter as each member's obligations have been satisfied, or it may declare that the union district shall continue to exist despite the withdrawal of the former member. The State Board shall file the declaration with the Secretary of State, the clerk of the withdrawing member, and the clerk of the union school district concerned.

(d) A vote of withdrawal taken after a union school district has become a body politic and corporate as provided in section 713 of this title but less than one year after that date shall be void.

**Third:** By striking out Sec. 7, withdrawal proposals; no final ratification votes, in its entirety and inserting in lieu thereof the following:

Sec. 7. [Deleted.]

Which was disagreed to in a vote by division: Yeas, 46; Nays, 73.

Pending the question, Shall the bill be read a third time?, **Rep. Cordes of Lincoln** 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, 39.

Those who voted in the affirmative are:

Achey of Middletown Springs	Emmons of Springfield	Nigro of Bennington
Ancel of Calais	Fagan of Rutland City	Norris of Shoreham
Arrison of Weathersfield	Feltus of Lyndon	Notte of Rutland City
Austin of Colchester	Gannon of Wilmington	Noyes of Wolcott
Bartholomew of Hartland	Garofano of Essex	O'Brien of Tunbridge
Beck of St. Johnsbury	Goldman of Rockingham	Ode of Burlington
Birong of Vergennes	Goslant of Northfield	Pajala of Londonderry
Black of Essex	Grad of Moretown	Partridge of Windham
Bluemle of Burlington	Graham of Williamstown	Peterson of Clarendon
Bock of Chester	Gregoire of Fairfield	Pugh of South Burlington
Bongartz of Manchester	Harrison of Chittenden	Rachelson of Burlington
Bos-Lun of Westminster	Helm of Fair Haven	Satcowitz of Randolph
Brady of Williston	Hooper of Randolph	Scheu of Middlebury
Brennan of Colchester	Hooper of Burlington	Scheuermann of Stowe
Briglin of Thetford	Houghton of Essex	Shaw of Pittsford
Brown of Richmond	Howard of Rutland City	Sheldon of Middlebury
Brumsted of Shelburne	James of Manchester	Squirrell of Underhill
Campbell of St. Johnsbury	Jerome of Brandon	Stebbins of Burlington
Canfield of Fair Haven	Kascenska of Burke	Stevens of Waterbury
Chase of Colchester	Killacky of South Burlington	Taylor of Colchester
Christie of Hartford	Kimbell of Woodstock	Till of Jericho
Coffey of Guilford	Kornheiser of Brattleboro *	Toleno of Brattleboro
Conlon of Cornwall	LaLonde of South Burlington	Toof of St. Albans Town
Copeland Hanzas of Bradford	Lanpher of Vergennes	Townsend of South Burlington
Corcoran of Bennington	Lippert of Hinesburg	Troiano of Stannard
Cupoli of Rutland City	Long of Newfane	Walz of Barre City
Dickinson of St. Albans Town	Masland of Thetford	Webb of Shelburne
Dolan of Essex	Mattos of Milton	White of Hartford
Dolan of Waitsfield	McCarthy of St. Albans City	Whitman of Bennington
Donahue of Northfield	McCormack of Burlington	Williams of Granby
Donnally of Hyde Park	McCoy of Poultney	Wood of Waterbury
Durfee of Shaftsbury	McCullough of Williston	Yantachka of Charlotte
	Morris of Springfield	
	Murphy of Fairfax	

Those who voted in the negative are:

Anthony of Barre City	Lefebvre of Orange	Parsons of Newbury
Burke of Brattleboro	Leffler of Enosburgh	Patt of Worcester
Burrows of West Windsor	Marcotte of Coventry	Rogers of Waterville
Cina of Burlington	Martel of Waterford	Rosenquist of Georgia
Colburn of Burlington	McFaun of Barre Town	Sibilia of Dover
Cordes of Lincoln	Morgan, L. of Milton	Sims of Craftsbury
Elder of Starksboro *	Morgan, M. of Milton	Small of Winooski
Hango of Berkshire	Morrissey of Bennington	Smith of Derby
Higley of Lowell	Mrowicki of Putney	Strong of Albany
Jessup of Middlesex	Mulvaney-Stanak of Burlington	Surprenant of Barnard
Labor of Morgan	Nicoll of Ludlow	Vyhovsky of Essex
LaClair of Barre Town	Norris of Sheldon	Yacovone of Morristown
Laroche of Franklin	Page of Newport City	
Lefebvre of Newark		

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

Brownell of Pownal	Kitzmiller of Montpelier	Sullivan of Dorset
Burditt of West Rutland	Palasik of Milton	Terenzini of Rutland Town
Colston of Winooski	Pearl of Danville	Walker of Swanton
Hooper of Montpelier	Smith of New Haven	White of Bethel

**Rep. Elder of Starksboro** explained his vote as follows:

“Madam Speaker:

H. 727 addresses the symptom of school withdrawal, without addressing obvious, underlying causes. This approach lacks empathy and will only serve to exacerbate unnecessary conflict for my constituents. For these reason I voted no.”

**Rep. Kornheiser of Brattleboro** explained her vote as follows:

“Madam Speaker:

This bill sets up a clear and transparent withdrawal process that maximizes transparency and information-gathering for voters ahead of votes. It also assures that the withdrawing town has a plan in place to provide vital services, such as special education, curriculum development and business management. H. 727 leaves the power with local voters while ensuring that they have the information they need to make the best decisions for children and families.”

**Rep. Long of Newfane** presiding.

**Committee Bill; Send Reading; Third Reading Ordered****H. 731**

**Rep. LaClair of Barre Town** spoke for the Committee on Government Operations.

House bill, entitled

An act relating to technical corrections for the 2022 legislative session

Having appeared on the Notice Calendar and appearing on the Action Calendar, was taken up, read the second time, and third reading ordered.

**Action on Bill Postponed****H. 353**

House bill, entitled

An act relating to pharmacy benefit management

Was taken up, and pending the reading of the report of the Committee on Health Care, on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until March 22, 2022.

**Second Reading; Bill Amended; Third Reading Ordered****H. 465**

**Rep. Higley of Lowell** for the Committee on Government Operations, to which had been referred House bill, entitled

An act relating to boards and commissions

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Repeal of Vermont Educational Health Benefits Commission \* \* \*

Sec. 1. REPEAL OF VERMONT EDUCATIONAL HEALTH BENEFITS  
COMMISSION

2017 Acts and Resolves No. 85, Sec. H.7 (Vermont Educational Health Benefits Commission) is repealed.

\* \* \* Repeal of Study Committee on Sales and Use Tax \* \* \*

Sec. 2. REPEAL OF STUDY COMMITTEE ON SALES AND USE TAX

2012 Acts and Resolves No. 143, Sec. 53 (study committee on sales and use tax) is repealed.



\* \* \* Repeal of Committee on Enhancing Vermont's Software and  
Information Technology Economy \* \* \*

Sec. 3. REPEAL OF ENHANCING VERMONT'S SOFTWARE AND  
INFORMATION TECHNOLOGY ECONOMY

2012 Acts and Resolves No. 143, Sec. 53a (enhancing Vermont's software  
and information technology economy) is repealed.

\* \* \* Repeal of Youth in Agriculture, Natural Resources, and  
Food Production Consortium \* \* \*

Sec. 4. 21 V.S.A. chapter 14 is amended to read:

~~CHAPTER 14. YOUTH IN AGRICULTURE, NATURAL RESOURCES,  
AND FOOD PRODUCTION~~

~~§ 1151. LEGISLATIVE FINDINGS AND PURPOSE~~

~~(a) The General Assembly finds that:~~

~~(1) Agriculture, natural resources, and food production play a central  
role in the economy and culture of Vermont.~~

~~(2) Farms and farm-based industries are experiencing an ever-increasing  
need for workers who are willing to work the hours involved in farming and  
who have the multiple skills necessary to handle successfully the multiple and  
varied responsibilities of farming.~~

~~(3) Farms have always provided the environment for youth to acquire  
workplace skills such as responsibility, creativity, and initiative and  
occupational skills ranging from plant and animal science to economics and to  
grow therefore into sought-after workers by a wide variety of employers.~~

~~(4) Programs such as the Farm Youth Corps have provided the  
infrastructure that is necessary to connect youth to careers in agriculture,  
natural resources, and food production.~~

~~(5) Programs that have provided youth with the opportunity to work on  
farms have declined due to reductions in federal funding.~~

~~(b) Therefore, it is the purpose of this chapter to create and support  
programs for youth that will engage them in agriculture, natural resources, and  
food production in order to:~~

~~(1) Provide them an opportunity to engage in work that provides them  
with hands-on learning and allows them to develop a strong work ethic and  
vital workplace and occupational skills that will be valuable in any career they  
might pursue.~~

~~(2) Encourage youth to pursue pathways to careers in agriculture, natural resources, and food production.~~

~~(3) Provide farmers with young short-term workers and the opportunity to mentor future, long-term employees.~~

~~(4) Ensure that youth are aware of the benefits of agriculture, natural resources, and food production to themselves and to Vermont.~~

~~§ 1152. YOUTH IN AGRICULTURE, NATURAL RESOURCES, AND  
FOOD PRODUCTION CONSORTIUM; CREATION~~

~~(a) There is created a Youth in Agriculture, Natural Resources, and Food Production Consortium of program providers in order that programs to build pathways to careers in agriculture, natural resources, and food production may be connected, developed, and supported in a coordinated manner. The Consortium shall comprise employees of the Department of Labor assigned by the Commissioner of Labor; employees of the Agency of Education assigned by the Secretary of Education; employees of the Agency of Agriculture, Food and Markets appointed by the Secretary of Agriculture, Food and Markets; employees of the Agency of Natural Resources appointed by the Secretary of Natural Resources; representatives of the Extension Service of the University of Vermont selected by the Service; and representatives from agriculture, food, and natural resources businesses appointed by the Secretary of Agriculture, Food and Markets.~~

~~(b) The consortium shall be attached to the Department of Labor for administrative support. It shall elect its own chair and meet as required to fulfill its obligations under this chapter.~~

~~§ 1153. YOUTH IN AGRICULTURE, NATURAL RESOURCES, AND  
FOOD PRODUCTION CONSORTIUM; POWERS AND DUTIES~~

~~(a) The Consortium shall be charged with the oversight of the development and coordination of programs in agriculture, natural resources, and food production, and education to connect youths' experiences in agriculture, natural resources, and food production to their in-school learning and develop pathways for pursuing further education related to agriculture or natural resources. It shall seek to coordinate and connect programs around common standards, coordinate resources, provide a clearinghouse for information and technical assistance, establish a strong business and education partnership, identify missing components of the system, and oversee funds made available for the express purpose of implementing these pathways. It shall endeavor to sustain and expand programming in agriculture, natural resources, and food production on a statewide basis in order to affect middle and secondary school~~

~~students in Vermont. The Consortium shall seek to ensure the effectiveness of all the programs in reaching large numbers of students, and in so far as possible, seek to provide programs in all regions of the State through a statewide system with uniform availability, eligibility, and funding requirements to make such opportunities available to all students.~~

~~(b) Among the programs to be reviewed and coordinated by the Consortium are projects that involve agriculture and the environment; programs within the elementary and middle school system that provide hands-on learning, such as “Ag in the Classroom” sponsored by the Agency of Agriculture, Food and Markets, and “Forest, Fields, and Futures” sponsored by UVM Extension; and secondary school programs in agriculture and natural resources-related areas in education; “Smokeyhouse” and other career technical education, agriculture, and natural resources programs offered by high schools and regional CTE centers. In addition, it shall review and coordinate programs such as the Youth Conservation Corps and the Farm Youth Corps of the Department of Labor, which has offered summer employment for students on farms, and other summer employment programs and alternative programs for in-school youth operated outside the public school funding system.~~

~~(c) [Repealed.] [Repealed.]~~

~~\*\*\* Repeal of the Department of Labor Advisory Council \*\*\*~~

Sec. 5. 21 V.S.A. § 1306 is amended to read:

§ 1306. ~~ADVISORY COUNCIL; MEMBERS; TERMS~~

~~(a) The Governor shall appoint a State Department of Labor Advisory Council composed of eight members from the general public to include four employer representatives and four employee representatives who may fairly be regarded as employees because of their vocations, employment, and affiliations. Appointment of the four employee representatives, at least one of whom shall have experience in workers’ compensation law and one of whom shall be a member of a building trade, shall be made from a list of qualified individuals submitted by the Vermont State Labor Council, the Vermont State Employees’ Association, and the Vermont National Education Association. Appointment of the four employer representatives shall be made from a list of qualified individuals submitted by the Vermont Chamber of Commerce, Associated General Contractors of Vermont, and Vermont Businesses for Social Responsibility. The Council members shall be appointed for staggered terms of four years. The Council shall meet at least three times a year.~~

~~(b) The Council shall advise the Commissioner regarding formulating policies by discussing the problems related to the functions and duties of the~~

~~Department in order to develop impartial solutions and approaches to these issues.~~

~~(e) The Commissioner may establish subcommittees composed solely of labor or management representatives and use a portion of the Council's meeting time to meet with these subcommittees.~~

~~(d) Each member of the Council who is not a salaried official or State employee or is not otherwise compensated through employment for attending Council meetings is entitled to per diem compensation and reimbursement for expenses as provided in 32 V.S.A. § 1010. [Repealed.]~~

~~\* \* \* Repeal of Working Group on State Workforce Development \* \* \*~~

~~Sec. 6. REPEAL OF WORKING GROUP ON STATE WORKFORCE  
DEVELOPMENT~~

~~2017 Acts and Resolves No. 69, Sec. E.1 (State workforce development system; report) is repealed.~~

~~\* \* \* Repeal of Council Advisory Committee \* \* \*~~

~~Sec. 7. 20 V.S.A. § 2410 is amended to read:~~

~~§ 2410. COUNCIL ADVISORY COMMITTEE~~

~~(a) Creation. There is created the Council Advisory Committee to provide advice to the Council regarding its duties under this subchapter.~~

~~(1) The Committee shall specifically advise and assist the Council in developing procedures to ensure that allegations of unprofessional conduct by law enforcement officers are investigated fully and fairly, and to ensure that appropriate action is taken in regard to those allegations.~~

~~(2) The Committee shall be advisory only and shall not have any decision-making authority.~~

~~(b) Membership. The Committee shall be composed of five individuals appointed by the Governor. The Governor may solicit recommendations for appointments from the Chair of the Council.~~

~~(1) Four of these members shall be public members who during incumbency shall not serve and shall have never served as a law enforcement officer or corrections officer and shall not have an immediate family member who is serving or has ever served as either of those officers.~~

~~(2) One of these members shall be a retired law enforcement officer.~~

~~(c) Assistance. The Executive Director of the Council or designee shall attend Committee meetings as a resource for the Committee.~~

~~(d) Reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than five meetings per year. Such payments shall be derived from the budget of the Council. [Repealed.]~~

\* \* \* Boards and Commissions; Per Diem Compensation \* \* \*

Sec. 8. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the members of the following boards shall be entitled to receive \$50.00 in per diem compensation:

- (1) Board of Bar Examiners
- (2) Board of Libraries
- (3) Vermont Milk Commission
- (4) Board of Education
- (5) State Board of Health
- (6) Emergency Board
- (7) Board of Liquor and Lottery
- (8) Human Services Board
- (9) State Fish and Wildlife Board
- (10) State Board of Mental Health
- (11) Vermont Employment Security Board
- (12) Capitol Complex Commission
- (13) Natural Gas and Oil Resources Board
- (14) Transportation Board
- (15) Vermont Veterans' Home Board of Trustees
- (16) Advisory Council on Historic Preservation
- (17) The Electricians' Licensing Board
- (18) [Repealed.]
- (19) Emergency Personnel Survivors Benefit Review Board
- (20) Community High School of Vermont Board

(21) Parole Board

(b)(1) Notwithstanding any other provision of law, members of professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, or any other boards, commissions, or similar entities that are not listed in subsection (a) of this section but are otherwise entitled by act of the General Assembly to receive per diem compensation, shall be entitled to receive per diem compensation ~~in the amount of \$50.00 per day for each day devoted to official duties. This subsection shall not reduce the amount of per diem compensation provided by act of the General Assembly to members of boards or commissions entitled to receive more than \$50.00 per day.~~

(2) “Per diem” means the amount of compensation to which a member of a statutory board or commission is entitled for:

(A) attendance at a regular or special meeting of such board or commission or any committee thereof; or

(B) performance of other duties directly related to the efficient conduct of necessary board business as assigned and approved by the chairperson, provided that payment for such duties shall be at the per diem rate prorated for actual time spent performing duties. Proration shall be calculated based on an eight-hour day. Under no circumstances shall the daily payment exceed the per diem amount.

(c) The members of the boards and commissions, including those members serving ex officio or otherwise regularly employed by the State, shall be entitled to receive their actual and necessary expenses when away from home or office upon their official duties.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, a member shall not be entitled to receive State per diem compensation for any meeting or other official duty for which specific compensation is provided by another source.

(e) The budget report of the Governor for each fiscal year shall contain a separate schedule disclosing the current per diem compensation and allowable expense reimbursement for appointed members of all boards, commissions, councils, and committees and all other statutory-created management, policy making, or advisory bodies of the Executive Branch who do not receive a salary, whether appointed by the Governor or not, and the recommendations for the next fiscal year. The appropriations committees of the General Assembly shall review the recommendations and include in a separate section of the annual appropriations act the per diem compensation and allowable

expense reimbursement for each such body, which shall constitute the appropriation for per diem compensation and allowable expense reimbursement increases for members of such bodies for the next fiscal year. Per diem compensation authorized under this section shall be not less than \$50.00 per day. The Governor may authorize per diem compensation and expense reimbursement in accordance with this section for members of boards and commissions, including temporary study commissions, created by ~~Executive Order~~ executive order.

~~(f) Members of the Parole Board shall be entitled to receive \$100.00 per diem for each day of official duties together with reimbursement of reasonable expenses incurred in the performance of their duties. [Repealed.]~~

\* \* \* Boards and Commissions; Executive Appointments \* \* \*

Sec. 9. 3 V.S.A. § 269 is added to read:

§ 269. BOARDS AND COMMISSIONS; EXECUTIVE APPOINTMENTS

(a) When applying for a State board or commission position that is appointed by the Governor or designee, an applicant shall not be required to disclose, or required to authorize the disclosure of, personal financial information as part of the application process unless an applicant's personal financial history is relevant to the applicant's ability to faithfully and competently perform the fiduciary responsibilities of the State board or commission position.

(b) This section shall not bar:

(1) requiring the applicant to affirm that the applicant is in compliance with constitutional or code of ethics requirements; or

(2) requiring the applicant to consent to the Governor's office accessing records that would be necessary to investigate an alleged violation of constitutional or code of ethics requirements.

Sec. 10. BOARD AND COMMISSION APPLICATIONS; CRIMINAL RECORDS; PERSONAL FINANCIAL HISTORY; REPORT

(a) On or before December 1, 2022, the Office of Boards, Commissions, and Public Service shall report to the House and Senate Committees on Government Operations with a list of:

(1) State board or commission positions appointed by the Governor or designee for which personal financial records are relevant to an applicant's ability to perform the fiduciary responsibilities of the position; and

(2) State board or commission positions appointed by the Governor or designee for which criminal background checks are relevant to an applicant's ability to perform the duties and responsibilities of the position.

(b) As used in this section, "State board or commission" has the same meaning as in 2019 Acts and Resolves No. 61, Sec. 1.

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

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

**Rep. Harrison of Chittenden**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Government Operations and when further amended as follows:

In Sec. 8, 32 V.S.A. § 1010 (members of certain boards), by striking out subsections (e)–(f) in their entireties and inserting in lieu thereof new subsections (e)–(g) to read as follows:

(e) Per diem compensation authorized under this section for members of boards, commissions, councils, and committees and all other management, policymaking, or advisory bodies, including temporary study commissions, of the Executive Branch, whether appointed by the Governor or not, shall be not less than \$50.00 per day and shall be approved pursuant to this subsection.

(1) The annual budget report of the Governor submitted to the General Assembly as required by 32 V.S.A. § 306 shall contain a separate schedule, by entity, that provides the per diem compensation rate established for the current fiscal year and the per diem rate proposed for the next fiscal year. This schedule shall also provide, by entity, the total per diem amounts paid and total expenses reimbursed for all members of the entity in the most recently ended fiscal year.

(2) In the annual budget documentation submitted to the House and Senate Committees on Appropriations, any agency or department that administers funds for a board, commission, council, and committee and all other management, policymaking, or advisory bodies, including temporary study commissions, shall provide a list of the entities and the current and projected per diem rate and expense reimbursement for each entity.

~~(f) Members of the Parole Board shall be entitled to receive \$100.00 per diem for each day of official duties together with reimbursement of reasonable expenses incurred in the performance of their duties. [Repealed.]~~



(g) The Governor may authorize per diem compensation and expense reimbursement in accordance with this section for members of boards, commissions, councils, and committees and all other management, policymaking, or advisory bodies, including temporary study commissions, created by executive order. Per diems and expense reimbursement authorized under this subsection shall be effective as of the effective date of the executive order but shall subsequently be reviewed and approved pursuant to the approval process of subsection (e) of this section during the next budgetary cycle.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereafter, **Reps. Higley of Lowell, Anthony of Barre City, Colston of Winooski, Copeland Hanzas of Bradford, Gannon of Wilmington, Hooper of Burlington, LaClair of Barre Town, Lefebvre of Orange, McCarthy of St. Albans City, Mrowicki of Putney, and Vyhovsky of Essex** moved that the report of the Committee on Government Operations be amended as follows:

By striking out Sec. 9, 3 V.S.A. § 269, and its reader assistance heading, and Sec. 10, board and commission applications; criminal records; personal financial history; report, in their entirety and by renumbering the remaining section to be numerically correct.

Which was agreed to.

Thereupon, the bill was amended as recommended by the Committee on Government Operations, as amended, and third reading was ordered.

### **Second Reading; Bill Amended; Third Reading Ordered**

#### **H. 518**

**Rep. Sibilis of Dover** for the Committee on Energy and Technology, to which had been referred House bill, entitled

An act relating to the creation of the Municipal Fuel Switching Grant Program

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings \* \* \*

#### **Sec. 1. FINDINGS; MUNICIPAL ENERGY RESILIENCE**

The General Assembly finds that:

(1) Vermont's municipalities own and operate more than 2,000 buildings and facilities, which are used to provide services to its citizens, including libraries; storing town vehicles; providing space for civic engagement; and connecting citizens to healthcare, education, and commercial interests.

(2) Vermont's Global Warming Solutions Act sets aggressive targets for greenhouse gas emissions reductions, and the heating of buildings provide significant opportunities for meeting these targets.

(3) The volatile cost of fossil fuel heating is often one of the largest line items in a municipal budget, which impacts the residential and commercial taxpayers in that municipality.

(4) A modest expansion to the State Energy Management Program, established in 29 V.S.A. § 168, made in 2019 can assist municipalities with responding to the greenhouse gas emissions targets set forth in the Global Warming Solutions Act.

(5) Connecting technical resources at the local, regional, and State level and expanding the State's energy management program to include municipal buildings will promote increased resilience and sustained connection to critical services for all Vermonters.

## Sec. 2. MUNICIPAL ENERGY RESILIENCE; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; ASSESSMENTS

(a) Energy resilience assessments. On or before September 1, 2022, the Department of Buildings and General Services shall issue a request for proposal for a comprehensive energy resilience assessment of covered municipal buildings and facilities.

(b) Request for proposal. The Commissioner of Buildings and General Services shall contract with an independent third party to conduct the assessment described in subsection (a) of this section. The assessment shall be completed on or before January 15, 2024.

(c) Application. A covered municipality, in coordination with a regional planning commission that shall assist a municipality in developing plans, shall submit an application to the Department of Buildings and General Services to receive an assessment of its buildings and facilities pursuant to the guidelines established in subsection (e) of this section.

(d) Scope. For each covered municipality, the assessment described in subsection (a) of this section shall include a scope of work, cost, and timeline for completion for each building or facility. The assessment shall also include:

(1) recommendations for improvements that reduce the operating and maintenance costs, enhance comfort, and reduce energy intensity in a municipal building or facility, including:

(A) the improvement or replacement, or both, of heating, ventilation and air conditioning systems;

(B) the use of a renewable energy source for heating systems, provided that recommendations for the use of a heating systems that uses fossil fuels is not eligible; and

(C) improvements to the buildings or facilities thermal envelope;

(2) an evaluation on the reasonableness of battery storage and EV charging stations and recommended locations, as applicable;

(3) an evaluation of the potential for on-site renewable energy generation options and recommendation on the one most feasible, as applicable;

(4) an estimate of costs for each recommendation;

(5) an estimate of system and equipment life cycle costs and consumption data; and

(6) the potential to phase the scope of work and suggest a prioritized order of completion separate from the energy assessment scope.

(e) Administration. The Department of Buildings and General Services shall establish guidelines for a covered municipality to receive an assessment and shall require at a minimum that:

(1) the covered municipality has access to high-speed Internet as defined in the State's Telecommunication Plan set forth in 30 V.S.A. § 202c or a plan is in place by 2024 to ensure access to high-speed Internet;

(2) the municipality commits for at least a five-year period to have or create at least one space in a building that is being assessed that is available to the public to enable work, education, and health monitoring or telehealth; and

(3) any building that is assessed is compliant with the American Disabilities Act at the time the project is completed.

(f) Definition. As used in this section, "covered municipality" means a city, town, fire district or incorporated village, and all other governmental incorporated units.

### Sec. 3. MUNICIPAL ENERGY RESILIENCE GRANT PROGRAM

(a) Program established. In fiscal year 2023, there is established the Municipal Energy Resilience Grant Program to award grants to:

(1) make recommendations to municipalities on the use of renewable and efficient heating systems; and

(2) make necessary improvements to reduce emissions by reducing fossil fuel usage and increasing efficiency in municipally owned buildings.

(b) Definition. As used in this section, “covered municipality” means a city, town, fire district or incorporated village, and all other governmental incorporated units.

(c) Administration; implementation.

(1) Grant awards. The Department of Buildings and General Services, in coordination with Efficiency Vermont, through the State Energy Management Program, shall administer the Program, which shall award grants for the following:

(A) not more than \$200,000.00 to each covered municipality for approved projects for weatherization, thermal efficiency, to supplement or replace fossil fuel heating systems with more efficient renewable energy heating systems, and any other expenditures necessary for the project to be eligible for funding under federal law and guidelines; and

(B) not more than \$4,000.00 to each covered municipality to facilitate community meetings and communication about municipal energy resilience.

(2) Grant program design. The Department of Buildings and General Services, in consultation with Efficiency Vermont; the Vermont League of Cities and Towns; regional planning commissions; and experts in the field of thermal enclosure, energy efficiency, and renewable building space systems, shall design the Program. The Program shall include a streamlined and minimal application process for a municipality to apply directly to the Department of Buildings and General Services or with the assistance of a regional planning commission. The Program design shall establish:

(A) an outreach and education plan by regional planning commissions, including specific tactics to reach and support each covered municipality;

(B) an equitable system for distributing grants statewide on the basis of need according to a system of priorities, including the following ranked in priority order:

(i) a municipality with the highest energy burden community needs and lowest resources, as defined in Efficiency Vermont’s 2019 Energy Burden Report;

(ii) a municipality that may not have administrative support to apply for grants;

(iii) geographic location;

(iv) community size; and

(v) whether another division of the municipality has already received a grant;

(C) guidelines for renewable and energy efficiency buildings systems resilience, durability, health, and efficiency measures and costs that will be eligible for grant funding; and

(D) eligibility criteria for covered municipalities, including written commitment by the municipality to conduct community workshops and a self-assessment.

(d) Coordination. The Department of Buildings and General Services shall coordinate with any other State entities and agencies working with covered municipalities to provide grants for the Program.

(e) Funding. The Program shall be funded by the American Rescue Plan Act Capital Projects Fund.

(f) Assessment. A covered municipality is only eligible for a grant under this section if an assessment of its buildings and facilities has been conducted pursuant to Sec. 2 of this act.

#### Sec. 4. MUNICIPAL ENERGY RESILIENCE GRANT PROGRAM;

##### APPROPRIATION

In fiscal year 2023, the amount of \$48,400,000.00 shall be appropriated from the American Rescue Plan Act (ARPA) from the Capital Projects Fund to the Municipal Energy Resilience Grant Program for use as follows:

(1) The amount of \$2,400,000.00 shall be appropriated to the Agency of Commerce and Community Development for regional planning commissions to assist with grant and assessment applications and provide programming and technical assistance to covered municipalities.

(2) The amount of \$46,000,000.00 shall be appropriated to the Department of Buildings and General Services to be used as follows:

(A) \$5,000,000.00 for hiring a contractor to conduct assessments pursuant to Sec. 2 of this act;

(B) \$1,000,000.00 for grants to covered municipalities to facilitate community meetings and communication about municipal energy resilience; and

(C) \$40,000,000.00 for grants to covered municipalities for weatherization, thermal efficiency, and to supplement or replace heating systems with more efficient renewable energy heating systems.

\* \* \* Municipal Energy Loan Program \* \* \*

Sec. 5. 29 V.S.A. § 168a is added to read:

§ 168a. MUNICIPAL ENERGY LOAN PROGRAM

(a) Authority. The Department of Buildings and General Service is authorized to provide financing to municipalities through the Municipal Energy Loan Program for equipment replacement, studies, weatherization, construction of improvements affecting the use of energy resources, the implementation of energy efficiency and conservation measures, and the use of renewable resources.

(b) Loan eligibility and criteria. The Commissioner shall establish for the Program described in subsection (a) of this section:

(1) criteria to determine eligibility for funding, including repayment terms;

(2) a priority basis for the selection process that ensures equitable allocation of funds to municipalities, considering at least financial need, geographic distribution, and ability to repay; and

(3) loan conditions that ensure accountability by a municipality receiving funds.

(c) Definitions. As used in this section:

(1) “Energy efficiency improvement” has the same meaning as in section 168 of this title.

(2) “Municipality” means a city, town, fire district or incorporated village, and all other governmental incorporated units.

(3) “Renewables” has the same meaning as in 30 V.S.A. § 8002.

(4) “Resource conservation measures” has the same meaning as in section 168 of this title.

Sec. 6. 29 V.S.A. § 168b is added to read:

§ 168b. MUNICIPAL ENERGY REVOLVING FUND

(a) Creation. There is established the Municipal Energy Revolving Fund to provide financing for the Municipal Energy Loan Program established in section 168a of this title.

(b) Monies in the Fund. The Fund shall consist of:

(1) monies appropriated to the Fund or that are paid to it under authorization of the Emergency Board;

(2) loan repayment by municipalities; and

(3) fees for administrative costs paid by municipalities, which may be fixed by the Commissioner subject to the approval of the Secretary of Administration.

(c) Repayment terms. A municipality receiving funding shall repay the Fund through its regular operating budget according to a schedule established by the Commissioner. Repayment may include charges of fees for administrative costs over the term of the repayment.

(d) Fund administration.

(1) The Commissioner of Finance and Management may anticipate receipts to this Fund and issue warrants based thereon.

(2) The Commissioner of Buildings and General Services shall maintain accurate and complete records of all receipts by and expenditures from the Fund.

(3) All balances remaining at the end of a fiscal year shall be carried over to the following year.

(e) Definitions. As used in this section:

(1) "Energy efficiency improvement" has the same meaning as in section 168 of this title.

(2) "Renewables" has the same meaning as in 30 V.S.A. § 8002.

(f) Annual report. Beginning on or before January 15, 2023 and annually thereafter, the Commissioner of Buildings and General Services shall report to the House Committees on Corrections and Institutions and on Energy and Technology and the Senate Committee on Institutions on the expenditure of funds from the Municipal Energy Revolving Fund. For each fiscal year, the report shall include a summary of each project receiving funding and the municipality's expected savings. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

## Sec. 7. MUNICIPAL ENERGY REVOLVING FUND; FY 2023

### APPROPRIATION; REPORT

(a) In FY 2023, to the extent permitted by federal law, the following amounts shall be transferred to the Department of Buildings and General

Services from the Department of Public Service for the Municipal Energy Revolving Fund, as established in 29 V.S.A. § 168b:

(1) not more than \$750,000.00 from the Energy Efficiency Revolving Loan Fund Capitalization Grant allocated in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 pursuant to the process set forth in 32 V.S.A. § 5; and

(2) not more than \$1,500,000.00 from the Energy Efficiency and Renewable Energy Block Grant Fund in the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 pursuant to the process set forth in 32 V.S.A. § 5.

(b) On or before January 15, 2023, the Department of Public Service shall report to the House Committee on Energy and Technology and the Senate Committee on Finance on the total grant amounts approved by the State and transferred to the Municipal Energy Revolving Fund pursuant to subsection (a) of this section.

Sec. 8. 2015 Acts and Resolves No. 58, Sec. E.112, as amended by 2019 Acts and Resolves No. 72, Sec. E.112, is further amended to read:

Sec. E.112 ENERGY EFFICIENCY; STATE BUILDINGS AND  
FACILITIES

\* \* \*

(b) Notwithstanding any provision of Title 30 of the Vermont Statutes Annotated, Public Service Board order, or other provision of law to the contrary:

(1) The Department and Efficiency Vermont (EVT) shall augment the Program for a preliminary period of ~~eight~~ 11 years commencing in fiscal year 2016 under which EVT shall provide the Department with support for the Program to deliver cost-effective energy efficiency and conservation measures to State buildings and facilities, with the goal of this pilot to create a self-sustaining program at the Department, with annual savings from energy projects exceeding the annual cost to staff the Program. The Department and EVT may agree to continue conducting this augmented Program in subsequent fiscal years, after considering recommendations for improvement based on evaluation of the preliminary period.

\* \* \*

(2) In addition to the requirements of subdivision (1) of this subsection, the project shall include provision by EVT of support for personnel to implement the Program during fiscal years 2016 to ~~2023~~ 2027.

\* \* \*



(B) Under this subdivision (2), EVT shall provide up to \$290,000 during fiscal year 2016. For the remaining ~~seven~~ 10 fiscal years, EVT shall ~~provide an additional amount sufficient to support annual salary and benefit adjustments~~ make available under agreement with the Department an additional amount sufficient to support annual salary and benefit adjustments. These funds shall be received in the Facilities Operations Fund established in 29 V.S.A. § 160a, and may be spent using excess receipts authority. Efficiency Vermont and the Department may agree to adjust the funding committed to this Program based on a joint evaluation that annual energy savings generated by this Program exceed the annual cost of the staff positions.

(3) The Public Service Board shall adjust any performance measures applicable to EVT to recognize the requirements of this section.

(c) The Department and EVT shall execute a new or amended memorandum of understanding to implement this section, which shall include targets for future energy savings, a process for determining how savings targets are met, and details of EVT's commitment for personnel over ~~an eight-year~~ a 10-year time period.

(d) On or before October 1 of each year commencing in 2016 and ending in ~~2023~~ 2027, the Department and EVT shall provide a joint report on the implementation of this section.

\* \* \*

(5) The report to be submitted in 2019 ~~and~~, in 2023, ~~and in 2027~~ shall contain an evaluation of the Program authorized under this section and any resulting recommendations, including recommendations related to Program continuation beyond ~~2023~~ 2027.

\* \* \*

## Sec. 9. FY 2023; APPROPRIATION; DEPARTMENT OF BUILDINGS

### AND GENERAL SERVICES; REGIONAL PLANNING

#### COMMISSIONS; POSITIONS

(a) Department of Buildings and General Services. Two full-time, limited-service positions are created in the Department of Buildings and General Services in fiscal years 2023 for three fiscal years as part of the expanded State Energy Management Program, as set forth between Efficiency Vermont and the Department of Public Service. The positions shall be responsible for determining project eligibility; coordinating with regional planning commissions to recruit and coordinate auditors, engineers, and contractors; and providing financing technical assistance for municipalities implementing projects. These positions shall be funded by Efficiency Vermont pursuant to

the authority set forth in 2015 Acts and Resolves No. 58, Sec. E.112, as amended by 2019 Acts and Resolves No. 72, Sec. E.112. No additional budget appropriation or State funds shall be used for these positions.

(b) Regional planning commissions. The amount of \$2,400,000.00 in General Funds shall be appropriated to the Agency of Commerce and Community Development's Community Development Program to fund staffing at each regional planning commission in fiscal years 2023 and 2024 to solicit, coordinate, and develop projects for covered municipalities through the Municipal Energy Resilience Grant Program. The funding to RPCs shall be distributed as follows:

(1) Fifty-five percent of the funds shall be divided equally among the regional planning commissions.

(2) Forty-five percent of the funds shall be allocated according to the number of Vermont member municipalities in each regional planning commission as of July 1, 2022.

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

#### Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

and that after passage the title of the bill be amended to read: "An act relating to municipal energy resilience initiatives"

**Rep. Krowinski of Burlington** presiding.

**Rep. Harrison of Chittenden**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Energy and Technology and when further amended as follows:

First: In Sec. 3, municipal energy resilience grant program, in subdivision (a)(1), by striking out "renewable and" and inserting in lieu thereof "more"; in subdivision (c)(1)(A) by striking out "\$200,000.00" and inserting in lieu thereof "\$250,000.00"; and in subdivision (c)(1)(A), by striking out "renewable energy"

Second: In Sec. 4, municipal energy resilience grant program; appropriation, by adding the following at the end of subdivision (1):

"The funding to regional planning commissions shall be distributed as follows:

(A) Fifty-five percent of the funds shall be divided equally among the regional planning commissions.

(B) Forty-five percent of the funds shall be allocated according to the number of Vermont member municipalities in each regional planning commission as of July 1, 2022.”

and by striking out subdivision (2)(B) in its entirety and inserting in lieu thereof a new subdivision (2)(B) to read as follows:

“(B) \$1,000,000.00 for costs associated with administering the grant program; and”

and in subdivision (2)(C) by striking out “heating systems with more efficient renewable energy” and inserting in lieu thereof “less efficient”

Third: In Sec. 7, municipal energy revolving fund; FY 2023 appropriation; report, in subdivision (a)(1), by striking out “\$750,000.00” and inserting in lieu thereof “\$800,000.00”, and in subdivision (a)(2), by striking out “\$1,500,000.00” and inserting in lieu thereof “\$2,000,000.00”

Fourth: In Sec. 9, FY 2023, appropriation; Department of Buildings and General Services; regional planning commissions; positions, in the section title, by striking out “regional planning commissions”; in subsection (a) by inserting “; State Energy Management Program” after “Department of Buildings and General Services” and by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Department of Buildings and General Services; Municipal Energy Resilience Grant Program. Two full-time, limited-service positions are created in the Department of Buildings and General Services in fiscal year 2023 for three fiscal years to administer the Municipal Energy Resilience Grant Program created in Sec. 3 of this act. The positions shall be funded from the amount of \$1,000,000.00 for administrative costs appropriated in Sec. 4(2)(B) of this act.

Thereafter, **Rep. Elder of Starksboro**, for the Committee on Ways and Means, recommended that the bill ought to pass when amended as recommended by the Committees on Energy and Technology and on Appropriations and when further amended as follows:

First: In Sec. 6, 29 V.S.A. § 168b, in subsection (b) in subdivision (1), by striking out “or that are paid to it under authorization of the Emergency Board” and inserting “and” after “;”, by striking out “; and” from subdivision (b)(2) and inserting “;”, and by striking out subdivision (3) in its entirety.

Second: In Sec. 6, 29 V.S.A. § 168b, in subsection (c), by striking out “Repayment may include charges of fees for administrative costs over the term of the repayment.”

Third: By adding a Sec. 6a to read as follows:

Sec. 6a. MUNICIPAL ENERGY REVOLVING FUND; DEPARTMENT OF  
BUILDINGS AND GENERAL SERVICES; FEE  
RECOMMENDATION

On or before January 15, 2023, the Commissioner of Buildings and General Services shall submit a recommendation to the House Committee on Ways and Means and the Senate Committee on Finance for a fee amount to be charged to pay for administrative costs associated with the Municipal Energy Revolving Fund.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Energy and Technology was amended as recommended by the Committee on Appropriations. Thereafter, the report of the Committee on Energy and Technology, as amended, was amended as recommended by the Committee on Ways and Means. Report of the Committee on Energy and Technology, as amended, was agreed to and third reading ordered.

#### **Recess**

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

At five o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

#### **Favorable Report; Second Reading; Third Reading Ordered**

#### **S. 4**

**Rep. Notte of Rutland City**, for the Committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to procedures involving firearms

Reported in favor of its passage in concurrence.

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

Pending the question, Shall the bill be read a third time?, **Rep. LaClair 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 bill be read a third time?, was decided in the affirmative. Yeas, 90. Nays, 42.

## Those who voted in the affirmative are:

Ancel of Calais	Emmons of Springfield	Ode of Burlington
Anthony of Barre City	Fagan of Rutland City	Pajala of Londonderry
Arrison of Weathersfield	Garofano of Essex	Partridge of Windham
Austin of Colchester	Goldman of Rockingham	Pugh of South Burlington
Bartholomew of Hartland	Grad of Moretown	Rachelson of Burlington
Beck of St. Johnsbury	Hooper of Montpelier	Rogers of Waterville
Birong of Vergennes	Houghton of Essex	Satcowitz of Randolph
Black of Essex	Howard of Rutland City	Scheu of Middlebury
Blueme of Burlington	James of Manchester	Sheldon of Middlebury
Bock of Chester	Jerome of Brandon	Sibilia of Dover
Bongartz of Manchester	Jessup of Middlesex	Sims of Craftsbury
Bos-Lun of Westminster	Killacky of South Burlington	Small of Winooski
Brady of Williston	Kimbell of Woodstock	Squirrell of Underhill
Briglin of Thetford	Kornheiser of Brattleboro	Stebbins of Burlington
Brown of Richmond	LaLonde of South Burlington	Stevens of Waterbury
Brumsted of Shelburne	Lanpher of Vergennes	Surprenant of Barnard
Burke of Brattleboro	Lippert of Hinesburg	Taylor of Colchester
Burrows of West Windsor	Long of Newfane	Till of Jericho
Campbell of St. Johnsbury	Masland of Thetford	Toleno of Brattleboro
Chase of Colchester	McCarthy of St. Albans City	Townsend of South Burlington
Christie of Hartford	McCormack of Burlington	Troiano of Stannard
Coffey of Guilford	McCullough of Williston	Vyhovsky of Essex
Colburn of Burlington	Morris of Springfield	Walz of Barre City
Conlon of Cornwall	Mrowicki of Putney	Webb of Shelburne
Copeland Hanzas of Bradford	Mulvaney-Stanak of Burlington	White of Hartford
Corcoran of Bennington	Murphy of Fairfax	Whitman of Bennington
Cordes of Lincoln	Nicoll of Ludlow	Wood of Waterbury
Dolan of Essex	Nigro of Bennington	Yacovone of Morristown
Dolan of Waitsfield	Notte of Rutland City	Yantachka of Charlotte
Donnally of Hyde Park	O'Brien of Tunbridge	
Durfee of Shaftsbury		

## Those who voted in the negative are:

Achey of Middletown Springs	Helm of Fair Haven	Morrissey of Bennington
Brennan of Colchester	Higley of Lowell	Norris of Sheldon
Canfield of Fair Haven	Hooper of Randolph	Norris of Shoreham
Cupoli of Rutland City	Hooper of Burlington	Noyes of Wolcott
Dickinson of St. Albans Town	Kascenska of Burke	Page of Newport City
Donahue of Northfield	LaClair of Barre Town	Parsons of Newbury
Feltus of Lyndon	Laroche of Franklin	Peterson of Clarendon
Gannon of Wilmington	Lefebvre of Newark	Rosenquist of Georgia
Goslant of Northfield	Lefebvre of Orange	Scheuermann of Stowe
Graham of Williamstown	Leffler of Enosburgh	Shaw of Pittsford
Gregoire of Fairfield	Marcotte of Coventry	Smith of Derby
Hango of Berkshire	McCoy of Poultney	Strong of Albany
	McFaun of Barre Town	Toof of St. Albans Town
	Morgan, L. of Milton	Williams of Granby

Harrison of Chittenden

Morgan, M. of Milton

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

Brownell of Pownal

Labor of Morgan

Smith of New Haven

Burditt of West Rutland

Martel of Waterford

Sullivan of Dorset

Cina of Burlington

Mattos of Milton

Terenzini of Rutland Town

Colston of Winooski

Palasik of Milton

Walker of Swanton

Elder of Starksboro

Patt of Worcester

White of Bethel

Kitzmiller of Montpelier

Pearl of Danville

### Second Reading; Bill Amended; Third Reading Ordered

#### H. 533

**Rep. Leffler of Enosburgh**, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to converting civil forfeiture of property in drug-related prosecutions into a criminal process

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 32 is amended to read:

#### § 32. JURISDICTION; CRIMINAL DIVISION

(a) The Criminal Division shall have jurisdiction to try, render judgment, and pass sentence in prosecutions for felonies ~~and, misdemeanors, and drug forfeiture proceedings pursuant to 18 V.S.A. chapter 84, subchapter 2.~~

(b) The Criminal Division shall have jurisdiction to try and finally determine prosecutions for violations of bylaws or ordinances of a village, town, or city, except as otherwise provided.

(c) The Criminal Division shall have jurisdiction of the following civil actions:

(1) appeals of final decisions of the Judicial Bureau;

(2) DUI license suspension hearings filed pursuant to 23 V.S.A. chapter 24;

(3) extradition proceedings filed pursuant to 13 V.S.A. chapter 159;

~~(4) drug forfeiture proceedings under 18 V.S.A. chapter 84, subchapter 2;~~

~~(5)~~(4) fish and wildlife forfeiture proceedings under 10 V.S.A. chapter 109;

~~(6)~~(5) liquor forfeiture proceedings under 7 V.S.A. chapter 19;

~~(7)~~(6) hearings relating to refusal to provide a DNA sample pursuant to 20 V.S.A. § 1935;

~~(8)~~(7) automobile forfeiture and immobilization proceedings under 23 V.S.A. chapters 9 and 13;

~~(9)~~(8) sex offender proceedings pursuant to 13 V.S.A. §§ 5411(e) and 5411d(f);

~~(10)~~(9) restitution modification proceedings pursuant to 13 V.S.A. § 7043(k);

~~(11)~~(10) municipal parking violation proceedings pursuant to 24 V.S.A. § 1974a(e), if the municipality has established an administrative procedure enabling a person to contest the violation, and the person has exhausted the administrative procedure;

~~(12)~~(11) proceedings to enforce 9 V.S.A. chapter 74, relating to energy efficiency standards for appliances and equipment;

~~(13)~~(12) proceedings to enforce 30 V.S.A. § 53, relating to commercial building energy standards.

Sec. 2. 18 V.S.A. chapter 84, subchapter 2 is amended to read:

Subchapter 2. Forfeiture

§ 4241. SCOPE

\* \* \*

(c) Notwithstanding the provisions of this section, the following property shall not be subject to seizure and forfeiture under this subchapter:

(1) Homestead real property, as defined in 27 V.S.A. chapter 3.

(2) U.S. currency totaling \$200.00 or less.

(3) A motor vehicle of \$2,000.00 or less in market value.

(4) Stolen property and contraband. Stolen property shall be promptly returned to the rightful owner, and contraband shall be disposed of according to applicable State law. The Criminal Division of the Superior Court may impose reasonable conditions, including the use of photographic evidence, to protect access to the property subject to this subsection and its use in later proceedings.

(d) The Attorney General shall advise the publications that law enforcement agencies may use to establish the market value of a motor vehicle.

§ 4242. SEIZURE

(a) The ~~court~~ Criminal Division of the Superior Court may issue at the request of the State ex parte a preliminary order or process to seize or secure property for which forfeiture is sought and to provide for its custody. Process for seizure of such property shall issue only upon a showing of probable cause that the property is subject to forfeiture. Application ~~therefor~~ for a preliminary order or process and issuance, execution, and return of the order or process shall be subject to provisions of applicable law.

(b) Any property subject to forfeiture under this subchapter may be seized upon process. Seizure without process may be made when:

(1) the seizure is incident to an arrest with probable cause or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the State in a forfeiture proceeding under this subchapter; ~~or~~

(3) the seizure is incident to a valid warrantless search.

(c) The State may temporarily secure property pending a request of the State ex parte for a preliminary order or process pursuant to this section.

~~(e)~~(d) If property is seized without process under subdivision (b)(1) or (3) of this section and the State intends to seek forfeiture under this subchapter, the State shall forthwith petition the ~~court~~ Criminal Division for a preliminary order or process under subsection (a) of this section.

~~(d)~~(e) Notwithstanding subsection 4241(b) of this title, all regulated drugs the possession of which is prohibited under this chapter are contraband and shall be automatically forfeited to the State and destroyed.

§ 4242a. PROMPT POSTSEIZURE PROCEEDINGS

(a) Following the seizure of property for which the State seeks forfeiture pursuant to section 4241 of this title, a defendant or any owner, co-owner, or regular user of the property has a right to a prompt postseizure hearing.

(b) A defendant, owner, co-owner, or regular user may petition the Criminal Division having jurisdiction for a prompt postseizure hearing.

(c) The State shall notify any owner, co-owner, or regular user of the property of which the State is aware, after a reasonable search of public records, that property has been seized pursuant to this subchapter, and the owner, co-owner, or regular user of the property may request a prompt postseizure hearing.



(d) The Criminal Division shall hold a prompt postseizure hearing:

(1) as a separate hearing; or

(2) at the same time as a hearing pursuant to Rule 41(f) of the Vermont Rules of Criminal Procedure, a probable cause determination, a post-arraignment hearing, or other pretrial hearing.

(e) A party, by agreement of all parties or for good cause shown, may move for an extension of the hearing date. Any motion may be supported by an affidavit, sworn statement, or other submission.

(f) The Criminal Division shall order the return of the seized property if it finds:

(1) the seizure was invalid;

(2) a criminal charge has not been filed and no extension of the filing period established under this section is available;

(3) the property is not reasonably required to be held as evidence; or

(4) the final judgment will likely be in favor of the defendant or any other person with an interest in the property.

(g) The provisions of this section do not apply to contraband.

#### § 4243. JUDICIAL CRIMINAL FORFEITURE PROCEDURE

(a) Conviction or agreement required. An asset is subject to forfeiture by judicial determination as a criminal sanction under section 4241 of this title and 13 V.S.A. § 364 if:

(1) a person is convicted of the criminal offense related to the action for forfeiture and the State establishes by clear and convincing evidence that the property is an instrument of or represents the proceeds of the underlying offense; or

(2) a person enters into an a plea agreement or other agreement with the prosecutor, including an agreement under which he or she the person is not charged with a criminal offense related to the action for forfeiture subjecting the person to forfeiture under section 4241 of this title; or

(3) a person is granted immunity or a reduced punishment, with or without the filing of a criminal charge, in exchange for testifying or assisting a law enforcement investigation or prosecution.

(b) Evidence.—The State may introduce into evidence in the judicial forfeiture case the fact of a conviction in the Criminal Division Discovery. Discovery related to the criminal forfeiture proceeding is subject to the Vermont Rules of Criminal Procedure.

(c) Burden of proof. The State bears the burden of proving by clear and convincing evidence that the property is an instrument of or represents the proceeds of the underlying offense.

~~(d) Notice. Within 60 days from when the seizure occurs, the State shall notify any owners, possessors, and lienholders of the property of the action, if known or readily ascertainable. Upon motion by the State, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown. Notice of proposed forfeiture.~~

(1) The loss of property subject to forfeiture shall be considered as a criminal sanction as part of and following the prosecution of the crime that subjects the individual with an interest in the property to forfeiture of property pursuant to section 4241 of this title. Upon the State's determination that it will seek forfeiture, the State shall file a Notice of Proposed Forfeiture as shall be a separate document not later than 30 days prior to trial or at the Criminal Division's discretion. The Notice of Proposed Forfeiture shall include the following information:

(A) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture and the type and quantity of regulated drug involved;

(B) the time, date, and place of the seizure;

(C) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest, and, in the case of a conveyance, the name of the person holding title; the registered owner; and the make, model, and year of the conveyance;

(D) the current location and custodian of the seized property; and

(E) warning that seized property may be forfeited as a sanction related to the crime for which the individual was charged, as part of a sentencing consideration, as part of a plea agreement, or through other means for the court to oversee.

(2) The Notice of Potential Collateral Consequences of Conviction required pursuant to 13 V.S.A. chapter 231 shall include notification of the provisions of this subchapter.

(3) The State shall serve the Notice in accordance with the Vermont Rules of Criminal Procedure. The State shall inform any owners, possessors, and lienholders of the property of the action, if known or readily ascertainable. In addition, the State shall cause the Notice to be published in a newspaper of general circulation in the State, as ordered by the Criminal Division.

(4) The Notice shall not be read to the jury of the underlying prosecution.

(5) The State may amend the Notice at any time before trial of the underlying prosecution.

(6) The Criminal Division may grant an unlimited number of 30-day extensions for the filing of the Notice if, for each extension, the court determines that probable cause is shown and additional time is warranted.

~~(e) Return of property. If notice is not sent in accordance with subsection (d) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require the agency to return contraband, evidence, or other property that the person from whom the property was seized is not entitled to lawfully possess.~~

~~(f) Filing of petition. The State shall file a petition for forfeiture of any property seized under section 4242 of this title promptly, but not more than 14 days from the date the preliminary order or process is issued. The petition shall be filed in the Superior Court of the county in which the property is located or in any court with jurisdiction over a criminal proceeding related to the property.~~

~~(g) Service of petition. A copy of the petition shall be served on all persons named in the petition as provided for in Rule 4 of the Vermont Rules of Civil Procedure. In addition, the State shall cause notice of the petition to be published in a newspaper of general circulation in the State, as ordered by the court. The petition shall state:~~

~~(1) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture, and the type and quantity of regulated drug involved;~~

~~(2) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model, and year of the conveyance.~~

#### § 4244. FORFEITURE HEARING HEARINGS

~~(a) Within 60 days following service of notice of seizure and forfeiture under section 4243 of this title, a claimant may file a demand for judicial determination of the forfeiture. The demand must be in the form of a civil complaint accompanied by a sworn affidavit setting forth the facts upon which~~

~~the claimant intends to rely, including, if relevant, the noncriminal source of the asset or currency at issue. The demand must be filed with the court administrator in the county in which the seizure occurred. Defendant's forfeiture hearing. The Criminal Division shall consider the loss of property subject to forfeiture as a criminal sanction as part of and following the prosecution of the underlying crime. The Criminal Division has discretion to schedule the criminal forfeiture hearing as soon as practicable after the defendant's conviction of the offense subjecting the person to forfeiture under section 4241 of this title, including concurrent with sentencing. The hearing shall be conducted by the Criminal Division without a jury.~~

~~(b) The court shall hold a hearing on the petition as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution. Exceptions to the conviction requirement. The Criminal Division may waive the conviction requirements of section 4243 of this title and subsection (a) of this section and grant title to the subject property to the State if the State files a motion not fewer than 90 days after seizure and shows by a preponderance of the evidence that, before conviction, the defendant:~~

- ~~(1) died;~~
- ~~(2) was deported by the U.S. government;~~
- ~~(3) abandoned the property; or~~
- ~~(4) fled the jurisdiction.~~

~~(c) A lienholder who has received notice of a forfeiture proceeding may intervene as a party. If the court finds that the lienholder has a valid, good faith interest in the subject property which is not held through a straw purchase, trust, or otherwise for the actual benefit of another and that the lienholder did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law, the court upon forfeiture shall order compensation to the lienholder to the extent of the lienholder's interest. Proportionality.~~

~~(1) The defendant, owner, co-owner, or other regular user of the property may petition the Criminal Division to determine whether the forfeiture is unconstitutionally excessive under the Constitutions of the State of Vermont or the United States. At the Criminal Division's discretion, it may hold a proportionality hearing:~~

- ~~(A) as a separate hearing; or~~
- ~~(B) at the same time as a hearing pursuant to Rule 41(f) of the Vermont Rules of Criminal Procedure, a prompt postseizure proceeding~~

pursuant to section 4242a of this title or a forfeiture hearing pursuant to section 4244 of this title.

(2) The defendant has the burden of establishing that the forfeiture is unconstitutionally excessive by a preponderance of the evidence at a hearing conducted by the Criminal Division without a jury. In determining whether the forfeiture is unconstitutionally excessive, the Criminal Division may consider all relevant factors including:

(A) the seriousness of the underlying crime and its impact on the community, including the duration of the activity, use of a firearm, and harm caused by the defendant;

(B) the extent to which the defendant participated in the underlying crime;

(C) the extent to which the subject property was used in committing the crime;

(D) whether the underlying crime was completed or attempted;

(E) the hardship to the defendant if the forfeiture of a motor vehicle would deprive the defendant of the defendant's livelihood; and

(F) if forfeiture of the subject property is an undue hardship to the defendant's family.

(3) In determining the value of the instrumentality subject to forfeiture, the Criminal Division may consider all relevant facts related to the fair market value of the property, including any publications identified by the Attorney General pursuant to subsection 4241(d) of this title.

(4) The Criminal Division shall not consider the value of the subject property to the State in determining whether the forfeiture is unconstitutionally excessive.

(d) The court shall not order the forfeiture of property if an owner, co-owner, or person who regularly uses the property, other than the defendant, shows by a preponderance of the evidence that the owner, co-owner, or regular user did not consent to or have any express or implied knowledge that the property was being or was intended to be used in a manner that would subject the property to forfeiture, or that the owner, co-owner, or regular user had no reasonable opportunity or capacity to prevent the defendant from using the property. Lienholder hearing. The Criminal Division shall not order the forfeiture of property subject to a lienholder's interest without a hearing upon petition by the lienholder, other than the defendant. A lienholder who has received notice of a criminal forfeiture proceeding may petition the Criminal Division at any time before it enters judgment in the prosecution of the

underlying offense or grants a motion pursuant to subsection (b) of this section. The Criminal Division shall hear the petition within 30 days after its filing or at the court's discretion. The hearing shall be conducted by the Criminal Division without a jury and the hearing may be consolidated with any other hearing before the trial in the underlying prosecution. If a lienholder shows by clear and convincing evidence that the lienholder has a valid, good faith interest in the subject property that is not held through a straw purchase, trust, or otherwise for the actual benefit of another and that the lienholder did not at any time have actual knowledge or reason to believe that the property was being or would be used in violation of the law, the Criminal Division shall order return of the property to the lienholder or compensation to the lienholder to the extent of value of the lienholder's interest, whichever is of less cost or expense to effectuate.

(e) The proceeding shall be against the property and shall be deemed civil in nature. The State shall have the burden of proving all material facts by clear and convincing evidence. Innocent owner hearing. The Criminal Division shall not order the forfeiture of property of an owner, co-owner, or person who regularly uses the property, other than the defendant, without a hearing upon petition by the owner, co-owner, or person who regularly uses the property.

(1) An owner, co-owner, or person who regularly uses the property, other than the defendant, may petition the Criminal Division at any time before it enters judgment in the prosecution of the underlying offense or grants a motion pursuant to subsection (b) of this section.

(2) The petition may be a simple written statement that sets forth:

(A) the right, title, or interest in the property of the owner, co-owner, or person who regularly uses the property;

(B) the time and circumstances of the acquisition of the interest in the property;

(C) additional relevant facts supporting the petition; and

(D) a request for the return of the property or other relief sought by the owner, co-owner, or person who regularly uses the property.

(3) The Criminal Division shall hear the petition within 30 days after its filing or at the court's discretion. The hearing shall be conducted by the Criminal Division without a jury and the hearing may be consolidated with any other hearing before the trial in the underlying prosecution.

(4) The owner, co-owner, or person who regularly uses the property, other than the defendant, has the burden to prove by clear and convincing

evidence the validity of ownership interest or regular use. If the owner, co-owner, or person who regularly uses the property meets the burden, the State has the burden to prove by clear and convincing evidence that the owner, co-owner, or regular user did consent to or have actual knowledge that the property was being or was intended to be used in a manner that would subject the property to forfeiture. If the State fails to meet its burden, the Criminal Division shall order return of the property. As used in this subsection and subsection (d) of this section, “actual knowledge” means a direct and clear awareness of information, a fact, or a condition.

(5) The Criminal Division may impose reasonable conditions, including the use of photographic evidence, to protect access to property subject to this section and its use in later proceedings.

~~(f) The court shall make findings of fact and conclusions of law and shall issue a final order. If the petition is granted, the court shall order the property held for evidentiary purposes, delivered to the State Treasurer, or, in the case of regulated drugs or property which is harmful to the public, destroyed Judgment. The Criminal Division shall enter judgment:~~

(1) dismissing the forfeiture proceeding and returning the subject property to the rightful owner if the State fails to meet its burden in the underlying criminal prosecution or the defendant’s forfeiture hearing pursuant to subsection (a) of this section except, in the case of regulated drugs or property that is harmful to the public, the subject property shall be destroyed;

(2) forfeiting the subject property if the State meets its burden in the underlying criminal prosecution and the forfeiture proceedings pursuant to subsection (a) of this section; or

(3) following a hearing or at court’s discretion pursuant to a stipulation or plea agreement.

#### § 4244a. APPEAL

The defendant may appeal the Criminal Division’s decision regarding the seizure of forfeiture of property following final judgment in the forfeiture proceeding pursuant to the Vermont Rules of Criminal Procedure.

#### § 4245. REMISSION OR MITIGATION OF FORFEITURE TO THE STATE’S ATTORNEY

(a) On petition filed within 90 days after completion of a forfeiture proceeding, a court that issued a forfeiture order pursuant to section 4244 of this title request by an owner, co-owner, or person who regularly uses the property, other than by the defendant, made at any time before the Criminal Division enters judgment in the prosecution of the underlying offense or grants

a motion pursuant to subsection (b) of section 4244 a State's Attorney may ~~order~~ exercise prosecutorial discretion and determine that the forfeiture be remitted or mitigated. The ~~petition request~~ shall be sworn and shall include all information necessary for its resolution or shall describe where such information can be obtained. Upon receiving a ~~petition request~~, the ~~court~~ State's Attorney shall investigate and may conduct ~~a-an~~ hearing interview if in its the State's Attorney's judgment it would be helpful to the resolution of the ~~petition request~~. The ~~court~~ State's Attorney shall either approve or reject the ~~petition request~~ within ~~90~~ 30 days.

(b) The ~~court~~ State's Attorney may remit or mitigate a forfeiture pursuant to this subchapter upon finding that relief should be granted to avoid extreme hardship or upon finding that the ~~petitioner requestor~~ has a valid, good faith interest in the property ~~which that~~ is not held through a straw purchase, trust, or otherwise for the benefit of another ~~and that the petitioner did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law.~~

\* \* \*

#### § 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the State Treasurer under this subchapter, the State Treasurer shall, ~~no not~~ not sooner than 90 days ~~of~~ after the date the property is delivered but not later than one year after the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter ~~13~~ 18, subchapter 7.

(b) The proceeds from the sale of forfeited property, upon exhaustion of all appeals or at the Criminal Division's discretion, shall be used first to pay restitution to any victim of the underlying crime, then to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1)(A) ~~45~~ 55 percent shall be distributed among:

- (i) the Office of the Attorney General;
- (ii) the Department of State's Attorneys and Sheriffs; and
- (iii) State and local law enforcement agencies.

(B) ~~The Governor's Criminal Justice and Substance Abuse Cabinet~~ State Treasurer is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may only reimburse the prosecutor and law enforcement agencies for their proportionate participated



participation in the prosecution or enforcement effort resulting in the forfeiture for expenses incurred, including controlled drug-buy money, investigation costs, salaries, benefits, overtime, and any other actual expenses for involved personnel. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Upon determination of the allocations, the Treasurer shall forward promptly distribute the allocated amounts to the appropriate agency's operating funds. Notwithstanding the provisions of this subsection (b), 10 percent of the proceeds distributed pursuant to subdivision (A) of this subdivision (1) shall be directed as follows:

(i) five percent to the Evidence-Based Education and Advertising Fund established in 33 V.S.A. § 2004a; and

(ii) five percent to the Center for Crime Victim Services.

(2) The remaining ~~55~~ 45 percent shall be deposited in the General Fund.

\* \* \*

#### § 4248a. LIMITATION ON FEDERAL ADOPTION

(a) A State or local law enforcement agency shall not transfer or offer for adoption property seized from a defendant, owner, co-owner, or regular user of the property pursuant to this subchapter to a federal agency for the purpose of forfeiture under 18 U.S.C. chapter 46 or other federal law unless the seized property includes U.S. currency exceeding \$25,000.00. This subsection only applies to seizure by State or local law enforcement agencies pursuant to their own authority under State law and without involvement of the U.S. government. Nothing in this subsection shall be construed to limit State or local agencies from participating in joint task forces with the U.S. government.

(b) State and local law enforcement agencies are prohibited from accepting payment of any kind or distribution of forfeiture proceeds from the U.S. government if the State or local law enforcement agency violates subsection (a) of this section. Any payments or forfeiture proceeds that violate subsection (a) of this section shall be directed to the State's General Fund.

#### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

**Rep. Squirrell of Underhill**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Judiciary and when further amended as follows:

In Sec. 2, 18 V.S.A. chapter 84, subchapter 2, in section 4247, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The proceeds from the sale of forfeited property, upon exhaustion of all appeals or at the Criminal Division's discretion, shall be used first to pay restitution to any victim of the underlying crime, then to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1)(A) 45 percent shall be distributed among:

- (i) the Office of the Attorney General;
- (ii) the Department of State's Attorneys and Sheriffs; and
- (iii) State and local law enforcement agencies.

~~(B) The Governor's Criminal Justice and Substance Abuse Cabinet~~ State Treasurer is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may only reimburse the prosecutor and law enforcement agencies ~~that participated for their proportionate participation~~ in the prosecution or enforcement effort resulting in the forfeiture for expenses incurred, including controlled drug-buy money, investigation costs, salaries, benefits, overtime, and any other actual expenses for involved personnel. ~~The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the~~ Upon determination of the allocations, the Treasurer shall ~~forward promptly distribute~~ the allocated amounts to the appropriate agency's operating funds.

(2) The remaining 55 percent shall be deposited in the General Fund.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Judiciary was amended as recommended by the Committee on Appropriations. Report of the Committee on Judiciary, as amended, was agreed to and third reading ordered.

### **Second Reading; Bill Amended; Third Reading Ordered**

#### **H. 534**

**Rep. Colburn of Burlington**, for the Committee on Judiciary, to which had been referred House bill, entitled

An act relating to sealing criminal history records

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

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

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

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

(4) “Qualifying crime” means:

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

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

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

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

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

~~(v) a predicate offense;~~

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

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

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

- ~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~
- ~~(F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;~~
- ~~(G) a violation of 18 V.S.A. § 4230(a) related to possession and cultivation of cannabis;~~
- ~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;~~
- ~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~
- ~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~
- ~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;~~
- ~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;~~
- ~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;~~
- ~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;~~
- ~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or~~
- ~~(P) any offense for which a person has been granted an unconditional pardon from the Governor.~~
- (A) all misdemeanor offenses except:
  - (i) a listed crime as defined in subdivision 5301(7) of this title;
  - (ii) a violation of chapter 64 of this title relating to sexual exploitation of children;
  - (iii) a violation of section 1030 of this title relating to a violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child;
  - (iv) a violation of chapter 28 of this title related to abuse, neglect, and exploitation of a vulnerable adult;
  - (v) a violation of subsection 2605(b) or (c) of this title related to voyeurism;
  - (vi) a violation of subdivisions 352(1)–(10) of this title related to cruelty to animals;

(vii) a violation of section 1026a of this title related to aggravated disorderly conduct;

(viii) a violation of section 3006 of this title related to neglect of duty by a public officer;

(ix) a violation of section 5409 of this title related to failure to comply with sex offender registry requirements;

(x) a violation of section 2802, 2802a, 2803, 2804, or 2804b of this title related to obscenity;

(xi) a violation of section 1455 of this title related to hate motivated crimes; and

(xii) a violation of section 1456 of this title related to burning of a religious symbol; and

(B) the following felonies:

(i) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, unless the person was 25 years of age or younger at the time of the offense and did not carry a dangerous or deadly weapon during the commission of the offense;

(ii) designated felony property offenses as defined in subdivision (5) of this subsection;

(iii) offenses relating to possessing, cultivating, selling, dispensing, or transporting regulated drugs, including violations of 18 V.S.A. § 4230(a) and (b), 4231(a) and (b), 4232(a) and (b), 4233(a) and (b), 4233a(a), 4234(a) and (b), 4234a(a) and (b), 4234b(a) and (b), 4235(b) and (c), or 4235a(a) and (b); and

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

(5) “Designated felony property offense” means:

(A) a felony violation of 9 V.S.A. § 4043 related to fraudulent use of a credit card;

(B) section 1801 of this title related to forgery and counterfeiting;

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

(D) section 1804 of this title related to counterfeiting paper money;

(E) section 1816 of this title related to possession or use of credit card skimming devices;

- (F) section 2001 of this title related to false personation;
- (G) section 2002 of this title related to false pretenses or tokens;
- (H) section 2029 of this title related to home improvement fraud;
- (I) section 2030 of this title related to identity theft;
- (J) section 2501 of this title related to grand larceny;
- (K) section 2531 of this title related to embezzlement;
- (L) section 2532 of this title related to embezzlement by officers or servants of an incorporated bank;
- (M) section 2533 of this title related to embezzlement by a receiver or trustee;
- (N) section 2561 of this title related to receiving stolen property;
- (O) section 2575 of this title related to retail theft;
- (P) section 2582 of this title related to theft of services;
- (Q) section 2591 of this title related to theft of rented property;
- (R) section 2592 of this title related to failure to return a rented or leased motor vehicle;
- (S) section 3016 of this title related to false claims;
- (T) section 3701 of this title related to unlawful mischief;
- (U) section 3705 of this title related to unlawful trespass;
- (V) section 3733 of this title related to mills, dams, or bridges;
- (W) section 3761 of this title related to unauthorized removal of human remains;
- (X) section 3767 of this title related to grave markers and ornaments;
- (Y) chapter 87 of this title related to computer crimes; and
- (Z) 18 V.S.A. § 4223 related to fraud or deceit in obtaining a regulated drug.

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

Sec. 2. 13 V.S.A. § 7602 is amended to read:

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

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

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

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

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

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

~~(2) The State's Attorney or Attorney General shall be the respondent in the matter.~~

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

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

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

~~(A) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the~~

~~conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.~~

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

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

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

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

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

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

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

~~(A) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.~~

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

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

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

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



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

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

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

~~(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) The petitioner has completed any sentence or supervision for the offense.~~

~~(2) Any restitution and surcharges ordered by the court have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.~~

~~(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:~~

~~(1) The petitioner shall bear the burden of establishing that his or her conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.~~

~~(2) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.~~

~~(f) Prior to granting an expungement or sealing under this section for petitions filed pursuant to subdivision 7601(4)(D) of this title, the court shall make a finding that the conduct underlying the conviction under section 1201 of this title did not constitute a burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title. The petitioner shall bear the burden of establishing this fact.~~

~~(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the~~

interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

(a) Petition.

(1) A person may file a petition with the court requesting sealing of a criminal history record related to a conviction under the following circumstances:

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

(B) The person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence.

(C) The person was convicted of a violation of 23 V.S.A. § 1201(a) related to operating under the influence of alcohol or other substance, provided that:

(i) the violation did not:

(I) result in serious bodily injury or death to any person other than the operator;

(II) involve operating a school bus with a blood alcohol concentration of 0.02 or more; or

(III) involve operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; and

(ii) the person is not licensed as a commercial driver pursuant to 23 V.S.A. chapter 39.

(2) The State's Attorney or Attorney General shall be the respondent in the matter.

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

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

(b) Offenses that are no longer prohibited by law.

(1) For petitions filed pursuant to subdivision (a)(1)(A) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(A) The petitioner has completed any sentence or supervision for the offense.

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

(2) For petitions filed pursuant to subdivision (a)(1)(A) of this section for a conviction for possession of a regulated drug under 18 V.S.A. chapter 84, subchapter 1 in an amount that is no longer prohibited by law or for which criminal sanctions have been removed:

(A) The petitioner shall bear the burden of establishing that the petitioner's conviction was based on possessing an amount of regulated drug that is no longer prohibited by law or for which criminal sanctions have been removed.

(B) There shall be a rebuttable presumption that the amount of the regulated drug specified in the affidavit of probable cause associated with the petitioner's conviction was the amount possessed by the petitioner.

(c) Qualifying misdemeanors. For petitions filed to seal a qualifying misdemeanor pursuant to subdivision (a)(1)(B) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least three years have elapsed since the date on which the person satisfied the judgement.

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

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

(d) Qualifying felony offenses. For petitions filed to seal a qualifying felony pursuant to subdivision (a)(1)(B) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least seven years have elapsed since the date on which the person satisfied the judgement.

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

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

(e) Qualifying DUI misdemeanor. For petitions filed to seal a qualifying DUI misdemeanor pursuant to subdivision (a)(1)(C) of this section, the court shall grant the petition and order that the criminal history record be sealed if the following conditions are met:

(1) At least ten years have elapsed since the date on which the person satisfied the judgment for the conviction.

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

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

(B) the person has not been convicted of a subsequent offense since the person was convicted of a violation of 23 V.S.A. § 1201(a).

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

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

Sec. 3. 13 V.S.A. § 7604 is amended to read:

§ 7604. NEW CHARGE

If a person is charged with a criminal offense after he or she has filed a petition for ~~expungement~~ sealing pursuant to this chapter, the court shall not act on the petition until disposition of the new charge.

Sec. 4. 13 V.S.A. § 7605 is amended to read:

§ 7605. DENIAL OF PETITION

If a petition for ~~expungement~~ sealing is denied by the court pursuant to this chapter, no further petition shall be brought for at least two years, unless a shorter duration is authorized by the court.

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

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if ~~he or she~~ the person had never been arrested, convicted, or sentenced for the offense and that its effect is to annul the record

of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, the Restitution Unit of the Vermont Center for Crime Victim Services, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

(1) Except as provided in subsection (c) of this section, upon entry of a sealing order, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if ~~he or she~~ the person had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(3) The response to an inquiry from any member of the public regarding a sealed record shall be that "NO CRIMINAL RECORD EXISTS."

(c) Exceptions; convictions. Notwithstanding any other provision of law or a sealing order, entities may access sealed records only in the following circumstances:

(1) An entity that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence ~~or involving the same defendant.~~

(2) ~~A criminal justice agency as defined in 20 V.S.A. § 2056a may use the criminal history record sealed in accordance with section 7602 or 7603 of this title without limitation for criminal justice purposes as defined in 20 V.S.A. § 2056a. A sealed record of a prior violation of 23 V.S.A. § 1201(a) shall be admissible as a predicate offense for the purpose of imposing an enhanced penalty for a subsequent violation of that section, in accordance with the provisions of 23 V.S.A. § 1210. A person or a court in possession of an order issued by a court regarding a matter that was subsequently sealed may file or cite to that decision in any subsequent proceeding. The party or court filing or citing to that decision shall ensure that information regarding the identity of the defendant in the sealed record is redacted.~~

(3) For sentencing in subsequent offenses, the court and parties in a criminal case shall have access to sealed records as follows:

(A) misdemeanors for three years;

(B) qualifying DUI offenses for five years; and

(C) qualifying felony property offenses and selling, dispensing, or transporting a regulated drug offenses for seven years.

(4) The Department of Corrections shall have access to sealed records for the purpose of conducting risk assessments and making supervision decisions as follows:

(A) misdemeanors for three years;

(B) qualifying DUI offenses for five years; and

(C) qualifying felony property offenses and selling, dispensing, or transporting a regulated drug offenses for seven years.

(5) The State's Attorney and Attorney General may disclose information contained in a sealed criminal history record when required to meet their otherwise legally required discovery obligations.

(6) Upon request, the Victim's Compensation Program shall be provided with a copy, redacted of all information identifying the offender, of the affidavit for the sole purpose of verifying the expenses in a victim's compensation application submitted pursuant to section 5353 of this title.

(7) The sealing of a criminal record shall not affect the authority of the Restitution Unit to enforce a restitution order in the same manner as a civil judgment, pursuant to subdivision 5362(c)(2) of this title.

(d) Exceptions; dismissed charges. The prosecution shall have access to cases dismissed without prejudice for three years. The prosecution may object to the loss of access at three years by proving that the loss of access would pose a "significant risk to public safety."

(e) Process.

(1) The court shall bar viewing of the sealed offense in any accessible database that it maintains.

(2) Until all charges on a docket have been sealed, the case file shall remain publicly accessible.

(3) When all charges on a docket have been sealed, the case file shall become exempt from public access.

(e)(f) Special index.

(1) The court shall keep a special index of cases that have been sealed together with the sealing order. The index shall list only the name of the person convicted of the offense, his or her the person's date of birth, the docket number, and the criminal offense that was the subject of the sealing.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Except as provided in ~~subsection~~ subsections (c) and (d) of this section, inspection of the sealing order may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) The Court Administrator shall establish policies for implementing this subsection.

Sec. 6. 13 V.S.A. § 7611 is added to read:

§ 7611. UNAUTHORIZED DISCLOSURE

A state or municipal employee or contractor or any agent of the court, including an attorney and an employee or contractor of the attorney, who in the course of their official duties knowingly discloses sealed criminal history record information without authorization shall be assessed a civil penalty of not more than \$1,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

Sec. 7. 24 V.S.A. § 2002 is added to read:

§ 2002. EXPUNGEMENT OF MUNICIPAL VIOLATION RECORDS

(a) Expungement. Three years following the satisfaction of a judgment resulting from an adjudication of a municipal violation, the Judicial Bureau shall make an entry of “expunged” and notify the municipality of such action, provided the person has not been adjudicated for any subsequent municipal violations during that time. The data transfer to the municipality shall include the name, date of birth, ticket number, and offense. Violations of offenses adopted pursuant to 24 V.S.A. chapter 117 shall not be eligible for expungement under this section.

(b) Effect of expungement.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the individual whose record is expunged shall be treated in all respects as if the individual had never been adjudicated of the violation.

(2) Upon an entry of expunged, the case will be accessible only by the Clerk of the Court for the Judicial Bureau or the Clerk’s designee. Adjudications that have been expunged shall not appear in the results of any



Judicial Bureau database search by name, date of birth, or any other data identifying the defendant. Except as provided in subsection (c) of this section, any documents or other records related to an expunged adjudication that are maintained outside the Judicial Bureau's case management system shall be destroyed.

(3) Upon receiving an inquiry from any person regarding an expunged record, the Judicial Bureau and the municipality shall respond that "NO RECORD EXISTS."

(c) Exception for research entities. Research entities that maintain adjudication records for purposes of collecting, analyzing, and disseminating criminal justice data shall not be subject to the expungement requirements established in this section. Research entities shall abide by the policies established by the Court Administrator and shall not disclose any identifying information from the records they maintain.

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

(e) Application. This section shall apply to municipal violations that occur on and after July 1, 2022.

Sec. 8. 23 V.S.A. § 2303 is amended to read:

§ 2303. EXPUNGEMENT OF VIOLATION RECORDS

\* \* \*

(e) Application. This section shall apply to municipal violations that occur on and after July 1, 2021.

Sec. 9. AUTOMATIC SEALING STUDY COMMITTEE

(a) Creation. There is created the Legislative Criminal Record Sealing Study Committee for the purpose of recommending to the General Assembly a proposal for phasing in a policy of automatically sealing criminal history records that no longer have value as a criminal justice tool.

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

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

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

(c) Powers and duties.

(1) The Committee shall study:

(A) which criminal offenses are appropriate for automatic sealing, the time period in which those offenses become eligible for sealing, and any other appropriate criteria; and

(B) the mechanism for automatic sealing and any resources required for the proposal in subdivision (1)(A) of this subsection (c).

(2) On or before November 15, 2022, the Committee shall submit proposed legislation to the General Assembly.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Committee shall have the assistance of the Office of Legislative Operations, the Office of Legislative Counsel, and the Joint Fiscal Office.

(e) Meetings.

(1) The Office of Legislative Counsel shall call the first meeting of the Committee on or before August 1, 2022.

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

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

(4) The Committee shall cease to exist on December 31, 2022.

(f) Compensation and reimbursement. 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. § 23 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

**Rep. Long of Newfane** presiding.

**Rep. Squirrell of Underhill**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Judiciary and when further amended as follows:

By striking out Sec. 9, automatic sealing study committee, in its entirety and by renumbering the remaining section to be numerically correct.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

**Rep. Krowinski** presiding.

Report of the Committee on Judiciary, as amended, was agreed to and third reading ordered.

### **Second Reading; Bill Amended; Third Reading Ordered**

#### **H. 711**

**Rep. Garofano of Essex**, for the Committee on Human Services, to which had been referred House bill, entitled

An act relating to the creation of the Opioid Settlement Advisory Committee and the Opioid Abatement Special Fund

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 93 is amended to read:

#### CHAPTER 93. ~~TREATMENT OF OPIOID ADDICTION~~ USE DISORDER

##### Subchapter 1. Treatment of Opioid Use Disorder

\* \* \*

##### Subchapter 2. Opioid Settlement

#### § 4771. PURPOSE

It is the purpose of this subchapter to comply with any opioid litigation settlements to which the State or municipalities within the State were a party regarding the management and expenditure of monies received by the State. While an opioid litigation settlement may designate a portion of the monies for local or State use, this subchapter applies to only monies from abatement accounts funds.

#### § 4772. OPIOID SETTLEMENT ADVISORY COMMITTEE

(a) Creation. There is created the Opioid Settlement Advisory Committee to provide advice and recommendations regarding remediation spending from the Opioid Abatement Special Fund established pursuant to this subchapter.

(b) Membership.

(1) The Advisory Committee shall be composed of the following members and shall reflect the diversity of Vermont in terms of gender, race, age, ethnicity, sexual orientation, gender identity, disability status, and

socioeconomic status and ensure inclusion of individuals with lived experience of opioid use disorder and their family members whenever possible:

(A) the Commissioner of Health or designee, who shall serve as a nonvoting chair;

(B) the Commissioner of Mental Health or designee;

(C) the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321;

(D) one current member of the House of Representatives, appointed by the Speaker of the House;

(E) one current member of the Senate, appointed by the Committee on Committees;

(F) a primary care prescriber with experience providing medication-assisted treatment within the Blueprint for Health hub and spoke model, appointed by the Executive Director of the Blueprint for Health, to provide a statewide perspective on the provision of medication-assisted treatment services;

(G) an individual with experience providing substance misuse prevention services and education programming, appointed by the Substance Misuse Prevention Oversight and Advisory Council, to provide a statewide perspective on prevention services and education;

(H) an individual with experience providing substance misuse treatment or recovery services, appointed by the Clinical Director of the Alcohol and Drug Abuse Program or its successor, to provide a statewide perspective on the provision of treatment or recovery, or both;

(I) a provider with academic research credentials, appointed by the University of Vermont, to provide a statewide perspective on academic research relating to opioid use disorder;

(J) two individuals with lived experience of opioid use disorder, including at least one of whom is in recovery, one member appointed by the Howard Center's Safe Recovery program and one member appointed by the Vermont Association of Mental Health and Addiction Recovery, to provide a statewide perspective on the experience of living with opioid use disorder;

(K) an assistant judge, appointed by the Vermont Association of County Judges; and

(L) ten individuals, each employed by or an agent of a different city or town that collectively reflect Vermont's diverse population and geography, appointed by the Vermont League of Cities and Towns.

(2)(A) The term of office of each appointed member shall be four years. Of the members first appointed, 11 shall be appointed for a term of three years and 11 shall be appointed for a term of four years. Members shall hold office for the term of their appointments and until their successors have been appointed. All vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointment. Members are eligible for reappointment.

(B) A member may be removed from the Advisory Committee by the member's appointing entity for cause, which includes only neglect of duty, gross misconduct, conviction of a crime, or inability to perform the responsibilities of the office. The Chair of the Advisory Committee shall simultaneously notify the Governor, the Speaker of the House, and the President Pro Tempore that the member has been removed from the Advisory Committee.

(c) Powers and duties. The Advisory Committee shall demonstrate broad ongoing consultation with individuals living with opioid use disorder about their direct experience with related systems, including medication-assisted treatment, residential treatment, recovery services, harm reduction services, overdose, supervision by the Department of Corrections, and involvement with the Department for Children and Families' Family Services Division. To that end, the Advisory Committee shall demonstrate consultation with individuals with direct lived experience of opioid use disorder, frontline support professionals, the Substance Misuse Advisory Council, and other stakeholders to identify spending priorities as related to opioid use disorder prevention, intervention, treatment, and recovery services and harm reduction strategies for the purpose of providing recommendations to the Governor, the Department of Health, and the General Assembly on prioritizing spending from the Opioid Abatement Special Fund. The Advisory Committee shall consider:

(1) the impact of the opioid crisis on communities throughout Vermont, including communities' abatement needs and proposals for abatement strategies and responses;

(2) the perspectives of and proposals from opioid use disorder prevention coalitions, recovery centers, and medication-assisted treatment providers; and

(3) the ongoing challenges of the opioid crisis on marginalized populations, including individuals who have a lived experience of opioid use disorder.

(d) Assistance. The Advisory Committee shall have the administrative, technical, and legal assistance of the Department of Health.

(e) Presentation. Annually, the Advisory Committee shall present its recommendations for expenditures from the Opioid Abatement Special Fund established pursuant to this subchapter to the Department of Health and concurrently submit its recommendations in writing to the House Committees on Appropriations and on Humans Services and the Senate Committees on Appropriations and on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Health shall call the first meeting of the Advisory Committee to occur on or before June 30, 2022.

(2) The Advisory Committee shall meet at least quarterly but not more than six times per calendar year.

(3) The Advisory Committee shall adopt procedures to govern its proceedings, including voting procedures and how the staggered terms shall be apportioned among members.

(4) All meetings of the Advisory Committee shall be consistent with Vermont's Open Meeting Law pursuant to 1 V.S.A. chapter 5, subchapter 2.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Advisory Committee serving in the member's capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings per year. These payments shall be appropriated from the Opioid Abatement Special Fund.

(2) Other members of Advisory Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings per year. These payments shall be appropriated from the Opioid Abatement Special Fund.

#### § 4773. DESIGNATION OF LEAD STATE AGENCY

The Department of Health shall serve as the lead State agency and single point of contact for submitting requests for funding to the national settlement fund administrator. Approved requests shall be disbursed to the Department for deposit into the Opioid Abatement Special Fund established in section 4774 of this subchapter.

§ 4774. OPIOID ABATEMENT SPECIAL FUND

(a)(1) There is created the Opioid Abatement Special Fund, a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and administered by the Department of Health. The Opioid Abatement Special Fund shall consist of all abatement account fund monies disbursed by the national settlement fund administrator to the Department.

(2) The Department shall include a spending plan, informed by the recommendations of the Opioid Settlement Advisory Committee established pursuant to section 4772 of this subchapter, as part of its annual budget submission, and once approved, the Department shall request to have the funds formally released from the national abatement accounts fund. The Department shall disburse monies from the Opioid Abatement Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 3.

(3) Disbursements from the Opioid Abatement Special Fund shall supplement and not supplant or replace any existing or future local, State, or federal government funding for infrastructure, programs, supports, and resources, including health insurance benefits, federal grant funding, and Medicaid and Medicare funds.

(b) Expenditures from the Opioid Abatement Special Fund shall be used for the following opioid prevention, intervention, treatment, recovery, harm reduction, and evaluation activities:

- (1) preventing overdose deaths and other harms;
- (2) treatment of opioid use disorder;
- (3) support for individuals in treatment and recovery and their families;
- (4) connecting individuals who need help to the help needed;
- (5) addressing the needs of criminal justice-involved persons;
- (6) addressing the needs of pregnant or parenting individuals and their families, including babies with neonatal abstinence syndrome;
- (7) preventing overprescribing and ensuring appropriate prescribing and dispensing of opioids;
- (8) preventing the misuse of opioids;
- (9) educating law enforcement and other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs and providing wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events;

(10) supporting efforts to provide leadership, planning, coordination, facilitation, training, and technical assistance to abate the opioid epidemic;

(11) researching opioid abatement;

(12) implementing other evidence-based or evidence-informed programs or strategies that support prevention, harm reduction, treatment, or recovery of opioid use disorder and any co-occurring substance use or mental health disorder; and

(13) the cost of the administrative, technical, and legal assistance provided to the Advisory Committee by the Department of Health.

(c) Priority for expenditures from the Opioid Abatement Special Fund shall be aimed at reducing overdose deaths, including the following:

(1) promoting the appropriate use of naloxone and other U.S. Food and Drug Administration-approved drugs to reverse opioid overdoses, specifically:

(A) expanding training for first responders, schools, community support groups, families; and

(B) increasing distribution to individuals who are uninsured or whose health insurance does not cover the needed goods and services;

(2) increasing access to medication-assisted treatment and other opioid-related treatment, specifically:

(A) increasing distribution of medication-assisted treatment to individuals who are uninsured or whose health insurance does not cover the needed goods and services;

(B) providing education to school-based and youth-focused programs that discourage or prevent misuse, including how to access opioid use disorder treatment;

(C) providing medication-assisted education and awareness training to health care providers, emergency medical technicians, law enforcement, and other first responders; and

(D) providing treatment and recovery support services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allows or integrates medication and other support services;

(3) assisting pregnant and postpartum individuals, specifically:

(A) enhancing services for expanding screening, brief intervention, and referral to treatment (SBIRT) services to non-Medicaid eligible or uninsured pregnant individuals;



(B) expanding comprehensive evidence-based or evidence-informed treatment and recovery services, including medication-assisted treatment, for individuals with co-occurring opioid use disorder and other substance or mental health disorders for up to 12 months postpartum; and

(C) providing comprehensive wraparound services to pregnant and postpartum individuals with opioid use disorder, including housing, transportation, job placement, training, and child care;

(4) expanding treatment for neonatal abstinence syndrome (NAS), specifically:

(A) expanding comprehensive evidence-based or evidence-informed recovery support for babies with NAS;

(B) expanding services for better continuum of care to address infant needs and support the parent-child relationship; and

(C) expanding long-term treatment and services for medical monitoring of babies with NAS and their families;

(5) expanding the availability of warm handoff programs and recovery services, specifically:

(A) expanding services such as navigators and on-call teams to begin medication-assisted treatment in hospital emergency departments;

(B) expanding warm handoff services to transition to recovery services;

(C) broadening the scope of recovery services to include co-occurring substance use disorder or mental health conditions;

(D) providing comprehensive wraparound services to individuals in recovery, including housing, transportation, job placement, training, and child care; and

(E) hiring additional workers to facilitate the expansions listed in this subdivision (5);

(6) treating incarcerated populations, specifically;

(A) providing evidence-based or evidence-informed treatment and recovery support, including medication-assisted treatment for individuals with opioid use disorder or co-occurring substance use or mental health disorders while transitioning out of the criminal justice system; and

(B) increasing funding for correctional facilities to provide treatment and recovery support to inmates with opioid use disorder;

(7) supporting prevention programs, specifically;

(A) funding for media campaigns to prevent opioid misuse;

(B) funding for evidence-based or evidence-informed prevention in schools;

(C) funding for health care provider education and outreach regarding best prescribing practices for opioids consistent with current Department of Health and U.S. Centers for Disease Control and Prevention guidelines, including providers at hospitals;

(D) funding for community drug disposal programs; and

(E) funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to mental health services and supports;

(8) expanding syringe service programs, specifically providing comprehensive syringe services programs with more wraparound services, including linkages to opioid use disorder treatment, access to sterile syringes, and linkages to care and treatment of infectious diseases; and

(9) facilitating evidence-based or evidence-informed data collection and research analyzing and evaluating the effectiveness of the abatement strategies within Vermont.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

**Rep. Fagan of Rutland City**, for the Committee on Appropriations, recommended that the bill ought to pass when amended as recommended by the Committee on Human Services and when further amended as follows:

First: In Sec. 1, 18 V.S.A. chapter 93, in section 4772, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

### (b) Membership.

(1) The Advisory Committee shall be composed of the following members and shall reflect the diversity of Vermont in terms of gender, race, age, ethnicity, sexual orientation, gender identity, disability status, and socioeconomic status and ensure inclusion of individuals with lived experience of opioid use disorder and their family members whenever possible:

(A) the Commissioner of Health or designee, who shall serve as a nonvoting chair;

(B) the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321;

(C) one current member of the House of Representatives, appointed by the Speaker of the House;

(D) one current member of the Senate, appointed by the Committee on Committees;

(E) a primary care prescriber with experience providing medication-assisted treatment within the Blueprint for Health hub and spoke model, appointed by the Executive Director of the Blueprint for Health, to provide a statewide perspective on the provision of medication-assisted treatment services;

(F) a provider with academic research credentials, appointed by the University of Vermont, to provide a statewide perspective on academic research relating to opioid use disorder;

(G) two individuals with lived experience of opioid use disorder, including at least one of whom is in recovery, one member appointed by the Howard Center's Safe Recovery program and one member appointed by the Vermont Association of Mental Health and Addiction Recovery, to provide a statewide perspective on the experience of living with opioid use disorder;

(H) an assistant judge, appointed by the Vermont Association of County Judges; and

(I) seven individuals, each employed by or an agent of a different city or town that collectively reflect Vermont's diverse population and geography, appointed by the Vermont League of Cities and Towns.

(2)(A) The term of office of each appointed member shall be four years. Of the members first appointed, eight shall be appointed for a term of three years and eight shall be appointed for a term of four years. Members shall hold office for the term of their appointments and until their successors have been appointed. All vacancies shall be filled for the balance of the unexpired term in the same manner as the original appointment. Members are eligible for reappointment.

(B) A member may be removed from the Advisory Committee by the member's appointing entity for cause, which includes only neglect of duty, gross misconduct, conviction of a crime, or inability to perform the responsibilities of the office. The Chair of the Advisory Committee shall simultaneously notify the Governor, the Speaker of the House, and the President Pro Tempore that the member has been removed from the Advisory Committee.

Second: In Sec. 1, 18 V.S.A. chapter 93, in section 4772, in subsection (f), in subdivision (3), by inserting "and organization" after "proceedings"

Third: By adding a new Sec. 2 to read as follows:

Sec. 2. FY23 ADVISORY COMMITTEE EXPENSES; ANTICIPATION OF RECEIPTS

In fiscal year 2023, the Department of Health shall pay the administrative costs and any other expenses related to the activities of the Opioid Settlement Advisory Committee established pursuant to 18 V.S.A. § 4772 in anticipation of receipts.

and by renumbering the remaining section to be numerically correct.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and the report of the Committee on Human Services was amended as recommended by the Committee on Appropriations.

Thereupon, **Rep. Garofano of Essex** moved to amend the report of the Committee on Human Services, as amended, as follows:

By adding a new Sec. 2 to read as follows:

Sec. 2. SUNSET; OPIOID SETTLEMENT ADVISORY COMMITTEE

Upon written certification by the Chair of the Opioid Settlement Advisory Committee to the Governor, the Speaker of the House, and the President Pro Tempore that Vermont's share of monies from the abatement accounts portion of the national settlement fund has been fully expended, the Opioid Settlement Advisory Committee shall cease to exist.

and by renumbering the remaining section to be numerically correct.

Which was agreed to. Thereupon, the report of the Committee on Human Services, as amended, was agreed to and third reading ordered.

**Committee Bill; Second Reading; Bill Amended; Third Reading Ordered**

**H. 716**

**Rep. Webb of Shelburne** spoke for the Committee on Education.

House bill, entitled

An act relating to making miscellaneous changes in education law

**Rep. Beck of St. Johnsbury**, for the Committee on Ways and Means recommended that the bill ought to pass when amended as follows:

In Sec. 1, 16 V.S.A. § 2961 in subdivision (d)(1)(A), by striking out subdivision (i) in its entirety and inserting in lieu thereof a new subdivision (i) to read as follows:

(i) the average amount it received for fiscal years 2018, 2019, and 2020, or the average amount it received for fiscal years 2019, 2020, and 2021, whichever amount is greater, from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

**Rep. Scheu of Middlebury**, for the Committee on Appropriations, recommended the bill ought to pass when amended as recommended by the Committee on Ways and Means.

The bill, having appeared on the Notice Calendar, was taken up and read the second time. Thereafter, the bill was amended as recommended by the Committee on Ways and Means and third reading was ordered.

#### **Action on Bill Postponed**

##### **S. 30**

Senate bill, entitled

An act relating to prohibiting possession of firearms within hospital buildings

Was taken up and, pending consideration of the Governor's veto, on motion of **Rep. Grad of Moretown**, action on the bill was postponed until May 17, 2022.

#### **Committee Relieved of Consideration and Bill Committed to Other Committee**

##### **H. 704**

**Rep. Ancel of Calais** moved that the Committee on Ways and Means be relieved of House bill, entitled

An act relating to the regulation of accessory on-farm businesses

And that the bill be committed to the Committee on Natural Resources, Fish, and Wildlife, which was agreed to.

#### **Adjournment**

At seven o'clock and thirty-eight 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.