

S. 336. An act relating to establishing standards for the sale of hemp seed.
be committed to the Committee on Agriculture,
Which was agreed to.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Beck and others,

By Senators Kitchel and Benning,

H.C.R. 227.

House concurrent resolution congratulating the St. Johnsbury Academy Hilltoppers girls' track and field team on winning a fourth consecutive Division I championship.

By Reps. Coffey and others,

H.C.R. 228.

House concurrent resolution honoring the Rev. Dr. Lise Sparrow for her inspiring academic, community, and religious leadership in Windham County.

By Reps. Macaig and McCullough,

By Senators Ingram and Lyons,

H.C.R. 229.

House concurrent resolution congratulating the Williston Federated Church on its 150th anniversary.

By Reps. Myers and others,

H.C.R. 230.

House concurrent resolution honoring Zoe Hardy for her outstanding leadership at Age Well Vermont.

By Rep. Sullivan,

By Senators Campion and Sears,

H.C.R. 231.

House concurrent resolution in memory of Bonnie L. Burke of Dorset.

By Rep. Coffey,

H.C.R. 232.

House concurrent resolution honoring Nancy Heydinger for her visionary leadership of Girls on the Run.

By Rep. Scheu,

H.C.R. 233.

House concurrent resolution congratulating Vermont's Free & Referral Clinics on its 25th anniversary.

By Rep. Coffey,

H.C.R. 234.

House concurrent resolution honoring Herb Meyer for his community leadership in the towns of Guilford and Vernon.

By Rep. Nicoll,

By Senators Nitka, Clarkson and McCormack,

H.C.R. 235.

House concurrent resolution congratulating the 2019 Black River High School Presidents Division IV championship baseball team.

By All Members of the House,

By All Members of the Senate,

H.C.R. 236.

House concurrent resolution in memory of Preservation Trust of Vermont Executive Director Paul Alan Bruhn.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 4, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 36.

TUESDAY, FEBRUARY 4, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Jeannette Conner of Essex Junction.

Pledge of Allegiance

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

Bill Referred to Committee on Appropriations**S. 263.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to the Parent Child Center Network.

Joint Senate Resolution Adopted on the Part of the Senate**J.R.S. 37.**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Ashe,

J.R.S. 37. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 7, 2020, it be to meet again no later than Tuesday, February 11, 2020.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 337.

By the Committee on Natural Resources and Energy,

An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors.

Bill Passed**S. 326.**

Senate committee bill of the following title was read the third time and passed:

An act relating to the State Advisory Panel on Special Education.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 5, 2020.

WEDNESDAY, FEBRUARY 5, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend John H. D. Lucy of Jericho.

Rules Suspended; Bill Committed

Appearing on the Calendar for notice, on motion of Senator Bray the rules were suspended and Senate Committee bill entitled:

S. 337. An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors.

Was taken up for immediate consideration.

Thereupon, pending second reading of the bill, on motion of Senator Bray the bill was committed to the Committee on Finance.

Bill Referred to Committee on Appropriations**S. 153.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to creating the Vermont 250th Commission.

Joint Resolutions Placed on Calendar**J.R.S. 38.**

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

By Senator Baruth,

J.R.S. 38. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 20, 2020, at ten o'clock and thirty minutes in the forenoon to elect

two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2020, and expiring on March 1, 2024. In case election of all such Trustees shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such Trustees are elected.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

J.R.S. 39.

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

By Senator Ashe,

J.R.S. 39. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2020.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 20, 2020, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for a vacant position, then voting shall continue on successive ballots for the unfilled position or positions until the vacancies have been filled by election declared of the two candidates receiving the greater number of votes.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, February 6, 2020.

THURSDAY, FEBRUARY 6, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Tom Harty of Bethel.

Bill Referred to Committee on Appropriations

S. 281.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to the Working Group on the Status of Libraries in Vermont.

Message from the House No. 12

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

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 35. Joint resolution condemning the continuing occurrence of street harassment in Vermont.

And has adopted the same in concurrence.

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. 108. An act relating to employee misclassification.

And has adopted the same on its part.

The Governor has informed the House that on February 5, 2020, he approved and signed a bill originating in the House of the following title:

H. 143. An act relating to appointing town agents.

The Governor has informed the House that on January 31, 2020, he returned without signature and vetoed a bill originating in the House of the following title:

H. 107. An act relating to paid family and medical leave.

Text of Communication from Governor

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 107** to the House is as follows:

“January 31, 2020

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
State House
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.107, *An act relating to paid family leave*, without my signature because of my objections described herein:

Reversing our demographic crisis and the negative economic impacts it is creating across the state, is the only way to ensure we can continue to invest in essential services and shared priorities, such as a more expansive paid family and medical leave program. We must not pass, and I will not support, legislation that worsens the affordability challenges and regional economic inequity in our state.

I share the goal to provide a program that allows workers time to take care of family and personal health needs, and to bond with new children. That’s why my administration has advocated for, and acted on, a voluntary paid family and medical leave plan.

Our approach is voluntary for employers and employees. It can be accomplished more efficiently, affordably and quickly, without a \$29 million payroll tax that Vermont workers simply should not be burdened with, and without putting the risk of underfunding on taxpayers.

This voluntary plan is already moving forward. We’ve come to an agreement with the Vermont State Employees Union to provide state employees with a paid family and medical leave benefit. This allows us to create an 8,500-member base to establish an affordable family and medical leave insurance option for all Vermonters.

We've issued a request for proposals (RFP) for insurance companies to bid on covering state employees as of July 1, 2020. The successful bidder will also be required to make the coverage available for Vermont employers and individuals at a rate comparable to the state-rate. And, we expect to be able to make it available at least a year before H.107 is projected to provide benefits to Vermonters.

This approach gives the state flexibility, and we could always add to it, or even make it mandatory in the future if deemed necessary. But we'll have a stronger foundation and tested administrative structure to build on. I truly believe this is an approach that will make this important benefit available to Vermonters more quickly, and is a more economically and fiscally responsible – lower cost – path to getting where the Legislature proposes to go in H.107. Importantly, it doesn't require a \$29 million payroll tax that we all know could grow.

My objections to H.107 also extend beyond the tax on workers. H.107 creates a cumbersome bureaucracy with the potential for long-term administrative issues and costs for the Departments of Tax (Tax), Labor (VDOL) and Financial Regulation (DFR) – and the program as a whole. No other program in state government is simultaneously administered by three different Departments, as H.107 proposes for this program. And H.107 fails to take into account increased administrative costs at Tax and DFR, and underestimates the costs at VDOL, which will add to pressures on the General Fund.

For years, Vermonters have made it clear they don't want, nor can they afford, new broad-based taxes. We cannot continue to make the state less affordable for working Vermonters and more difficult for employers to employ them – even for well-intentioned programs like this one. Vermonters can't afford for us to get this wrong, especially at their expense.

Based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott
Governor

PBS/cb”

Joint Resolutions Adopted on the Part of the Senate

Joint Senate resolutions entitled:

J.R.S. 38. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

J.R.S. 39. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2020.

Having been placed on the Calendar for action, were taken up and adopted severally on the part of the Senate.

Adjournment

On motion of Senator Ashe, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, FEBRUARY 7, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 13

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 619. An act relating to permitting candidate expenditures for child care costs.

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

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 37. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the House No. 14

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

Mr. President:

I am directed to inform the Senate that:

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

H.C.R. 238. House concurrent resolution honoring the community generosity of Josiah E. Miles and congratulating MILES Inc. of Manchester on its 80th anniversary.

H.C.R. 239. House concurrent resolution honoring Michael Bosworth for his community leadership roles in Windham County.

H.C.R. 240. House concurrent resolution honoring the Vermont Foodbank and designating February 6, 2020 as Hunger Action Day at the State House.

H.C.R. 241. House concurrent resolution congratulating Marion Catherine Schaub Cutler on her 100th birthday.

H.C.R. 242. House concurrent resolution designating Thursday, February 13, 2020 as Afterschool Day at the State House.

H.C.R. 243. House concurrent resolution congratulating the members of the Vermont Eagle Scout class of 2019.

H.C.R. 244. House concurrent resolution congratulating the Vermont 2-1-1 referral support system on its 15th Anniversary and designating February 11, 2020 as Vermont 2-1-1 Day at the State House.

H.C.R. 245. House concurrent resolution designating February 12, 2020 as Farm-to-School Awareness Day at the State House.

H.C.R. 246. House concurrent resolution designating February 13, 2020 as Suicide Prevention Day at the State House.

H.C.R. 247. House concurrent resolution honoring James Pelkey for his public and community service in Franklin County.

H.C.R. 248. House concurrent resolution congratulating the 2019 New England Patriots on winning Super Bowl LIII, the franchise's sixth football championship.

H.C.R. 249. House concurrent resolution honoring former West Rutland Fire Chief Joseph Skaza.

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

Bill Referred to Committee on Appropriations**S. 278.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to the State Energy Management Program.

Bill Referred

House bill of the following title was read the first time and referred:

H. 619.

An act relating to permitting candidate expenditures for child care costs.

To the Committee on Government Operations.

Bills Amended; Third Readings Ordered**S. 135.**

Senator Hooker, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to consumer protection and automobile financing.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 58 is added to read:

CHAPTER 58. MOTOR VEHICLE SALES, LEASES, AND FINANCING;
CONSUMER CREDIT APPLICATIONS

§ 2321. DEFINITIONS

As used in this chapter:

(1) “Consumer” means a person who buys or leases a motor vehicle from a dealer primarily for personal or family use and not primarily for a business, commercial, or agricultural purpose.

(2)(A) “Credit application” means a document that:

(i) summarizes a consumer’s personal information, financial information, or credit information;

(ii) is signed by the consumer; and

(iii) is submitted by the dealer to secure financing for a retail installment contract, loan agreement, or lease agreement.

(B) “Credit application” does not mean:

(i) copies of other documents or information exchanged between a dealer and a creditor to secure financing; or

(ii) pay stubs, utility bills, or other documents that a consumer submits to a dealer to verify the accuracy of personal information in a credit application.

(3)(A) “Creditor” means a person engaged in the business of providing financing and includes a financial institution, credit union, sales finance company, lease finance company, a dealer that provides financing to consumers, and an assignee of these or similar persons.

(B) “Creditor” does not include a credit card company.

(4) “Credit union” has the same meaning as in 8 V.S.A. § 30101(5).

(5) “Dealer” means a person engaged in the business of retail selling or leasing new or used motor vehicles in this State.

(6) “Financial institution” has the same meaning as in 8 V.S.A. § 11101(32).

(7) “Financing” means any mechanism used to provide funding for the sale or lease of a motor vehicle, whether or not the funding is made directly to the consumer, and includes a motor vehicle loan, retail installment contract, finance lease, and any assignment of these or similar instruments.

(8) “Lease” has the same meaning as in 9A V.S.A. § 2A-103(1)(j) when a motor vehicle is the goods under the lease.

(9) “Lease finance company” means a person engaged in the business of purchasing or otherwise acquiring motor vehicle leases.

(10) “Motor vehicle” has the same meaning as in subdivision 2351(1)(A) of this title.

(11) “Retail installment contract” has the same meaning as in subdivision 2351(5) of this title.

(12) “Sales finance company” has the same meaning as in subdivision 2351(10) of this title.

§ 2322. CREDIT APPLICATION; COPY TO CONSUMER

(a) A dealer shall provide a copy of the consumer’s credit application that is used to secure financing for a retail installment contract, loan agreement, or lease agreement for the sale or lease of a motor vehicle at the time the consumer signs the contract or agreement.

(b) If the sale or lease of a motor vehicle is contingent on multiple consumers signing a retail installment contract, loan agreement, or lease agreement:

(1) a dealer shall provide each consumer with a copy of his or her own credit application; and

(2) a dealer shall not provide a copy of the consumer's credit application to any other person without the consumer's prior written consent.

§ 2323. ENFORCEMENT

(a) A person who violates a provision of this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as provided in chapter 63, subchapter 1 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on September 1, 2020.

And that when so amended the bill ought to pass.

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

S. 181.

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

An act relating to access to employee restrooms for individuals living with an inflammatory bowel disease.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Restroom Access for Eligible Conditions * * *

Sec. 1. 18 V.S.A. § 1311 is added to read:

§ 1311. RESTROOM ACCESS; INFLAMMATORY BOWEL DISEASE

(a) As used in this section:

(1) "Customer" means a member of the public who is lawfully on the premises of a retail establishment.

(2) “Eligible medical condition” means Crohn’s disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, or any other medical condition that requires immediate access to a restroom.

(3) “Employee restroom” means a restroom intended for only the employees of a retail facility and not for customers.

(4) “Retail establishment” means a place of business open to the general public for the sale of goods or services.

(b) A retail establishment that has an employee restroom shall allow a customer to use that restroom during normal business hours if all of the following conditions are met:

(1) The customer requesting the use of the employee restroom has an eligible medical condition or uses an ostomy device and offers a card signed by the customer’s physician indicating the eligible medical condition or device.

(2) The retail establishment does not have a public restroom that is immediately accessible to the customer.

(3) The employee restroom is not located in an area where providing access would create an obvious health or safety risk to the customer or an obvious security risk to the establishment.

(4) At the time the request for access to the employee restroom is made, three or more employees of the retail establishment are working.

(c) A retail establishment or an employee of a retail establishment is not civilly liable for any act or omission in allowing a customer meeting the conditions in subsection (b) of this section to use an employee restroom if the act or omission:

(1) is not willful or grossly negligent;

(2) occurs in an area of the retail establishment that is not accessible to the public; and

(3) results in injury to or death of the customer or any individual other than the employee accompanying the customer.

(d) An employee of a retail establishment who refuses to provide access to an employee restroom to a customer with an eligible medical condition or ostomy device who offers a card signed by the customer’s physician pursuant to this section shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action to enforce this section shall be brought in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.

(e) The Department of Health shall develop a printable card available on its website that, when signed by a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 who diagnoses and treats the eligible medical condition or provides for the use of an ostomy device, may be carried by a patient with an eligible medical condition or ostomy device to ensure access to an employee restroom in a retail establishment in accordance with this section.

* * * Judicial Bureau * * *

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

(30) Violations of 18 V.S.A. § 1311, relating to restroom access for persons with an eligible medical condition.

* * *

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

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

**Report of Committee of Conference Accepted and Adopted on the Part of
the Senate**

S. 108.

Senator Sirotkin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

An act relating to employee misclassification.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Employee Misclassification * * *

Sec. 1. 21 V.S.A. § 712 is added to read:

§ 712. ENFORCEMENT BY ATTORNEY GENERAL

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employer has committed a willful, substantial, or systemic violation of section 687 or 708 of this chapter by claiming that it is not an employer as defined pursuant to subdivision 601(3) of this chapter or that an individual is not a worker or employee as defined pursuant to subdivision 601(14) of this chapter and may enforce those provisions by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though an employer that violates section 687 or 708 of this chapter by claiming that it is not an employer as defined pursuant to subdivision 601(3) of this chapter or that an individual is not a worker or employee as defined pursuant to subdivision 601(14) of this chapter is committing an unfair act in commerce. Any employer, employment agency, or labor organization complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Court may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for a violation of section 687 or 708 of this chapter and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Court may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employer committed a violation of section 687 or 708 of this chapter by claiming that it was not an employer as defined pursuant to subdivision 601(3) of this chapter or that an individual was not a worker or employee as defined pursuant to subdivision 601(14) of this chapter, the Commissioners of

Financial Regulation and of Taxes shall review whether the employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 2. 21 V.S.A. § 1379 is added to read:

§ 1379. COMPLAINT OF MISCLASSIFICATION; ENFORCEMENT BY
ATTORNEY GENERAL

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employing unit or employer has committed a willful, substantial, or systemic violation of section 1314a of this chapter by failing to properly classify one or more employees and may enforce the provisions of this chapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee is an unfair act in commerce. Any employing unit or employer complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Court may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for the misclassification of an employee and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Court may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employing unit or employer has committed a violation of section 1314a of this chapter by failing to properly classify one or more employees, the Commissioners of Financial Regulation and of Taxes shall review whether the employing unit or employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 3. 21 V.S.A. § 1314 is amended to read:

§ 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;
DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT
EMPLOYMENT INFORMATION; DISCLOSURE OF
INFORMATION TO OTHER STATE AGENCIES TO
INVESTIGATE MISCLASSIFICATION OR MISCODING

* * *

(d)(1) Except as otherwise provided in this chapter, information obtained from any employing unit or individual in the administration of this chapter, and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or open to public inspection in any manner revealing the individual's or employing unit's identity, nor be admissible in evidence in any action or proceeding other than one arising out of this chapter, or to support or facilitate an investigation by a public agency identified in subdivision (e)(1) of this section.

* * *

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of 32 V.S.A. chapter 105, subchapter 2; but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

* * *

(8) The Department of Labor shall disclose, upon request:

(A) to the Attorney General and employees of the Office of the Attorney General, information necessary for the Attorney General to investigate a complaint and enforce the provisions of this chapter as provided pursuant to section 1379 of this chapter; and

(B) to the Commissioners of Financial Regulation and of Taxes and employees of the Departments of Financial Regulation and of Taxes, information necessary to investigate misclassification or miscoding of workers under the insurance and tax laws that are under their jurisdiction.

* * *

Sec. 4. 21 V.S.A. § 346 is added to read:

§ 346. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE MISCLASSIFICATION

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employer has committed a willful, substantial, or systemic violation of section 342, 343, 348, 482, or 483 of this chapter by misclassifying an employee as an independent contractor and may enforce those provisions by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee is an unfair act in commerce. Any employer complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Court may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for the misclassification of an employee and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Court may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employing unit has committed a violation of section 342, 343, 348, 482, or 483 of this chapter by misclassifying an employee as an independent contractor, the Commissioners of Financial Regulation and of Taxes shall review whether the employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 5. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

* * *

(h) Information obtained from any employer, employee, or witness in the course of investigating a complaint of unpaid wages shall be confidential and shall not be disclosed or open to public inspection in any manner that reveals the employee's or employer's identity or be admissible in evidence in any action or proceeding other than one arising under this subchapter. However,

such information may be released to any public official for the purposes provided in subdivision 1314(e)(1) of this title or to the Attorney General in relation to investigations conducted pursuant to section 346 of this subchapter as provided pursuant to the terms of the memorandum of understanding between the Attorney General and the Commissioner of Labor executed pursuant to section 3 of this title.

Sec. 6. 21 V.S.A. § 387 is added to read:

§ 387. ENFORCEMENT BY ATTORNEY GENERAL; EMPLOYEE MISCLASSIFICATION

(a) Following the referral of a complaint by the Commissioner of Labor pursuant to the provisions of section 3 of this title, the Attorney General may investigate a complaint that an employer has committed a willful, substantial, or systemic violation of this subchapter by misclassifying an employee as an independent contractor and may enforce the provisions of this subchapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee is an unfair act in commerce. Any employer complained against shall have the same rights and remedies as specified in 9 V.S.A. §§ 2458–2461. The Superior Court may impose the same civil penalties and investigation costs and order other relief to the State of Vermont or an aggrieved employee for the misclassification of an employee and any related violations of the provisions of this chapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Court may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(b)(1) The Attorney General shall share information and coordinate investigatory and enforcement resources with the Departments of Financial Regulation, of Labor, and of Taxes pursuant to the provisions of section 3 of this title.

(2) Upon receiving notice that the Attorney General has determined that an employing unit has committed a violation of this subchapter by misclassifying an employee as an independent contractor, the Commissioners of Financial Regulation and of Taxes shall review whether the employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 7. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B, and 21 V.S.A. §§ 346, 387, 712, and 1379;

* * *

Sec. 8. 21 V.S.A. § 3 is added to read:

§ 3. COOPERATION WITH ATTORNEY GENERAL AND
COMMISSIONERS OF FINANCIAL REGULATIONS AND OF
TAXES; MEMORANDA OF UNDERSTANDING

(a) The Attorney General and the Commissioner of Labor shall enter into a memorandum of understanding to establish a process for the referral of complaints received by the Commissioner of Labor to the Attorney General, the sharing of information, and the coordination of investigatory and enforcement resources in relation to the provisions of sections 346, 387, 712, and 1379 of this title. Notwithstanding any provision of 9 V.S.A. § 2460(a) to the contrary, the memorandum shall, at a minimum, provide for:

(1) notice from the Attorney General to the Commissioner of Labor regarding complaints received by the Attorney General that relate to a possible violation of the laws under the jurisdiction of the Commissioner;

(2) a procedure for the Commissioner of Labor to refer a complaint to the Attorney General if the employer complained of appears to be engaging in willful, substantial, or systemic violations of the provisions of chapter 5, subchapter 2 or 3 of this title, or chapter 9 or 17 of this title through the misclassification of employees;

(3) a requirement that the Commissioner of Labor shall, upon receiving a complaint against an employer that has been determined to have engaged in employee misclassification on two separate occasions during the past five years or is alleged to have misclassified five or more employees, refer the complaint to the Attorney General and coordinate with the Attorney General to investigate the complaint and, depending on the outcome of the investigation, seek any appropriate penalties pursuant to the provisions of this title and 9 V.S.A. §§ 2458–2461;

(4) the exchange of information and coordination of investigatory and enforcement resources between the Commissioner of Labor and the Attorney General; and

(5) compliance with the requirements of 20 C.F.R. Part 603 in relation to any information disclosed pursuant to section 1314 of this title.

(b) The Commissioner of Labor shall enter into separate memoranda of understanding with the Commissioner of Financial Regulation and the Commissioner of Taxes to establish a process for sharing information related to investigations of the misclassification and miscoding of workers pursuant to the laws under their jurisdiction. The memoranda shall provide, at a minimum, that any disclosure of information pursuant to section 1314 of this title shall comply with the requirements of 20 C.F.R. Part 603.

(c) The Attorney General shall enter into separate memoranda of understanding with the Commissioner of Financial Regulation and the Commissioner of Taxes to establish a process for sharing information related to an investigation by the Attorney General pursuant to sections 346, 387, 712, and 1379 of this title. Notwithstanding any provision of 9 V.S.A. § 2460(a) to the contrary, each memorandum shall, at a minimum, provide for the disclosure by the Attorney General of any instance in which he or she has determined that an employer has, through the misclassification of an employee, violated the provisions of chapter 5, subchapter 2 or 3 of this title or chapter 9 or 17 of this title and the basis for that determination.

(d) Nothing in this section shall be construed to prevent the Commissioner of Labor from investigating complaints of violations of the laws under his or her jurisdiction or enforcing those laws pursuant to the applicable provisions of this title.

(e) Information shared pursuant to this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this section shall continue in effect and shall not be repealed through the operation of 1 V.S.A. § 317(e).

Sec. 9. EMPLOYEE MISCLASSIFICATION; ENFORCEMENT BY ATTORNEY GENERAL; REPORTS

(a)(1) On or before January 15, 2022, the Attorney General and the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on General, Housing, and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the enforcement of employment laws related to employee misclassification pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17.

(2)(A) The report shall include for both the Office of the Attorney General and the Department of Labor in calendar years 2020 and 2021:

(i) the number of complaints received in relation to violations of 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17 that involved employee misclassification;

(ii) the number and percentage of complaints received that were referred to the other entity;

(iii) the number of investigations initiated;

(iv) the average number of days between the receipt of a complaint, the start of an investigation, and the completion of an investigation;

(v) the number and percentage of investigations that resulted in, for the Office of the Attorney General, the imposition of a civil penalty, an assurance of discontinuance, or the imposition of injunctive relief, and, for the Department of Labor, the imposition of a penalty;

(vi) the number and percentage of investigations that resulted in a determination that the employer had engaged in employee misclassification;

(vii) the number and percentage of investigations that resulted in the imposition of debarment pursuant to 21 V.S.A. §§ 692, 708, or 1314a; and

(viii) the number of investigations related to employers who had previously violated the provisions of 21 V.S.A. chapter 5, subchapter 2 or 3, or 21 V.S.A. chapter 9 or 17; and

(B) any recommendations for legislative action to improve the effectiveness of the provisions of 21 V.S.A. §§ 346, 387, 712, and 1379.

(b)(1) On or before January 15, 2024, the Attorney General, in consultation with the Commissioners of Financial Regulation, of Labor, and of Taxes, shall submit a written report to the House Committees on Commerce and Economic Development and on General, Housing, and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the enforcement of employment laws related to employee misclassification by the Attorney General pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17.

(A) The report shall include for both the Office of the Attorney General and the Department of Labor in calendar years 2020 through 2023:

(i) the number of complaints received in relation to violations of 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17 that involved employee misclassification;

(ii) the number and percentage of complaints received that were referred to the other entity;

(iii) the number of investigations initiated;

(iv) the average number of days between the receipt of a complaint, the start of an investigation, and the completion of an investigation;

(v) the number and percentage of investigations that resulted in, for the Office of the Attorney General, the imposition of a civil penalty, an assurance of discontinuance, or the imposition of injunctive relief and, for the Department of Labor, the imposition of a penalty;

(vi) the number and percentage of investigations that resulted in a determination that the employer had engaged in employee misclassification;

(vii) the number and percentage of investigations that resulted in the imposition of debarment pursuant to 21 V.S.A. § 692, 708, or 1314a; and

(viii) the number of investigations related to employers who had previously violated the provisions of 21 V.S.A. chapter 5, subchapter 2 or 3, or 21 V.S.A. chapter 9 or 17; and

(B) a recommendation regarding whether to delay or eliminate the repeal of 21 V.S.A. §§ 346, 387, 712, and 1379, and if a delay or elimination of the repeal is proposed, any recommendations for legislative action related to those sections.

(c) As used in this section, “employee misclassification” means:

(1) the misclassification of an employee as an independent contractor;

or

(2) a violation of 21 V.S.A. § 687 or 708 that results from an employer claiming that it is not an employer as defined pursuant to 21 V.S.A. § 601(3) or that an individual is not a worker or employee as defined pursuant to 21 V.S.A. § 601(14).

Sec. 10. 3 V.S.A. § 2222d is added to read:

§ 2222d. EMPLOYEE MISCLASSIFICATION TASK FORCE

(a) As used in this section, “employee misclassification” means:

(1) the misclassification of an employee as an independent contractor;

or

(2) a violation of 21 V.S.A. § 687 or 708 that results from an employer claiming that it is not an employer as defined pursuant to 21 V.S.A. § 601(3) or that an individual is not a worker or employee as defined pursuant to 21 V.S.A. § 601(14).

(b) The Employee Misclassification Task Force is created to coordinate efforts to combat misclassification of workers and to ensure enforcement of all related laws and regulations. The Task Force shall be overseen by the Office of the Attorney General and shall be composed of the following members:

- (1) the Attorney General or designee;
- (2) the Secretary of Administration or designee;
- (3) the Secretary of Transportation or designee;
- (4) the Commissioner of Buildings and General Services or designee;
- (5) the Commissioner of Labor or designee;
- (6) the Commissioner of Financial Regulation or designee;
- (7) the Secretary of Human Services or designee;
- (8) the Commissioner of Taxes or designee; and
- (9) the Commissioner of Liquor and Lottery or designee.

(c)(1) The Task Force shall meet at least quarterly.

(2) The Attorney General or designee shall be the Chair of the Task Force.

(d) The Task Force shall ensure that all State agencies coordinate their efforts to combat employee misclassification in a manner that increases the efficiency and effectiveness of those efforts.

(e)(1) The Attorney General shall report annually on or before January 15 of each year to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding activities undertaken pursuant to this section and any additional tax revenue and unemployment insurance contributions, as well as any reduction in workers' compensation premiums and costs, realized as a result of the efforts undertaken pursuant to this section.

(2) 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.

(f) On or before January 15, 2022, the Task Force shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding ways to improve the effectiveness and efficiency of the system of joint enforcement by the Commissioner of Labor and the Attorney General of the laws related to employee misclassification that is established pursuant to 21 V.S.A. §§ 3, 346, 387, 712, and 1379. In particular, the Report shall examine:

- (1) potential legislative changes to address shortcomings or difficulties identified by the Task Force in relation to the system of joint enforcement;
- (2) potential legislative changes to enable either the Commissioner of Labor or the Attorney General to seek the full, combined range of penalties and remedies that are currently available to them through joint enforcement;
- (3) whether to expand the joint enforcement of the laws related to employee misclassification to include additional agencies or departments of the State and potential legislative changes to accomplish such an expansion;
- (4) the possibility of creating a private right of action to enforce the provisions of 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17 that relate to employee misclassification; and
- (5) the possibility of creating a private attorneys general act modeled on California law for the enforcement of the provisions of 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17 that relate to employee misclassification.

Sec. 11. REPEALS

- (a) 3 V.S.A. § 2222d is repealed.
- (b) 21 V.S.A. §§ 346, 387, 712, and 1379 are repealed.

Sec. 12. 21 V.S.A. § 1314 is amended to read:

§ 1314. REPORTS AND RECORDS; SEPARATION INFORMATION;
DETERMINATION OF ELIGIBILITY; FAILURE TO REPORT
EMPLOYMENT INFORMATION; DISCLOSURE OF
INFORMATION TO OTHER STATE AGENCIES TO
INVESTIGATE MISCLASSIFICATION OR MISCODING

* * *

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of

32 V.S.A. chapter 105, subchapter 2; but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

* * *

~~(8) The Department of Labor shall disclose, upon request, to the Attorney General and employees of the Office of the Attorney General information necessary for the Attorney General to investigate a complaint and enforce the provisions of this chapter as provided pursuant to section 1379 of this chapter. [Repealed.]~~

* * *

Sec. 13. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

* * *

(h) Information obtained from any employer, employee, or witness in the course of investigating a complaint of unpaid wages shall be confidential and shall not be disclosed or open to public inspection in any manner that reveals the employee's or employer's identity or be admissible in evidence in any action or proceeding other than one arising under this subchapter. However, such information may be released to any public official for the purposes provided in subdivision 1314(e)(1) of this title ~~or to the Attorney General pursuant to the terms of a memorandum of understanding between the Commissioner and the Attorney General that was agreed to in relation to investigations conducted pursuant to section 346 of this subchapter.~~

Sec. 14. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B, and 21 V.S.A. §§ 346, 387, 712, and 1379;

* * *

Sec. 15. EDUCATION AND OUTREACH

(a) On or before September 15, 2020, the Commissioner of Labor and the Attorney General shall develop and disseminate informational materials for employers and employees that informs them:

(1) that the Attorney General has been granted investigation and enforcement authority in relation to complaints of employee misclassification pursuant to the provisions of 21 V.S.A. §§ 346, 387, 712, and 1379;

(2) of the requirements related to proper employee classification; and

(3) about how to file a complaint regarding employee misclassification.

(b) The methods of disseminating the informational materials shall include:

(1) posting the information on the Attorney General's and the Department of Labor's websites; and

(2) e-mailing or otherwise providing written notice to employer and employee organizations.

* * * Workers' Compensation * * *

Sec. 16. STATE EMPLOYEES; WORKERS' COMPENSATION; POST-TRAUMATIC STRESS DISORDER; MENTAL CONDITIONS; STUDY; REPORT

On or before January 15, 2021, the Agency of Administration, Office of Risk Management, in consultation with the Agency of Human Services, the Department for Children and Families, and the Departments of Human Resources and of Labor, shall submit a written report on the workers' compensation claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs. The report shall:

(1) examine the occurrence and frequency of workers' compensation claims submitted by State employees in relation to post-traumatic stress disorder and other mental conditions that are caused or aggravated by workplace stressors or workplace violence;

(2) identify professions and occupations in State government that have a heightened risk of exposure to traumatic situations or stress that could cause post-traumatic stress disorder or other mental conditions;

(3) include an inventory of currently existing prevention and education plans related to the occurrence of post-traumatic stress disorder and other mental conditions among State employees;

(4) identify various approaches for preventing the occurrence of post-traumatic stress disorder and other mental conditions among State employees, including specific actions and methods to reduce the likelihood of job-related stressors or workplace violence; and

(5) identify specific training and educational activities and materials that can be implemented to:

(A) enable State employees to better recognize situations, incidents, and other occurrences that may result in a stressful situation or violent interaction;

(B) enable State employees to better recognize the symptoms of post-traumatic stress disorder and other common mental conditions in themselves and their coworkers;

(C) identify the resources available to employees following a stressful or traumatic incident, including the Employee Assistance Program and counseling; and

(D) educate State employees regarding how to file and pursue a workers' compensation claim for work-related post-traumatic stress disorder or another work-related mental condition that requires treatment or has become disabling.

Sec. 17. WORKERS' COMPENSATION; COMPENSATION FOR
PRESCRIBED OVER-THE-COUNTER MEDICATIONS;
OUTREACH

On or before October 15, 2020, the Commissioner of Labor shall develop and disseminate informational materials to educate workers and employers regarding the ability of a worker to receive compensation for the cost of prescribed over-the-counter medications. The methods of disseminating the materials shall include:

(1) posting the information on the Department's website;

(2) e-mailing or otherwise providing written notice to insurance carriers that offer workers' compensation insurance in Vermont; and

(3) ensuring, in coordination with the Department of Health and the appropriate professional licensing boards and professional membership associations, that the information is made available to all licensed health care professionals who are authorized to prescribe medications and to all licensed pharmacists in Vermont.

Sec. 18. 21 V.S.A. § 650 is amended to read:

§ 650. PAYMENT; AVERAGE WAGE; COMPUTATION

* * *

(f) When benefits have been awarded or are not in dispute as provided in subsection (e) of this section, the employer shall establish a weekday on which payment shall be mailed or deposited and notify the claimant and the Department of that day. The employer shall ensure that each weekly payment is mailed or deposited on or before the day established. Payment shall be made by direct deposit to a claimant who elects that payment method. The employer shall notify the claimant of his or her right to payment by direct deposit. If the benefit payment is not mailed or deposited on the day established, the employer shall pay to the claimant a late fee of \$10.00 or five percent of the benefit amount, whichever is greater, for each weekly payment that is made after the established day. ~~For the purposes of~~ As used in this subsection, “paid” means the payment is mailed to the claimant’s mailing address or, in the case of direct deposit, transferred into the designated account. In the event of a dispute, proof of payment shall be established by affidavit.

* * * Required Notice for Unemployment Insurance * * *

Sec. 19. 21 V.S.A. § 1346 is amended to read:

§ 1346. CLAIMS FOR BENEFITS; REGULATIONS RULES; NOTICE

(a) Claims for benefits shall be made in accordance with ~~such regulations as rules adopted by the Board may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his or her service and shall make available to each such individual, at the time he or she becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the Commissioner to each employer without cost to him or her.~~

(b) Every person making a claim shall certify that he or she has not, during the week with respect to which waiting period credit or benefits are claimed, earned or received wages or other remuneration for any employment, whether subject to this chapter or not, otherwise than as specified in his or her claim. All benefits shall be paid in accordance with ~~such regulations as~~ the rules adopted by the Board may prescribe.

(c) An employer shall post notice of how an unemployed individual can seek unemployment benefits in a form provided by the Commissioner in a place conspicuous to individuals performing services for the employer. The notice shall also advise individuals of their rights under the Domestic and Sexual Violence Survivor’s Transitional Employment Program, established pursuant to chapter 16A of this title. The Commissioner shall provide a copy of the notice to an employer upon request without cost to the employer.

* * * Short-Time Compensation Program * * *

Sec. 20. 21 V.S.A. § 1462 is added to read:

§ 1462. PERIOD OF DORMANCY

On July 1, 2020, the Short-Time Compensation Program established pursuant to sections 1451–1461 of this subchapter shall cease operation and shall not resume operation unless directed to do so by enactment of the General Assembly or, if the General Assembly is not in session, by order of the Joint Fiscal Committee. The Joint Fiscal Committee shall issue such order only upon finding that, due to a change in circumstances, resumption of the Short-Time Compensation Program would be the most effective way to assist employers in avoiding layoffs. Upon the effective date of such an enactment or order, the Short-Time Compensation Program shall resume operation pursuant to the provisions of sections 1451–1461 of this subchapter.

* * * Self-Employment Assistance Program * * *

Sec. 21. 21 V.S.A. § 1340a is added to read:

§ 1340a. SELF-EMPLOYMENT ASSISTANCE PROGRAM

(a) As used in this section:

(1) “Full-time basis” means that the individual is devoting the necessary time as determined by the Commissioner to establish a business that will serve as a full-time occupation for that individual.

(2) “Regular benefits” shall have the same meaning as in subdivision 1421(5) of this title.

(3) “Self-employment assistance activities” means activities approved by the Commissioner in which an individual participates for the purpose of establishing a business and becoming self-employed, including entrepreneurial training, business counseling, and technical assistance.

(4) “Self-employment assistance allowance” means an allowance payable in lieu of regular benefits from the Unemployment Compensation Trust Fund to an individual who meets the requirements of this section.

(5) “Self-Employment Assistance Program” means the program under which an individual who meets the requirements of subsection (d) of this section is eligible to receive an allowance in lieu of regular benefits for the purpose of assisting that individual in establishing a business and becoming self-employed.

(b) The weekly amount of the self-employment assistance allowance payable to an individual shall be equal to the weekly benefit amount for regular benefits otherwise payable pursuant to this title.

(c) The maximum amount of the self-employment assistance allowance paid pursuant to this section shall not exceed the maximum amount of benefits established pursuant to section 1340 of this title with respect to any benefit year.

(d)(1) An individual may receive a self-employment assistance allowance if that individual:

(A) is eligible to receive regular benefits or would be eligible to receive regular benefits except for the requirements described in subdivisions (2)(A) and (B) of this subsection (d);

(B) is identified by a worker profiling system as an individual likely to exhaust regular benefits;

(C) has received the approval of the Commissioner to participate in a program providing self-employment assistance activities;

(D) is engaged actively on a full-time basis in activities that may include training related to establishing a business and becoming self-employed; and

(E) has filed a weekly claim for the self-employment assistance allowance and provided the information the Commissioner requires.

(2) A self-employment allowance shall be payable to an individual at the same interval, on the same terms, and subject to the same conditions as regular benefits pursuant to this chapter, except:

(A) the requirements of section 1343 of this title, relating to availability for work, efforts to secure work, and refusal to accept work, are not applicable to the individual; and

(B)(i) the individual is not considered to be self-employed pursuant to subdivision 1301(24) of this title;

(ii) an individual who meets the requirements of this section shall be considered to be unemployed pursuant to section 1338 of this title; and

(iii) an individual who fails to participate in self-employment assistance activities or who fails to engage actively on a full-time basis in activities, including training, relating to the establishment of a business and becoming self-employed shall be disqualified from receiving an allowance for the week in which the failure occurs.

(e) The self-employment assistance allowance may be paid to up to 35 qualified individuals at any time, provided that the number of qualified individuals receiving a self-employment assistance allowance at any time shall not exceed five percent of the total number of individuals receiving regular benefits at that time.

(f)(1) The self-employment assistance allowance shall be charged to the Unemployment Compensation Trust Fund.

(2) In the event that the self-employment assistance allowance cannot be charged to the Unemployment Compensation Trust Fund pursuant to subdivision (1) of this subsection, the allowance shall be charged in accordance with section 1325 of this title.

(g) The Commissioner may approve a program upon determining that it will provide self-employment assistance activities to qualified individuals.

(h)(1) The Commissioner shall adopt rules to implement this section.

(2) The rules adopted pursuant to this subsection shall include a detailed explanation of how an individual may apply for and establish eligibility for the Self-Employment Assistance Program and any criteria that the Commissioner will consider in determining whether to approve a program.

(i) The Commissioner may suspend the Self-Employment Assistance Program with approval of the Secretary of Administration and notice to the House Committee on Commerce and Economic Development and the Senate Committee on Finance in the event that the Program presents unintended adverse consequences to the Unemployment Compensation Trust Fund.

(j) The Self-Employment Assistance Program may not result in any cost to the Unemployment Trust Fund in excess of the cost that would be incurred by the State and charged to the Fund if the Program were not in operation.

Sec. 22. USE OF SELF-EMPLOYMENT ASSISTANCE PROGRAM; REPORT

On or before January 15, 2022, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs regarding the utilization of the Self-Employment Assistance Program during the previous 18 months, including the number of applications received, programs approved, and programs completed, and any recommendations for legislative action to improve the utilization of the Self-Employment Assistance Program. The Commissioner shall also present the report in person to both Committees.

* * * Unemployment Insurance Experience Ratings * * *

Sec. 23. MITIGATING IMPACT OF EXPERIENCE RATING SYSTEM ON SMALL BUSINESSES; REPORT

On or before January 15, 2021, the Commissioner of Labor shall submit a written report to the House Committee on Commerce and Economic

Development and the Senate Committee on Economic Development, Housing and General Affairs regarding potential approaches to mitigate the impact of a single separation from employment on a small employer's unemployment insurance experience rating and contribution rate. The report shall specifically identify and describe provisions in other states' laws that reduce the impact of a single separation from employment on small employers' unemployment insurance experience ratings and contribution rates, and any resulting effect on the state's unemployment insurance trust fund. The report shall also identify any amendments to the Vermont Statutes Annotated that could reduce the impact of a single separation from employment on a small employer's unemployment insurance experience rating and contribution rate and, if possible, make a recommendation for legislative action to accomplish that goal.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

(a) Sec. 8 of this act shall take effect on passage, and the memoranda of understanding required pursuant to that section shall be executed not more than 90 days after the date of passage.

(b) Secs. 11, 12, 13, and 14 of this act shall take effect on July 1, 2026.

(c) Sec. 18 of this act shall take effect on January 1, 2021, and shall apply to injuries incurred on or after that date.

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

*MICHAEL D. SIROTKIN
ALISON CLARKSON
CHERYL M. HOOKER*

Committee on the part of the Senate

*MATTHEW HILL
EMILIE K. KORNHEISER
MICHAEL J. MARCOTTE*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

House Concurrent Resolution

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having

requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Donahue and Goslant,

By Senators Cummings, Perchlik and Pollina,

H.C.R. 237.

House concurrent resolution in memory of former Representative James Munro Pedley of Northfield.

By Reps. Sullivan and others,

By Senators Campion and Sears,

H.C.R. 238.

House concurrent resolution honoring the community generosity of Josiah E. Miles and congratulating MILES Inc. of Manchester on its 80th anniversary.

By Reps. Kornheiser and others,

By Senators Balint and White,

H.C.R. 239.

House concurrent resolution honoring Michael Bosworth for his community leadership roles in Windham County.

By Reps. Ralph and others,

H.C.R. 240.

House concurrent resolution honoring the Vermont Foodbank and designating February 6, 2020 as Hunger Action Day at the State House.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 241.

House concurrent resolution congratulating Marion Catherine Schaub Cutler on her 100th birthday.

By Rep. Lanpher,

H.C.R. 242.

House concurrent resolution designating Thursday, February 13, 2020 as Afterschool Day at the State House.

By Reps. Fagan and others,

By All Members of the Senate,

H.C.R. 243.

House concurrent resolution congratulating the members of the Vermont Eagle Scout class of 2019.

By Rep. Pugh,

H.C.R. 244.

House concurrent resolution congratulating the Vermont 2-1-1 referral support system on its 15th Anniversary and designating February 11, 2020 as Vermont 2-1-1 Day at the State House.

By Reps. Partridge and others,

H.C.R. 245.

House concurrent resolution designating February 12, 2020 as Farm-to-School Awareness Day at the State House.

By Rep. Donahue,

H.C.R. 246.

House concurrent resolution designating February 13, 2020 as Suicide Prevention Day at the State House.

By Reps. McCarthy and others,

H.C.R. 247.

House concurrent resolution honoring James Pelkey for his public and community service in Franklin County.

By Rep. Nicoll,

H.C.R. 248.

House concurrent resolution congratulating the 2019 New England Patriots on winning Super Bowl LIII, the franchise's sixth football championship.

By Reps. Burditt and others,

By Senators Collamore, Hooker and McNeil,

H.C.R. 249.

House concurrent resolution honoring former West Rutland Fire Chief Joseph Skaza.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, February 11, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 37.

TUESDAY, FEBRUARY 11, 2020

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 Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the tenth day of February, 2020 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 23. An act relating to increasing the minimum wage.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 23** to the Senate is as follows:

“February 10, 2020

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.23, *An act relating to increasing the minimum wage*, without my signature because of my objections described herein:

It's critical to recognize that we share the goal of Vermonters making more money. I also believe Vermonters should keep more of what they earn, which is why I can't support policies that increase the costs of living.

My objection to a mandated increase to the minimum wage is based on three primary concerns:

1. Fiscal analysis projects job losses, decreases to employee hours, and increased costs of goods and services, which will offset the intended positive benefits for workers;
2. These harmful impacts will be felt more significantly in rural parts of the state, worsening economic inequity between counties; and
3. There will be an overall negative impact on economic growth.

These concerns are reinforced by data and analysis from regions where mandated increases have taken effect, and – importantly – by the Vermont Legislature's Joint Fiscal Office, which predicted, if implemented, this bill could cause job losses, reduced hours, and higher prices.

Based on our own experience with mandated minimum wage increases in recent years, Vermont data shows that increases to hourly rates do not guarantee an increase to weekly or annual earnings for Vermont workers.

The Legislature's economist, Tom Kavet, also reported a mandated increase would have a more harmful economic impact in our more rural regions.

From workforce declines to overall economic recovery – or lack thereof – most of the state has simply not kept pace with Northwestern Vermont, particularly Chittenden County. A statewide mandated wage increase would exacerbate this regional economic inequity.

For example, a local mom and pop store in Monkton, Albany or Richford, already struggling to stay open, is far less able to absorb an increase than a retailer with a higher volume of sales in the Burlington area. That means workers in these areas are more likely to be impacted by the predicted job losses or reduced hours, and small, locally owned businesses will feel an even greater burden. We must ask ourselves what our struggling communities might look like with more empty storefronts.

Even New York recognized its own regional inequity when raising the minimum wage, carving out four discrete regions, which account for the different economic circumstances in different parts of the state. We must recognize we have two Vermonts with distinct economies.

Finally, I'm concerned with the overall economic impact to the state. The Legislature's JFO predicts a negative economic impact, specifically through a slight reduction in Vermont's Gross Domestic Product.

Vermont has one of the highest minimum wage rates in the country – which already increases annually – and yet employers across the state struggle to fill positions. If the minimum wage was directly correlated to economic prosperity and workforce growth, Vermont would have a stronger economy and a larger workforce than New Hampshire.

Despite S.23's good intentions, the reality is there are too many unintended consequences and we cannot grow the economy or make Vermont more affordable by arbitrarily forcing wage increases. I believe this legislation would end up hurting the very people it aims to help.

Based on the outstanding objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott

Governor

PBS/kp”

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 40.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Ashe,

J.R.S. 40. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 14, 2020, it be to meet again no later than Tuesday, February 18, 2020.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 338.

By the Committee on Judiciary,

An act relating to justice reinvestment.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 135. An act relating to consumer protection and automobile financing.

Bill Amended; Bill Passed**S. 181.**

Senate bill entitled:

An act relating to access to employee restrooms for individuals living with an inflammatory bowel disease.

Was taken up.

Thereupon, pending third reading of the bill, Senators Lyons and Sirotkin moved to amend the bill in Sec. 1, 18 V.S.A. § 1311 by striking out subsection (c) in its entirety and that the following be inserted in lieu thereof:

(c) A retail establishment or person employed by a retail establishment shall not be subject to civil liability for an act or omission in allowing a customer to use an employee restroom pursuant to this section if the act or omission results in injury or death to the customer or the individual accompanying the customer, provided the act or omission occurs in an area of the retail establishment that is not accessible to the public. Nothing in this section shall be construed to limit or otherwise affect the liability of any person for damages resulting from that person's gross negligence or willful misconduct.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Message from the House No. 15

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 572. An act relating to the Maternal Mortality Review Panel.

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

The House has adopted House concurrent resolution of the following title:

H.C.R. 237. House concurrent resolution in memory of former

Representative James Munro Pedley of Northfield.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 12, 2020.

WEDNESDAY, FEBRUARY 12, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Appropriations

S. 338.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to justice reinvestment.

Bill Referred

House bill of the following title was read the first time and referred:

H. 572.

An act relating to the Maternal Mortality Review Panel.

To the Committee on Health and Welfare.

Bill Amended; Third Reading Ordered

S. 128.

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

An act relating to physician assistant licensure.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. chapter 31 is amended to read:

CHAPTER 31. PHYSICIAN ASSISTANTS

§ 1731. POLICY AND PURPOSE

The General Assembly recognizes the need to provide means by which physicians in this State may increase the scope and physician assistants may practice medicine in collaboration with physicians and other health care professionals to provide increased efficiency of their practice in order and to ensure that quality high-quality medical services are available to all Vermonters at reasonable cost. The General Assembly recognizes that physician assistants, with their education, training, and expertise in the field of medicine, are well suited to provide these services to Vermonters.

§ 1732. DEFINITIONS

As used in this chapter:

(1) “Accredited physician assistant program” means a physician assistant educational program that has been accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA), or, prior to 2001, by either the Committee on Allied Health Education and Accreditation (CAHEA), or the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

(2) “Board” means the State Board of Medical Practice established by chapter 23 of this title.

(3) “Delegation agreement” means a detailed description of the duties and scope of practice delegated by a primary supervising physician to a physician assistant that is signed by both the physician assistant and the supervising physicians. “Collaboration” means a physician assistant’s consultation with or referral to an appropriate physician or other health care professional as indicated based on the patient’s condition; the physician assistant’s education, competencies, and experience; and the applicable standards of care.

(4) “Disciplinary action” means any action taken by the Board against a physician assistant or an applicant, or an appeal of that action, when the action suspends, revokes, limits, or conditions licensure in any way. The term includes reprimands and administrative penalties.

(5) “Health care facility” has the same meaning as in 18 V.S.A. § 9402.

(6) “Participating physician” means a physician practicing as a sole practitioner, a physician designated by a group of physicians to represent their physician group, or a physician designated by a health care facility to represent that facility, who enters into a practice agreement with a physician assistant in accordance with this chapter.

(7) “Physician” means an individual licensed to practice medicine pursuant to chapter 23 or 33 of this title.

~~(5)~~(8) “Physician assistant” or “PA” means an individual licensed by the State of Vermont who is qualified by education, training, experience, and personal character to provide medical care with the direction and supervision of a Vermont licensed physician to practice medicine in collaboration with one or more physicians pursuant to this chapter.

(9) “Physician group” means a medical practice involving two or more physicians.

~~(6)~~(10) “Supervising physician” means an M.D. or D.O. licensed by the state of Vermont who oversees and accepts responsibility for the medical care provided by a physician assistant “Practice agreement” means an agreement that meets the requirements of section 1735a of this chapter.

~~(7)~~(11) “Supervision” means the direction and review by the supervising physician of the medical care provided by the physician assistant. The constant physical presence of the supervising physician is not required as long as the supervising physician and physician assistant are or easily can be in contact with each other by telecommunication “Practice as a physician assistant” means the practice of medicine by a PA pursuant to a practice agreement with a participating physician.

(8) “Disciplinary action” means any action taken against a physician assistant or an applicant by the Board or on appeal therefrom, when that action suspends, revokes, limits, or conditions licensure in any way, and includes reprimands and administrative penalties.

§ 1733. LICENSURE

(a) The State Board of Medical Practice is responsible for the licensure of physician assistants, and the Commissioner of Health shall adopt, amend, or repeal rules regarding the training, practice, qualification, and discipline of physician assistants.

~~(b) In order to practice, a licensed physician assistant shall have completed a delegation agreement as described in section 1735a of this title with a Vermont licensed physician signed by both the physician assistant and the supervising physician or physicians. The original shall be filed with the Board and copies shall be kept on file at each of the physician assistant’s practice sites. All applicants and licensees shall demonstrate that the requirements for licensure are met.~~

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

§ 1734. ELIGIBILITY

(a) The Board may grant a license to practice as a physician assistant to an applicant who meets all of the following requirements:

(1) ~~submits~~ Submits a completed application form provided by the ~~board;~~ Board.

(2) ~~pays~~ Pays the required application fee;.

(3) ~~has~~ Has graduated from an accredited physician assistant program or has passed and maintained the certification examination by the National Commission on the Certification of Physician Assistants (NCCPA) prior to 1988;.

(4) ~~has~~ Has passed the ~~certification examination given~~ Physician Assistant National Certifying Examination administered by the NCCPA;.

(5) ~~is~~ Is mentally and physically able to engage safely in practice as a physician assistant;.

(6) ~~does~~ Does not hold any license, certification, or registration as a physician assistant in another state or jurisdiction that is under current disciplinary action, or has been revoked, suspended, or placed on probation for cause resulting from the applicant's practice as a physician assistant, unless the Board has considered the applicant's circumstances and determines that licensure is appropriate;.

(7) ~~is~~ Is of good moral character;.

(8) ~~submits~~ Submits to the Board any other information that the Board deems necessary to evaluate the applicant's qualifications; ~~and~~.

(9) ~~has~~ Has engaged in practice as a physician assistant within the last three years or has complied with the requirements for updating knowledge and skills as defined by Board rules. This requirement shall not apply to applicants who have graduated from an accredited physician assistant program within the last three years.

(b), (c) [Repealed.]

(d) When the Board intends to deny an application for licensure, it shall send the applicant written notice of its decision by certified mail. The notice shall include a statement of the reasons for the action. Within 30 days of the date that an applicant receives such notice, the applicant may file a petition with the Board for review of its preliminary decision. At the hearing, the burden shall be on the applicant to show that licensure should be granted. After the hearing, the Board shall affirm or reverse its preliminary denial.

(e) Failure to maintain competence in the knowledge and skills of a physician assistant, as determined by the Board, shall be cause for revocation of licensure.

§ 1734b. RENEWAL OF LICENSE

(a) Licenses shall be renewed every two years on payment of the required fee. At least one month prior to the date on which renewal is required, the Board shall send to each licensee a license renewal application form and notice of the date on which the existing license will expire. On or before the renewal date, the licensee shall file an application for license renewal and pay the required fee. The Board shall register the applicant and issue the renewal license. Within one month following the date renewal is required, the Board shall pay the license renewal fees into the Medical Practice Board Special Fund. Any physician assistant while on extended active duty ~~in the uniformed services of the United States or member of the National Guard, State Guard, or reserve component~~ as a member of the U.S. Armed Forces, a reserve component of the U.S. Armed Forces, the National Guard, or the State Guard who is licensed as a physician assistant at the time ~~of an activation or deployment~~ the licensee was ordered to active duty shall receive an extension of licensure up to 90 days following the physician assistant's return from ~~activation or deployment~~ active duty, provided the physician assistant notifies the Board ~~of his or her activation or deployment~~ that the licensee has been ordered to active duty prior to the expiration of the current license, and certifies that the circumstances of the ~~activation or deployment~~ duty impede good faith efforts to make timely application for renewal of the license.

(b) A licensee shall demonstrate that the requirements for licensure are met.

(c) A licensee for renewal of an active license to practice shall have practiced as a physician assistant within the last three years or have complied with the requirements for updating knowledge and skills as defined by Board rules.

(d) A licensee shall promptly provide the Board with new or changed information pertinent to the information in ~~his or her~~ the physician assistant's license and license renewal applications at the time ~~he or she~~ the licensee becomes aware of the new or changed information.

(e) A license that has lapsed may be reinstated on payment of a renewal fee and a late renewal fee. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if a license remains lapsed for a period of three years, the Board may require the licensee to update ~~his or her~~ the licensee's knowledge and skills as defined by Board rules.

§ 1734c. EXEMPTIONS

(a) Nothing in this chapter shall be construed to require licensure under this chapter of any of the following:

(1) ~~a physician~~ Physician ~~assistant student~~ students enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant;

(2) ~~a physician assistant~~ Physician assistants employed in the service of the U.S. Armed Forces or National Guard, including National Guard in state status, while performing duties incident to that employment;

(3) ~~a technician~~ Technicians or other ~~assistant or employee~~ assistants or employees of a physician who ~~performs~~ perform physician-delegated tasks but who ~~is~~ are not rendering services as a ~~physician assistant~~ assistants or identifying ~~himself or herself~~ themselves as a ~~physician assistant~~; or assistants.

(4) ~~a physician assistant~~ Physician assistants who ~~is~~ are duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the ~~physician assistant is~~ assistants are employed as or formally designated as the ~~team physician assistant~~ assistants by an athletic team visiting Vermont for a specific sporting event and the ~~physician assistant~~ assistants ~~limits his or her~~ limit their practice in this State to the treatment of the members, coaches, and staff of the sports team employing or designating the ~~physician assistant~~ assistants.

(b) Physician assistants licensed in this State or credentialed as physician assistants by a federal employer shall not be required to have a practice agreement when responding to a need for medical care created by a disaster or emergency, as that term is defined in 20 V.S.A. § 102(c).

§ 1735a. SUPERVISION PRACTICE AGREEMENT AND SCOPE OF PRACTICE

~~(a) It is the obligation of each team of physician and physician assistant to ensure that the physician assistant's scope of practice is identified; that delegation of medical care is appropriate to the physician assistant's level of competence; that the supervision, monitoring, documentation, and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established. Except as provided in subsections 1734c(b) and 1735a(e) of this chapter, a physician assistant shall engage in practice as a physician assistant in this State only if the physician assistant has entered into a written practice agreement as set forth in subsection (b) of this section.~~

(1) A physician assistant shall enter into a practice agreement with a physician who practices as a sole practitioner only if the participating physician's area of specialty is similar to the physician assistant's area of specialty.

(2) A physician assistant shall enter into a practice agreement with a participating physician who represents a physician group or health care facility only if one or more of the physicians practicing in the physician group or at the health care facility has an area of specialty similar to the physician assistant's area of specialty.

~~(b) The information required in subsection (a) of this section shall be included in a delegation agreement as required by the Commissioner by rule. The delegation agreement shall be signed by both the physician assistant and the supervising physician or physicians, and a copy shall be kept on file at each of the physician assistant's practice sites and the original filed with the Board~~ A practice agreement shall include all of the following:

(1) Processes for physician communication, availability, decision-making, and periodic joint evaluation of services delivered when providing medical care to a patient.

(2) An agreement that the physician assistant's scope of practice shall be limited to medical care that is within the physician assistant's education, training, and experience. Specific restrictions, if any, on the physician assistant's practice shall be listed.

(3) A plan to have a physician available for consultation at all times when the physician assistant is practicing medicine.

(4) The signatures of the physician assistant and the participating physician; no other signatures shall be required.

~~(c) The physician assistant's scope of practice shall be limited to medical care which is delegated to the physician assistant by the supervising physician and performed with the supervision of the supervising physician. The medical care shall be within the supervising physician's scope of practice and shall be care which the supervising physician has determined that the physician assistant is qualified by education, training, and experience to provide~~ A practice agreement may specify the extent of the collaboration required between the PA and physicians and other health care professionals; provided, however, that a physician shall be accessible for consultation by telephone or electronic means at all times when a PA is practicing.

(d) The practice agreement shall be reviewed by the physician assistant and either the participating physician or a representative of the practice, physician group, or health care facility, at a minimum, at the time of the physician assistant's license renewal.

~~(d)~~(e) In the event of the unanticipated unavailability of a participating physician practicing as a sole practitioner due to serious illness or death, a physician assistant may continue to practice for not more than a 30-day period

without entering into a new practice agreement with another participating physician.

(f) The practice agreement shall be filed with the Board. The Board shall not request or require any modifications to the practice agreement. The practice agreement may be filed with the Board electronically at the option of the physician assistant; no original documents shall be required.

(g) Nothing in this section shall be construed to require the physical presence of a physician at the time and place at which a physician assistant renders a medical service.

(h) A physician assistant may prescribe, dispense, and administer, and procure drugs and medical devices to the extent delegated by a supervising physician to the same extent as may a physician. A physician assistant who is authorized by a supervising physician to prescribe prescribes controlled substances must register shall be registered with the federal Drug Enforcement Administration.

(e) A supervising physician and physician assistant shall report to the Board immediately upon an alteration or the termination of the delegation agreement.

§ 1735b. PHYSICIAN ASSISTANT AS PRIMARY CARE PROVIDER

Notwithstanding any provision of law to the contrary, a physician assistant shall be considered a primary care provider when the physician assistant practices in one or more of the medical specialties for which a physician would be considered to be a primary care provider.

§ 1736. UNPROFESSIONAL CONDUCT

(a) The following conduct and the conduct described in section 1354 of this title by a licensed physician assistant shall constitute unprofessional conduct. ~~When;~~ when that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of licensure:

(1) fraud or misrepresentation in applying for or procuring a license or in applying for or procuring a periodic renewal of a license;

(2) occupational advertising that is intended or has a tendency to deceive the public;

(3) exercising undue influence on or taking improper advantage of a person using the individual's services, or promoting the sale of professional goods or services in a manner that exploits a person for the financial gain of the practitioner or of a third party;

(4) failing to comply with provisions of federal or state statutes or rules governing the profession;

(5) conviction of a crime related to the profession; and

(6) conduct that evidences unfitness to practice in the profession.

(b) Unprofessional conduct includes the following actions by a licensed physician assistant:

(1) Making or filing false professional reports or records, impeding or obstructing the proper making or filing of professional reports or records, or failing to file ~~the a~~ proper professional report or record.

(2) Practicing the profession when mentally or physically unfit to do so.

~~(3) Practicing the profession without having a delegation agreement meeting the requirements of this chapter on file at the primary location of the physician assistant's practice and the Board~~ Practicing as a physician assistant without a practice agreement meeting the requirements of section 1735a of this chapter, except under the circumstances described in subsections 1734c(b) and 1735a(e) of this chapter. The Board's receipt of a practice agreement filed in accordance with subsection 1735a(f) of this chapter shall not be construed to constitute Board approval of the practice agreement or of its contents.

(4) Accepting and performing responsibilities that the individual knows or has reason to know ~~that he or she~~ the individual is not competent to perform.

(5) Making any material misrepresentation in the practice of the profession, whether by commission or omission.

(6) The act of holding ~~one's self~~ oneself out as, or permitting ~~one's self~~ oneself to be represented as, a licensed physician.

~~(7) Performing otherwise than at the direction and under the supervision of a physician licensed by the Board or an osteopath licensed by the Vermont Board of Osteopathic Physicians and Surgeons; [Repealed.]~~

(8) Performing or offering to perform a task or tasks beyond the individual's ~~delegated~~ scope of practice.

(9) Administering, dispensing, procuring, or prescribing any controlled substance otherwise than as authorized by law.

(10) Habitual or excessive use or abuse of drugs, alcohol, or other substances that impair the ability to provide medical services.

(11) Failure to practice competently by reason of any cause on a single occasion or on multiple occasions. Failure to practice competently includes, as determined by the Board:

(A) performance of unsafe or unacceptable patient care; or

(B) failure to conform to the essential standards of acceptable and prevailing practice.

(c) A person aggrieved by a determination of the Board may, within 30 days of the order, appeal that order to the Vermont Supreme Court on the basis of the record created before the Board.

* * *

§ 1738. USE OF TITLE

Any person who is licensed to practice as a physician assistant in this State shall have the right to use the title “physician assistant” and the abbreviation “P.A.” ~~abbreviations “PA” and “PA-C.”~~ No other person ~~may shall~~ assume that title, ~~or use that abbreviation those abbreviations,~~ or use any other words, letters, signs, or devices to indicate that the person using them is a physician assistant.

§ 1739. LEGAL LIABILITY

~~(a) The supervising physician delegating activities to a physician assistant shall be legally liable for such activities of the physician assistant, and the physician assistant shall in this relationship be the physician’s agent.~~

~~(b) Nothing in this chapter shall be construed as prohibiting a physician from delegating to the physician’s employees certain activities relating to medical care and treatment now being carried out by custom and usage when such activities are under the control of the physician. The physician delegating activities to his or her employees shall be legally liable for such activities of such persons, and such person shall in this relationship be the physician’s agent. Nothing contained in this chapter shall be construed to apply to nurses acting pursuant to chapter 28 of this title. Physician assistants are responsible for their own medical decision making. A participating physician in a practice agreement with a physician assistant shall not, by the existence of the practice agreement alone, be legally liable for the actions or inactions of the physician assistant.~~

§ 1739a. INAPPROPRIATE USE OF SERVICES BY PHYSICIAN; UNPROFESSIONAL CONDUCT

~~Use of the services of a physician assistant by a physician in a manner which is inconsistent with the provisions of this chapter constitutes unprofessional conduct by the physician and such physician shall be subject to disciplinary action by the Board in accordance with the provisions of chapter 23 or 33 of this title, as appropriate. [Repealed.]~~

§ 1740. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

(1) Original application for licensure, \$225.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, which, for the protection of the public, monitors and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety.

(2) Biennial renewal, \$215.00; the Board shall use at least \$10.00 of this fee to support the cost of maintaining the Vermont Practitioner Recovery Network, ~~which, for the protection of the public, monitors and evaluates, coordinates services for, and promotes rehabilitation of licensees who have or potentially have an impaired ability to practice medicine with reasonable skill and safety~~ described in subdivision (1) of this section.

§ 1741. NOTICE OF USE OF PHYSICIAN ASSISTANT TO BE POSTED

~~A physician, clinic, or hospital that utilizes the services of a physician assistant shall post a notice to that effect in a prominent place. [Repealed.]~~

* * *

§ 1743. MEDICAID REIMBURSEMENT

The Secretary of Human Services shall, pursuant to 3 V.S.A. chapter 25, adopt rules providing for a fee schedule for reimbursement under Title XIX (Medicaid) of the Social Security Act and 33 V.S.A. chapter 19, ~~relating to medical assistance~~ that recognizes reasonable cost differences between services provided by physicians and those provided by physician assistants under this chapter.

§ 1743a. PAYMENT FOR MEDICAL SERVICES

(a) As used in this section:

(1) “Health insurer” has the same meaning as in 18 V.S.A. § 9402.

(2) “Participating provider” has the same meaning as in 18 V.S.A. § 9418 and includes providers participating in the Vermont Medicaid program.

(b) Health insurers and Medicaid shall reimburse a participating provider who is a physician assistant for any medical service delivered by the physician assistant if the same service would be covered if delivered by a physician. Physician assistants are authorized to bill for and receive direct payment for the medically necessary services they deliver.

(c) To provide accountability and transparency for patients, payers, and the health care system, the physician assistant shall be identified as the treating provider in the billing and claims processes when the physician assistant delivered the medical services to the patient.

(d) A health insurer shall not impose any practice, education, or collaboration requirement for a physician assistant that is inconsistent with or more restrictive than the provisions of this chapter.

§ 1744. ~~CERTIFIED PHYSICIAN ASSISTANTS~~

~~Any person who is certified by the Board as a physician assistant prior to the enactment of this section shall be considered to be licensed as a physician assistant under this chapter immediately upon enactment of this section, and shall be eligible for licensure renewal pursuant to section 1734b of this title. [Repealed.]~~

Sec. 2. 26 V.S.A. § 1354 is amended to read:

§ 1354. UNPROFESSIONAL CONDUCT

(a) The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:

* * *

(38) signing a blank or undated prescription form; or

~~(39) use of the services of a physician assistant by a physician in a manner that is inconsistent with the provisions of chapter 31 of this title; or [Repealed.]~~

* * *

Sec. 3. 26 V.S.A. § 1444 is added to read:

§ 1444. LIABILITY FOR ACTIONS OF AGENT

(a) A physician may delegate to a medical technician or other assistant or employee certain activities related to medical care and treatment that the individual is qualified to perform by training, education, experience, or a combination of these when the activities are under the control of the physician. The physician delegating the activities to the individual shall be legally liable for the individual's performance of those activities, and in this relationship, the individual shall be the physician's agent.

(b) Nothing in this section shall be construed to apply to a nurse acting pursuant to chapter 28 of this title or to a physician assistant acting pursuant to chapter 31 of this title.

Sec. 4. DEPARTMENT OF HEALTH; RULEMAKING

The Department of Health shall amend the Board of Medical Practice rules pursuant to 3 V.S.A. chapter 25 to conform the provisions regarding physician assistant licensure to the provisions of this act. The Department shall complete its rulemaking process on or before July 1, 2021.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020 and shall apply to all physician assistant licenses issued or renewed on and after that date.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare?, Senators Sears and Lyons moved to amend the recommendation of the Committee on Health and Welfare as follows:

In Sec. 1 by striking out 26 V.S.A. § 1739 in its entirety and inserting in lieu thereof the following:

§ 1739. LEGAL LIABILITY

~~(a) The supervising physician delegating activities to a physician assistant shall be legally liable for such activities of the physician assistant, and the physician assistant shall in this relationship be the physician's agent.~~

~~(b) Nothing in this chapter shall be construed as prohibiting a physician from delegating to the physician's employees certain activities relating to medical care and treatment now being carried out by custom and usage when such activities are under the control of the physician. The physician delegating activities to his or her employees shall be legally liable for such activities of such persons, and such person shall in this relationship be the physician's agent. Nothing contained in this chapter shall be construed to apply to nurses acting pursuant to chapter 28 of this title. Physician assistants are responsible for their own medical decision making. A participating physician in a practice agreement with a physician assistant shall not, by the existence of the practice agreement alone, be legally liable for the actions or inactions of the physician assistant; provided, however, that this does not otherwise limit the liability of the participating physician.~~

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Health and Welfare, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered**H. 83.**

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

An act relating to female genital cutting.

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. 13 V.S.A. chapter 70 is added to read:

CHAPTER 70. FEMALE GENITAL MUTILATION OR CUTTING

§ 3151. FEMALE GENITAL MUTILATION OR CUTTING PROHIBITED

(a) Definitions. As used in this section:

(1) “Health care professional” means an individual, partnership, corporation, facility, or institution licensed or certified or authorized by law to provide professional health care services.

(2) “Midwife” means a midwife licensed pursuant to 26 V.S.A. chapter 85.

(b) Female genital mutilation or cutting prohibited. Except as provided in subsection (c) of this section, no person shall:

(1) Knowingly circumcise, excise, or infibulate the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained 18 years of age.

(2) Knowingly incise, prick, scrape, or cauterize any part of the labia majora or labia minora or clitoris of another person who has not attained 18 years of age.

(c) Exceptions. A medical procedure is not a violation of this section if it is:

(1) necessary to the health of the person on whom it is performed and is performed by a health care professional; or

(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a health care professional, midwife, or person in training to become a health care professional or midwife.

(d) Defense. It is not a defense to a charge under this section that the person on whom the procedure is performed, or any other person, believes that

the procedure is required as a matter of custom or ritual or that the person on whom the procedure is performed, or that person's parent or guardian, consented to the procedure.

(e) Transportation prohibited. A person shall not knowingly transport a person into or out of this State for the purpose of conduct that would be a violation of this section.

(f) Penalty. A person who violates subdivision (b)(2) of this section shall be imprisoned not more than two years or fined not more than \$500.00, or both. A person who violates subdivision (b)(1) or subsection (e) of this section shall be imprisoned not more than 10 years or fined not more than \$20,000.00, or both.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to prohibiting female genital mutilation or cutting.

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.

Message from the House No. 16

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

Mr. President:

I am directed to inform the Senate that:

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

J.R.S. 38. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

J.R.S. 39. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2020.

J.R.S. 40. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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. 110. An act relating to data privacy and consumer protection.

And has adopted the same on its part.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 760. An act relating to fiscal year 2020 budget adjustments.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, February 13, 2020.

THURSDAY, FEBRUARY 13, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Third Reading Ordered

S. 335.

Senate committee bill entitled:

An act relating to universal access to afterschool programs.

Having appeared on the Calendar for notice for one day, was taken up.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended in Sec. 2 (Task Force for Universal Afterschool Access) by striking out subsections (g) and (h) in their entireties and inserting in lieu thereof the following:

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. The Legislative Branch shall administer reimbursement for legislative members of the Task Force.

(2) Members of the Task Force who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings. The Agency of Human Services shall administer reimbursement for the Task Force members specified in this subdivision from funds available from the appropriation made in 2018 (Special Session) Acts and Resolves No. 11, Sec. C.106.2, specifically from the funds allocated for afterschool programing in the spending plan for this appropriation adopted by the Joint Fiscal Committee at its July 27, 2018 meeting.

And that when so amended the bill ought to pass.

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

Governor's Veto Overridden

Senate Bill entitled:

S. 23. An act relating to increasing the minimum wage.

Was taken up.

Thereupon, the pending question, Shall the bill pass, notwithstanding the refusal of the Governor to approve it?, was decided in the affirmative on a roll call required by the Vermont Constitution, Yeas 24, Nays 6. (the necessary *override* two-thirds vote *having* been attained).

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Bray, Campion, Clarkson, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Perchlik, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: Benning, Brock, Collamore, Mazza, McNeil, Parent.

Bill Amended; Bill Passed

S. 128.

Senate bill entitled:

An act relating to physician assistant licensure.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill in Sec. 3, 26 V.S.A. § 1444 (liability for actions of agent), by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b)(1) Nothing in this section shall be construed to apply to a nurse acting pursuant to chapter 28 of this title.

(2) Nothing in this section shall be construed to apply to a physician assistant acting pursuant to chapter 31 of this title. Liability for the actions or inactions of a physician assistant shall be governed by the provisions of section 1739 of this title.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Passed in Concurrence with Proposal of Amendment

H. 83.

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

An act relating to female genital cutting.

Message from the House No. 17

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 1. An act relating to agreements not to compete.

H. 608. An act relating to incompatible local offices.

H. 722. An act relating to the Department of Libraries.

H. 793. An act relating to the powers and duties of the Auditor of Accounts.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, FEBRUARY 14, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Adrienne Carr of Underhill.

Committee Relieved of Further Consideration; Bill Committed**S. 197.**

On motion of Senator Sirotkin, the Committee on Economic Development, Housing and General Affairs was relieved of further consideration of Senate bill entitled:

An act relating to prohibiting discrimination based on genetic information, and the bill was committed to the Committee on Health and Welfare.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Julia Baldwin of Plymouth
Grace Casey of Waterbury
Avery Cochran of Calais
Benedict Diehl-Noble of Vergennes
Charles Genung of Stowe
Colby Morehouse of Williston
Addie Nevitt of Hinesburg
Nora O'Grady of South Burlington
Addison Pinard of Barre
Anthony Viola IV of Waitsfield

Bill Referred to Committee on Finance**S. 198.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to an enforceable State Code of Ethics.

Proposed Amendment to the Constitution Introduced

The Proposed Amendment to the Constitution of the State of Vermont designated as Proposal 9 was introduced, read the first time and referred:

By: Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Ingram, Lyons, McCormack, Parent, Pearson, Perchlik, Pollina and Rodgers,

PROPOSAL 9

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont in order to provide that the citizens of the State have a right to a clean environment.

Sec. 2. Article 23 of Chapter I of the Vermont Constitution is added to read:

Article 23. [Right to a clean environment]

That the people have a right to clean air and water and the preservation of the natural, scenic, and cultural values of the environment. The State of Vermont's natural resources are the common property of all the people. The State shall conserve and maintain the natural resources of Vermont for the benefit of all people.

Sec. 3. EFFECTIVE DATE

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

To the Committee on Natural Resources and Energy.

Bills Referred

House bills of the following titles were read the first time and referred:

H. 1.

An act relating to agreements not to compete.

To the Committee on Economic Development, Housing and General Affairs.

H. 608.

An act relating to incompatible local offices.

To the Committee on Government Operations.

H. 722.

An act relating to the Department of Libraries.

To the Committee on Education.

H. 793.

An act relating to the powers and duties of the Auditor of Accounts.

To the Committee on Government Operations.

Bill Amended; Bill Passed**S. 335.**

Senate bill entitled:

An act relating to universal access to afterschool programs.

Was taken up.

Thereupon, pending third reading of the bill, Senators White, Sears and Clarkson moved to amend the bill in Sec. 2, Task Force for Universal Afterschool Access, subsection (c), by striking out subdivision (5) in its entirety and inserting in lieu thereof the following:

(5) The Task Force shall explore all funding sources and shall prefer solutions that do not draw upon the State's Education Fund.

Which was agreed to on a roll call, Yeas 16, Nays 13.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Benning, Clarkson, Collamore, Hardy, Kitchel, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Starr, Westman, White.

Those Senators who voted in the negative were: Ashe, Baruth, Bray, Brock, Champion, Cummings, Hooker, Ingram, Lyons, MacDonald, McNeil, Perchlik, Sirotkin.

The Senator absent and not voting was: Parent.

Thereupon, the bill was read the third time and passed.

Bill Amended; Third Reading Ordered**S. 153.**

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

An act relating to creating the Vermont 250th Commission.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. VERMONT 250TH COMMISSION

(a) Creation. There is created the Vermont 250th Commission.

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

(1) one person from each of the counties of Addison, Bennington, Chittenden, Rutland, Windham, and Windsor, appointed by the Governor from a name or names that each county's legislative delegation shall submit;

(2) one member of the Senate, not from any of the counties listed in subdivision (b)(1) of this section, appointed by the Committee on Committees;

(3) one member of the House, not from any of the counties listed in subdivision (b)(1) of this section, appointed by the Speaker of the House;

(4) the Executive Director of the Vermont Historical Society or designee;

(5) the State Curator or designee;

(6) the State Historic Preservation Officer or designee;

(7) one person, appointed by the Vermont Commission on Native American Affairs;

(8) one person who is the author of published Vermont history books, appointed by the Governor; and

(9) one person, appointed by the Governor.

(c) Powers and duties. The Commission shall plan and sponsor events in advance of and in commemoration of the 250th anniversary of the State of Vermont and that also look to the future of the State. The Commission shall coordinate with the Agency of Education, the Agency of Agriculture, Food and Markets, the Department of Tourism and Marketing, and with other State agencies and departments; with federal agencies and departments; with the municipalities of the State; and with national and local public and private sector organizations in this and other states for assistance and support in planning and conducting commemorative semiquincentennial activities.

(d) Meetings

(1) The Historic Preservation Officer or designee shall call the first meeting of the Commission to occur on or before September 1, 2020.

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

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

(4) A member attending remotely shall count toward the quorum and cast a vote.

(5) The Commission shall not be limited to a specific number of meetings. However, it shall not incur expenses in excess of its appropriated funds.

(6) The Commission shall cease to exist on December 31, 2027.

(e) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Commission serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. These payments shall be made from monies appropriated to the Commission.

(2) Other members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Commission.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Government Operations with the following amendment thereto:

By adding a new section to be numbered Sec. 1a. to read as follows:

Sec. 1a. APPROPRIATION

The sum of \$25,000.00 is appropriated to the Agency of Administration for the Vermont 250th Commission from the General Fund in fiscal year 2020 for reimbursement of expenses for members of the Commission and for miscellaneous administrative costs the Commission may incur.

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 332.

Senator Balint, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to regulating student loan servicers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 2102 is amended to read:

§ 2102. APPLICATION FOR LICENSE

* * *

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

* * *

(13) For an application for a loan servicer license under chapter 85 of this title, \$1,000.00 as a license fee and \$1,000.00 as an application and investigation fee.

(14) For an application for a student loan servicer licensure under chapter 86 of this title, \$1,000.00 as a license fee and \$500.00 as an application and investigation fee.

* * *

Sec. 2. 8 V.S.A. § 2109(a) is amended to read:

(a) On or before December 1 of each year, every licensee shall renew its license or registration for the next succeeding calendar year and shall pay to the Commissioner the applicable renewal of license or registration fee. At a minimum, the licensee or registree shall continue to meet the applicable standards for licensure or registration. At the same time, the licensee or registree shall maintain with the Commissioner any required bond in the amount and of the character as required by the applicable chapter. The annual license or registration renewal fee shall be:

* * *

(13) For a loan servicer license under chapter 85 of this title, ~~\$1,000.00~~
\$1,000.00.

(14) For a student loan servicer license under chapter 86 of this title,
\$1,000.00.

Sec. 3. 8 V.S.A. chapter 86 is added to read:

CHAPTER 86. STUDENT LOAN SERVICERS

§ 3001. DEFINITIONS

As used in this chapter:

(1) “Borrower” means:

(A) a resident of this State who has agreed to pay, or shares legal responsibility to pay, a student loan; or

(B) a person who shares legal responsibility to repay a student loan with a person described in subdivision (1)(A) of this section.

(2) “Credit reporting agency” has the same meaning as in 9 V.S.A. § 2480a.

(3) “Federal student loan” means a loan made, guaranteed, or insured under Title IV of the federal Higher Education Act of 1965, as amended.

(4) “Federal student loan agreement” means, with respect to a federal student loan, each of the credit agreement and the promissory note for the federal student loan, or any similar agreement or instrument governing the terms and conditions of the federal student loan, to the extent that the form of any note, agreement, or instrument is required by, or has been approved by, the U.S. Department of Education.

(5) “Servicing” means:

(A)(i) receiving payments, or notification of payments, on a student loan from a borrower; and

(ii) applying payments to the borrower’s account pursuant to the terms of a student loan or of a contract governing the servicing of the student loan;

(B) maintaining account records for a student loan that a borrower has agreed to pay or shares legal responsibility to repay;

(C) communicating with a borrower regarding a student loan on behalf of an owner or holder of the student loan; or

(D) interacting with a borrower, including to help prevent default on obligations arising from a student loan, to facilitate the activities described in this subdivision (5).

(6)(A) “Student loan” means a loan primarily for the purpose of financing a postsecondary education or the costs of attending a postsecondary institution, including a student’s tuition, fees, books, supplies, room and board, living expenses, transportation, and other personal expenses.

(B) “Student loan” includes a loan made to refinance a student loan described in subdivision (6)(A) of this section or to consolidate such a loan with another loan.

(C) “Student loan” does not include a loan under an open-end credit plan, as defined in Regulation Z, 12 C.F.R. § 1026.2, or a loan that is secured by real property, regardless of the purpose for the loan.

(7) “Student loan servicer” means a person, regardless of location, that engages in servicing or is responsible for servicing a student loan.

§ 3002. EXCLUSIONS

(a) This chapter does not apply to:

(1) a depository institution, as defined in section 2101 of this title, or a wholly-owned subsidiary of a depository institution;

(2) a public postsecondary institution or a private nonprofit postsecondary institution servicing a student loan it extended to the borrower;

(3) the Vermont Student Assistance Corporation or any agency, department, or instrumentality of this State; or

(4) the United States or any department, agency, or instrumentality thereof, provided that this chapter does apply to a nongovernmental person that performs student loan servicing pursuant to a contract with the United States or any department, agency, or instrumentality thereof.

§ 3003. STUDENT LOAN OMBUDSPERSON

(a) The Commissioner shall designate and support a student loan ombudsperson to provide assistance and education to borrowers.

(b) The student loan ombudsperson, in consultation with the Commissioner, may:

(1) receive, review, and attempt to resolve complaints from borrowers, including in collaboration with postsecondary institutions, student loan servicers, and any other participants in student loan lending, including originators servicing their own student loans;

- (2) compile and analyze data on borrower complaints;
- (3) assist borrowers in understanding their rights and responsibilities under the terms of their student loans;
- (4) provide information to the public, State agencies, members of the General Assembly, and others regarding the problems and concerns of borrowers and make recommendations for resolving those problems and concerns;
- (5) disseminate information concerning the availability of the student loan ombudsperson to assist borrowers and potential borrowers, postsecondary institutions, student loan servicers, and any other participants in student loan lending with concerns regarding servicing; and
- (6) take any other actions necessary or reasonably related to the actions authorized in this subsection.

§ 3004. LICENSE REQUIRED

A person shall not act as a student loan servicer without first obtaining a student loan servicing license from the Commissioner pursuant to the application procedures set forth in section 2102 of this title.

§ 3005. EXEMPTION FROM APPLICATION PROCEDURES; AUTOMATIC LICENSURE

(a)(1) A person seeking to act within this State as a student loan servicer is exempt from the application procedures described in subsections 2102(a) and 2102(c)–(h) of this title, if and to the extent that the Commissioner determines that the servicing performed is conducted pursuant to a contract awarded to the person by the U.S. Secretary of Education.

(2) The Commissioner shall prescribe the procedure to document eligibility for an exemption pursuant to this subsection.

(b) With regard to a person who the Commissioner determines is exempt under subsection (a) of this section, the Commissioner shall automatically:

(A) issue a student loan servicing license to the person upon payment of the fees required in subdivision 2102(b)(14) of this title; and

(B) renew the license upon payment of the fees required in subdivision 2109(a)(14) of this title.

(c) A person holding a student loan servicing license issued by the Commissioner under subsection (b) of this section shall not engage in any servicing other than servicing conducted pursuant to a contract awarded to the person by the U.S. Secretary of Education unless:

(1) the person has completed the application procedures described in subsections 2102(a) and 2102(c)–(h) of this title;

(2) the Commissioner has determined that the person meets the requirements of section 2103 of this title.

(d) A person holding a student loan servicing license issued by the Commissioner under subsection (b) of this section:

(1) may act as a student loan servicer until the contract awarded by the U.S. Secretary of Education expires or is terminated or revoked;

(2) shall provide written notice to the Commissioner not later than seven days after receiving notice of the expiration, revocation, or termination of the contract;

(3) subject to providing timely notice to the Commissioner, may continue to act as a student loan servicer until 30 days after the effective date of the expiration, revocation, or termination of the contract; and

(4) shall not further engage in servicing after the 30-day period expires unless the person obtains a license pursuant to section 3004 of this title.

(e) With respect to student loan servicing not conducted pursuant to a contract awarded by the U.S. Secretary of Education, this section does not prevent the Commissioner from issuing an order to temporarily or permanently prohibit any person holding a license issued by the Commissioner under subsection (b) of this section from engaging in such servicing.

(f) Nothing in this section shall prevent the Commissioner from issuing a cease and desist order or obtaining an injunction against any student loan servicer to cease activities in violation of this chapter or 9 V.S.A. § 2453(a).

§ 3006. APPLICATION FOR LICENSE; ADDITIONAL INFORMATION

In addition to the information required by section 2102 of this title, a person who applies for a student loan servicer license pursuant to section 3004 of this title shall provide in its application a current schedule of the ranges and categories of the fees it charges to borrowers for servicing.

§ 3007. DUTIES OF STUDENT LOAN SERVICERS

Except as otherwise provided in federal law, a federal student loan agreement, or a contract between the federal government and a student loan servicer:

(1) At the time a student loan servicer obtains the right to service a student loan, the servicer shall disclose in a conspicuous written notice to the borrower:

(A) a current schedule of the ranges and categories of the fees it charges to borrowers for servicing;

(B) that the servicer is licensed by the Commissioner; and

(C) that the borrower may submit complaints about the servicer to the Commissioner.

(2) Upon receiving a written inquiry from a borrower, or his or her authorized representative, or the student loan ombudsperson concerning the borrower's account, a student loan servicer shall:

(A) within 10 days, acknowledge receipt of the written inquiry; and

(B) within 30 days, provide information relating to the inquiry and, if applicable, the action the servicer will take to correct the account or an explanation for its determination that the borrower's account is correct.

(3) A student loan servicer shall respond within 15 days to a communication, other than an inquiry described in subsection 2(A), from the student loan ombudsperson or within a shorter reasonable time as the student loan ombudsperson requests in his or her communication.

(4) If a borrower makes a payment that exceeds the monthly amount due on the borrower's account, a student loan servicer shall request instruction on how to apply the overpayment to the loan and shall follow the instruction for future overpayments until the borrower provides different instructions.

(5)(A) If a borrower makes a payment that is less than the monthly amount due on the borrower's account, a student loan servicer shall apply the partial payment in a manner that minimizes late fees and negative credit reporting.

(B) If a borrower has multiple loans on his or her account that are equally delinquent, a student loan servicer shall apply partial payments to satisfy as many individual loan payments on the account as possible.

(6) A student loan servicer shall notify a borrower of the occurrence, nature, and extent of a delinquency or default not later than 30 days after it occurs.

(7) If a sale, assignment, or other transfer of the servicing of a student loan results in a change in the identity of the person to whom a borrower is required to send payments or direct any communication concerning the student loan:

(A)(i) As a condition of the sale, assignment, or transfer, a student loan servicer shall require the new student loan servicer to honor all benefits originally represented as available to the borrower, upon the same terms and

conditions, during the repayment of the student loan and preserve the availability of the benefits, including any benefits for which the borrower has not yet qualified; or

(ii) if the student loan servicer is not also the owner or holder of the student loan, or is not acting on behalf of the owner or holder, the student loan servicer shall provide the information necessary for the new servicer to identify and honor all benefits originally represented as available to the borrower, upon the same terms and conditions, during the repayment of the student loan and preserve the availability of the benefits, including any benefits for which the borrower has not yet qualified.

(B)(i) Not later than 45 days after the sale, assignment, or transfer, the student loan servicer shall transfer to the new servicer all records concerning the borrower, the borrower's account, and the borrower's student loan, including records concerning the borrower's repayment status and any benefits associated with the student loan of the borrower.

(ii) A student loan servicer shall adopt policies and procedures to verify that it has received the records described in this subdivision (B).

(C) Not later than seven days before the next payment on the loan is due, the parties shall provide notice of the sale, assignment, or transfer to the borrower, which shall include:

(i) the identity and contact information of the new student loan servicer;

(ii) the effective date of the sale, assignment, or transfer; and

(iii) the date on which the current student loan servicer will no longer accept payments.

(D) The new student loan servicer shall honor all benefits previously represented as available to the borrower, upon the same terms and conditions, during the repayment of the student loan and preserve the availability of such benefits, including any benefits for which the borrower has not yet qualified.

(8) Upon request of the Commissioner, a student loan servicer shall provide a report to the Commissioner concerning its activity in this State that includes:

(A) the number of student loans and borrowers whose student loans the servicer is servicing;

(B) the type and characteristics of the student loans the servicer is servicing;

(C) the number of student loans in default and the number of borrowers with student loans in default, including a breakdown of the borrowers and student loans with 30-, 60-, and 90-day delinquencies;

(D) information concerning the servicer's loss mitigation activities, including the details of the servicer's workout arrangements, if applicable; and

(E) other information the Commissioner requests.

(9) A student loan servicer shall properly evaluate whether a borrower is eligible for an income-based repayment plan, loan forgiveness program, or other student loan repayment plan or program before placing the borrower in forbearance or default.

(10) A student loan servicer shall safeguard and account for any money handled for a borrower and act with reasonable skill, care, and diligence.

§ 3008. PROHIBITED PRACTICES

A student loan servicer shall not:

(1) defraud, mislead, harass, or intimidate a borrower;

(2) employ, directly or indirectly, any scheme, device, or artifice to defraud or mislead a borrower;

(3) communicate with a borrower in any manner designed to harass or intimidate the borrower;

(4) misstate any material fact, or misrepresent or omit a material fact necessary in order to make any statements made not misleading, concerning a student loan or servicing, including the amount, nature, or terms of a fee or payment due, the terms or conditions of a loan agreement, a borrower's payment history, or a borrower's obligations;

(5) misapply or recklessly apply payments to the outstanding balance of a student loan;

(6) refuse to communicate with an authorized representative of a borrower who provides written proof of authority signed by the borrower, provided that a student loan servicer may adopt reasonable procedures to verify whether a person is authorized to act on behalf of a borrower;

(7) make a false statement, or misrepresent or omit a material fact necessary in order to make any statements made not misleading, concerning information or reports filed with a State or federal agency, or an investigation or examination conducted by the Commissioner, another state agency, or a federal agency; or

(8) violate an applicable federal law or regulation, including the federal Consumer Credit Protection Act, 15 U.S.C. chapter 41 and the Fair Credit Reporting Act, 15 U.S.C. §§ 1681–1681x.

Sec. 4. 16 V.S.A. § 2821 is amended to read:

§ 2821. STUDENT ASSISTANCE CORPORATION; PURPOSE

* * *

(c) Notwithstanding any general or special law to the contrary, the provisions of 8 V.S.A. ~~chapter 73~~ chapters 73 and 86 shall not apply to the Corporation or to any loan heretofore or hereafter made or serviced by the Corporation in accordance with this title.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

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

**House Proposals of Amendment to Senate Proposals of Amendment
Concurred In with Amendment**

H. 760.

House proposals of amendment to Senate proposals of amendment to House bill entitled:

An act relating to fiscal year 2020 budget adjustments.

Were taken up.

The House concurs in the Senate proposals of amendment with further amendment thereto as follows:

First: In the First proposal of amendment, by striking out Sec. 34 in its entirety and inserting in lieu thereof a new Sec. 34 to read as follows:

Sec. 34. 2019 Acts and Resolves No. 72, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds

General fund	997,706,686	1,007,088,907
Special funds	123,880,549	123,986,513
Tobacco fund	23,088,208	23,088,208
State health care resources fund	16,915,501	21,101,110

Federal funds	1,420,544,308	1,424,376,911
Global Commitment fund	1,590,055,367	1,593,280,128
Internal service funds	2,035,610	2,035,610
Interdepartmental transfers	39,446,402	36,346,190
Permanent trust funds	25,000	25,000
Total	4,213,697,631	4,231,328,577

Second: By striking out the Third proposal of amendment in its entirety

Third: By striking out the Sixth proposal of amendment in its entirety and inserting in lieu thereof a new Sixth proposal of amendment to read as follows:

Sixth: By striking out Sec. 70 in its entirety and inserting three new sections to be numbered Secs. 70, 70a and 71 to read as follows:

Sec. 70. 2019 Acts and Resolves No. 58, Sec. 5, is amended to read:

Sec. 5. CREATION OF NEW CORRECTIONAL OFFICER POSITIONS

~~On or before June 30, 2020, the Secretary of Administration shall create 30 new Correctional Officer I positions in the Department of Corrections, which shall be funded within existing departmental appropriations.~~

(a) The establishment of the following permanent classified positions is authorized in fiscal year 2020:

(1) In the Department of Corrections – thirty (30) Correctional Officer I.

(b) The Agency of Human Services and the Department of Corrections shall report to the Legislative Joint Justice Oversight and Joint Fiscal Committees at their respective meetings in November 2020 on the status of correctional facility staff recruitment, retention and reduction in the use of overtime, and the status of initial and ongoing training for correctional facility staff. The Department shall also report on the transfer and conversion on any positions within the department and into or out of the department.

Sec. 70a. DEPARTMENT OF CORRECTIONS; GRADUATED SANCTIONS; REENTRY HOUSING; REPORT

(a) On or before April 1, 2020 the Department of Corrections shall report on how to strengthen existing graduated sanctions and incentives policies to ensure they reflect current research on best practices for responses to violation behavior that most effectively achieve behavior change and uphold public safety. The Department shall also identify reentry housing needs for corrections populations. As a part of this work, the Department shall report on how to:

(1) formalize the use of incentives and sanctions in supervision practices at a 4:1 ratio and require incentives to be entered and tracked in the community supervision case management system;

(2) analyze how supervision staff currently understand, implement, and input data regarding the Department's graduated sanctions policy to identify where practices differ across the State and, where necessary, provide additional staff training on the use and tracking of graduated sanctions;

(3) develop and implement a homeless screening tool for use when a person is booked into or released from Department facilities and track reports of homelessness among corrections populations in the Department's case management system;

(4) identify and quantify high utilizers of corrections, homeless, and behavioral health services; inform statewide permanent supportive housing planning; and establish data match partnerships with appropriate Agency of Human Services departments to match Department of Corrections, Homeless Management Information System (HMIS), and Medicaid information;

(5) establish a collaborative approach for the Department, the Department of Mental Health, and the Vermont Department of Health to contract with housing providers to coordinate responses for shared clients and identify how the State can better leverage local and federal housing vouchers;

(6) leverage federal Medicaid funding or other funding to allow the Department's contractors' clients to stay in supportive housing after they are no longer under the supervision of the Department;

(7) reduce barriers to recovery housing by establishing evidence-based norms and expectations for contracts and certifications for sober and recovery housing providers, including allowing for the use of medications and restricting evictions due to relapse;

(8) redefine housing requirements for incarcerated persons in order to receive approval for furlough release; and

(9) improve data and case management systems.

(b) On or before April 1, 2020, the Department shall report to the Senate Committee on Judiciary, the House Committee on Corrections and Institutions, and the House and Senate Committees on Appropriations on:

(1) the Department's plan to reduce its use of short-term incarceration sanctions for people on furlough, the number of short-term incarceration sanctions imposed, and the number of graduated sanctions imposed;

(2) recommendations for funding in the fiscal year 2021 budget; and

(3) the Department's progress toward completing the remaining work required by this section.

Sec. 71. EFFECTIVE DATES

(a) This act shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 52 (National Guard tuition benefit program) shall take effect on passage and shall apply retroactively to July 1, 2019.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, Senators Kitchel, Ashe, McCormack, Nitka, Sears, Starr and Westman moved that the Senate concur in the House proposals of amendment to the Senate proposals of amendment with further proposal of amendment as follows:

In the *Third* House proposal of amendment by striking out Sec. 70a in its entirety, and inserting in lieu thereof a new Sec. 70a to read as follows:

Sec. 70a. DEPARTMENT OF CORRECTIONS; GRADUATED
SANCTIONS; REENTRY HOUSING; REPORT

(a) On or before April 1, 2020, the Department of Corrections shall report to the Senate Committee on Judiciary, the House Committee on Corrections and Institutions, and the House and Senate Committees on Appropriations on how to strengthen existing graduated sanctions and incentives policies to ensure they reflect current research on best practices for responses to violation behavior that most effectively achieve behavior change and uphold public safety. The Department shall also identify reentry housing needs for corrections populations. As a part of this work, the Department shall submit its recommendations including initial cost estimates regarding:

(1) formalizing the use of incentives and sanctions in supervision practices at a 4:1 ratio and require incentives to be entered and tracked in the community supervision case management system;

(2) analyzing how supervision staff currently understand, implement, and input data regarding the Department's graduated sanctions policy to identify where practices differ across the State and, where necessary, provide additional staff training on the use and tracking of graduated sanctions;

(3) developing and implement a homeless screening tool for use when a person is booked into or released from Department facilities and track reports of homelessness among corrections populations in the Department's case management system;

(4) identifying and quantify high utilizers of corrections, homeless, and behavioral health services; inform statewide permanent supportive housing planning; and establish data match partnerships with appropriate Agency of Human Services departments to match Department of Corrections, Homeless Management Information System (HMIS), and Medicaid information;

(5) establishing a collaborative approach for the Department, the Department of Mental Health, and the Vermont Department of Health to contract with housing providers to coordinate responses for shared clients and identify how the State can better leverage local and federal housing vouchers;

(6) leveraging federal Medicaid funding or other funding to allow the Department's contractors' clients to stay in supportive housing after they are no longer under the supervision of the Department;

(7) reducing barriers to recovery housing by establishing evidence-based norms and expectations for contracts and certifications for sober and recovery housing providers, including allowing for the use of medications and restricting evictions due to relapse;

(8) redefining housing requirements for incarcerated persons in order to receive approval for furlough release; and

(9) improving data and case management systems.

Which was agreed to.

**Report of Committee of Conference Accepted and Adopted on the Part of
the Senate**

S. 110.

Senator Hooker, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

An act relating to data privacy and consumer protection.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Data Privacy; State Government * * *

Sec. 1. DATA PRIVACY INVENTORY

(a) The following persons shall conduct a data privacy inventory for their respective branches of State government:

(1) the State Court Administrator for the Judicial Branch;

(2) the Director of Information Technology for the Legislative Branch;
and

(3) the Chief Data Officer within the Agency of Digital Services and the Chief Records Officer within the Office of the Secretary of State for the Executive Branch.

(b) The inventory for each branch shall address the collection and management of personally identifiable information, as defined in 9 V.S.A. § 2430, and of street addresses, e-mail addresses, telephone numbers, and demographic information, specifically:

(1) federal and State laws, rules, and regulations that:

(A) exempt personally identifiable information from public inspection and copying pursuant to 1 V.S.A. § 317;

(B) require personally identifiable information to be produced or acquired in the course of State government business;

(C) specify fees for obtaining personally identifiable information produced or acquired in the course of State government business; and

(D) require personally identifiable information to be shared between branches of State government or between branches and nonstate entities, including municipalities;

(2) arrangements or agreements, whether verbal or written, between branches of State government or between branches and nonstate entities, including municipalities, to share personally identifiable information, street addresses, e-mail addresses, telephone numbers, and demographic information; and

(3) recommendations for proposed legislation concerning the collection and management of personally identifiable information, street addresses, e-mail addresses, telephone numbers, and demographic information.

(c) On or before January 15, 2021, the Chief Data Officer and the Chief Records Officer, in collaboration with the State Court Administrator and the Director of Information Technology, shall submit a unified report presenting their findings and recommendations to:

(1) the House Committees on Commerce and Economic Development, on Energy and Technology, and on Government Operations;

(2) the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Government Operations; and

(3) the Joint Information Technology Oversight Committee.

* * * Security Breach Notice Act * * *

Sec. 2. 9 V.S.A. § 2430 is amended to read:

§ 2430. DEFINITIONS

As used in this chapter:

* * *

(6) “Data collector” means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

(7) “Encryption” means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

(8) “License” means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

(9) “Login credentials” means a consumer’s user name or e-mail address, in combination with a password or an answer to a security question, that together permit access to an online account.

~~(9)~~(10)(A) “Personally identifiable information” means a consumer’s first name or first initial and last name in combination with ~~any~~ one or more of the following digital data elements, when the data elements are not encrypted, ~~or~~ redacted, or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) a Social Security number;

(ii) ~~motor vehicle operator’s license number or nondriver identification card number~~ a driver license or nondriver State identification card number, individual taxpayer identification number, passport number, military identification card number, or other identification number that

originates from a government identification document that is commonly used to verify identity for a commercial transaction;

(iii) a financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;

(iv) account passwords a password, or personal identification numbers number, or other access codes code for a financial account;

(v) unique biometric data generated from measurements or technical analysis of human body characteristics used by the owner or licensee of the data to identify or authenticate the consumer, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;

(vi) genetic information; and

(vii)(I) health records or records of a wellness program or similar program of health promotion or disease prevention;

(II) a health care professional's medical diagnosis or treatment of the consumer; or

(III) a health insurance policy number.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

(10)(11) "Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

(11)(12) "Redaction" means the rendering of data so that the data are unreadable or are truncated so that no more than the last four digits of the identification number are accessible as part of the data.

(12)(13)(A) "Security breach" means unauthorized acquisition of, electronic data or a reasonable belief of an unauthorized acquisition of, electronic data that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information or login credentials maintained by a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information or login credentials by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information is or login

credentials are not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information ~~has~~ or login credentials have been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

Sec. 3. 9 V.S.A. § 2435 is amended to read:

§ 2435. NOTICE OF SECURITY BREACHES

(a) This section shall be known as the Security Breach Notice Act.

(b) Notice of breach.

(1) Except as ~~set forth~~ otherwise provided in subsection (d) of this section, any data collector that owns or licenses computerized personally identifiable information or login credentials ~~that includes personal information concerning a consumer~~ shall notify the consumer that there has been a security breach following discovery or notification to the data collector of the breach. Notice of the security breach shall be made in the most expedient time possible and without unreasonable delay, but not later than 45 days after the discovery or notification, consistent with the legitimate needs of the law enforcement agency, as provided in subdivisions (3) and (4) of this subsection (b), or with any measures necessary to determine the scope of the security breach and restore the reasonable integrity, security, and confidentiality of the data system.

(2) Any data collector that maintains or possesses computerized data containing personally identifiable information ~~of a consumer~~ or login credentials ~~that the data collector does not own or license~~ or any data collector that acts or conducts business in Vermont that maintains or possesses records or data containing personally identifiable information or login credentials that the data collector does not own or license shall notify the owner or licensee of the information of any security breach immediately following discovery of the

breach, consistent with the legitimate needs of law enforcement as provided in subdivisions (3) and (4) of this subsection (b).

(3) A data collector or other entity subject to this subchapter shall provide notice of a breach to the Attorney General or to the Department of Financial Regulation, as applicable, as follows:

(A) A data collector or other entity regulated by the Department of Financial Regulation under Title 8 or this title shall provide notice of a breach to the Department. All other data collectors or other entities subject to this subchapter shall provide notice of a breach to the Attorney General.

(B)(i) The data collector shall notify the Attorney General or the Department, as applicable, of the date of the security breach and the date of discovery of the breach and shall provide a preliminary description of the breach within 14 business days, consistent with the legitimate needs of the law enforcement agency as provided in this subdivision (3) and subdivision (4) of this subsection (b), of the data collector's discovery of the security breach or when the data collector provides notice to consumers pursuant to this section, whichever is sooner.

(ii) Notwithstanding subdivision (B)(i) of this subdivision (b)(3), a data collector who, prior to the date of the breach, on a form and in a manner prescribed by the Attorney General, had sworn in writing to the Attorney General that it maintains written policies and procedures to maintain the security of personally identifiable information or login credentials and respond to a breach in a manner consistent with Vermont law shall notify the Attorney General of the date of the security breach and the date of discovery of the breach and shall provide a description of the breach prior to providing notice of the breach to consumers pursuant to subdivision (1) of this subsection (b).

(iii) If the date of the breach is unknown at the time notice is sent to the Attorney General or to the Department, the data collector shall send the Attorney General or the Department the date of the breach as soon as it is known.

(iv) Unless otherwise ordered by a court of this State for good cause shown, a notice provided under this subdivision (3)(B) shall not be disclosed to any person other than the Department, the authorized agent or representative of the Attorney General, a State's Attorney, or another law enforcement officer engaged in legitimate law enforcement activities without the consent of the data collector.

(C)(i) When the data collector provides notice of the breach pursuant to subdivision (1) of this subsection (b), the data collector shall notify the Attorney General or the Department, as applicable, of the number of Vermont

consumers affected, if known to the data collector, and shall provide a copy of the notice provided to consumers under subdivision (1) of this subsection (b).

(ii) The data collector may send to the Attorney General or the Department, as applicable, a second copy of the consumer notice, from which is redacted the type of personally identifiable information or login credentials that was subject to the breach, and which the Attorney General or the Department shall use for any public disclosure of the breach.

(D) If a security breach is limited to an unauthorized acquisition of login credentials, a data collector is only required to provide notice of the security breach to the Attorney General or Department of Financial Regulation, as applicable, if the login credentials were acquired directly from the data collector or its agent.

(4)(A) The notice to a consumer required by this subsection shall be delayed upon request of a law enforcement agency. A law enforcement agency may request the delay if it believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. In the event law enforcement makes the request for a delay in a manner other than in writing, the data collector shall document such request contemporaneously in writing, including the name of the law enforcement officer making the request and the officer's law enforcement agency engaged in the investigation. A law enforcement agency shall promptly notify the data collector in writing when the law enforcement agency no longer believes that notification may impede a law enforcement investigation, or a national or Homeland Security investigation or jeopardize public safety or national or Homeland Security interests. The data collector shall provide notice required by this section without unreasonable delay upon receipt of a written communication, which includes facsimile or electronic communication, from the law enforcement agency withdrawing its request for delay.

(B) A Vermont law enforcement agency with a reasonable belief that a security breach has or may have occurred at a specific business shall notify the business in writing of its belief. The agency shall also notify the business that additional information on the security breach may need to be furnished to the Office of the Attorney General or the Department of Financial Regulation and shall include the website and telephone number for the Office and the Department in the notice required by this subdivision. Nothing in this subdivision shall alter the responsibilities of a data collector under this section or provide a cause of action against a law enforcement agency that fails, without bad faith, to provide the notice required by this subdivision.

(5) The notice to a consumer required in subdivision (1) of this subsection (b) shall be clear and conspicuous. ~~The A notice to a consumer of a security breach involving personally identifiable information~~ shall include a description of each of the following, if known to the data collector:

(A) the incident in general terms;

(B) the type of personally identifiable information that was subject to the security breach;

(C) the general acts of the data collector to protect the personally identifiable information from further security breach;

(D) a telephone number, toll-free if available, that the consumer may call for further information and assistance;

(E) advice that directs the consumer to remain vigilant by reviewing account statements and monitoring free credit reports; and

(F) the approximate date of the security breach.

(6) A data collector may provide notice of a security breach involving personally identifiable information to a consumer by one or more of the following methods:

(A) Direct notice, which may be by one of the following methods:

(i) written notice mailed to the consumer's residence;

(ii) electronic notice, for those consumers for whom the data collector has a valid e-mail address if:

(I) the data collector's primary method of communication with the consumer is by electronic means, the electronic notice does not request or contain a hypertext link to a request that the consumer provide personal information, and the electronic notice conspicuously warns consumers not to provide personal information in response to electronic communications regarding security breaches; or

(II) the notice is consistent with the provisions regarding electronic records and signatures for notices in 15 U.S.C. § 7001; or

(iii) telephonic notice, provided that telephonic contact is made directly with each affected consumer and not through a prerecorded message.

(B)(i) Substitute notice, if:

(I) the data collector demonstrates that the lowest cost of providing notice to affected consumers pursuant to subdivision (6)(A) of this subsection among written, e-mail, or telephonic notice ~~to affected consumers~~ would exceed ~~\$5,000.00~~ \$10,000.00; or

~~(II) the class of affected consumers to be provided written or telephonic notice exceeds 5,000; or~~

~~(III) the data collector does not have sufficient contact information.~~

(ii) A data collector shall provide substitute notice by:

(I) conspicuously posting the notice on the data collector's website if the data collector maintains one; and

(II) notifying major statewide and regional media.

(c) In the event a data collector provides notice to more than 1,000 consumers at one time pursuant to this section, the data collector shall notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. § 1681a(p), of the timing, distribution, and content of the notice. This subsection shall not apply to a person who is licensed or registered under Title 8 by the Department of Financial Regulation.

(d)(1) Notice of a security breach pursuant to subsection (b) of this section is not required if the data collector establishes that misuse of ~~personal information~~ personally identifiable information or login credentials is not reasonably possible and the data collector provides notice of the determination that the misuse of the ~~personal information~~ personally identifiable information or login credentials is not reasonably possible pursuant to the requirements of this subsection (d). If the data collector establishes that misuse of the ~~personal information~~ personally identifiable information or login credentials is not reasonably possible, the data collector shall provide notice of its determination that misuse of the ~~personal information~~ personally identifiable information or login credentials is not reasonably possible and a detailed explanation for said determination to the Vermont Attorney General or to the Department of Financial Regulation in the event that the data collector is a person or entity licensed or registered with the Department under Title 8 or this title. The data collector may designate its notice and detailed explanation to the Vermont Attorney General or the Department of Financial Regulation as "trade secret" if the notice and detailed explanation meet the definition of trade secret contained in 1 V.S.A. § 317(c)(9).

(2) If a data collector established that misuse of ~~personal information~~ personally identifiable information or login credentials was not reasonably possible under subdivision (1) of this subsection (d), and subsequently obtains facts indicating that misuse of the ~~personal information~~ personally identifiable information or login credentials has occurred or is occurring, the data collector shall provide notice of the security breach pursuant to subsection (b) of this section.

(3) If a security breach is limited to an unauthorized acquisition of login credentials for an online account other than an e-mail account the data collector shall provide notice of the security breach to the consumer electronically or through one or more of the methods specified in subdivision (b)(6) of this section and shall advise the consumer to take steps necessary to protect the online account, including to change his or her login credentials for the account and for any other account for which the consumer uses the same login credentials.

(4) If a security breach is limited to an unauthorized acquisition of login credentials for an email account:

(A) the data collector shall not provide notice of the security breach through the email account; and

(B) the data collector shall provide notice of the security breach through one or more of the methods specified in subdivision (b)(6) of this section or by clear and conspicuous notice delivered to the consumer online when the consumer is connected to the online account from an Internet protocol address or online location from which the data collector knows the consumer customarily accesses the account.

(e) A data collector that is subject to the privacy, security, and breach notification rules adopted in 45 C.F.R. Part 164 pursuant to the federal Health Insurance Portability and Accountability Act, P.L. 104-191 (1996) is deemed to be in compliance with this subchapter if:

(1) the data collector experiences a security breach that is limited to personally identifiable information specified in 2430(10)(A)(vii); and

(2) the data collector provides notice to affected consumers pursuant to the requirements of the breach notification rule in 45 C.F.R. Part 164, Subpart D.

(f) Any waiver of the provisions of this subchapter is contrary to public policy and is void and unenforceable.

(~~f~~)(g) Except as provided in subdivision (3) of this subsection (g), a financial institution that is subject to the following guidances, and any revisions, additions, or substitutions relating to an interagency guidance shall be exempt from this section:

(1) The Federal Interagency Guidance Response Programs for Unauthorized Access to Consumer Information and Customer Notice, issued on March 7, 2005, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

(2) Final Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice, issued on April 14, 2005, by the National Credit Union Administration.

(3) A financial institution regulated by the Department of Financial Regulation that is subject to subdivision (1) or (2) of this subsection ~~(f)~~(g) shall notify the Department as soon as possible after it becomes aware of an incident involving unauthorized access to or use of personally identifiable information.

~~(g)~~(h) Enforcement.

(1) With respect to all data collectors and other entities subject to this subchapter, other than a person or entity licensed or registered with the Department of Financial Regulation under Title 8 or this title, the Attorney General and State's Attorney shall have sole and full authority to investigate potential violations of this subchapter and to enforce, prosecute, obtain, and impose remedies for a violation of this subchapter or any rules or regulations made pursuant to this chapter as the Attorney General and State's Attorney have under chapter 63 of this title. The Attorney General may refer the matter to the State's Attorney in an appropriate case. The Superior Courts shall have jurisdiction over any enforcement matter brought by the Attorney General or a State's Attorney under this subsection.

(2) With respect to a data collector that is a person or entity licensed or registered with the Department of Financial Regulation under Title 8 or this title, the Department of Financial Regulation shall have the full authority to investigate potential violations of this subchapter and to prosecute, obtain, and impose remedies for a violation of this subchapter or any rules or regulations adopted pursuant to this subchapter, as the Department has under Title 8 or this title or any other applicable law or regulation.

* * * Student Data Privacy * * *

Sec. 4. 9 V.S.A. chapter 62, subchapter 3A is added to read:

Subchapter 3A. Student Privacy

§ 2443. DEFINITIONS

As used in this subchapter:

(1) “Covered information” means personal information or material, or information that is linked to personal information or material, in any media or format that is:

(A)(i) not publicly available; or

(ii) made publicly available pursuant to the federal Family Educational and Rights and Privacy Act; and

(B)(i) created by or provided to an operator by a student or the student's parent or legal guardian in the course of the student's, parent's, or legal guardian's use of the operator's site, service, or application for PreK–12 school purposes;

(ii) created by or provided to an operator by an employee or agent of a school or school district for PreK–12 school purposes; or

(iii) gathered by an operator through the operation of its site, service, or application for PreK–12 school purposes and personally identifies a student, including information in the student's education record or electronic mail; first and last name; home address; telephone number; electronic mail address or other information that allows physical or online contact; discipline records; test results; special education data; juvenile dependency records; grades; evaluations; criminal records; medical records; health records; social security number; biometric information; disability status; socioeconomic information; food purchases; political affiliations; religious information; text messages; documents; student identifiers; search activity; photos; voice recordings; or geolocation information.

(2) "Operator" means, to the extent that an entity is operating in this capacity, the operator of an Internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for PreK–12 school purposes and was designed and marketed for PreK–12 school purposes.

(3) "PreK–12 school purposes" means purposes that are directed by or that customarily take place at the direction of a school, teacher, or school district; aid in the administration of school activities, including instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents; or are otherwise for the use and benefit of the school.

(4) "School" means:

(A) a public or private preschool, kindergarten, elementary or secondary educational institution, vocational school, special educational agency or institution; and

(B) a person, agency, or institution that maintains school student records from more than one of the entities described in subdivision (6)(A) of this section.

(5) “Targeted advertising” means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student’s online behavior, usage of applications, or covered information. The term does not include advertising to a student at an online location based upon that student’s current visit to that location or in response to that student’s request for information or feedback, without the retention of that student’s online activities or requests over time for the purpose in whole or in part of targeting subsequent ads.

§ 2443a. OPERATOR PROHIBITIONS

(a) An operator shall not knowingly do any of the following with respect to its site, service, or application:

(1) Engage in targeted advertising on the operator’s site, service, or application or target advertising on any other site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator’s site, service, or application for PreK–12 school purposes.

(2) Use information, including a persistent unique identifier, that is created or gathered by the operator’s site, service, or application to amass a profile about a student, except in furtherance of PreK–12 school purposes. “Amass a profile” does not include the collection and retention of account information that remains under the control of the student, the student’s parent or legal guardian, or the school.

(3) Sell, barter, or rent a student’s information, including covered information. This subdivision (3) does not apply to the purchase, merger, or other type of acquisition of an operator by another entity if the operator or successor entity complies with this subchapter regarding previously acquired student information.

(4) Except as otherwise provided in section 2443c of this title, disclose covered information, unless the disclosure is made for one or more of the following purposes and is proportionate to the identifiable information necessary to accomplish the purpose:

(A) to further the PreK–12 school purposes of the site, service, or application, provided:

(i) the recipient of the covered information does not further disclose the information except to allow or improve operability and functionality of the operator’s site, service, or application; and

(ii) the covered information is not used for a purpose inconsistent with this subchapter;

(B) to ensure legal and regulatory compliance or take precautions against liability;

(C) to respond to judicial process;

(D) to protect the safety or integrity of users of the site or others or the security of the site, service, or application;

(E) for a school, educational, or employment purpose requested by the student or the student's parent or legal guardian, provided that the information is not used or further disclosed for any other purpose; or

(F) to a third party if the operator contractually prohibits the third party from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the third party from disclosing any covered information provided by the operator to subsequent third parties, and requires the third party to implement and maintain reasonable security procedures and practices.

(b) This section does not prohibit an operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

§ 2443b. OPERATOR DUTIES

An operator shall:

(1) implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information and designed to protect that covered information from unauthorized access, destruction, use, modification, or disclosure;

(2) delete, within a reasonable time period and to the extent practicable, a student's covered information if the school or school district requests deletion of covered information under the control of the school or school district, unless a student or his or her parent or legal guardian consents to the maintenance of the covered information; and

(3) publicly disclose and provide the school with material information about its collection, use, and disclosure of covered information, including publishing a term of service agreement, privacy policy, or similar document.

§ 2443c. PERMISSIVE USE OR DISCLOSURE

An operator may use or disclose covered information of a student under the following circumstances:

(1) if other provisions of federal or State law require the operator to disclose the information and the operator complies with the requirements of federal and State law in protecting and disclosing that information;

(2) for legitimate research purposes as required by State or federal law and subject to the restrictions under applicable State and federal law or as allowed by State or federal law and under the direction of a school, school district, or the State Board of Education if the covered information is not used for advertising or to amass a profile on the student for purposes other than for PreK–12 school purposes; and

(3) disclosure to a State or local educational agency, including schools and school districts, for PreK–12 school purposes as permitted by State or federal law.

§ 2443d. OPERATOR ACTIONS THAT ARE NOT PROHIBITED

This subchapter does not prohibit an operator from doing any of the following:

(1) using covered information to improve educational products if that information is not associated with an identified student within the operator’s site, service, or application or other sites, services, or applications owned by the operator;

(2) using covered information that is not associated with an identified student to demonstrate the effectiveness of the operator’s products or services, including in their marketing;

(3) sharing covered information that is not associated with an identified student for the development and improvement of educational sites, services, or applications;

(4) using recommendation engines to recommend to a student either of the following:

(A) additional content relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; or

(B) additional services relating to an educational, other learning, or employment opportunity purpose within an online site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party; and

(5) responding to a student’s request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party.

§ 2443e. APPLICABILITY

This subchapter does not:

(1) limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or under a court order;

(2) limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes;

(3) apply to general audience Internet websites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications;

(4) limit service providers from providing Internet connectivity to schools or students and their families;

(5) prohibit an operator of an Internet website, online service, online application, or mobile application from marketing educational products directly to parents if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this subchapter;

(6) impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this subchapter on those applications or software;

(7) impose a duty upon a provider of an interactive computer service, as defined in 47 U.S.C. § 230, to review or enforce compliance with this subchapter by third-party content providers;

(8) prohibit students from downloading, exporting, transferring, saving, or maintaining their own student-created data or documents; or

(9) supersede the federal Family Educational Rights and Privacy Act or rules adopted pursuant to that Act.

§ 2443f. ENFORCEMENT

A person who violates a provision of this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

Sec. 5. STUDENT PRIVACY; REVIEW; RECOMMENDATIONS

The Attorney General, in consultation with the Agency of Education, shall examine the issue of student data privacy as it relates to the federal Family

Educational Rights and Privacy Act and access to student data by data brokers or other entities, and shall confer with parties of interest to determine any necessary recommendations.

* * * Automatic Renewal Provisions * * *

Sec. 6. 9 V.S.A. § 2454a is amended to read:

§ 2454a. CONSUMER CONTRACTS; AUTOMATIC RENEWAL

(a) A contract between a consumer and a seller or a lessor with an initial term of one year or longer that renews for a subsequent term that is longer than one month shall not renew automatically unless:

(1) the contract states clearly and conspicuously the terms of the automatic renewal provision in plain, unambiguous language in bold-face type;

(2) in addition to accepting the contract, the consumer takes an affirmative action to opt in to the automatic renewal provision; and

(3) if the consumer opts in to the automatic renewal provision, the seller or lessor provides a written or electronic notice to the consumer:

(A) not less than 30 days and not more than 60 days before the earliest of:

(i) the automatic renewal date;

(ii) the termination date; or

(iii) the date by which the consumer must provide notice to cancel the contract; and

(B) that includes:

(i) the date the contract will terminate and a clear statement that the contract will renew automatically unless the consumer cancels the contract on or before the termination date; and

(ii) the length and any additional terms of the renewal period;

~~(iii) one or more methods by which the consumer can cancel the contract; and~~

~~(iv) contact information for the seller or lessor.~~

(b) A seller or lessor under a contract subject to subsection (a) of this section shall:

(1) provide to the consumer a toll-free telephone number, e-mail address, a postal address if the seller or lessor directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for canceling the contract; and

(2) if the consumer accepted the contract online, permit the consumer to terminate the contract exclusively online, which may include a termination e-mail formatted and provided by the seller or lessor that the consumer can send without additional information.

(c) A person who violates a provision of ~~subsection (a)~~ of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

~~(e)~~(d) The provisions of this section do not apply to:

(1) a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101, or between a consumer and a credit union, as defined in 8 V.S.A. § 30101; or

(2) a contract for insurance, as defined in 8 V.S.A. § 3301a.

* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

*CHERYL M. HOOKER
PHILIP E. BARUTH
MICHAEL D. SIROTKIN*

Committee on the part of the Senate

*CHARLES A. KIMBELL
STEPHANIE Z. JEROME
MICHAEL J. MARCOTTE*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Rep. Patt,

H.C.R. 250.

House concurrent resolution designating the month of February 2020 as Pharmacists' Month in Vermont.

By Reps. Krowinski and others,

H.C.R. 251.

House concurrent resolution congratulating Mickie and Neil Richardson of Randolph on their receipt of the 2019 Rutland NAACP Lifetime Achievement Award.

Message from the House No. 18

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

Mr. President:

I am directed to inform the Senate that:

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

H.C.R. 250. House concurrent resolution designating the month of February 2020 as Pharmacists' Month in Vermont.

H.C.R. 251. House concurrent resolution congratulating Mickie and Neil Richardson of Randolph on their receipt of the 2019 Rutland NAACP Lifetime Achievement Award.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, February 18, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 40.

TUESDAY, FEBRUARY 18, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Thomas Harty of Bethel.

Pledge of Allegiance

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

Bill Referred to Committee on Finance**S. 288.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to banning flavored tobacco products and e-liquids.

Joint Senate Resolution Adopted on the Part of the Senate**J.R.S. 41.**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Ashe,

J.R.S. 41. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 21, 2020, it be to meet again no later than Tuesday, February 25, 2020.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 339.

By the Committee on Transportation,

An act relating to miscellaneous changes to laws related to vehicles.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 153. An act relating to creating the Vermont 250th Commission.

S. 332. An act relating to regulating student loan servicers.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 19, 2020.

WEDNESDAY, FEBRUARY 19, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Taihaku of East Calais.

Bill Referred to Committee on Finance**S. 339.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to miscellaneous changes to laws related to vehicles.

Joint Resolution Referred**J.R.S. 42.**

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

By Senators Ingram, Balint, Collamore, and McNeil,

J.R.S. 42. Joint resolution relating to an application of the Vermont General Assembly for Congress to call a convention for proposing an amendment to the U.S. Constitution.

Whereas, in a bipartisan survey that the research firm McLaughlin & Associates conducted, 82 percent of the respondents indicated they strongly supported congressional term limits, while 73 percent were more likely to vote for a congressional candidate who supports term limits, and 42 percent were much more likely to do so, and

Whereas, congressional incumbents who remain in office for decades can become unrepresentative of their districts, the populations of which, over time, may become younger and more economically and racially diverse than their elected federal representatives, and

Whereas, allowing incumbents to remain in office indefinitely results in their becoming entrenched in powerful roles, and this is in direct opposition to the democratic ideal of providing legitimate opportunities for the election of new candidates who can bring fresh ideas to the halls of Congress, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly, pursuant to Article V of the U.S. Constitution, petitions the U.S. Congress to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States of America that would place limitations on the number of terms that members of the U.S. House and Senate may serve, *and be it further*

Resolved: That this application shall not be considered by the U.S. Congress until 33 other states submit petitions for the same purpose as Vermont proposes and unless Congress determines that the scope of the amendment to the Constitution of the United States to be considered at the convention shall be limited to the same purpose that Vermont is proposing, *and be it further*

Resolved: That this application constitutes a continuing application in accordance with Article V of the U.S. Constitution until the legislatures of at least two-thirds of the states have made applications on the same subject, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vice President of the United States, the President Pro Tempore and Secretary of the U.S. Senate, the Chair of the U.S. Senate Committee on the Judiciary, the Speaker of the U.S. House of Representatives, the Clerk of the U. S. House of Representatives, the Chair of the U.S. House Committee on the Judiciary, the Archivist of the United States, and the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Judiciary.

Proposals of Amendment; Third Reading Ordered**H. 550.**

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

An act relating to unclaimed property.

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

First: In Sec. 2. 27 V.S.A. § 1461(5) after the word “a” by inserting the words payroll card or and by striking out the following: “other than amounts held on a payroll card, but”

Second: In Sec. 2. 27 V.S.A. § 1461(11) by striking out the word “including” and inserting in lieu thereof the words other than and by striking out the word “on” and inserting in lieu thereof the word in

Third: In Sec. 2. 27 V.S.A. § 1462(a) after the words “years after” by inserting the words the later of

Fourth: In Sec. 2. 27 V.S.A. § 1462(a)(1) by striking out the words “the later of”

Fifth: In Sec. 2. 27 V.S.A. § 1462(a)(2)(A) by striking out the following: “70.5” and inserting in lieu thereof the following: 72

Sixth: In Sec. 2. 27 V.S.A. § 1469(b)(4) after the following: “is held,” by inserting the following: or in another account of the owner’s held by the same business association or financial organization,

Seventh: By striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2021.

And that when so amended the bill ought to pass.

Senator McCormack, 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 Government Operations.

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.

Message from the House No. 19

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 922. An act relating to miscellaneous amendments to the Vermont State Employees’ Retirement System.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until ten o'clock and twenty-five minutes in the morning.

THURSDAY, FEBRUARY 20, 2020

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred

House bill of the following title was read the first time and referred:

H. 922.

An act relating to miscellaneous amendments to the Vermont State Employees' Retirement System.

To the Committee on Government Operations.

Joint Assembly

At ten o'clock and thirty minutes in the morning, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 38. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

The Senate repaired to the hall of the House.

Having returned therefrom, at ten o'clock and fifty-five minutes in the morning, the President assumed the Chair.

Bill Passed in Concurrence with Proposals of Amendment**H. 550.**

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

An act relating to unclaimed property.

Bill Amended; Third Reading Ordered**S. 338.**

Senate committee bill entitled:

An act relating to justice reinvestment.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as follows:

First: By striking out Sec. 21, justice reinvestment II appropriation, in its entirety.

Second: In Sec. 23, effective dates, by striking out subsection (a) in its entirety, and inserting in lieu thereof a new subsection (a) to read as follows:

(a) This section and Secs. 16 (earned good time; reduction of term) and 21 (repeals) shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendations of amendment of the Committee on Appropriations were collectively agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Sears moved to amend the bill by inserting a new section to be numbered Sec. 18a to read as follows:

Sec. 18a. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

(a) A person who, while in lawful custody:

(1) escapes or attempts to escape from any correctional facility or a local lockup shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or

(2) escapes or attempts to escape from an officer, if the person was in custody as a result of a felony, shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or if the person was in custody as a result of a misdemeanor, shall be imprisoned for not more than two years, or fined not more than \$1,000.00, or both.

(b)(1) A person shall not, while in lawful custody:

(A) fail to return from work release to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 753;

(B) fail to return from furlough to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 808(a)(1)-(5), or § 723;

(C) escape or attempt to escape while on release from a correctional facility to do work in the service of such facility or of the Department of Corrections in accordance with 28 V.S.A. § 758; or

(D) elope or attempt to elope from the Vermont Psychiatric Care Hospital or a participating hospital, when confined by court order pursuant to chapter 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and while still serving a sentence.

(2) A person who violates this subsection shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

(3) ~~It shall not be a violation of subdivision (1)(A), (1)(B), or (1)(C) of this subsection (b) if~~ If the person is on furlough status pursuant to 28 V.S.A. § 723 808(a)(6), 808(e), 808(f), or 808a, 808b, or 808c a violation of this subdivision (1) of this subsection (b) requires a showing that the person intended to escape from furlough.

(c) All sentences imposed under subsection (a) of this section shall be consecutive to any term or sentence being served at the time of the offense.

(d) As used in this section:

(1) “No refusal system” means a system of hospitals and intensive residential recovery facilities under contract with the Department of Mental Health that provides high intensity services, in which the facilities shall admit any individual for care if the individual meets the eligibility criteria established by the Commissioner in contract.

(2) “Participating hospital” means a hospital under contract with the Department of Mental Health to participate in the no refusal system.

(3) [Repealed.]

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe (presiding), Baruth.

Bill Amended; Third Reading Ordered

S. 324.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to prohibiting robocalls.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 2464e is added to read:

§ 2464e. ROBOCALLS; PROHIBITION; PENALTY

(a) A person shall not initiate a telephone call to a Vermont consumer using an automatic telephone dialing system or an artificial or prerecorded voice in violation of the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, or the federal Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101–6108, and the regulations adopted pursuant to those laws.

(b) Civil violation.

(1) A violation of this section constitutes a violation of section 2453 of this title.

(2) Each prohibited telephone call constitutes a separate violation under this subsection.

(3)(A) A person who receives a telephone call in violation of this section may bring an action in Superior Court for damages or a civil penalty, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees.

(B) The court may issue an award for the greater of a person's damages or a civil penalty of \$500.00 for a first violation and \$1,000.00 for each subsequent violation.

(c) Criminal Penalties.

(1) A person who violates this section shall be imprisoned for not more than 90 days or fined not more than \$1,000.00 per violation, or both.

(2) Each telephone call constitutes a separate violation under this subsection.

(d) The Attorney General shall exercise his or her authority and discretion to work cooperatively with other state and federal government entities to identify callers who initiate robocalls to consumers in violation of this section

and to enforce the provisions of this section regardless of the location of the caller.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

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

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twentieth day of February, 2020 he approved and signed a bill originating in the Senate of the following title:

S. 108. An act relating to employee misclassification.

Adjournment

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, FEBRUARY 21, 2020

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

Message from the House No. 20

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

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 41. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bill Referred to Committee on Appropriations

S. 318.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to financing options for public, educational, and government access television.

Third Reading Ordered

S. 283.

Senator Brock, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to the Town of Hartford's tax increment financing district.

Reported that the bill ought to pass.

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

Bill Passed

S. 324.

Senate bill of the following title:

An act relating to prohibiting robocalls.

Was read the third time and passed on a roll call, Yeas 27, Nays 0.

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, Bray, Brock, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe (presiding), Baruth, Benning.

Bill Passed**S. 338.**

Senate bill of the following title was read the third time and passed:

An act relating to justice reinvestment.

Senate Concurrent Resolution

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, was adopted on the part of the Senate:

By Senators Champion and Sears,

By Reps. Morrissey and others,

S.C.R. 18.

Senate concurrent resolution honoring Eric Peterson for his visionary leadership at the Oldcastle Theatre Company in Bennington.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Rachelson and others,

By Senator Pearson,

H.C.R. 252.

House concurrent resolution congratulating Pathways Vermont on its 10th anniversary.

By Reps. Rachelson and others,

H.C.R. 253.

House concurrent resolution congratulating Burlington International Airport on its centennial.

By Reps. Macaig and McCullough,

By Senators Ingram and Lyons,

H.C.R. 254.

House concurrent resolution honoring Williston Town Clerk Deborah Beckett for her outstanding municipal public service.

By Reps. Hooper and Kitzmiller,

H.C.R. 255.

House concurrent resolution congratulating the 2019 Montpelier High School Solons State championship girls' ultimate team.

By Rep. Chesnut-Tangerman,

By Senators Collamore, Hooker and McNeil,

H.C.R. 256.

House concurrent resolution congratulating Robert Morlino of Pawlet on being named the 2019 Vermont Emergency Management Director of the Year.

By Reps. Grad and others,

By Senators Cummings, Perchlik and Pollina,

H.C.R. 257.

House concurrent resolution honoring Norwich University's 23rd President, Dr. Richard W. Schneider.

By Reps. O'Brien and Haas,

H.C.R. 258.

House concurrent resolution congratulating the 2019 White River Valley High School Wildcats Division III championship softball team.

By Reps. O'Brien and Haas,

H.C.R. 259.

House concurrent resolution congratulating the 2019 White River Valley High School Wildcats Division III championship baseball team.

By Reps. Hooper and Kitzmiller,

H.C.R. 260.

House concurrent resolution congratulating the 2019 Montpelier High School Solons State championship boys' ultimate team.

By Rep. O'Brien,

By Senators Hooker, Benning, Collamore, Lyons, Mazza, McNeil, Rodgers and Sears,

H.C.R. 261.

House concurrent resolution commemorating the 400th anniversary of the Mayflower's arrival in the New World.

By Rep. Yantachka,

H.C.R. 262.

House concurrent resolution congratulating Heritage Landscapes and Patricia O'Donnell on receipt of the 2019 Landscape Architecture Firm Award.

By Reps. Anthony and others,

By Senators Cummings, Perchlik and Pollina,

H.C.R. 263.

House concurrent resolution in memory of journalist and former State and Barre City official Arthur Anton Ristau.

By Reps. Shaw and others,

H.C.R. 264.

House concurrent resolution honoring the Vermont Senior Games Association.

By All Members of the House,

By All Members of the Senate,

H.C.R. 265.

House concurrent resolution in memory of Jake Burton Carpenter of Stowe.

Message from the House No. 21

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 674. An act relating to the definition of housesite for use value appraisals.

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

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

H. 83. An act relating to prohibiting female genital mutilation or cutting.
And has severally concurred therein.

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

H.C.R. 252. House concurrent resolution congratulating Pathways Vermont on its 10th anniversary.

H.C.R. 253. House concurrent resolution congratulating Burlington International Airport on its centennial.

H.C.R. 254. House concurrent resolution honoring Williston Town Clerk Deborah Beckett for her outstanding municipal public service.

H.C.R. 255. House concurrent resolution congratulating the 2019 Montpelier High School Solons State championship girls' ultimate team.

H.C.R. 256. House concurrent resolution congratulating Robert Morlino of Pawlet on being named the 2019 Vermont Emergency Management Director of the Year.

H.C.R. 257. House concurrent resolution honoring Norwich University's 23rd President, Dr. Richard W. Schneider.

H.C.R. 258. House concurrent resolution congratulating the 2019 White River Valley High School Wildcats Division III championship softball team.

H.C.R. 259. House concurrent resolution congratulating the 2019 White River Valley High School Wildcats Division III championship baseball team.

H.C.R. 260. House concurrent resolution congratulating the 2019 Montpelier High School Solons State championship boys' ultimate team.

H.C.R. 261. House concurrent resolution commemorating the 400th anniversary of the Mayflower's arrival in the New World.

H.C.R. 262. House concurrent resolution congratulating Heritage Landscapes and Patricia O'Donnell on receipt of the 2019 Landscape Architecture Firm Award.

H.C.R. 263. House concurrent resolution in memory of journalist and former State and Barre City official Arthur Anton Ristau.

H.C.R. 264. House concurrent resolution honoring the Vermont Senior Games Association.

H.C.R. 265. House concurrent resolution in memory of Jake Burton Carpenter of Stowe.

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

Message from the House No. 22

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

Mr. President:

I am directed to inform the Senate that:

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 18. Senate concurrent resolution honoring Eric Peterson for his visionary leadership at the Oldcastle Theatre Company in Bennington.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 25, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 41.

TUESDAY, FEBRUARY 25, 2020

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.

Bill Referred

House bill of the following title was read the first time and referred:

H. 674.

An act relating to the definition of housesite for use value appraisals.

To the Committee on Finance.

Bill Passed

S. 283.

Senate bill of the following title was read the third time and passed:

An act relating to the Town of Hartford's tax increment financing district.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 26, 2020.

WEDNESDAY, FEBRUARY 26, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Rabbi Yitzch Raskin of Burlington.

Message from the House No. 23

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 568. An act relating to human trafficking and prostitution.

H. 688. An act relating to addressing climate change.

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

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

H. 760. An act relating to fiscal year 2020 budget adjustments.

And has severally concurred therein.

Bill Referred to Committee on Finance**S. 125.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to Vermont's adoption of the interstate Nurse Licensure Compact.

Joint Resolution Placed on Calendar**J.R.S. 43.**

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

By Senator Nitka,

J.R.S. 43. Joint resolution providing for a Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judge.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 19, 2020, at ten o'clock and thirty minutes in the forenoon to vote on the retention of five Superior Judges and one Environmental Judge. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 568.

An act relating to human trafficking and prostitution.

To the Committee on Judiciary.

H. 688.

An act relating to addressing climate change.

To the Committee on Natural Resources and Energy.

Third Reading Ordered

S. 336.

Senate committee bill entitled:

An act relating to establishing standards for the sale of hemp seed.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Pearson, for the Committee on Agriculture, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. § 571 is added to read:

§ 571. HEMP SEED; LABELING; STANDARDS

(a) A person shall not sell, offer for sale, expose for sale, transport for sale, or distribute in the State hemp seed that:

(1) is not labeled in accordance with the requirements of this section or rules adopted by the Secretary;

(2) fails to meet germination standards, feminized seed claims, or other claims made on the label or in an advertisement or provides false or misleading information on a label or in an advertisement;

(3) fails to meet certification standards if standards have been adopted by the Secretary by rule; or

(4) consists of or contains prohibited noxious weed seeds, as that term is defined in section 641 of this title.

(b) Hemp seed sold, offered for sale, exposed for sale, transported for sale, or distributed in the State shall have a label attached to the bag or container in which the seed is sold, offered for sale, exposed for sale, transported for sale, or distributed. The label shall contain the following information:

(1) the name and kind of each hemp seed present in excess of five percent of the whole percentage by weight;

(2) the origin state or foreign country of the hemp seed;

(3) whether the hemp seed was certified by a state or foreign country;

(4) the percentage by weight of any weed seeds in the container or bag;

(5) the percentage by weight of inert matter in the container or bag;

(6) the percentage of feminized seed;

(7) the percentage of germination of the seed;

(8) the date the seed was packed or packaged; and

(9) the name and address of the person who labeled the hemp seed or who sells, offers for sale, exposes for sale, or distributes the hemp seed in the State.

(c) The Secretary may issue a stop sale order for the violation of the requirements of this section or rules adopted by the Secretary under this chapter. The sale, processing, and movement of any seed subject to a stop sale order is prohibited until the Secretary issues a release from the stop sale order.

(d) A violation of this section or rules adopted by the Secretary under this chapter shall be subject to an administrative penalty under section 569 of this title.

(e)(1) A person injured or damaged by a violation of this section or a rule adopted by the Secretary under this chapter regarding the sale, offer for sale, exposure for sale, transport for sale, or distribution of hemp seed in the State may bring an action for equitable relief or damages arising from the violation.

(2) The cause of action authorized under this section is in addition to any common law or statutory remedies otherwise available and does not amend or conflict with the powers and authority of the Agency of Agriculture, Food and Markets.

(f) The Secretary may conduct inspections and otherwise enforce requirements for the sale or distribution of hemp seed established under this chapter according to the Secretary's general authority to regulate seed under chapter 35 of this title, provided that the Secretary shall issue any penalty for the violation of the requirements of this chapter under the provisions of this chapter or rules adopted under this chapter.

Sec. 2. 6 V.S.A. § 566 is amended to read:

§ 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the Program authorized under this chapter, which may include rules to:

(1) require hemp to be tested during growth for tetrahydrocannabinol levels;

(2) authorize or specify the method or methods of testing hemp, including, where appropriate, the ratio of cannabidiol to tetrahydrocannabinol levels or a taxonomic determination using genetic testing;

(3) require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing; ~~and~~

(4) require labels or label information for hemp products in order to provide consumers with product content or source information or to conform with federal requirements;

(5) establish certification requirements for hemp seed sold or distributed in the State; and

(6) require disclosure or labeling of the amount of cannabinoid known to be present in hemp seed sold or distributed in the State.

(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the Program for industrial hemp.

(c) The Secretary shall adopt rules establishing requirements for the registration of processors of hemp and hemp-infused products.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

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

Consideration Postponed

Senate bill entitled:

S. 261.

An act relating to eliminating life without parole.

Was taken up.

Thereupon, Senator Sears moved that consideration of the bill be postponed until Wednesday, March 11, 2020, which was agreed to.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, February 27, 2020.

THURSDAY, FEBRUARY 27, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Peter Plagge of Waterbury.

Message from the House No. 24

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

Mr. President:

I am directed to inform the Senate that:

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

S. 23. An act relating to increasing the minimum wage.

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

**Message from the Governor
Appointment Referred**

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to a committee as indicated:

The nomination of

Walke, Peter of Montpelier - Commissioner of the Department of Environmental Conservation - from February 24, 2020 to February 28, 2021.

To the Committee on Natural Resources and Energy.

Adjournment

On motion of Senator Balint, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, FEBRUARY 28, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 25

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 557. An act relating to municipal regulation of livestock running at large.

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

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

S. 240. An act relating to recruiting new remote workers and new relocating workers.

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

The Governor has informed the House that on February 27, 2020, he approved and signed a bill originating in the House of the following title:

H. 83. An act relating to prohibiting female genital mutilation or cutting.

Bills Referred to Committee on Appropriations

Senate 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:

S. 226. An act relating to statewide public school employee health benefits.

S. 243. An act relating to establishing the Emergency Service Provider Wellness Commission.

S. 302. An act relating to establishing a mental health mobile response unit pilot program in the city of Rutland.

Bill Referred

House bill of the following title was read the first time and referred:

H. 557.

An act relating to municipal regulation of livestock running at large.

To the Committee on Government Operations.

Bill Passed

S. 336.

Senate bill of the following title was read the third time and passed:

An act relating to establishing standards for the sale of hemp seed.

Bill Amended; Third Reading Ordered

S. 281.

Senator Hardy, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to the Working Group on the Status of Libraries in Vermont.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. WORKING GROUP ON THE STATUS OF LIBRARIES IN VERMONT; REPORT

(a) Creation. There is created the Working Group on the Status of Libraries in Vermont to study and report on the statewide status of Vermont's libraries. The Working Group is formed with the intent of strengthening and supporting libraries of all sizes and improving library services for the public.

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

(1) the State Librarian;

(2) the President of the Vermont Library Association or designee;

(3) the Executive Director of the Vermont Humanities Council or designee;

(4) three representatives of public libraries, who shall be from libraries of different sizes and from different regions of the State, appointed by the State Librarian;

(5) two representatives of public school libraries, who shall be from schools of different sizes and from different regions of the State, appointed by the Secretary of Education;

(6) two representatives of college and university libraries, appointed by the President of the College and Special Libraries Section of the Vermont Library Association; and

(7) one public library trustee, appointed by the President of the Friends and Trustees Section of the Vermont Library Association.

(c) Powers and Duties. The Working Group shall study:

(1) library services for specific segments of the Vermont population, including senior citizens, individuals with disabilities, youths and children, immigrant and migrant communities, and people living in poverty;

(2) the role that libraries play in emergency preparedness, cultural diversity and inclusion, public health and safety, community identity and resiliency, economic development, and access to public programs and services; and

(3) the current overall status of Vermont libraries, which may include information related to programming, collections, facilities, technology, and staffing.

(A) Programming. The Working Group may study the types and frequency of library programs, attendance at library programs, and whether

library programs are meeting community needs. The study of programming may include an assessment of public engagement and outreach surrounding library programming, as well as the opportunities for nonlibrary programs and groups to access Vermont libraries.

(B) Collections. The Working Group may study the size and diversity of library holdings and assess the strengths and gaps in materials available to Vermonters. The study of collections may include an assessment of how libraries may best share resources across differing libraries and communities, whether libraries offer community-specific resources, and whether libraries maintain special collections or historical artifacts.

(C) Facilities. The Working Group may study whether library facilities and buildings could be improved with regard to energy efficiency, accessibility, flexibility, human health and safety, historic preservation, and intergenerational needs.

(D) Technology. The Working Group may study whether Vermont libraries have sufficient access to basic technological resources, cyber-security resources, high-speed Internet, electronic catalogs, interlibrary loan and other interoperable systems, and appropriate hardware and software.

(E) Staff. The Working Group may study staffing levels at Vermont libraries, whether staffing levels are sufficient to meet community needs, whether library staff compensation and benefits are sufficient, how libraries rely on volunteers, and what resources are available for workforce development and training of library staff.

(d) Public Input. As part of the study and report, the Working Group shall solicit feedback from the general public and library users around the State. The Working Group may examine models for library management and organization in other states, including the formation of statewide service networks.

(e) Consultation with the Board of Libraries. The Working Group may solicit feedback from the Board of Libraries.

(f) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Libraries. For purposes of scheduling meetings and preparing recommended legislation, the Working Group shall have the assistance of the Office of Legislative Council.

(g) Report. On or before November 1, 2021, the Working Group shall submit a report to the House and Senate Committees on Education. The report shall contain:

(1) specific and detailed findings and proposals concerning the issues set forth in subsection (c) of this section;

(2) recommendations for updating the statutes, rules, standards, and the governance structures of Vermont libraries to ensure equitable access for Vermont residents, efficient use of resources, and quality in the provision of services;

(3) recommendations related to the funding needs of Vermont libraries, including capital, ongoing, and special funding, and an assessment of whether there is a need for State aid and, if so, the amounts that may be distributed; and

(4) any other information or recommendations that the Working Group may deem necessary.

(h) Meetings.

(1) The State Librarian shall be the Chair of the Working Group.

(2) The Chair shall call the first meeting of the Working Group to occur within 45 days after the effective date of this act.

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

(4) The Working Group shall cease to exist on December 1, 2021.

(i) Compensation and reimbursement. Members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 12 meetings. These payments shall be made from the General Fund.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Education with the following amendments thereto:

First: In Sec. 1, Working Group on the Status of Libraries in Vermont; report, in subsection (f), immediately following the first sentence, by striking out the following: “For purposes of scheduling meetings and preparing recommended legislation, the Working Group shall have the assistance of the Office of Legislative Council.”

Second: In Sec. 1, Working Group on the Status of Libraries in Vermont; report, in subdivision (g)(3), immediately following the words “and special funding” by striking out the following: “, and an assessment of whether there is a need for State aid and, if so, the amounts that may be distributed”

Third: In Sec. 1, Working Group on the Status of Libraries in Vermont; report, by striking out subsection (i) in its entirety and inserting in lieu thereof two new subsections (i) and (j) to read as follows:

(i) Compensation and reimbursement. Members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 12 meetings. These payments shall be made from monies appropriated to the Department of Libraries.

(j) Appropriation. The sum of \$4,000.00 is appropriated to Department of Libraries from the General Fund in fiscal year 2021 for per diem compensation and reimbursement of expenses for members of the Working Group.

And that when so amended the bill ought to pass.

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

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Education, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

S. 296.

Senator Balint, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to limiting out-of-pocket expenses for prescription insulin drugs.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

* * *

(h)(1) A health insurance or other health benefit plan offered by a health insurer or pharmacy benefit manager shall limit a beneficiary's total out-of-pocket responsibility for prescription insulin medications to not more than \$100.00 per 30-day supply, regardless of the amount, type, or number of insulin medications prescribed for the beneficiary.

(2) The \$100.00 monthly limit on out-of-pocket spending for prescription insulin medications set forth in subdivision (1) of this subsection

shall apply regardless of whether the beneficiary has satisfied any applicable deductible requirement under the health insurance or health benefit plan.

(i) As used in this section:

* * *

(7) “Prescription insulin medication” means a prescription medication that contains insulin and is used to treat diabetes.

(i)(j) The Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on January 1, 2021 and shall apply to health insurance and other health benefit plans on or after January 1, 2021 on such date as a health insurer or pharmacy benefit manager issues, offers, or renews the plan, but in no event later than January 1, 2022.

And that when so amended the bill ought to pass.

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

Joint Resolution Adopted on the Part of the Senate

J.R.S. 43.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judges.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Senator Ashe Assumes the Chair

Bills Amended; Third Readings Ordered

S. 183.

Senator White, for the Committee on Judiciary, to which was referred Senate bill entitled:

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

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

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

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

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

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

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

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

* * *

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

§ 4820. HEARING REGARDING COMMITMENT

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

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

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

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

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

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

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

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

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

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

(c)(1) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section, the Commissioner of Mental Health shall give notice of the discharge to the committing court and State's Attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the Commissioner of Mental Health, a hearing should be held prior to the

discharge, the hearing shall be held in the Family Division of the Superior Court to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the Commissioner, the State's Attorney of the county where the prosecution originated, the committed person, and the person's attorney. Prior to the hearing, the State's Attorney may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

(2)(A) This subdivision (2) shall apply when a person is committed to the care and custody of the Commissioner of Mental Health under this section after having been found not guilty by reason of insanity or incompetent to stand trial for a listed crime as defined in subdivision 5301(7) of this title other than:

(i) lewd or lascivious conduct as defined in section 2601 of this title;

(ii) recklessly endangering another person as defined in section 1025 of this title;

(iii) operating a vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(iv) careless or negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(v) leaving the scene of an accident resulting in serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c); or

(vi) a misdemeanor violation of chapter 28 of this title, relating to abuse, neglect, and exploitation of vulnerable adults.

(B) At least 10 days prior to discharging the person from a secure mental health treatment facility or from the care and custody of the Commissioner of Mental Health, the Commissioner shall provide notice of the proposed action to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that office prosecuted the case. The State's Attorney shall provide notice of the proposed action to any victim of the offense who has not opted out of receiving notice.

(C) As used in this subdivision (2), "victim" has the same meaning as in section 5301 of this title.

* * *

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

RULE 16.1. DISCLOSURE TO THE PROSECUTION

(a) The Person of the Defendant.

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

* * *

(H) provide specimens of his handwriting; ~~and~~

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

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

* * *

Sec. 5. CORRECTIONS; ASSESSMENT OF MENTAL HEALTH SERVICES

On or before November 1, 2020, the Departments of Corrections and of Mental Health shall jointly submit an inventory and evaluation of the mental health services provided by the entity with whom the Department of Corrections contracts for health care services to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary. The evaluation shall include a comparison as to how the type, frequency, and timeliness of mental health services provided in a correctional setting differ from those services available in the community. The evaluation shall further address how the memorandum of understanding executed by the Departments of Corrections and of Mental Health impacts the mental health services provided by the entity with whom the Department of Corrections contracts for health care services.

Sec. 6. FORENSIC CARE WORKING GROUP

(a) On or before August 1, 2020, the Department of Mental Health shall convene a working group of interested stakeholders, including as appropriate, the Department of Corrections, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, the Office of the Defender General, the Director of Health Care Reform, the Department of Buildings and

General Services, a representative appointed by Vermont Care Partners, a representative appointed by Vermont Legal Aid's Mental Health Project, the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259, a representative of the designated hospitals appointed by the Vermont Association of Hospitals and Health Care Systems, a person with lived experience of mental illness, and any other interested party permitted by the Commissioner of Mental Health, to:

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

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

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

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

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

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

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

(b) On or before November 1, 2020, the Department of Mental Health shall submit a report containing the findings and recommendations of the working group to the Joint Legislative Justice Oversight Committee. The report shall

include proposed draft legislation addressing any identified needed changes to statute.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

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

S. 205.

Senator Baruth, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to criminal and civil surcharges.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7282 is amended to read:

§ 7282. SURCHARGE

(a) In addition to any penalty or fine imposed by the court or Judicial Bureau for a criminal offense or any civil penalty imposed for a traffic violation, including any violation of a fish and wildlife statute or regulation, violation of a motor vehicle statute, or violation of any local ordinance relating to the operation of a motor vehicle, except violations relating to seat belts and child restraints and ordinances relating to parking violations, the clerk of the court or Judicial Bureau shall levy an additional surcharge of:

* * *

(b) The surcharges imposed by this section shall not be waived by the court except as part of an expungement proceeding where the petitioner demonstrates an inability to pay.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

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

S. 307.

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

An act relating to binding interest arbitration for employees of the Vermont Judiciary and the Vermont State Colleges.

Reported recommending that the bill be amended by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. [Deleted.]

After passage, the title of the bill be amended to read:

An act relating to binding interest arbitration for employees of the Vermont Judiciary.

And that when so amended the bill ought to pass.

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

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Fegard and Hango,

By Senators Brock and Parent,

H.C.R. 266.

House concurrent resolution in memory of former Highgate School Board member David F. Roddy.

By Rep. Smith,

By Senators Bray and Hardy,

H.C.R. 267.

House concurrent resolution honoring Barbara Wagner of Bridport.

By Rep. Krowinski,

H.C.R. 268.

House concurrent resolution recognizing June 12, 2020 as National Loving Day in Vermont.

By Rep. Rosenquist,
By Senators Brock and Parent,

H.C.R. 269.

House concurrent resolution honoring Eric Nye of Georgia.

By Reps. Webb and others,
By Senators Ashe, Baruth, Ingram, Lyons, Pearson and Sirotkin,

H.C.R. 270.

House concurrent resolution in memory of former Representative, Senator, and Commissioner of Employment and Training Sarah Goodwin (Thompson) Soule of Shelburne.

By Rep. Rosenquist,
By Senators Brock and Parent,

H.C.R. 271.

House concurrent resolution congratulating the 2019 Rice Memorial High School Green Knights Division II championship girls' soccer team.

By Rep. Smith,
By Senators Bray and Hardy,

H.C.R. 272.

House concurrent resolution honoring Weybridge Selectboard Chair Don Mason for his outstanding municipal public service.

By Rep. Smith,
By Senators Bray and Hardy,

H.C.R. 273.

House concurrent resolution honoring Barbara Torian and Tim Bouton of New Haven for their outstanding civic service.

By Reps. Myers and others,

H.C.R. 274.

House concurrent resolution recognizing July 2020 as Parks and Recreation Month in Vermont and designating July 17, 2020 as Vermont Park and Recreation Professionals' Day.

By Rep. McCarthy,

H.C.R. 275.

House concurrent resolution designating Wednesday, March 11, 2020 as the 26th Early Childhood Day at the State House.

By Rep. Rosenquist,

By Senators Brock and Parent,

H.C.R. 276.

House concurrent resolution in memory of Peter Saltonstall Mallett of Georgia.

By Reps. Demrow and others,

By Senators Benning and MacDonald,

H.C.R. 277.

House concurrent resolution honoring the distinguished military career of former Vermont Adjutant General Herbert Thomas Johnson of Bradford.

By Reps. Gregoire and others,

H.C.R. 278.

House concurrent resolution honoring former Representative Richard James Howrigan of Fairfield.

By Reps. Murphy and others,

By Senators Brock and Parent,

H.C.R. 279.

House concurrent resolution congratulating Ian Carpenter of Fairfax on being named the 2019 Special Olympics Vermont Unified Athlete of the Year.

By Reps. Morrissey and others,

By Senators Champion and Sears,

H.C.R. 280.

House concurrent resolution honoring Frank Snow of Bennington.

By Reps. Leffler and others,

By Senators Brock and Parent,

H.C.R. 281.

House concurrent resolution congratulating Elinor Purrier of Montgomery on her record-setting pace at the 2020 Wanamaker Mile in New York City.

By Reps. Killacky and others,

By Senators Collamore, Hooker and McNeil,

H.C.R. 282.

House concurrent resolution remembering former Rutland City Board of Aldermen President David Sagi on Disability Awareness Day.

By Reps. Beck and others,

By Senators Benning and Kitchel,

H.C.R. 283.

House concurrent resolution congratulating Weidmann Electrical Technology Inc. on the 50th anniversary of its St. Johnsbury plant.

By Rep. O'Brien,

H.C.R. 284.

House concurrent resolution honoring Euclid Farnham for his extraordinary legacy in the Town of Tunbridge.

By Rep. Ancel,

H.C.R. 285.

House concurrent resolution honoring John McCullough and Donna Fitch for their leadership in the renovation of the Calais Town Hall.

By Reps. Noyes and others,

By Senators Rodgers and Starr,

H.C.R. 286.

House concurrent resolution honoring former Representative Linda J. Martin for her service as Wolcott Town Clerk and Treasurer.

Message from the House No. 26

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 254. An act relating to adequate shelter for livestock.

H. 555. An act relating to rulemaking on food concessions, lotteries, raffles, or games of chance on lands and buildings within the jurisdiction of the Department of Buildings and General Services.

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

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

H.C.R. 266. House concurrent resolution in memory of former Highgate School Board member David F. Roddy.

H.C.R. 267. House concurrent resolution honoring Barbara Wagner of Bridport.

H.C.R. 268. House concurrent resolution recognizing June 12, 2020 as National Loving Day in Vermont.

H.C.R. 269. House concurrent resolution honoring Eric Nye of Georgia.

H.C.R. 270. House concurrent resolution in memory of former Representative, Senator, and Commissioner of Employment and Training Sarah Goodwin (Thompson) Soule of Shelburne.

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