

# Journal of the Senate

MONDAY, MAY 9, 2022

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

## Message from the House No. 71

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has considered bills originating in the Senate of the following titles:

**S. 33.** An act relating to project-based tax increment financing districts.

**S. 140.** An act relating to prohibiting civil arrests at courthouses.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to the following House bills:

**H. 464.** An act relating to miscellaneous changes to the Reach Up Program.

**H. 517.** An act relating to the Vermont National Guard Tuition Benefit Program.

**H. 523.** An act relating to reducing hydrofluorocarbon emissions.

And has severally concurred therein.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 161.** House concurrent resolution honoring Alice Harter for her dedicated service as a long-term care ombudsman.

**H.C.R. 162.** House concurrent resolution honoring Vermont Historical Society Librarian extraordinaire Paul A. Carnahan for his superb professional leadership.

**H.C.R. 163.** House concurrent resolution honoring Ludlow civic leader Herbert Van Guilder.

**H.C.R. 164.** House concurrent resolution honoring Linda Wrazen for her exemplary career at Vermont Humanities.

**H.C.R. 165.** House concurrent resolution congratulating the Green Mountain Power Corporation of Colchester on Time Magazine's designating it as one of the 100 most influential companies in the world.

**H.C.R. 166.** House concurrent resolution honoring Berlin Town Clerk Rosemary Morse for 20 years of exemplary dedication to her community.

**H.C.R. 167.** House concurrent resolution commemorating the 75th Anniversary of the U.S. Air Force.

**H.C.R. 168.** House concurrent resolution in memory of former House Majority Leader Willem Westpalm van Hoorn Jewett of Ripton.

**H.C.R. 169.** House concurrent resolution congratulating the Vermont students at the Pioneer Valley Regional School in Northfield, Massachusetts, who are being honored as 2022 Peacemaker Award winners.

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

The House has considered concurrent resolutions originating in the Senate of the following titles:

**S.C.R. 20.** Senate concurrent resolution congratulating the Vermont Spring Open Studio Weekend on its 30th anniversary..

**S.C.R. 21.** Senate concurrent resolution recognizing the week beginning May 1, 2022 as Tardive Dyskinesia Awareness Week in Vermont..

And has adopted the same in concurrence.

The Governor has informed the House that on May 6, 2022, he returned without signature and vetoed a bill originating in the House of the following title:

**H. 715.** An act relating to the Clean Heat Standard.

#### **Text of Communication from Governor**

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. H. 715** to the House is as follows:

**Communication from the Governor**

“May 6, 2022

The Honorable BetsyAnn Wrask  
Clerk of the Vermont House of Representatives  
115 State Street  
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.715, *An act relating to the Clean Heat Standard*, without my signature because of my objections described herein:

As Governor and as elected officials, we have an obligation to ensure Vermonters know the financial costs and impacts of this policy on their lives and the State’s economy. Signing this bill would go against this obligation because the costs and impacts are unknown. The Legislature’s own Joint Fiscal Office acknowledges this fact, saying:

*“It is too soon to estimate the impact on Vermont’s economy, households, and businesses. The way in which the Clean Heat Standard is implemented, including the way in which clean heat credits are priced and how incentives or subsidies are offered to households and businesses, must be established before meaningful analysis is possible. At the same time, those incentives or subsidies could be costly for the State, suggesting larger fiscal impacts in future years.”*

I understand the importance of reducing greenhouse gas emissions, which is why I proposed a \$216 million dollar climate package and why my administration has engaged in this policy conversation since January. However, over the last several months it became very clear to me that no one had a good handle on what this program was going to look like, with some even describing it as a carbon tax on the floor.

I have clearly, repeatedly, and respectfully asked the Legislature to include language that would require the policy *and* costs to come back to the General Assembly in bill form so it could be transparently debated with all the details before any potential burden is imposed. This is how lawmaking and governing is supposed to work and what Vermonters expect, deserve and have a right to receive.

What the Legislature has passed is a bill that includes some policy, with absolutely no details on costs and impacts, and a lot of authority and policy making delegated to the Public Utility Commission (PUC), an unelected board. And regardless of the latest talking points, the bill does not guarantee a full legislative deliberation on the policy, plan and fiscal implications prior to

implementation. By design, this bill and the inadequate “check back” allows legislators to sign off on a policy concept – absent important details – and not own the decision to raise costs on Vermonters.

For these reasons I cannot allow this bill to go into law and strongly urge the Legislature to sustain this veto.

Sincerely,

/s/Philip B. Scott  
Governor

PBS/kp”

### **Message from the House No. 72**

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

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

**S. 139.** An act relating to nondiscriminatory school branding.

And has passed the same in concurrence.

The House has considered bills originating in the Senate of the following titles:

**S. 224.** An act relating to juvenile proceedings.

**S. 226.** An act relating to expanding access to safe and affordable housing.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to the following House bills:

**H. 96.** An act relating to creating the Truth and Reconciliation Commission.

**H. 279.** An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access.

**H. 410.** An act relating to the use and oversight of artificial intelligence in State government.

**H. 546.** An act relating to racial justice statistics.

**H. 551.** An act relating to prohibiting racially and religiously restrictive covenants in deeds.

And has severally concurred therein.

The House has considered Senate proposal of amendment to House bill:

**H. 729.** An act relating to miscellaneous judiciary procedures.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

The House has considered the Governor's veto on Senate bill of the following title:

**S. 286.** An act relating to amending various public pension and other postemployment benefits.

And has passed the same, the refusal of the Governor to approve notwithstanding.

#### **Bills Referred to Committee on Appropriations**

House bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**H. 512.** An act relating to modernizing land records and notarial acts law.

**H. 730.** An act relating to alcoholic beverages and the Department of Liquor and Lottery.

**H. 738.** An act relating to technical and administrative changes to Vermont's tax laws.

#### **Senate Resolution Referred**

##### **S.R. 26.**

Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Brock, Clarkson, Balint, Benning, Bray, Campion, Chittenden, Collamore, Cummings, Hardy, Hooker, Ingalls, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Parent, Pearson, Perchlik, Pollina, Ram Hinsdale, Sears, Sirotkin, Starr, Terenzini, Westman, and White,

**S.R. 26.** Senate resolution urging the Vermont Congressional Delegation to introduce and pursue the enactment of legislation authorizing permanent U.S. residency eligibility for the more than 800 international victims of the Vermont EB-5 scandal.

*Whereas*, in 1990, as part of the Immigration Act of 1990, Pub. L. No. 101-649, Congress established the EB-5 program, codified at 8 U.S.C. § 153 (b)(5), enabling citizens of other nations who contribute a designated sum to a job-creating business development project to become eligible for permanent U.S. residency, and

*Whereas*, the EB-5 program is administered through the U.S. Department of Homeland Security's U.S. Citizenship and Immigration Services and the program's designated regional centers, and

*Whereas*, in the Northeast Kingdom, Ariel Quiros, Bill Stenger, and William Kelly established a series of construction projects at the Jay Peak and Burke Mountain ski areas—some of which were completed, and others of which were only partially completed or were completed contrary to the way they had been described to the investors— and in Newport, where the AnC Bio medical research facility was never built, and

*Whereas*, millions of dollars were fraudulently misspent on these projects, some on personal expenses, and the more than 800 total victimized contributors from over 70 nations, each of whom contributed \$500,000.00 in anticipation of being granted permanent U.S. residency, were denied this outcome, and

*Whereas*, the creators of these projects have been subject to civil and criminal penalties, including jail terms, and

*Whereas*, Congress has recognized the problems with the EB-5 program and, in the Consolidated Appropriations Act of 2022, Pub. L. No. 117-103, revised the EB-5 program with the intent of addressing its weaknesses, and

*Whereas*, although the EB-5 program, as administered in connection with these Vermont projects, lacked sufficient safeguards, the individual contributors of \$500,000.00 were acting in good faith, and

*Whereas*, as the perpetrators of the Vermont EB-5 scandal have been punished, and the EB-5 statute amended, the more than 800 victims of this financial catastrophe deserve to be made eligible for the permanent U.S. residency they reasonably assumed was forthcoming, and

*Whereas*, the only way this unfair situation may be remedied is if Congress enacts legislation specifically authorizing the victims of the Vermont EB-5 scandal, if otherwise qualified, to be granted their long-anticipated permanent U.S. residency, *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont urges the Vermont Congressional Delegation to introduce and pursue the enactment of legislation authorizing

permanent U.S. residency eligibility for the more than 800 international victims of the Vermont EB-5 scandal, *and be it further*

**Resolved:** That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Thereupon, the President, in her discretion, treated the joint resolution as a bill and referred it to the Committee on Government Operations.

### **House Proposal of Amendment Concurred In**

#### **S. 261.**

House proposal of amendment to Senate bill entitled:

An act relating to municipal retention of property tax collections.

Was taken up.

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

By striking out Sec. 2, effective date, in its entirety, and inserting in lieu thereof:

Sec. 2. 32 V.S.A. § 5412(e) is amended to read:

(e) A reduction made under this section shall be an amount equal to the loss in education grand list value multiplied by the tax rate applicable to the subject property in the year the request is submitted. However, the total amount for all reductions made under this section in one year shall not exceed ~~\$100,000.00~~ \$1,000,000.00. If total reductions for a calendar year would exceed this amount, the Director shall instead prorate the reductions proportionally among all municipalities eligible for a reduction so that total reductions equal ~~\$100,000.00~~ \$1,000,000.00.

Sec. 3. 32 V.S.A. § 5413 is added to read:

#### § 5413. STATE APPRAISAL AND LITIGATION ASSISTANCE PROGRAM

(a) A State appraisal and litigation assistance program shall be created within the Division of Property Valuation and Review of the Department of Taxes to assist municipalities with the valuation of complex commercial or other unique properties within a municipality's jurisdiction and to assist with any appeals arising from those valuations. The Commissioner of Taxes may contract with one or more commercial appraisers to provide State appraisal and litigation assistance to municipalities under this section. The Commissioner may adopt rules to administer the provisions of this section.

(b) The Commissioner shall:

(1) determine the conditions for a property to be eligible for State assistance, including the grand list value or category of the property or other relevant factors as determined by the Commissioner; and

(2) provide a process by which a municipality may apply for assistance under this section for one or more properties.

(c) Any municipality assisted under this section shall be considered to have followed best practices pursuant to subdivision 5412(a)(1)(D) of this title.

#### Sec. 4. COST ESTIMATE; NEW STATE PROGRAM

On or before January 15, 2023, the Commissioner of Taxes shall submit a cost estimate for the creation of a new State appraisal and litigation assistance program within the Division of Property Valuation and Review of the Department of Taxes to the House Committees on Appropriations and on Ways and Means and the Senate Committees on Appropriations and on Finance. The cost estimate under this section shall include the upfront and ongoing operating costs required to create, implement, and maintain a new program, including contracting with one or more commercial appraisers to provide State assistance to municipalities.

#### Sec. 5. 32 V.S.A. § 4461(a) is amended to read:

(a) A taxpayer or the selectboard members of a town aggrieved by a decision of the board of civil authority under subchapter 1 of this chapter may appeal the decision of the board to either the Director or the Superior Court of the county in which the property is located. The appeal to the Superior Court shall be heard without a jury. The appeal to either the Director or the Superior Court shall be commenced by filing a notice of appeal pursuant to Rule 74 of the Vermont Rules of Civil Procedure within 30 days after entry of the decision of the board of civil authority. The date of mailing of notice of the board's decision by the town clerk to the taxpayer shall be deemed the date of entry of the board's decision. The town clerk shall transmit a copy of the notice to the Director or to the Superior Court as indicated in the notice and shall record or attach a copy of the notice in the grand list book. The entry fee for an appeal to the Director is \$70.00; provided, however, that the Director may waive, reduce, or refund the entry fee in cases of hardship or to join appeals regarding the same parcel. If, in the opinion of the Director, an appeal under this subsection involves a complex or unique property or valuation that would be best adjudicated by the Superior Court, the Director may decline to assign a property valuation hearing officer pursuant to section 4465 of this title and shall forward the appeal to the Superior Court where it shall be heard. An appeal forwarded by the Director under this subsection shall be considered timely filed in the Superior Court if it was timely appealed to the Director.



Sec. 6. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY VALUATION HEARING OFFICER; OATH; PAY

When an appeal to the Director is not withdrawn or forwarded by the Director to Superior Court pursuant to subsection 4461(a) of this title, the Director shall refer the appeal in writing to a person not employed by the Director, appointed by the Director as hearing officer. The Director shall have the right to remove a hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the Director shall appoint a hearing officer to fill any vacancy created by resignation, removal, or other cause. Before entering into their duties, persons appointed as hearing officers shall take and subscribe the oath of the office prescribed in the Constitution, which oath shall be filed with the Director. The Director shall pay each hearing officer a sum not to exceed \$150.00 per diem for each day wherein hearings are held, together with reasonable expenses as the Director may determine. A hearing officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

Sec. 7. REPORT; TIME-SHARE PROJECT VALUATION

On or before January 15, 2023, the Commissioner of Taxes shall submit a report to the House Committee on Ways and Means and the Senate Committee on Finance proposing options for addressing the complexities of valuing time-share projects in this State. The report under this section shall include a review of other states' time-share project valuation laws and an evaluation of the feasibility of applying those formulas in Vermont. The report shall propose any recommendations for legislative changes to clarify the valuation of time-share projects.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 2 (refund for reduction in grand list value) shall take effect on January 1, 2023 and shall apply to municipal requests for reduction submitted on or after January 1, 2023 for a final appeal or court action resolved within the previous calendar year, beginning with the 2022 calendar year.

(2) Sec. 3 (State appraisal and litigation assistance program) shall take effect on July 1, 2023, provided the General Assembly has, on or before July 1, 2023, appropriated funding to cover the Department of Taxes' operating costs required to create, implement, and maintain a new State appraisal and litigation assistance program.

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

An act relating to municipal retention of property tax collections and valuation for purposes of the education property tax.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

### House Proposal of Amendment Concurred In

#### S. 269.

House proposal of amendment to Senate bill entitled:

An act relating to extending the Energy Savings Account Partnership Pilot Program.

Was taken up.

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

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

\* \* \* Home Weatherization Assistance Program \* \* \*

Sec. 3. 33 V.S.A. § 2502 is amended to read:

§ 2502. HOME WEATHERIZATION ASSISTANCE PROGRAM

\* \* \*

(b) In addition, the Director shall supplement, or supplant, any federal program with the State Home Weatherization Assistance Program.

(1) The State program shall provide an enhanced weatherization assistance amount exceeding the federal per unit limit allowing amounts up to an average of \$8,500.00 per unit allocated on a cost-effective basis. The allowable average per unit may be adjusted to account for the lower cost per unit of multifamily buildings. In units where costs exceed the allowable average by more than 25 percent, prior approval of the Director of the State Economic Opportunity Office shall be required before work commences. This amount shall be adjusted annually ~~by increasing the last year's amount by the percentage increase in the Consumer Price Index for the previous year to~~ account for inflation of materials and labor.

\* \* \*

\* \* \* Reauthorization and Extension of VEGI \* \* \*

Sec. 4. FY 2020–2022; VEGI AWARDS

Any awards for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 granted by the Vermont Economic Progress Council

between January 1, 2021 and enactment of this act are authorized by the General Assembly.

Sec. 5. 2016 Acts and Resolves No. 157, Sec. H.12 is amended to read:

Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD  
INCENTIVES

Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after January 1, ~~2021~~ 2024.

Sec. 6. EFFECTIVE DATES

This act shall take effect on passage except that, notwithstanding 1 V.S.A. § 214, Sec. 4 (VEGI awards) shall take effect retroactively on December 31, 2020.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**Bill Passed in Concurrence**

**H. 743.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to amending the charter of the Town of Hardwick.

**Joint Resolution Adopted on the Part of the Senate**

**J.R.S. 53.**

Joint Senate resolution of the following title was read the third time and adopted on the part of the Senate:

Joint resolution supporting transgender youth and their parents who seek essential medical care for the treatment of gender dysphoria.

**Third Readings Ordered**

**H. 742.**

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the Town of Milton.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**H. 746.**

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to an amendment to the charter of the City of Burlington.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Proposal of Amendment; Third Reading Ordered**

**H. 572.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the retirement allowance for interim educators.

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

Sec. 1. FY 2023; RESTORATION OF SERVICE; VERMONT STATE  
TEACHERS' RETIREMENT SYSTEM

(a) Authority. Notwithstanding 16 V.S.A. § 1939 or any other provision of law, in fiscal year 2023, a beneficiary who retired from the System as a Group A or a Group C member may resume service, as that term is defined in 16 V.S.A. § 1931, to serve as an interim school educator for a period not to exceed one school year and receive the beneficiary's retirement allowance for the entire period that service is resumed, provided that:

(1) the beneficiary has received a retirement allowance for six months or more immediately preceding the resumption of service;

(2) the employer of the beneficiary is subject to the assessment set forth in 16 V.S.A. § 1944d on behalf of the beneficiary and remits payment to the Benefits Fund; and

(3) the employer of the beneficiary remits a one-time fee of \$2,500.00 to the State Treasurer for administrative costs associated with the beneficiary resuming service.

(b) Period of service. A person who resumes service under subsection (a) of this section shall not make any contributions to the System during the

person's period of service and shall not be entitled to a retirement allowance separately computed for the period that service was resumed.

(c) Employment certification. Each superintendent who hires an interim school educator pursuant to subsection (a) of this section shall certify to the Board that the district exhausted all reasonable options to employ a qualified active educator prior to employing a beneficiary as an interim school educator.

(d) Renewal.

(1) In fiscal years 2024 and 2025, the State Treasurer is authorized to grant not more than two renewals for a one-fiscal-year period to the authority described in subsection (a) of this section. The State Treasurer shall make the determination to renew the authority not earlier than June 1 but not later than June 30 in each fiscal year and shall notify the House and Senate Committees on Government Operations of the determination.

(2) In the event the State Treasurer makes a determination to renew the authority pursuant to subdivision (1) of this subsection, a beneficiary may only resume service during each one-year renewal period if service is performed in a different interim school educator position.

(e) Repeal. This section shall be repealed on June 30, 2026.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Brock, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

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**Proposal of Amendment; Third Reading Ordered****H. 626.**

Senator Pearson, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to the sale, use, or application of neonicotinoid pesticides.

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

Sec. 1. 6 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter unless the context clearly requires otherwise:

(1) “Secretary” shall have the meaning stated in subdivision 911(4) of this title.

(2) “Cumulative” when used in reference to a substance means that the substance so designated has been demonstrated to increase twofold or more in concentration if ingested or absorbed by successive life forms.

(3) “Dealer or pesticide dealer” means any person who regularly sells pesticides in the course of business, but not including a casual sale.

(4) “Economic poison” shall have the meaning stated in subdivision 911(5) of this title.

(5) “Pest” means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganisms, which the Secretary declares as being injurious to health or environment. Pest shall not mean any viruses, bacteria, or other microorganisms on or in living humans or other living animals.

(6) “Pesticide” for the purposes of this chapter shall be used interchangeably with “economic poison.”

(7) “Treated article” means a pesticide or class of pesticides exempt under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

(8) “Neonicotinoid pesticide” means any economic poison containing a chemical belonging to the neonicotinoid class of chemicals.

(9) “Neonicotinoid treated article seeds” are treated article seeds that are treated or coated with a neonicotinoid pesticide.

Sec. 2. 6 V.S.A. § 1105a is amended to read:

§ 1105a. TREATED ARTICLES; POWERS OF SECRETARY; BEST MANAGEMENT PRACTICES

(a) The Secretary of Agriculture, Food and Markets, upon the recommendation of the Agricultural Innovation Board, may adopt by rule:

(1) best management practices (BMPs), standards, procedures, and requirements relating to the sale, use, storage, or disposal of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(2) requirements for the response to or corrective actions for exigent circumstances or contamination from a treated article that presents a threat to human health or the environment;

(3) requirements for the examination or inspection of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous;

(4) requirements for persons selling treated articles to keep or make available to the Secretary records of sale of treated articles, and what treatments were received, the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous; or

(5) requirements for reporting of incidents resulting from accidental contamination from or misuse of treated articles the use of which the Agricultural Innovation Board has determined will have a hazardous or long-term deleterious effect on the environment, presents a likely risk to human health, or is dangerous.

(b) At least 30 days prior to prefiling a rule authorized under subsection (a) or subsection (c) of this section with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837, the Secretary shall submit a copy of the draft rule to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry for review.

(c)(1) Under subsection (a) of this section, the Secretary of Agriculture, Food and Markets, after consultation with the Agricultural Innovation Board, shall adopt by rule BMPs for the use in the State of neonicotinoid treated article seeds. In developing the rules with the Agricultural Innovation Board, the Secretary shall address:

(A) establishment of threshold levels of pest pressure required prior to use of neonicotinoid treated article seeds;

(B) availability of nontreated article seeds that are not neonicotinoid treated article seeds;

(C) economic impact from crop loss as compared to crop yield when neonicotinoid treated article seeds are used;

(D) relative toxicities of different neonicotinoid treated article seeds and the effects of neonicotinoid treated article seeds on human health and the environment;

(E) surveillance and monitoring techniques for in-field pest pressure;

(F) ways to reduce pest harborage from conservation tillage practices; and

(G) criteria for a system of approval of neonicotinoid treated article seeds.

(2) In implementing the rules required under this subsection, the Secretary of Agriculture, Food and Markets shall work with farmers, seed companies, and other relevant parties to ensure that farmers have access to appropriate varieties and amounts of untreated seed or treated seed that are not neonicotinoid treated article seeds.

Sec. 3. 6 V.S.A. § 3036 is added to read:

#### § 3036. MONITORING OF POLLINATOR HEALTH

The Secretary of Agriculture, Food and Markets shall monitor managed pollinator health to establish pollinator health benchmarks for Vermont, including:

(1) presence of pesticides in hives;

(2) mite pressure;

(3) disease pressure;

(4) mite control methods;

(5) genetic influence on survival;

(6) winter survival rate; and

(7) forage availability.

#### Sec. 4. IMPLEMENTATION; REPORT; RULEMAKING

(a) On or before March 1, 2024, the Secretary of Agriculture, Food, and Markets shall submit to the Senate Committee on Agriculture and the House



Committee on Agriculture and Forestry a copy of the proposed rules required to be adopted under 6 V.S.A. § 1105a.

(b) The Secretary of Agriculture shall not file the final proposal of the rules required by 6 V.S.A. § 1105a under 3 V.S.A. § 841 until at least 90 days from submission of the proposed rules to the General Assembly under subsection (a) of this section or July 1, 2024, which ever shall occur first.

Sec. 5. REVIEW AND REPORT ON BMPS FOR TREATED ARTICLE SEEDS

On or before February 15, 2023, the Agricultural Innovation Board shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a written report regarding whether best management practices (BMPs) should be adopted for the use of treated article seeds that are not neonicotinoid treated article seeds. The report shall include:

(1) a summary of the Agricultural Innovation Board's review of treated article seeds that are not neonicotinoid treated article seeds, including identification of treated article seeds that may have adverse effects on human health or the environment;

(2) a recommendation of whether BMPs for treated article seeds that are not neonicotinoid treated article seeds should be adopted and whether they should be adopted by rule; and

(3) proposed BMPs for treated article seeds that are not neonicotinoid treated article seeds.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Agriculture.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

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**Proposals of Amendment; Third Reading Ordered****H. 697.**

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to eligibility of reserve forestland for enrollment in the Use Value Appraisal Program.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2, 32 V.S.A. chapter 124, section 3752, by striking out subdivision (17) in its entirety and inserting in lieu thereof a new subdivision (17) to read as follows:

(17) "Reserve forestland" means land that is managed for the purpose of attaining old forest values and functions in accordance with minimum acceptable standards for forest management and as approved by the Commissioner of Forests, Parks and Recreation. On parcels of up to 100 acres, 50 percent or more of the enrolled parcel acres shall be composed of significant and sensitive conditions in accordance with the minimum acceptable standards established by the Commissioner. On parcels of 100 acres or more, 30 percent of the enrolled parcel acres shall be composed of significant and sensitive conditions in accordance with the minimum acceptable standards established by the Commissioner.

Second: By striking out Secs. 4, report on enrollment of reserve forestland, and 5, effective dates, in their entirety and inserting in lieu thereof three new sections to be Secs. 4–6 to read as follows:

**Sec. 4. REPORT ON ENROLLMENT OF RESERVE FORESTLAND**

On or before January 15, 2026, the Commissioner of Forests, Parks and Recreation, after consultation with the Director of Property Valuation and Review, shall report to the House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance regarding enrollment of managed forestland under the Use Value Appraisal Program. The report shall include:

(1) a summary of how enrollment of managed forestland in the Use Value Appraisal Program has changed since passage of this act, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas;

(2) the number of persons enrolling land in the Use Value Appraisal Program as reserve forestland;

(3) any other information that the Commissioner determines is relevant to the ongoing enrollment of reserve forestland in the Use Value Appraisal Program, including any relevant information regarding any impacts to the overall managed forestland category;

(4) recommendations on how to promote the long-term enrollment of land in the reserve forestland category of enrolled land in order to attain old forest conditions or functions and values; and

(5) a recommendation on how to protect or conserve the functions and values of significant and sensitive acres enrolled as reserve forestland when the owner of the land wishes to amend the category or subcategory of enrollment.

Sec. 5. ANNUAL REPORT; DIVISION OF PROPERTY VALUATION  
AND REVIEW

As part of the annual report required under 32 V.S.A. § 3412, the Director of the Division of Property Valuation and Review shall include an assessment of how enrollment of managed forestland in the Use Value Appraisal Program has changed since reserve forestland was approved as eligible managed forestland, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (report on enrollment of reserve forestland), 3a (implementation), 4 (report on enrollment), and 5 (Division of Property Valuation and Review report) shall take effect on passage.

(b) Sec. 2 (Use Value Appraisal Program) shall take effect on July 1, 2023.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Bray, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Natural Resources and Energy.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered****H. 709.**

Appearing on the Calendar for notice, on motion of Senator Balint, the rules were suspended and House bill entitled:

An act relating to miscellaneous agricultural subjects.

Was taken up for immediate consideration.

Senator Parent, for the Committee on Agriculture, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 12, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof a new Sec. 12 and a Sec. 13 and their reader assistance headings to read as follows:

\* \* \* Franklin County State Airport; Primary Agricultural Soils \* \* \*

Sec. 12. CONVERSION OF PRIMARY AGRICULTURAL SOILS;  
FRANKLIN COUNTY STATE AIRPORT

Notwithstanding 1 V.S.A. § 214 or any provision of 10 V.S.A. chapter 151 to the contrary, the conversion of primary agricultural soils by a development or subdivision at the Franklin County State Airport shall not be required to conduct mitigation or pay a mitigation fee for the conversion of primary agricultural soils under 10 V.S.A. chapter 151 if:

(1)(A) the development or subdivision is the result of improvements or maintenance authorized under 5 V.S.A. chapter 15, subchapter 6; or

(B) the development or subdivision was authorized under the Federal Aviation Administration airport master plan for Franklin County State Airport; and

(2) Franklin County State Airport obtains any permit or permit amendment that may be required under 10 V.S.A. chapter 151 for the development or subdivision.

\* \* \* Effective Dates \* \* \*

Sec. 13. EFFECTIVE DATES

(a) This section and Sec. 12 (airport; agricultural soils) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Brock, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

By striking out Secs. 12, conversion of primary agricultural soils; Franklin County State Airport, and 13, effective dates, and their reader assistance headings in their entireties and inserting in lieu thereof a new Sec. 12 and its reader assistance heading to read as follows:

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

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Agriculture was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered.

**Rules Suspended; Proposals of Amendment; Third Reading Ordered**

**H. 446.**

Appearing the Calendar for notice, on motion of Senator Balint, the rules were suspended and House bill entitled:

An act relating to miscellaneous natural resources and development subjects.

Was taken up for immediate consideration.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 4, Environmental Contingency Fund, and its reader assistance heading in their entirety and inserting in lieu thereof a new Sec. 4 and reader assistance to read as follows.

\* \* \* Waste Management Assistance \* \* \*

Sec. 4. [Deleted.]

Second: By striking out Sec. 24, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof six new sections to be Secs. 24–29 and their reader assistance headings to read as follows:

\* \* \* Food Residuals Management \* \* \*

Sec. 24. MORATORIUM ON ISSUANCE OF SOLID WASTE FACILITY CERTIFICATIONS FOR FOOD DEPACKAGING FACILITIES

Beginning on May 1, 2022, the Secretary of Natural Resources shall not, under 10 V.S.A. chapter 159, issue a new solid waste facility certification for a food depackaging facility or amend an existing solid waste facility certification that results in an increase of capacity at a currently certified food depackaging facility until the rules required under Sec. 27 of this act are adopted and in effect.

Sec. 25. STAKEHOLDER GROUP ON THE ROLE OF DEPACKAGERS IN MANAGING FOOD WASTE

(a) On or before July 1, 2022, the Secretary of Natural Resources shall convene a collaborative stakeholder process to make recommendations on the proper management of packaged organic materials, including:

(1) recommendations on whether the organics management hierarchy in 10 V.S.A. § 6605k should apply to each generator of organic waste;

(2) whether the Agency of Natural Resources should modify its existing policy surrounding the source separation of organic wastes; and

(3) any recommendations on the proper use of depackagers in the management of organic waste.

(b) The stakeholder process shall include the following participants appointed by the Secretary of Natural Resources:

(1) a representative of the Agency of Agriculture, Food and Markets;

(2) a food waste composter;

(3) a farm that allows animals to forage food waste;

(4) a representative of a company operating a depackaging facility;

(5) a representative from the Vermont Retailers and Grocers Association;

(6) a representative from a company that anaerobically digests food waste; and

(7) a representative from a food product manufacturing company in Vermont.

(c) On or before January 15, 2023, the Secretary of Natural Resources shall submit the recommendations of the stakeholder process required by this section to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife.

Sec. 26. STUDY ON MICROPLASTICS AND PFAS IN FOOD  
PACKAGING AND FOOD WASTE

On or before January 15, 2024, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife a report regarding the prevalence of microplastics and per- and polyfluoroalkyl substances (PFAS) in food waste and food packaging in Vermont. The report shall include:

(1) a list of the organics management facilities certified in the State under 10 V.S.A. chapter 159;

(2) a summary of the organics management system in Vermont that includes the transportation of food processing residuals and postconsumer food waste and the materials created by organics management facilities and how that material is managed after creation;

(3) a summary of existing data on the levels of microplastics and plastics in the material produced from organics management facilities in the State, including whether the materials have levels of PFAS above background levels;

(4) a summary of the methods used domestically and internationally by jurisdictions with physical contamination standards to evaluate the percentage by weight of physical contamination present in the material produced by depackaging facilities, residual waste, digestate, compost, and soil amendments;

(5) identification of data gaps to the effective management of microplastics and recommendations on how to close those data gaps; and

(6) recommendations on management changes that will reduce the levels of microplastics in the environment, including:

(A) special management requirements at facilities;

(B) bans of certain containers or packaging that pose greater management risks;

(C) restrictions on the location of managing materials that contain high levels of microplastics;

(D) implementation of the food residuals hierarchy set forth in 10 V.S.A. § 6605k or the current requirements around source separation of organic material from waste material; and

(E) if possible in light of the data, a recommendation for a standard methodology for testing microplastics and a health-based standard for microplastics.

#### Sec. 27. RULEMAKING

(a) The Secretary of Natural Resources shall adopt by rule requirements for the operation of food waste management facilities certified to operate in the State. The rules may:

(1) establish management standards for the operation of a food waste management facility;

(2) prohibit certain containers and packaging from being managed in a food waste management facility;

(3) establish standards for hand source separation instead of mechanical depackaging;

(4) establish requirements for implementation of the food residuals hierarchy set forth in 10 V.S.A. § 6605k;

(5) place restrictions on the types of food waste that may be managed at a food waste management facility;

(6) adopt a testing methodology for microplastics;

(7) adopt a standard for microplastics from food waste management facilities that protects human health or natural resources; or

(8) at the recommendation of the Secretary of Agriculture, Food and Markets, adopt a standard for microplastics or per- and polyfluoroalkyl substances from food waste management facilities that protects animal health, agricultural soils, or other agricultural resources.

(b) The Secretary of Natural Resources shall not initiate rulemaking under this section until the recommendations required by Secs. 25 and 26 of this act are submitted to the Vermont General Assembly.

#### Sec. 28. REPEAL

Sec. 24 (moratorium on food depackaging facilities) of this act shall be repealed on the date that the rules required under Sec. 27 of this act are adopted and in effect.



\* \* \* Effective Dates \* \* \*

Sec. 29. EFFECTIVE DATES

(a) This section and Secs. 24–28 (food residuals management) shall take effect on passage.

(b) The remainder of the act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Bray, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Natural Resources and Energy.

Senator Nitka, for the Committee on Appropriations to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Natural Resources and Energy.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

**Rules Suspended; Action Messaged**

On motion of Senator Balint, the rules were suspended, and the action on the following bills was ordered messaged to the House forthwith:

**S. 261, S. 269.**

**Rules Suspended; Bill and Joint Resolution Messaged**

On motion of Senator Balint, the rules were suspended, and the following bill and joint resolution were severally ordered messaged to the House forthwith:

**H. 743 and J.R.S. 53.**

**Committee of Conference Appointed**

**S. 210.**

An act relating to rental housing health and safety and affordable housing.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Sirotkin  
Senator Clarkson  
Senator Brock

---

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

### **Adjournment**

On motion of Senator Balint, the Senate adjourned until four o'clock in the afternoon.

### **Called to Order**

The Senate was called to order by the President.

### **Message from the House No. 73**

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

**S. 283.** An act relating to miscellaneous changes to education laws.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Webb of Shelburne  
Rep. Conlon of Cornwall  
Rep. Cupoli of Rutland City

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

**H. 548.** An act relating to miscellaneous cannabis establishment procedures.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Copeland Hanzas of Bradford  
Rep. Gannon of Wilmington  
Rep. Colston of Winooski

### **Message from the House No. 74**

A message was received from the House of Representatives by Ms. Alona Tate, its Second Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

**S. 53.** An act relating to exempting feminine hygiene products from the Vermont Sales and Use Tax.

And has adopted the same on its part.

The House has considered Senate proposals of amendment to the following House bills:

**H. 465.** An act relating to boards and commissions.

**H. 739.** An act relating to capital construction and State bonding budget adjustment.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The Governor has informed the House that on May 9, 2022, he approved and signed bills originating in the House of the following titles:

**H. 635.** An act relating to secondary enforcement of minor traffic offenses.

**H. 655.** An act relating to telehealth licensure and registration and to provisional licensure for professions regulated by the Office of Professional Regulation.

**H. 741.** An act relating to approval of amendments to the charter of the City of St. Albans.

### **Senate Resolution Placed on Calendar**

#### **S.R. 27.**

Senate resolution of the following title was offered, read the first time and is as follows:

By Senate Committee on Government Operations,

**S.R. 27.** Senate resolution relating to reaffirming the friendship between Vermont and the Republic of China (Taiwan) and supporting both enhanced United States-Taiwan bilateral relations and Taiwan's participation in the international community.

*Whereas*, the United States and the Republic of China (Taiwan) share a vibrant, mutually beneficial bilateral relationship based on our common values

of freedom, democracy, the rule of law, and a free market economy, and the relationship has never been stronger, and

*Whereas*, the United States is Taiwan's second-largest trading partner, and Taiwan is the United States' eighth-largest trading partner, and American trade in goods with Taiwan totaled an estimated \$114.1 billion in 2021, and

*Whereas*, a Bilateral Trade Agreement (BTA) between Taiwan and the United States would increase Vermont exports to Taiwan and create more jobs in the State, and

*Whereas*, Vermont and Taiwan have enjoyed a long history of productive bilateral relations as Taiwan is our second-largest export market, and, in 2020, the two jurisdictions entered into a driver's license reciprocity agreement, and

*Whereas*, the Government of Taiwan desires to establish a Memorandum of Understanding with the State of Vermont to increase educational exchanges, *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont reaffirms the friendship between Vermont and the Republic of China (Taiwan) and supports enhanced United States-Taiwan bilateral relations and Taiwan's participation in the international community, *and be it further*

***Resolved:*** That the Secretary of the Senate be directed to send a copy of this resolution to President Joseph R. Biden, President Tsai Ing-wen of the Republic of China (Taiwan), Director-General Jonathan Sun of the Taipei Economic and Cultural Office in Boston, Governor Philip B. Scott, and to the Vermont Congressional Delegation.

Thereupon, under Rule 34 and 51, the resolution was placed on the Calendar for notice.

**House Proposal of Amendment Concurred In**

**S. 161.**

House proposal of amendment to Senate bill entitled:

An act relating to extending the baseload renewable power portfolio requirement.

Was taken up.

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

Sec. 1. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO  
REQUIREMENT

\* \* \*

(b) Notwithstanding subsection 8004(a) and subdivision 8005(c)(1) of this title, commencing November 1, 2012, each Vermont retail electricity provider shall purchase the provider's pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, ~~2024~~ 2032 unless terminated earlier pursuant to subsection (k) of this section.

\* \* \*

(d) ~~The~~ On or before November 1, 2026, the Commission shall determine, for the period beginning on November 1, 2026 and ending on November 1, 2032, the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The Commission shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25. The price shall be the avoided cost of the Vermont composite electric utility system. ~~As used in~~ As used in this subsection, the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity, or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a source using the same generation technology as the proposed plant. ~~For the purposes of~~ For the purposes of this subsection, the term "avoided cost" also includes the Commission's consideration of each of the following:

(1) The relevant cost data of the Vermont composite electric utility system.

(2) The terms of the potential contract, including the duration of the obligation.

(3) The availability, during the system's daily and seasonal peak periods, of capacity or energy from a proposed plant.

(4) The relationship of the availability of energy or capacity, renewable energy credits and attributes, and other ISO New England revenue streams from the proposed plant to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs. Vermont retail electricity providers shall receive all output of the baseload renewable plant unless the contract price is reduced to reflect the value of all products, attributes, and services that are retained by the seller.

(5) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the proposed plant.

(6) The supply and cost characteristics of the proposed plant, including the costs of operation and maintenance of an existing plant during the term of a proposed contract.

(7) Mechanisms for encouraging dispatch of the plant relative to the ISO New England wholesale energy price and value of regional renewable energy credits while also respecting the physical operating parameters, the fixed costs of the proposed plant, and the impact on the forest economy.

(8) The appropriate assignment of risks associated with the ISO New England Forward Capacity Market Pay for Performance program.

(e) In determining the price under subsection (d) of this section, the Commission:

(1) may require a plant proposed to be used to satisfy the baseload renewable power portfolio requirement to produce such information as the Commission reasonably deems necessary;

(2) shall not consider the following in the determination of avoided cost:

(A) capital investments made to meet the efficiency goal established in subsection (k) of this section;

(B) revenue generated by the capital investment made to meet the efficiency goal established in subsection (k) of this section; and

(C) operational costs and operational impacts associated with the project or projects implemented to meet the efficiency goals established in subsection (k) of this section; and

(3) notwithstanding subdivision (2)(C), shall consider sharing with Vermont retail electricity providers the benefits associated with waste heat that may be used to benefit a facility that does not provide baseload renewable energy.

(f) With respect to a plant used to satisfy the baseload renewable power portfolio requirement:

\* \* \*

(2) Any tradeable renewable energy credits and attributes that are attributable to the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection

unless the Commission approves the plant owner retaining renewable energy credits and attributes or other ISO New England revenue streams. If the Commission approves the plant owner retaining renewable energy credits and attributes, or other ISO New England revenue streams, the price paid by the Vermont retail electricity providers pursuant to this section may be reduced by the Commission to reflect the value of those credits, attributes, products, or services.

\* \* \*

(j) The Commission shall authorize any Agency participating in a proceeding pursuant to this section or an order issued under this section to assess its costs against a proposed plant consistent with section 21 of this title.

(k) Collocation and efficiency requirements.

(1) The owner of the plant used to satisfy the baseload renewable power portfolio requirement shall cause the plant's overall efficiency to be increased by at least 50 percent relative to the 12-month period preceding July 1, 2022. In achieving this efficiency, the owner shall comply with the requirements of this subsection.

(2) On or before July 1, 2023, the owner of the plant shall submit to the Commission and the Department:

(A) A signed contract providing for the construction of a facility at the plant that utilizes the excess thermal heat generated at the plant for a beneficial purpose. As used in this subdivision (A), beneficial purpose may include the displacement of fossil fuel use for the sustainable production of a product or service or more efficient or less costly generation of electricity.

(B) A certification by a qualified professional engineer that the construction of the facility shall meet the requirement of subdivision (1) of this subsection (k).

(3) On or before October 1, 2024, the owner of the plant shall submit to the Commission and the Department a certification that the main components of the facility used to meet the requirement of subdivision (1) of this subsection (k) have been completed.

(4) If the contract and certification required under subdivision (2) of this subsection are not submitted to the Commission and Department on or before July 1, 2023 or if the certification required under subdivision (3) is not submitted to the Commission and Department on or before October 1, 2024, then the obligation under this section for each Vermont retail electricity provider to purchase a pro rata share of the baseload renewable power portfolio requirement shall cease on November 1, 2024, and the Commission

is not required to conduct the rate determination provided for in subsection (d) of this section.

(5) On or before September 1, 2025, the Department shall investigate and submit a recommendation to the Commission on whether the plant has achieved the requirement of subdivision (1) of this subsection. If the Department recommends that the plant has not achieved the requirement of subdivision (1) of this subsection, the obligation under this section shall cease on November 1, 2025, and the Commission is not required to conduct the rate determination provided for in subsection (d) of this section.

(6) After November 1, 2026, the owner of the plant shall report annually to the Department and the Department shall verify the overall efficiency of the plant for the prior 12-month period. If the overall efficiency of the plant falls below the requirement of subdivision (1) of this subsection, the report shall include a plan to return the plant to the required efficiency within one year.

(7) If, after implementing the plan in subdivision (6) of this subsection, the owner of the plant does not achieve the efficiency required in subdivision (1) of this subsection, the Department shall request that the Commission commence a proceeding to terminate the obligation under this section.

(8) The Department may retain research, scientific, or engineering services to assist it in making the recommendation required under subdivision (5) of this subsection and in reviewing the information required under subdivision (6) of this subsection and may allocate the expense incurred or authorized by it to the plant's owner.

(1) Annual report. Beginning on August 1, 2023, the owner of the plant used to satisfy the baseload renewable power portfolio shall report annually to the House Committee on Energy and Technology and Senate Committee on Finance, the Commissioner of Forests, Parks and Recreation, and the Secretary of Commerce and Community Development on the wood fuel purchases for the plant. The report shall include the average monthly price paid for the wood fuel and the source of the wood fuel, including location, number, types, and sources of non-forest-derived wood.

Sec. 2. 2021 Acts and Resolves No. 39, Sec. 2 is amended to read:

## Sec. 2. PUBLIC UTILITY COMMISSION ORDER EXTENSION

All decisions and orders of the former Public Service Board and the Public Utility Commission in the matter Investigation into the Establishment of a Standard-Offer Price for Baseload Renewable Power under the Sustainably Priced Energy Enterprise Development (SPEED) Program, Docket No. 7782, shall remain in full force and effect through October 31, ~~2024~~ 2026. For years



2023 and, 2024, and 2025 and the period from January 1, 2026 to October 31, 2026, the purchase price shall be the levelized value determined in Docket No. 7782.

### Sec. 3. REPORT; RYEGATE DECOMMISSIONING FUND

On or before January 15, 2023, the Department of Public Service (Department) shall assess the current value of the Ryegate decommissioning fund and determine if it is sufficient to cover the costs necessary to decommission the plant. The Department shall submit the report to the General Assembly and include any recommendations.

### Sec. 4. REPORT; WOOD FUEL PRICES

(a) The Commissioner of Forests, Parks and Recreation in consultation with the Secretary of Commerce and Community Development shall conduct analysis and calculate a minimum fair market price for wood fuel to be used by the plant used to satisfy the baseload renewable power portfolio requirement. The Commissioner may hire a forest economist and interview wood chip fuel producers and examine their costs to determine a range in cost of production that accounts for different equipment types, delivery distance, average wages paid to employees, and return on investment of the enterprises.

(b) The Commissioner of Forests, Parks and Recreation may assess the costs of hiring a consultant for the purposes of the report in subsection (a) of this section on the owners of the baseload renewable power plant, up to \$10,000.00.

(c) On or before July 1, 2024, the Commissioner shall submit the calculation to the House Committee on Energy and Technology, the Senate Committee on Finance, and the Public Utility Commission.

### Sec. 5. HARVESTING PRACTICES

The Secretary of Natural Resources shall review the Memorandum of Understanding (MOU) that is part of Docket No. 5217 regarding the harvesting policy for Ryegate's wood procurement. On or before July 1, 2023, the Secretary shall provide an update to the House Committee on Energy and Technology and the Senate Committee on Finance on any recommended or completed modifications to the MOU to promote sustainable and healthy forests and forest economy in the region.

### Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

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**Rules Suspended; Third Reading Ordered****H. 745.**

Appearing on the Calendar for notice, on motion of Senator Balint, the rules were suspended and House bill entitled:

An act relating to the approval of the adoption of the charter of the Town of Montgomery.

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Senator Pearson, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Rules Suspended; Bills Immediate Consideration**

On motion of Senator Balint, the rules were suspended, and the following bills were severally taken up for immediate consideration:

**S. 33, S. 140, S. 234, H. 353, H. 489, H. 518, H. 716, H. 737, H. 738.**

**Proposal of Amendment; Third Reading Ordered****H. 353.**

Senator Hooker, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to pharmacy benefit management.

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

**Sec. 1. INTENT**

It is the intent of the General Assembly to increase access to needed medications by making prescription drugs more affordable and accessible to Vermonters by increasing State regulation of pharmacy benefit managers and pharmacy benefit management. It is also the intent of the General Assembly to stabilize and safeguard against the loss of more independent and community pharmacies, where pharmacists provide personalized care to Vermonters and help them with their health care needs, including medication management, medication adherence, and health screenings.

Sec. 1a. 18 V.S.A. § 9421 is amended to read:

§ 9421. PHARMACY BENEFIT MANAGEMENT; REGISTRATION;  
INSURER AUDIT OF PHARMACY BENEFIT MANAGER  
ACTIVITIES

\* \* \*

(f) The Department of Financial Regulation shall monitor the cost impacts on Vermont consumers of pharmacy benefit manager regulation pursuant to this section, subchapter 9 of this chapter, and 8 V.S.A. chapter 107 and shall recommend appropriate modifications to the laws as needed to promote health care affordability in this State.

(g) As used in this section:

\* \* \*

Sec. 2. 18 V.S.A. chapter 221, subchapter 9 is amended to read:

Subchapter 9. Pharmacy Benefit Managers

§ 9471. DEFINITIONS

As used in this subchapter:

\* \* \*

(2) “Health insurer” is defined by section 9402 of this title and shall include:

(A) a health insurance company, a nonprofit hospital and medical service corporation, and health maintenance organizations;

(B) an employer, labor union, or other group of persons organized in Vermont that provides a health plan to beneficiaries who are employed or reside in Vermont; and

(C) the State of Vermont and any agent or instrumentality of the State that offers, administers, or provides financial support to State government; ~~and~~

~~(D) Medicaid, and any other public health care assistance program.~~

\* \* \*

(5) “Pharmacy benefit manager” means an entity that performs pharmacy benefit management, except an entity that provides pharmacy benefit management services for Vermont Medicaid. The term includes a person or entity in a contractual or employment relationship with an entity performing pharmacy benefit management for a health plan.

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\* \* \*

(7) “Pharmacy benefit manager affiliate” means a pharmacy or pharmacist that, directly or indirectly, through one or more intermediaries, is owned or controlled by, or is under common ownership or control with, a pharmacy benefit manager.

§ 9472. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES  
WITH RESPECT TO HEALTH INSURERS AND COVERED  
PERSONS

(a) A pharmacy benefit manager that provides pharmacy benefit management for a health plan ~~shall discharge its duties with reasonable care and diligence and be fair and truthful under the circumstances then prevailing that a pharmacy benefit manager acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims~~ has a fiduciary duty to its health insurer client that includes a duty to be fair and truthful toward the health insurer, to act in the health insurer’s best interests, and to perform its duties with care, skill, prudence, and diligence. In the case of a health benefit plan offered by a health insurer as defined by subdivision 9471(2)(A) of this title, the health insurer shall remain responsible for administering the health benefit plan in accordance with the health insurance policy or subscriber contract or plan and in compliance with all applicable provisions of Title 8 and this title.

(b) A pharmacy benefit manager shall provide notice to the health insurer that the terms contained in subsection (c) of this section may be included in the contract between the pharmacy benefit manager and the health insurer.

(c) A pharmacy benefit manager that provides pharmacy benefit management for a health plan shall do all of the following:

(1) Provide all financial and utilization information requested by a health insurer relating to the provision of benefits to beneficiaries through that health insurer’s health plan and all financial and utilization information relating to services to that health insurer. A pharmacy benefit manager providing information under this subsection may designate that material as confidential. Information designated as confidential by a pharmacy benefit manager and provided to a health insurer under this subsection ~~may~~ shall not be disclosed by the health insurer to any person without the consent of the pharmacy benefit manager, except that disclosure may be made by the health insurer:

(A) in a court filing under the consumer protection provisions of 9 V.S.A. chapter 63, provided that the information shall be filed under seal and that prior to the information being unsealed, the court shall give notice and an

opportunity to be heard to the pharmacy benefit manager on why the information should remain confidential;

(B) to State and federal government officials;

(C) when authorized by 9 V.S.A. chapter 63;

~~(C)~~(D) when ordered by a court for good cause shown; or

~~(D)~~(E) when ordered by the Commissioner as to a health insurer as defined in subdivision 9471(2)(A) of this title pursuant to the provisions of Title 8 and this title.

(2) Notify a health insurer in writing of any proposed or ongoing activity, policy, or practice of the pharmacy benefit manager that presents, directly or indirectly, any conflict of interest with the requirements of this section.

(3) With regard to the dispensation of a substitute prescription drug for a prescribed drug to a beneficiary in which the substitute drug costs more than the prescribed drug and the pharmacy benefit manager receives a benefit or payment directly or indirectly, disclose to the health insurer the cost of both drugs and the benefit or payment directly or indirectly accruing to the pharmacy benefit manager as a result of the substitution.

(4) ~~Unless the contract provides otherwise, if~~ If the pharmacy benefit manager derives any payment or benefit for the dispensation of prescription drugs within the State based on volume of sales for certain prescription drugs or classes or brands of drugs within the State, pass that payment or benefit on in full to the health insurer.

(5) Disclose to the health insurer all financial terms and arrangements for remuneration of any kind that apply between the pharmacy benefit manager and any prescription drug manufacturer that relate to benefits provided to beneficiaries under or services to the health insurer's health plan, including formulary management and drug-switch programs, educational support, claims processing, and pharmacy network fees charged from retail pharmacies and data sales fees. A pharmacy benefit manager providing information under this subsection may designate that material as confidential. Information designated as confidential by a pharmacy benefit manager and provided to a health insurer under this subsection ~~may~~ shall not be disclosed by the health insurer to any person without the consent of the pharmacy benefit manager, except that disclosure may be made by the health insurer:

(A) in a court filing under the consumer protection provisions of 9 V.S.A. chapter 63, provided that the information shall be filed under seal and that prior to the information being unsealed, the court shall give notice and an

opportunity to be heard to the pharmacy benefit manager on why the information should remain confidential;

(B) when authorized by 9 V.S.A. chapter 63;

(C) when ordered by a court for good cause shown; or

(D) when ordered by the Commissioner as to a health insurer as defined in subdivision 9471(2)(A) of this title pursuant to the provisions of Title 8 and this title.

(d) At least annually, a pharmacy benefit manager that provides pharmacy benefit management for a health plan shall disclose to the health insurer, the Department of Financial Regulation, and the Green Mountain Care Board the aggregate amount the pharmacy benefit manager retained on all claims charged to the health insurer for prescriptions filled during the preceding calendar year in excess of the amount the pharmacy benefit manager reimbursed pharmacies.

(e) A pharmacy benefit manager contract with a health insurer shall not contain any provision purporting to reserve discretion to the pharmacy benefit manager to move a drug to a higher tier or remove a drug from its drug formulary any more frequently than two times per year.

(f)(1) A pharmacy benefit manager shall not require a covered person purchasing a covered prescription drug to pay an amount greater than the lesser of:

(A) the cost-sharing amount under the terms of the health benefit plan;

(B) the maximum allowable cost for the drug; or

(C) the amount the covered person would pay for the drug if the covered person were paying the cash price.

(2) Any amount paid by a covered person under subdivision (1) of this subsection shall be attributed toward any deductible and, to the extent consistent with Sec. 2707 of the Public Health Service Act (42 U.S.C. § 300gg-6), the annual out-of-pocket maximums under the covered person's health benefit plan.

(g) Compliance with the requirements of this section is required for pharmacy benefit managers entering into contracts with a health insurer in this State for pharmacy benefit management in this State.

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES  
WITH RESPECT TO PHARMACIES

(a) Within 14 calendar days following receipt of a pharmacy claim, a pharmacy benefit manager or other entity paying pharmacy claims shall do one of the following:

(1) Pay or reimburse the claim.

(2) Notify the pharmacy in writing that the claim is contested or denied. The notice shall include specific reasons supporting the contest or denial and a description of any additional information required for the pharmacy benefit manager or other payer to determine liability for the claim.

(b) A participation contract between a pharmacy benefit manager and a pharmacist shall not prohibit, restrict, or penalize a pharmacy or pharmacist in any way from disclosing to any covered person any health care information that the pharmacy or pharmacist deems appropriate, including:

(1) the nature of treatment, risks, or alternatives to treatment;

(2) the availability of alternate therapies, consultations, or tests;

(3) the decision of utilization reviewers or similar persons to authorize or deny services;

(4) the process that is used to authorize or deny health care services; or

(5) information on financial incentives and structures used by the health insurer.

(c) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

~~(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;~~

~~(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug;~~

~~(3) require a pharmacy to pass through any portion of the insured's co-payment, or patient responsibility, to the pharmacy benefit manager or other payer;~~

(2) prohibit a pharmacy or pharmacist from discussing information regarding the total cost for pharmacist services for a prescription drug;

~~(4)~~(3) prohibit or penalize a pharmacy or pharmacist for providing information to an insured regarding the insured's cost-sharing amount for a prescription drug; or

~~(5)~~(4) prohibit or penalize a pharmacy or pharmacist for the pharmacist or other pharmacy employee disclosing to an insured the cash price for a prescription drug or selling a lower cost drug to the insured if one is available.

(d) A pharmacy benefit manager contract with a participating pharmacist or pharmacy shall not prohibit, restrict, or limit disclosure of information to the Commissioner, law enforcement, or State and federal government officials, provided that:

(1) the recipient of the information represents that the recipient has the authority, to the extent provided by State or federal law, to maintain proprietary information as confidential; and

(2) prior to disclosure of information designated as confidential, the pharmacist or pharmacy:

(A) marks as confidential any document in which the information appears; and

(B) requests confidential treatment for any oral communication of the information.

(e) A pharmacy benefit manager shall not terminate a contract with or penalize a pharmacist or pharmacy due to the pharmacist or pharmacy:

(1) disclosing information about pharmacy benefit manager practices, except for information determined to be a trade secret under State law or by the Commissioner, when disclosed in a manner other than in accordance with subsection (d) of this section; or

(2) sharing any portion of the pharmacy benefit manager contract with the Commissioner pursuant to a complaint or query regarding the contract's compliance with the provisions of this chapter.

~~(e)~~(f) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost, which shall not be dependent upon individual beneficiary identification or benefit stage.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or



temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4)(A) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that, except as provided in subdivision (B) of this subdivision (4), a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

(B) A pharmacy benefit manager shall allow a dispensing pharmacy provider to appeal after the 10-calendar-day appeal period set forth in subdivision (A) of this subdivision (4) if the prescription claim is subject to an audit initiated by the pharmacy benefit manager or its auditing agent.

(5) For a denied appeal, provide the reason for the denial and identify the national drug code and a Vermont-licensed wholesaler of an equivalent drug product that may be purchased by contracted pharmacies at or below the maximum allowable cost.

(6) For an appeal in which the appealing pharmacy is successful:

(A) make the change in the maximum allowable cost within 30 business days after the redetermination; and

(B) allow the appealing pharmacy or pharmacist to reverse and rebill the claim in question.

~~(d)~~(g) A pharmacy benefit manager shall not:

(1) require a claim for a drug to include a modifier or supplemental transmission, or both, to indicate that the drug is a 340B drug unless the claim is for payment, directly or indirectly, by Medicaid; or

(2) restrict access to a pharmacy network or adjust reimbursement rates based on a pharmacy's participation in a 340B contract pharmacy arrangement.

(h)(1) A pharmacy benefit manager or other third party that reimburses a 340B covered entity for drugs that are subject to an agreement under 42 U.S.C. § 256b through the 340B drug pricing program shall not reimburse the 340B covered entity for pharmacy-dispensed drugs at a rate lower than that paid for the same drug to pharmacies that are not 340B covered entities, and the pharmacy benefit manager shall not assess any fee, charge-back, or other adjustment on the 340B covered entity on the basis that the covered entity participates in the 340B program as set forth in 42 U.S.C. § 256b.

(2) With respect to a patient who is eligible to receive drugs that are subject to an agreement under 42 U.S.C. § 256b through the 340B drug pricing program, a pharmacy benefit manager or other third party that makes payment for the drugs shall not discriminate against a 340B covered entity in a manner that prevents or interferes with the patient's choice to receive the drugs from the 340B covered entity.

(i) A pharmacy benefit manager shall not reimburse a pharmacy or pharmacist in this State an amount less than the amount the pharmacy benefit manager reimburses a pharmacy benefit manager affiliate for providing the same pharmacist services.

(j) A pharmacy benefit manager shall not restrict, limit, or impose requirements on a licensed pharmacy in excess of those set forth by the Vermont Board of Pharmacy or by other State or federal law, nor shall it withhold reimbursement for services on the basis of noncompliance with participation requirements.

(k) A pharmacy benefit manager shall provide notice to all participating pharmacies prior to changing its drug formulary.

Sec. 3. 18 V.S.A. § 3802 is amended to read:

§ 3802. PHARMACY RIGHTS DURING AN AUDIT

Notwithstanding any provision of law to the contrary, whenever a health insurer, a third-party payer, or an entity representing a responsible party conducts an audit of the records of a pharmacy, the pharmacy shall have a right to all of the following:

\* \* \*

(2) If an audit is to be conducted on-site at a pharmacy, the entity conducting the audit:

(A) shall give the pharmacy at least 14 days' advance written notice of the audit and the specific prescriptions to be included in the audit; and

(B) ~~may~~ shall not audit a pharmacy on Mondays or on weeks containing a federal holiday, unless the pharmacy agrees to alternative timing for the audit; and

~~(3) Not to have an entity~~

(C) shall not audit claims that:

~~(A)(i)~~ were submitted to the pharmacy benefit manager more than 18 months prior to the date of the audit, unless:

~~(i)(I)~~ required by federal law; or

~~(ii)~~(II) the originating prescription was dated within the 24-month period preceding the date of the audit; or

~~(B)~~(ii) exceed 200 selected prescription claims.

(3) If any audit is to be conducted remotely, the entity conducting the audit:

(A) shall give the pharmacy at least seven business days following the pharmacy's confirmation of receipt of the notice of the audit to respond to the audit; and

(B) shall not audit claims that:

(i) were submitted to the pharmacy benefit manager more than three months prior to the date of the audit or on a date earlier than that for which the pharmacy could electronically retransmit a corrected claim; or

(ii) exceed five selected prescription claims.

\* \* \*

(19) To have the preliminary audit report delivered to the pharmacy within ~~60~~ 30 days following the ~~conclusion of the audit~~ pharmacy's preliminary response.

\* \* \*

(21) To have a final audit report delivered to the pharmacy within ~~120~~ 30 days after the end of the appeals period, as required by section 3803 of this title.

\* \* \*

(24) To have all payment data related to audited claims, including:

(A) payment amount;

(B) any direct and indirect remuneration (DIR) or generic effective rate (GER) fees assessed or other financial offsets;

(C) date of electronic payment or check date and number;

(D) the specific contracted reimbursement basis for each claim, including its basis, such as maximum allowable cost (MAC), wholesale acquisition cost (WAC), average wholesale price (AWP), or average manufacturer price (AMP); and

(E) the respective values used to calculate each claim payment.

Sec. 4. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

(a) As used in this section:

\* \* \*

(4) “Pharmacy benefit manager affiliate” means a pharmacy or pharmacist that, directly or indirectly, through one or more intermediaries, is owned or controlled by, or is under common ownership or control with, a pharmacy benefit manager.

(5) “Drug” or “prescription drug” has the same meaning as “prescription drug” in 26 V.S.A. § 2022 and includes:

(A) biological products, as defined in 18 V.S.A. § 4601;

(B) medications used to treat complex, chronic conditions, including medications that require administration, infusion, or injection by a health care professional;

(C) medications for which the manufacturer or the U.S. Food and Drug Administration requires exclusive, restricted, or limited distribution; and

(D) medications with specialized handling, storage, or inventory reporting requirements.

\* \* \*

(b) A health insurer ~~and~~ or pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions for all prescription drugs in the same manner and at the same level of reimbursement as they are filled by ~~mail-order pharmacies~~ any other pharmacist or pharmacy, including a mail-order pharmacy or a pharmacy benefit manager affiliate, with respect to the quantity of drugs or days’ supply of drugs dispensed under each prescription.

(c) Notwithstanding any provision of a health insurance plan to the contrary, if a health insurance plan provides for payment or reimbursement that is within the lawful scope of practice of a pharmacist, the insurer may provide payment or reimbursement for the service when the service is provided by a pharmacist.

(d)(1) A health insurer or pharmacy benefit manager shall permit a participating network pharmacy to perform all pharmacy services within the lawful scope of the profession of pharmacy as set forth in 26 V.S.A. chapter 36.

(2) A health insurer or pharmacy benefit manager shall not do any of the following:

(A) Require a covered individual, as a condition of payment or reimbursement, to purchase pharmacist services, including prescription drugs, exclusively through a mail-order pharmacy or a pharmacy benefit manager affiliate.

(B) Offer or implement plan designs that require a covered individual to use a mail-order pharmacy or a pharmacy benefit manager affiliate.

(C) Order a covered individual, orally or in writing, including through online messaging, to use a mail-order pharmacy or a pharmacy benefit manager affiliate.

(D) Establish network requirements that are more restrictive than or inconsistent with State or federal law, rules adopted by the Board of Pharmacy, or guidance provided by the Board of Pharmacy or by drug manufacturers that operate to limit or prohibit a pharmacy or pharmacist from dispensing or prescribing drugs.

(E) Offer or implement plan designs that increase plan or patient costs if the covered individual chooses not to use a mail-order pharmacy or a pharmacy benefit manager affiliate. The prohibition in this subdivision (E) includes requiring a covered individual to pay the full cost for a prescription drug when the covered individual chooses not to use a mail-order pharmacy or a pharmacy benefit manager affiliate.

(3) A health insurer or pharmacy benefit manager shall not, by contract, written policy, or written procedure, require that a pharmacy designated by the health insurer or pharmacy benefit manager dispense a medication directly to a patient with the expectation or intention that the patient will transport the medication to a health care setting for administration by a health care professional.

(4) A health insurer or pharmacy benefit manager shall not, by contract, written policy, or written procedure, require that a pharmacy designated by the health insurer or pharmacy benefit manager dispense a medication directly to a health care setting for a health care professional to administer to a patient.

(5) The provisions of this subsection shall not apply to Medicaid.

Sec. 5. DEPARTMENT OF FINANCIAL REGULATION; PHARMACY  
BENEFIT MANAGEMENT; REPORT

(a) The Department of Financial Regulation, in consultation with interested stakeholders, shall consider:

(1) whether pharmacy benefit managers should be required to be licensed to operate in this State;

(2) whether pharmacy benefit managers should be prohibited from conducting or participating in spread pricing;

(3) the cost impacts of pharmacy benefit manager licensure and related regulatory measures in other states that have enacted such legislation;

(4) in collaboration with the Board of Pharmacy, whether any amendments to the Board's rules are needed to reflect necessary distinctions or appropriate limitations on pharmacist scope of practice;

(5) whether there should be a minimum dispensing fee that pharmacy benefit managers and health insurers must pay to pharmacies and pharmacists for dispensing prescription drugs;

(6) how a pharmacy should be reimbursed for a claim if a pharmacy benefit manager denies a pharmacy's appeal in whole or in part, including whether the pharmacy should be allowed to submit a claim to the health insurer for the balance between the pharmacy benefit manager's reimbursement and the pharmacy's reasonable acquisition cost plus a dispensing fee;

(7) whether there is a problem in Vermont of pharmacies soliciting health insurance plan beneficiaries directly to market the pharmacy's services and, if so, how best to address the problem; and

(8) other issues relating to pharmacy benefit management and its effects on Vermonters, on pharmacies and pharmacists, and on health insurance in this State.

(b) On or before January 15, 2023, the Department of Financial Regulation shall provide its findings and recommendations regarding the issues described in subsection (a) of this section to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

#### Sec. 6. APPLICABILITY

(a) The provisions of Sec. 2 of this act (18 V.S.A. chapter 221, subchapter 9, pharmacy benefit managers) shall apply to a contract or health plan issued, offered, renewed, recredentialled, amended, or extended on or after January 1, 2023, including any health insurer that performs claims processing or other prescription drug or device services through a third party.

(b) A person doing business in this State as a pharmacy benefit manager on or before January 1, 2023 shall have six months following that date to come into compliance with the provisions of Sec. 2 of this act (18 V.S.A. chapter

221, subchapter 9, pharmacy benefit managers).

Sec. 7. 2021 Acts and Resolves No. 74, Sec. E.227.2 is amended to read:

Sec. E.227.2 REPEAL

18 V.S.A. § 9473~~(d)~~(g) (pharmacy benefit managers; 340B entities) is repealed on ~~January 1, 2023~~ April 1, 2024.

Sec. 8. EFFECTIVE DATES

(a) Secs. 1a (18 V.S.A. § 9421), 2 (18 V.S.A. chapter 221, subchapter 9), 3 (18 V.S.A. § 3802), and 4 (8 V.S.A. § 4089j) shall take effect on January 1, 2023.

(b) The remaining sections shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 24, Nays 4.

Senator Collamore having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Baruth, Bray, Brock, Champion, Chittenden, Clarkson, Collamore, Hardy, Hooker, Ingalls, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Ram Hinsdale, Sears, Sirotkin, Starr, Terenzini, White.

**Those Senators who voted in the negative were:** \*Cummings, Parent, Perchlik, Westman.

**Those Senators absent and not voting were:** Benning, Kitchel.

\*Senator Cummings explained her vote as follows:

“I voted NO because I am concerned that undoing the arrangements between the Health Insurers and PBM around the dispensing of specialty drugs will significantly add to the cost of health insurance. I will be introducing an amendment prior to third reading to have these proposals studied by DFR.”

#### **Proposal of Amendment; Third Reading Ordered**

#### **H. 716.**

Senator Chittenden, for the Committee on Education, to which was referred House bill entitled:

An act relating to making miscellaneous changes in education law.

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

\* \* \* Special Education Funding \* \* \*

Sec. 1. 16 V.S.A. § 2961 is amended to read:

§ 2961. CENSUS GRANT

\* \* \*

(d)(1)(A) For fiscal year 2023, the amount of the census grant for a supervisory union shall be:

(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

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

\* \* \*

\* \* \* Holocaust Education; Report \* \* \*

Sec. 2. HOLOCAUST EDUCATION; REPORT AND RECOMMENDATIONS

On or before January 15, 2023, the Agency of Education shall issue a written report to the Senate and House Committees on Education on the status of Holocaust education in public schools and its recommendations to ensure that Holocaust education is included in the educational programs provided to students in public schools. In preparing the report and recommendations, the Agency of Education shall work with the Vermont Holocaust Memorial to avail themselves of that organization's knowledge of the subject and experience in Vermont schools.



\* \* \* Crime Insurance Coverage for School Districts \* \* \*

Sec. 3. 16 V.S.A. § 492 is amended to read:

§ 492. POWERS, DUTIES, AND LIABILITIES; BONDS

(a) The powers, duties, and liabilities of the collector, treasurer, prudential committee, and clerk shall be like those of a town collector, treasurer, board of school directors, and the school board clerk, respectively.

(b) Before entering upon their duties, the collector and treasurer shall give a bond to the district conditioned for the faithful performance of their duties, in such sum as may be required. ~~When~~ In lieu of taking a bond from a collector or treasurer, or both, a school district may choose to provide suitable crime insurance covering the collector or treasurer, or both. If a school district has not provided suitable crime insurance in lieu of a bond and a collector or treasurer for 10 days neglects to give a bond as required, his or her that office shall be vacant.

\* \* \* Peer Review Support Grant Program \* \* \*

Sec. 4. EDUCATOR WORKFORCE DEVELOPMENT; APPROPRIATION;  
REPORT

(a) Purpose. The purpose of this section is to encourage and support the development and retention of qualified and effective Vermont educators. To combat the growing educator shortage throughout the State and meet the needs of Vermont students, it is necessary to invest in nontraditional educator training programs.

(b) Grant program.

(1) Program creation. In fiscal year 2023, there is established the Peer Review Support Grant Program, to be administered by the Agency of Education, to provide grants to expand support, mentoring, and professional development to prospective educators seeking licensure through the Agency of Education's peer review process, with the goal of increased program completion rates.

(2) Program administration. The Agency shall adopt policies, procedures, and guidelines necessary for implementation of the Program described in subdivision (1) of this subsection.

(3) Eligibility criteria. The Agency shall issue grants to organizations or school districts with programs designed to provide prospective educators in the peer review program the support necessary for successful completion of the peer review process by providing:

(A) support through the Praxis exam process;

(B) local educator lead seminars designed around the Vermont licensure portfolio themes;

(C) local educator mentors;

(D) support in completing the peer review portfolio and licensing process; and

(E) continued professional development support within the first year of licensure.

(4) Report. On or before January 15, 2023, the Agency of Education shall report to the Senate and House Committees on Education on the status of the implementation of the Peer Review Support Grant Program and a summary and performance review of the programs to which grants were awarded. The report shall include any metrics used in the performance review, the number of program participants, endorsement areas of participants, feedback from participants and mentors, and any recommendation for legislative action.

(c) Appropriation. Notwithstanding 16 V.S.A. § 4025(d), the sum of \$712,500.00 is appropriated from the Education Fund to the Agency of Education in fiscal year 2023 for the purpose of funding the Peer Review Support Grant Program.

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

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Hardy, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Education?, Senators Pearson, Bray, Campion, Chittenden, Hardy, Hooker, Lyons, Perchlik, Pollina and Terenzini moved to amend the proposal of amendment of the Committee on Education by striking out Sec. 5, effective dates, and its

reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Income-Based Education Tax Study Committee \* \* \*

Sec. 5. INCOME-BASED EDUCATION TAX; STUDY COMMITTEE

(a) Creation. There is created the Income-Based Education Tax Study Committee to study and make recommendations regarding the creation and implementation of an income-based education tax system to replace the homestead property tax system for education funding in this State.

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

(1) three 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) three 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. The Study Committee shall study the creation and implementation of an income-based education tax system, including the following issues:

(1) restructuring the renter credit under 32 V.S.A. chapter 154 or creating a new credit or other mechanisms to ensure that Vermonters who rent a primary residence participate fairly in the education income tax system;

(2) transitioning from the current homestead property tax system to a new income-based education tax system;

(3) accurate modeling, given the differences between household income for homestead property tax purposes and adjusted gross income for income tax purposes;

(4) whether there should be a limit to the amount of income subject to a new income-based education tax;

(5) challenges or other considerations for administering a new proposed education income tax system;

(6) with regard to income as a tax base, the impact of a new proposed education income tax on the State's taxing capacity, including the impact on the General Fund; and

(7) any other relevant considerations.

(d) Assistance. The Study Committee shall have the administrative, technical, and legal assistance of the Agency of Education, the Department of

Taxes, the Joint Fiscal Office, the Office of Legislative Counsel, and the Office of Legislative Operations and shall consult with the Vermont League of Cities and Towns and any other interested stakeholders.

(e) Report. On or before December 30, 2022, the Study Committee shall submit a written report to the House Committees on Education and on Ways and Means and the Senate Committees on Education and on Finance with its findings and recommendations for legislative action, which shall include proposed legislative language.

(f) Meetings.

(1) The Joint Fiscal Office shall call the first meeting of the Study Committee to occur on or before July 15, 2022.

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

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Study Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

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

#### Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

Which was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Education, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

#### **Proposals of Amendment; Third Reading Ordered**

#### **H. 738.**

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to technical and administrative changes to Vermont's tax laws.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 15, 10 V.S.A. § 4255(c)(7), in its entirety and inserting in lieu thereof:

Sec. 15. 10 V.S.A. § 4255(c)(7) is amended to read:

(7) A certified citizen of a Native American Indian tribe that has been recognized by the State pursuant to 1 V.S.A. chapter 23 may receive a ~~free permanent fishing license or, if the person qualifies for a hunting license, a free permanent combination hunting and fishing license~~ free of charge one or all of the permanent fishing, hunting, or trapping licenses set forth in subdivisions (1)(A)–(D) of this subsection if qualified for the license and upon submission of a current and valid tribal identification card.

Second: By striking out Sec. 17, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

\* \* \* Legislative Expense Reimbursement \* \* \*

Sec. 17. 32 V.S.A. § 1052(b) is amended to read:

(b) During any session of the General Assembly, each member is entitled to receive expenses as follows:

(1) Mileage reimbursement. ~~An allowance~~ Reimbursement equal to the cost of ~~one round-trip each day between Montpelier and the member's home~~ actual mileage traveled for each day of session in which the member ~~did not rent lodging in Montpelier or the vicinity. If a member rents lodging in Montpelier or the vicinity for an entire week of session, the member is entitled to an allowance for the cost of one round-trip for that week~~ travels between Montpelier and the member's home or from Montpelier or from the member's home to another site on officially sanctioned legislative business. ~~The allowance~~ Reimbursement of actual mileage traveled under this subdivision shall be at the rate per mile determined by the federal Office of Government-wide Policy and published in the Federal Register for the year of the session.

\* \* \*

(4) ~~Intent. It is the intent of the General Assembly that only a member who is away from home and remains in Montpelier or the vicinity on the night preceding or following the day in which that member's chamber met shall receive reimbursement for expenses as provided in subdivision (1) of this subsection. [Repealed.]~~

\* \* \* 529 Plans; Student Loan Repayment; VHEIP Income Tax Credit \* \* \*

Sec. 18. 32 V.S.A. § 5825a(b) is amended to read:

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years except when the distribution:

(1) is used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6);

(2) is used for a qualifying expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); or

(3) is made after the death of the beneficiary or after the beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C. § 72; or

(4) is used for qualified higher education expense loan repayment pursuant to 26 U.S.C. § 529(c)(9), provided the loan being repaid was used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6).

\* \* \* Communications Union Districts \* \* \*

Sec. 19. 30 V.S.A. § 8086(c)(3) is amended to read:

(3) establish standards for recouping grant funds and transferring ownership of grant-funded network assets ~~to the State~~ if a grantee materially fails to comply with the terms and conditions of a grant;

Sec. 20. 30 V.S.A. § 8086(h) is added to read:

(h)(1) The Board shall require a communications union district that borrows funds for the purpose of financing a broadband project to immediately provide written notice to the Board in the event the communications union district becomes aware that it is at risk of defaulting on the payment of principal or interest on a loan when due. The Board, in turn, shall promptly provide written notice to the General Assembly, or to the Joint Fiscal Committee if the General Assembly is not in session, of such risk of default and shall include in its notification a description of any potential ramifications of the default under the terms and conditions of the applicable loan.

(2) If a communications union district defaults on the payment of principal or interest on a loan secured by grant-funded network assets, such assets may not be transferred or sold for a period of 180 calendar days commencing on the day the loan became past due. To the extent reasonably practicable, it is the

intent of the General Assembly that publicly owned network assets remain publicly owned assets.

\* \* \* Crime Insurance Coverage; Municipal Officer or Employee \* \* \*

Sec. 21. 24 V.S.A. §§ 832 and 833 are amended to read:

§ 832. BONDS; REQUIREMENTS

Before the school directors, constable, road commissioner, collector of taxes, treasurer, assistant treasurer when appointed by the selectboard, clerk, and any other officer or employee of the town who has authority to receive or disburse town funds enter upon the duties of their offices, the selectboard shall require each to have crime insurance coverage or give a bond conditioned for the faithful performance of his or her duties: the school directors, to the town school district; the other named officers, to the town. The treasurer, assistant treasurer when appointed by the selectboard, and collector shall also be required to have crime insurance coverage or give a bond to the town school district for like purpose. All such crime insurance coverage or bonds shall be in sufficient sums and with sufficient sureties as prescribed and approved by the selectboard. If the selectboard at any time considers the crime insurance coverage or a bond of any such officer or employee to be insufficient, it may require, by written order, the officer or employee to give an additional bond in such sum as it deems necessary. If an officer or employee, so required, neglects for ten days after such request to give such original or additional bond, his or her office shall be vacant. A bond or crime insurance coverage furnished pursuant to the provisions of this section shall not be valid if signed by any other officer of the same municipality as surety thereon.

§ 833. APPROVAL; RECORD; EVIDENCE

On the approval of crime insurance coverage or a bond required by section 832 of this title, the selectboard of a town shall file the same in the office of the town clerk to be recorded by such clerk in a book kept for that purpose. Copies thereof duly certified by such clerk shall be evidence in court as if the original were produced.

Sec. 22. 24 V.S.A. § 835 is amended to read:

§ 835. PAYMENT OF PREMIUMS

Bonds or crime insurance coverage required of officers of a municipality shall be paid for by the municipality requiring the same.

Sec. 23. 24 V.S.A. § 1234 is amended to read:

§ 1234. OATH; BOND

Before entering upon ~~his or her~~ a manager's duties, ~~such a~~ manager shall be sworn to the faithful performance of ~~his or her~~ the manager's duties and shall have crime insurance coverage or give a bond to the town in such the amount and with such the sureties as the selectboard may require.

Sec. 24. 24 V.S.A. § 1306 is amended to read:

§ 1306. OATHS AND BONDS OF OFFICERS

The clerk, treasurer, and collector of such corporation shall be sworn. The treasurer and collector shall have crime insurance coverage or give a bond to the corporation in such sum and with such sureties as are prescribed and approved by the trustees, conditioned for the faithful performance of their duties.

Sec. 25. 24 V.S.A. § 2433 is amended to read:

§ 2433. BONDS; ACTIONS

The trustees shall have crime insurance coverage or give bonds to the satisfaction of the selectboard, conditioned for the faithful performance of their duties. In the name of the town, they may prosecute and defend a suit or action for the recovery or protection of the estate entrusted to their care.

\* \* \* City of Montpelier; Tax Increment Financing District \* \* \*

Sec. 26. MONTPELIER TIF DISTRICT; ORIGINAL TAXABLE VALUE

(a) Notwithstanding any other provision of law, and upon approval by the Vermont Economic Progress Council as provided in subsection (b) of this section, the City of Montpelier may reset its original taxable value, as defined in 24 V.S.A. § 1891(5), to the grand list values as of April 1, 2023, provided that the reset:

(1) maintains the same parcels as the City's certified original taxable value;

(2) does not change the creation date of the district; and

(3) does not extend the City's period to incur indebtedness beyond March 31, 2030.

(b) The reset of the original taxable value in the City of Montpelier's tax increment financing district shall only become final upon approval by the Vermont Economic Progress Council of the City's application for a five-year extension of the deadline to incur its first debt. Notwithstanding any other provision of law, the City may apply to the Vermont Economic Progress



Council for an extension of the period to incur its first debt not later than 90 days after the final April 1, 2023 grand list is filed with the city clerk. The City's extension application shall include an updated tax increment financing plan that incorporates the proposed reset original taxable value.

\* \* \* Sales and Use Tax Exemption; Manufacturing Machinery and Equipment \* \* \*

Sec. 27. 32 V.S.A. § 9741(14) is amended to read:

(14)(A) Tangible personal property that becomes an ingredient or component part of; or is consumed or destroyed or loses its identity in the manufacture of tangible personal property for sale;

~~(B) machinery and equipment for use or consumption directly and exclusively, except for isolated or occasional uses, used in or consumed as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility engaged in the manufacture of tangible personal property for sale, or in the manufacture of other machinery or equipment, parts, or supplies for use in the manufacturing process; and devices used to monitor manufacturing machinery and equipment or the product during the manufacturing process. Machinery and equipment used in administrative, managerial, sales, or other nonproduction activities, or used prior to the first production operation or subsequent to the initial packaging of a product, shall not be exempt from tax, unless such uses are merely isolated or occasional or unless the machinery used for initial packaging is also used for secondary packaging as part of an integrated process. Machinery and equipment shall not include buildings and structural components thereof. As used in this subdivision, it shall be rebuttably presumed that uses are not isolated or occasional if they total more than four percent of the time the machinery or equipment is operated. For the purposes of this subsection subdivision (14), "manufacture" includes extraction of mineral deposits, the entire printing and bookmaking process, and the entire publication process.~~

(C) As used in this subdivision (14):

(i) "Integrated production operation" means an integrated series of operations at a manufacturing or processing plant or facility to process, transform, or convert tangible personal property by physical, chemical, or other means into a different form, composition, or character from that in which it originally existed. Integrated production operations begin when raw material is first changed physically, chemically, or otherwise in form, composition, or character, including being removed from storage or introduced for this manipulation, and end when the product is placed in initial packaging

and shall include production line operations, including initial packaging operations, and waste, pollution, and environmental control operations.

(ii) “Manufacturing or processing business” means a business that utilizes an integrated production operation to manufacture, process, fabricate, or finish items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. “Manufacturing or processing business” does not include nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook, or prepare food products in the regular course of their retail trade; the assembling of product by retailers for sale; grocery stores, meat lockers, and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade; contractors who alter, service, repair, or improve real property; and retail businesses that clean, service, or refurbish and repair tangible personal property for its owner. The examples provided in this subdivision (ii) shall not be construed as exclusive.

(iii) “Manufacturing or processing plant or facility” means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail.

(iv) “Primary” or “primarily” means more than 50 percent of the time.

(v) “Production line” means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs.

(D) For the purposes of this subdivision (14), machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used during the integrated production operation:

(i) to transport, convey, handle, or store the property undergoing manufacturing or processing at any point from the beginning of the production line until it is placed into initial packaging;

(ii) to act upon, effect, promote, or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(iii) to guide, control, or direct the movement of property undergoing manufacturing or processing;

(iv) to test or measure materials, the property undergoing manufacturing or processing, or the finished product during the manufacturer's integrated production operations;

(v) to plan, manage, control, or record the receipt and flow of property while undergoing manufacturing or processing;

(vi) to lubricate, control the operating of, or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(vii) to transmit or transport electricity, gas, water, steam, or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from off-site, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(viii) to package the property being manufactured or processed in any container or wrapping in which such property is normally sold or transported, even if the machinery operates after the point of initial packaging;

(ix) to cool, heat, filter, refine, or otherwise treat water, steam, acid, oil, solvents, or other substances that are used in production operations;

(x) to provide and control an environment required to maintain certain levels of air quality, humidity, or temperature in special and limited areas of the plant or facility where such regulation of temperature or humidity is part of and essential to the production process;

(xi) to treat, transport, or store waste or other byproducts of production operations at the plant or facility and to clean manufacturing machinery and equipment;

(xii) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation; or

(xiii) to inspect or conduct quality control on the product, even if the inspection or quality control machinery operates after the point of initial packaging.

(E) "Machinery and equipment used as an integral or essential part of an integrated production operation" does not mean:

(i) machinery and equipment used for nonproduction purposes, including machinery and equipment used for plant security, fire prevention,

first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(ii) machinery, equipment, and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(iii) transportation, transmission, and distribution equipment not primarily used in a production, warehousing, or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil, or water, and related equipment, located outside the plant or facility;

(iv) office machines and equipment, including computers and related peripheral equipment, not used directly and primarily to control or measure the manufacturing process;

(v) furniture and other furnishings;

(vi) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(vii) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical;

(viii) machinery and equipment used for general plant heating, cooling, and lighting; or

(ix) motor vehicles that are registered for operation on public highways.

(F) Subdivisions (D) and (E) of this subdivision (14) shall not be construed as exclusive lists of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purposes at other times, the primary use of the machinery or equipment shall determine the qualification of the machinery or equipment for the exemption.

\* \* \* Effective Dates \* \* \*

## Sec. 28. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Secs. 1–3 (enhanced life estates; property transfer tax), 4 and 5 (underpayment penalties; deadlines), and 18

(529 plans; student loan repayment; VHEIP income tax credit) shall take effect retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2022.

(c) Notwithstanding 1 V.S.A. § 214, Secs. 6 and 7 (annual link to federal statutes) shall take effect retroactively on January 1, 2022 and shall apply to taxable years beginning on and after January 1, 2021.

(d) Secs. 8 (32 V.S.A. § 5862b; Children's Trust Foundation checkoff) and 11 (transition; Children's Trust Fund; FY 2023 transfers) shall take effect on July 1, 2022.

(e) Secs. 9 (33 V.S.A. § 3303(b); Children's Trust Fund administration) and 10 (repeals; Children's Trust Fund) shall take effect on December 31, 2022.

(f) Notwithstanding 1 V.S.A. § 214, Secs. 12 and 13 (reporting federal audits and adjustments; partnerships) shall take effect retroactively on January 1, 2022 and shall apply to any adjustments to a taxpayer's federal taxable income with a final determination date occurring on and after July 1, 2022.

(g) Notwithstanding 1 V.S.A. § 214, Sec. 14 (taxation of land underlying solar plant or energy storage facility) shall take effect retroactively on July 1, 2021.

(h) Secs. 15 and 16 (fishing, hunting, and trapping licenses) shall take effect on January 1, 2023.

(i) Sec. 17 (legislative expense reimbursement) shall take effect on January 1, 2023.

(j) Secs. 19 and 20 (communications union districts), 21–25 (crime insurance coverage; municipal officer or employee), 26 (City of Montpelier; tax increment financing district), and 27 (sales and use tax exemption) shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposals of amendment were collectively agreed to.

Thereupon, Senator Hardy moved that the Senate proposal of amendment be amended as follows::

First: By adding a reader assistance heading and two new sections to be Secs. 27a and 27b to read as follows:

\* \* \* Sales and Use Tax Exemption; Menstrual Products \* \* \*

Sec. 27a. 32 V.S.A. § 9706(oo) is amended to read:

(oo) The statutory purpose of the exemption for ~~feminine hygiene~~ menstrual products in subdivision 9741(56) of this title is to limit the cost of goods that are necessary for the health and welfare of Vermonters.

Sec. 27b. 32 V.S.A. § 9741(56) is amended to read:

(56) ~~Feminine hygiene~~ Menstrual products. As used in this subdivision, “~~feminine hygiene~~ menstrual products” means tampons, panty liners, menstrual cups, ~~sanitary~~ menstrual napkins, and other similar tangible personal property designed for ~~feminine hygiene~~ use in connection with the human menstrual cycle but does not include “grooming and hygiene products” as defined in this chapter.

Second: In Sec. 28, effective dates, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) This section and Secs. 27a and 27b (sales and use tax exemption; menstrual products) shall take effect on passage.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

### **Proposal of Amendment; Third Reading Ordered**

#### **H. 518.**

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to municipal energy resilience initiatives.

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

Sec. 1. 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 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. As part of the application process, a municipality may use the assistance of a regional planning commission to develop plans.

(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; and

(2) 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 more 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 \$500,000.00 to each covered municipality for approved projects for weatherization, thermal efficiency, to supplement or replace fossil fuel heating systems with more efficient 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 State and Local Fiscal Recovery 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 \$35,000,000.00 shall be appropriated from the American Rescue Plan Act (ARPA) from the State and Local Fiscal Recovery 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 Department of Buildings and General Services for regional planning commissions to assist with grant and assessment applications and provide programming and technical assistance to covered municipalities. 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.

(2) The amount of \$32,600,000.00 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 costs associated with administering the grant program; and

(C) \$26,600,000.00 for grants to covered municipalities for weatherization, thermal efficiency, and to supplement or replace less efficient 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 and;

(2) loan repayment by municipalities

(c) Repayment terms. A municipality receiving funding shall repay the Fund through its regular operating budget according to a schedule established by the Commissioner.

(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; 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.

Sec. 8. 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 \$800,000.00 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 \$2,000,000.00 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. 9. 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. 10. 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 year 2023 for three fiscal years to administer the municipal energy resilience assessments pursuant to Sec. 2 of this act. The positions shall be responsible for determining project eligibility; coordinating with the

State Energy Management Program to recruit and coordinate auditors, engineers, and contractors; and providing financing technical assistance for municipalities implementing projects. These positions shall be funded from the amount appropriated in Sec. 4(2)(B) of this act.

(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.

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

#### Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Bray, for the Committee on Finance to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

In Sec. 4, Municipal Energy Resilience Grant Program; appropriation, in the first sentence, by striking out “\$35,000,000.00” and inserting in lieu thereof \$45,000,000.00, in subdivision (2), by striking out “\$32,600,000.00” and inserting in lieu thereof \$42,600,000.00, and in subdivision (2)(C), by striking out “\$26,600,000.00” and inserting in lieu thereof \$36,600,000.00

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural

Resources and Energy, as amended?, Senators Bray, Campion, Cummings, Hardy, MacDonald, McCormack, Pearson and Westman moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as amended, as follows:

First: In Sec. 2, municipal energy resilience; Department of Buildings and General Services; assessments, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

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

Second: By striking out Sec. 3, Municipal Energy Resilience Grant Program, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

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

(a) Program established.

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

(A) make recommendations to municipalities on the use of more efficient renewable or electric heating systems; and

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

(2) For the awards granted pursuant to this subsection, the primary design of replacement systems shall prioritize renewable or electric heating systems as the preferred heating source. If, after review, a non-fossil fuel heating system is not technically feasible as a primary heating source, the recommendation may include upgrades for other heating systems, provided they reduce fossil fuel consumption and meet the goals of this act.

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

(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 \$500,000.00 to each covered municipality for approved projects for weatherization, thermal efficiency, to supplement or replace fossil fuel heating systems with more efficient renewable or electric 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 State and Local Fiscal Recovery 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.

Third: In Sec. 5, 29 V.S.A. § 168a, by striking out subdivision (c)(2) in its entirety and inserting in lieu thereof a new subdivision (c)(2) to read as follows:

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

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, Senator Perchlik moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as amended, as follows:

First: By adding a new section to be Sec. 3a to read as follows:

Sec. 3a. RENEWABLE AND EFFICIENCY HEATING SYSTEMS;  
SCHOOLS; GRANT PROGRAM

(a) Program established. In fiscal year 2023, there is established the Renewable and Efficiency Heating Systems Grant Program (Program) to award grants for renewable and efficient heating systems in schools. Renewable and efficient heating systems grants shall be used to make necessary improvements to address building systems in covered schools to improve health, safety, and efficiency in response to the COVID-19 emergency.

(b) Definition. As used in this section, “covered school” means public schools and approved independent schools as defined under 16 V.S.A. § 11.

(c) Administration; implementation.

(1) The Agency of Education shall administer the Program, which shall:

(A) provide consulting services to covered schools;

(B) award grant funds to covered schools of not more than 50 percent of the total cost for the improvement or repair of existing heating systems, with a focus on renewable energy systems, energy efficiency, and providing appropriate space conditioning; and

(C) award grant funds to covered schools for the installation of renewable or efficiency electric space heating and conditioning systems.

(2) Grant Program design. The Agency of Education, in consultation with the Vermont Superintendents Association and other State entities and experts in the fields of thermal enclosure, energy efficiency, and renewable building space systems, shall design the Program. The Program design shall establish:

(A) an outreach and education plan, including specific tactics to reach and support all covered schools;

(B) an equitable system for distributing grants statewide based on geographic location, school size, grant dollar amount, and assessed need, with an emphasis on schools that may not have administrative support to apply for grants; and

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

(d) Costs and fees. The State is authorized to use up to \$150,000.00 of the amounts appropriated in Sec. 4 to the Program for administration costs.

(e) Coordination. The Agency of Education may coordinate with any other State entities and agencies working with public schools to provide grants for the Program.

Second: By striking out Sec. 4, Municipal Energy Resilience Grant Program; appropriation, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

**Sec. 4. MUNICIPAL ENERGY RESILIENCE GRANT PROGRAM;  
RENEWABLE AND EFFICIENCY HEATING SYSTEMS GRANT  
PROGRAM; FY 2023 APPROPRIATIONS**

(a) In fiscal year 2023, the amount of \$40,000,000.00 shall be appropriated from the American Rescue Plan Act (ARPA) from the State and Local Fiscal Recovery 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 Department of Buildings and General Services for regional planning

commissions to assist with grant and assessment applications and provide programming and technical assistance to covered municipalities. 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.

(2) The amount of \$37,600,000.00 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 costs associated with administering the Grant Program; and

(C) \$31,600,000.00 for grants to covered municipalities for weatherization, for thermal efficiency, and to supplement or replace less efficient heating systems.

(b) In fiscal year 2023, the amount of \$5,000,000.00 shall be appropriated to the Agency of Education from the American Rescue Plan Act (ARPA) from the State and Local Fiscal Recovery Fund for the Renewable and Efficiency Heating Systems Grant Program for grants to covered schools as described in Sec. 3a of this act.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Natural Resources and Energy, as amended, be amended as proposed by Senator Perchlik?, Senator Perchlik requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the proposal of amendment of the Committee on Natural Resources and Energy, as amended, was agreed to and third reading of the bill was ordered.

**Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment**

**H. 738.**

On motion of Senator Mazza, the rules were suspended and House bill entitled:

An act relating to technical and administrative changes to Vermont's tax laws.

Was placed in all remaining stages of its passage in concurrence with proposal of amendment.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

**Rules Suspended; Action Messaged**

On motion of Senator Mazza, the rules were suspended, and the action on the following bill was ordered messaged to the House forthwith:

**S.161.**

**Rules Suspended; Bill Messaged**

On motion of Senator Mazza, the rules were suspended, and the following bill was ordered messaged to the House forthwith:

**H.738.**

**Adjournment**

On motion of Senator Mazza, the Senate adjourned until ten o'clock in the forenoon on Tuesday, May 10, 2022.