
TUESDAY, JUNE 2, 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.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina

Windham District

Senator Rebecca A. Balint
Senator Jeanette K. White

Windsor District

Senator Alison Clarkson
Senator Richard J. McCormack
Senator Alice W. Nitka

Message from the House No. 49

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. 942. An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

H. 956. An act relating to miscellaneous amendments to alcoholic beverage laws.

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. 283. An act relating to the Town of Hartford's tax increment financing district.

And has passed the same in concurrence.

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

H. 951. An act relating to the municipal emergency statewide education property tax borrowing program.

H. 953. An act relating to fiscal year 2020 supplemental budget adjustments.

And has severally concurred therein.

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

J.R.S. 55. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Joint Senate Resolution Adopted on the Part of the Senate**J.R.S. 56.**

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. 56. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, June 4, 2020, or, Friday, June 5, 2020, it be to meet again no later than Tuesday, June 9, 2020.

Bills Referred

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

H. 942.

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

To the Committee on Transportation.

H. 956.

An act relating to miscellaneous amendments to alcoholic beverage laws.

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

Proposal of Amendment; Third Reading Ordered**H. 438.**

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

An act relating to the Board of Medical Practice and the licensure of physicians and podiatrists.

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:

* * * Board of Medical Practice and Physician Licensure * * *

Sec. 1. 26 V.S.A. chapter 23 is amended to read:

CHAPTER 23. MEDICINE

Subchapter 1. General Provisions

§ 1311. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

(1) “Practice of medicine” means:

(A) using the designation “Doctor,” “Doctor of Medicine,” “Physician,” “Dr.,” “M.D.,” or any combination thereof in the conduct of any occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license in Vermont;

(B) advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine in the jurisdiction;

(C) offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of any other person;

(D) offering or undertaking to prevent, diagnose, correct, or treat in any manner or by any means, methods, or devices any disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of any person, including the management of all aspects of pregnancy, labor and delivery, and parturition postpartum care;

(E) offering or undertaking to perform any surgical operation upon any person;

(F) rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within the State by a physician located outside the State as a result of the transmission of individual patient data by electronic or other means from within the State to the physician or his or her agent; or

(G) rendering a determination of medical necessity or a decision affecting the diagnosis or treatment of a patient.

(2) “Board” means the ~~State~~ Board of Medical Practice established under section 1351 of this title.

(3) “License” means license to practice medicine and surgery in the State as defined in subchapter 3 of this chapter. “Licensee” includes any individual licensed or certified by the Board.

(4) “Medical director” means, for purposes of this chapter, a physician who is Board-certified or Board-eligible in his or her field of specialty, as

determined by the American Board of Medical Specialties (ABMS), and who is charged by a health maintenance organization with responsibility for overseeing all clinical activities of the plan in this State, or his or her designee.

(5) “Health maintenance organization₂” as used in this section, ~~shall have~~ has the same meaning as ~~defined~~ in 18 V.S.A. § 9402(9).

(6) “Members” means members of the Board.

(7) “Secretary” means the ~~Secretary~~ secretary of the Board.

* * *

§ 1313. EXEMPTIONS

(a) The provisions of this chapter shall not apply to the following:

(1) a A health care professional licensed or certified by the Office of Professional Regulation when that person is practicing within the scope of his or her profession₂.

(2) a A member of the U.S. Armed Forces or National Guard carrying out official military duties, including a National Guard member in state active duty status, or to any person giving aid, assistance, or relief in emergency or accident cases, pending the arrival of a regularly licensed physician₂.

(3) a A nonresident physician coming into this State to consult or using telecommunications to consult with a duly licensed practitioner herein₂.

(4) a A duly licensed physician in another state, in Canada, or in another nation as approved by the Board, who is visiting a medical school or a teaching hospital in this State to receive or conduct medical instruction for a period not to exceed three months, provided the practice is limited to that instruction and is under the supervision of a physician licensed by the Board₂ ~~or~~.

(5) a A physician who is duly licensed and in good standing in another state, territory, or jurisdiction of the United States or in Canada if the physician is employed as or formally designated as the team physician by an athletic team visiting Vermont for a specific sporting event and the physician limits the practice of medicine in this State to medical treatment of the members, coaches, and staff of the sports team employing or designating the physician.

(6) A student who is enrolled in an accredited educational program that leads to the issuance of a degree that would satisfy the educational requirement for a profession licensed or certified by the Board, who is engaged in an organized clinical training program, and who engages in acts constituting the practice of medicine while under the supervision of a Vermont-licensed or Vermont-certified health care professional who is qualified to supervise any

acts by the student that constitute the practice of medicine. This exemption does not apply to postgraduate trainees who are required to obtain a training license.

* * *

§ 1317. UNPROFESSIONAL CONDUCT TO BE REPORTED TO BOARD

(a) Required reporters. Any hospital, clinic, community mental health center, or other health care institution in which a licensee performs professional services shall report to the Board, along with supporting information and evidence, any reportable disciplinary action taken by it or its staff that ~~significantly limits the licensee's privilege to practice or leads to suspension or expulsion from the institution, a nonrenewal of medical staff membership, or the restrictions of privileges at a hospital taken in lieu of, or in settlement of, a pending disciplinary case related to unprofessional conduct as defined in sections 1354 and 1398 of this title.~~ The Commissioner of Health shall forward any such information or evidence he or she receives immediately to the Board. The report shall be made within 10 days of the date such disciplinary action was taken, and, in the case of disciplinary action taken against a licensee based on the provision of mental health services, a copy of the report shall also be sent to the Commissioner of Mental Health and the Commissioner of Disabilities, Aging, and Independent Living. This section shall not apply to cases of resignation or separation from service for reasons unrelated to disciplinary action.

(b) ~~Within 30 days of any judgment or settlements involving a claim of professional negligence by a licensee, any insurer of the licensee shall report the information to the Commissioner of Health and, to the extent the claim relates to the provision of mental health services, to the Commissioner of Mental Health.~~

Definition of reportable disciplinary action. A reportable disciplinary action is an action based on one or more of the following:

(1) Acts or omissions of a licensee that relate to the licensee's fitness or competence to practice medicine under the license held.

(2) Acts or omissions of the licensee that constitute a violation of a law or rule that relates in any way to the practice of medicine.

(3) Acts or omissions of the licensee that occur in the course of practice and result in one or more of the following:

(A) Resignation, leave of absence, termination, or nonrenewal of an employment relationship or contract. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the

reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Resignations and leaves of absence that are entirely voluntary by the licensee, and terminations and nonrenewals of employment or contract by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.

(B) Revocation, suspension, restriction, relinquishment, or nonrenewal of a right or privilege. This includes a licensee's own initiation of such action following notification to the licensee by the reporter that the reporter or an affiliated entity is conducting an investigation or inquiry regarding an event that, assuming the accuracy of the information or allegation, is likely to result in reportable disciplinary action. The reporter or affiliated entity shall complete the investigation or inquiry even if the licensee initiates a resignation, leave of absence, termination, or nonrenewal, and shall make a report to the Board if the investigation results in a finding of a reportable disciplinary action. Relinquishments of privileges that are entirely voluntary by the licensee, and revocations, nonrenewals, or other limitations on privileges by a required reporter that are not related to acts or omissions of the licensee, are not reportable disciplinary actions.

(C) Written discipline that constitutes a censure, reprimand, or admonition, if it is the second or subsequent censure, reprimand, or admonition within a 12-month period for the same or related acts or omissions that previously resulted in written censure, reprimand, or admonition. The same or related acts or omissions includes similar behavior or behavior involving the same parties, or both. Oral censure, oral reprimand, and oral admonition are not considered reportable disciplinary actions, and notation of an oral censure, oral reprimand, or oral admonition in a personnel or supervisor's file does not transform the action from oral to written.

(D) Fine or any other form of monetary penalty imposed as a form of discipline.

(E) Required education, remedial counseling, or monitoring that is imposed as a result of a completed, contested disciplinary process. This includes recommendation or referral for services from the Vermont Practitioner Recovery Network established pursuant to section 1401a of this chapter, or from an employer wellness program or similar program, as a result of a completed, contested disciplinary process.

(c) Timing of reports. A required report of reportable disciplinary action under subsection (b) of this section shall be made within 30 days following the date on which the disciplinary action was taken or upon completion of an investigation or inquiry pursuant to subdivision (b)(3)(A) or (B) of this section.

(d) Mental health services. If reportable disciplinary action is reported to the Board based on a licensee's provision of mental health services, the Commissioner of Health shall forward the report to the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living. Except as provided in section 1368 of this title, information provided to the Department of Health, the Department of Mental Health, or the Department of Disabilities, Aging, and Independent Living under this section shall be confidential unless the Department of Health decides to treat the report as a complaint; in which case, the provisions of section 1318 of this title shall apply.

(d)(e) Limitation on liability. A person who acts in good faith in accordance with the provisions of this section shall not be liable for damages in any civil action based on the fact that a report was made.

(e)(f) Violations. A person reporter who violates this section shall be subject to a civil penalty of not more than \$5,000.00, provided that a reporter who employs or grants privileges to five or more Board licensees and who violates this section shall be subject to a civil penalty of not more than \$10,000.00.

* * *

Subchapter 2. Board of Medical Practice

§ 1351. BOARD OF MEDICAL PRACTICE

(a) ~~A State~~ The Board of Medical Practice is created. The Board shall be composed of 17 members, nine of whom shall be licensed physicians, one of whom shall be a physician assistant licensed pursuant to chapter 31 of this title, one of whom shall be a podiatrist licensed pursuant to chapter 7 of this title, and six of whom shall be persons not associated with the medical field. The Governor, with the advice and consent of the Senate, shall appoint the members of the Board. Appointments shall be for a term of five years, except that a vacancy occurring during a term shall be filled by an appointment by the Governor for the unexpired term. No member shall be appointed to more than two consecutive full terms, but a member appointed for less than a full term, (originally or to fill a vacancy), may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of one or more years. Any member of the Board may be removed by the Governor at any time. The Board shall elect from its

members a chair, vice chair, and secretary who shall serve for one year and until their successors are appointed and qualified. The Board shall meet upon the call of the Chair or the Commissioner of Health, or at such other times and places as the Board may determine. Except as otherwise provided in ~~section 1360~~ sections 1372, 1373, and 1374 of this title, nine members of the Board shall constitute a quorum for the transaction of business. The affirmative vote of the majority of the members present and voting shall be required to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize any decision or order of the Board.

* * *

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

(1) License and certify health professionals pursuant to this title.

(2) Investigate all complaints and charges of unprofessional conduct against any holder of a license or certificate, or any medical practitioner practicing pursuant to section 1313 of this title, and to hold hearings to determine whether such charges are substantiated or unsubstantiated. The Board may employ or contract with one or more hearing officers to schedule, oversee prehearing processes, preside over hearings, and assist with the preparation of reports and decisions.

(3) Issue subpoenas and administer oaths in connection with any investigations, hearings, or disciplinary proceedings held under this chapter. Any individual or entity served with a subpoena issued by the Board shall comply notwithstanding the patient's privilege established in 12 V.S.A. § 1612.

(4) Take or cause depositions to be taken as needed in any investigation, hearing, or proceeding.

* * *

(8) ~~Obtain, at the Board's discretion, from the Vermont Crime Information Center a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation, for any applicant, licensee, or holder of certification. The Board may also inquire of Interpol for any information on criminal history records of an applicant, licensee, or holder of certification. Each applicant, licensee, or holder of certification shall consent to the release of criminal history records to the Board on forms substantially similar to the release forms developed in accordance with 20 V.S.A. § 2056c. When the Board obtains a criminal history record, it shall promptly provide a copy of the record to the applicant, licensee,~~

~~or holder of certification and inform him or her of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Vermont Crime Information Center. When fingerprinting is required pursuant to this subdivision, the applicant, licensee, or holder of certification shall bear all costs associated with fingerprinting. The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.~~

(A) Inquire into the criminal history backgrounds of applicants for licensure and for biennial license renewal for all professionals licensed or certified by the Board. In obtaining these background checks, the Board may inquire directly of the Vermont Crime Information Center, the Federal Bureau of Investigation, the National Crime Information Center, or other holders of official criminal record information, and may arrange for these inquiries to be made by a commercial service.

(B) Prior to acting on an initial or renewal application, the Board may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Board of future triggering events. Each applicant shall consent to the release of criminal history records to the Board on forms developed by the Vermont Crime Information Center.

(C) An applicant or licensee shall bear any cost of obtaining a required criminal history background check.

(D) The Board shall comply with all laws regulating the release of criminal history records and the protection of individual privacy.

(E) No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter. As used in this subdivision, "criminal history record" is as defined has the same meaning as in 20 V.S.A. § 2056a.

* * *

§ 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:

* * *

(23) revocation of a license to practice medicine or surgery in, or other disciplinary sanction, by another jurisdiction on one or more of the grounds

specified in this section;

* * *

(27) failure to comply with provisions of federal or State statutes or regulations, or the statutes or rules of this or any other state, governing the practice of medicine or surgery;

* * *

§ 1355. COMPLAINTS; HEARING COMMITTEE

~~(a) Any person, firm, corporation, or public officer may submit a written complaint to the Board alleging any person practicing medicine in the State committed unprofessional conduct, specifying the grounds therefor. The Board shall initiate an investigation of the physician when a complaint is received or may act on its own initiative without having received a complaint. The Chair shall designate four members, including one public member, to serve as a committee to hear or investigate and report upon such charges.~~

~~(b) The Chair may designate a hearing committee constituting less than a quorum of the Board, to conduct hearings that would otherwise be heard by the Board. A hearing committee shall consist of at least one physician member of the Board and one public member of the Board. No member of the hearing committee shall have been a member of the investigative committee that reviewed the matter at the investigative stage. When the Board is unable to assign one or more members to investigate a complaint or serve on a hearing committee by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner may, at the request of the Board, appoint ad hoc members to serve on the investigation or the hearing for that matter only. When a hearing is conducted by a hearing committee, the committee shall report its findings and conclusions to the Board, within 60 days of the conclusion of the hearing unless the Board grants an extension. The Board may take additional evidence and may accept, reject, or modify the findings and conclusions of the Committee. Judgment on the findings shall be rendered by the Board. Nothing herein is intended to limit the discretion of the Board to determine whether a matter will proceed to hearing before a hearing committee under this subsection or by a quorum of the Board.~~

~~(c) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.~~

~~(d) The hearing committee may close portions of hearings to the public if the hearing committee deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential~~

by State or federal law.

~~(e) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate in order to protect the identity of the victim and the confidentiality of his or her medical records. [Repealed.]~~

§ 1356. SPECIFICATION OF CHARGES

~~If the Board or committee determines that a hearing is warranted, the Secretary shall prepare a specification of the charge or charges of unprofessional conduct made against a medical practitioner, a copy of which shall be served upon the person complained against, together with a notice of the hearing, as provided in section 1357 of this title. [Repealed.]~~

§ 1357. TIME AND NOTICE OF HEARING

~~The time of hearing shall be fixed by the Secretary as soon as convenient, but not earlier than 30 days after service of the charge upon the person complained against. The Secretary shall issue a notice of hearing of the charges, which notice shall specify the time and place of hearing and shall notify the person complained against that he or she may file with the Secretary a written response within 20 days of the date of service. The notice shall also notify the person complained against that a stenographic record of the proceeding will be kept, that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence in his or her own behalf, to cross-examine witnesses testifying against him or her and to examine such documentary evidence as may be produced against him or her. [Repealed.]~~

§ 1358. SUBPOENAS; CONTEMPT

~~Subpoenas may be issued by the Board to compel the attendance of witnesses at any investigation or hearing. The Board shall issue subpoenas at the request and on the behalf of the person complained against. [Repealed.]~~

§ 1359. REPORT OF HEARING

~~Within 30 days after holding a hearing under the provisions of section 1357 of this title, the committee shall make a written report of its findings of fact and its recommendations, and the same shall be forthwith transmitted to the Secretary, with a transcript of the evidence. [Repealed.]~~

§ 1360. HEARING BEFORE BOARD

~~(a) If the Board deems it necessary, the Board may, after further notice to the person complained against, take testimony at a hearing before the Board, conducted as provided for hearings before the hearing committee. In any event, whether the Board makes its determination on the findings of the hearing committee, on the findings of the committee as supplemented by a second hearing before the Board, or on its own findings, the Board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it. Five members of the Board, including at least one public member, shall constitute a quorum for purposes of this section.~~

~~(b) Members of the committee designated under section 1355 of this title to investigate the complaint shall not sit with the Board when it conducts hearings under this section.~~

~~(c) In any proceeding under this section that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of the victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence of nor evidence of the reputation of the victim's sexual conduct shall be admitted. At the request of the victim, the hearing committee may close portions of hearings to the public if the Board deems it appropriate to close portions of the hearing in order to protect the identity of the victim and the confidentiality of his or her medical records.~~

~~(d) The Board may close portions of hearings to the public if the Board deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential by State or federal law. [Repealed.]~~

§ 1361. DECISION AND ORDER

~~(a) If a majority of the members of the Board vote in favor of finding the person complained against guilty of unprofessional conduct as specified in the charges, or any of them, the Board shall prepare written findings of fact, conclusions, and order, a copy of which shall be served upon the person complained against.~~

~~(b) In such order, the Board may reprimand the person complained against, as it deems appropriate; condition, limit, suspend, or revoke the license, certificate, or practice of the person complained against; or take such other action relating to discipline or practice as the Board determines is proper, including imposing an administrative penalty not to exceed \$1,000.00 for each act that constitutes an unprofessional conduct violation. Any money received~~

~~from the imposition of an administrative penalty imposed under this subsection shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner shall detail in the annual report receipts and expenses from money received under this subsection.~~

~~(c) If the person complained against is found not guilty, or the proceedings against him or her are dismissed, the Board shall forthwith order a dismissal of the charges and the exoneration of the person complained against.~~

~~(d) Any order issued under this section shall be in full force and effect until further order of the Board or a court of competent jurisdiction. [Repealed.]~~

* * *

§ 1365. NOTICE OF CONVICTION OF CRIME; INTERIM SUSPENSION OF LICENSE

~~(a) The Board shall treat a certified copy of the judgment notice of conviction of a crime for which a licensee may be disciplined under section 1354 of this title as an unprofessional conduct complaint. The record A certified copy of the judgment of conviction shall be conclusive evidence of the fact that the conviction occurred. If a person licensed under this chapter is convicted of a crime by a court in this State, the clerk of the court shall within 10 days of such conviction transmit a certified copy of the judgment of conviction to the Board.~~

* * *

§ 1366. OUT-OF-STATE DISCIPLINE; INTERIM SUSPENSION OF LICENSE

(a) The Board shall treat a certified copy of an order revoking or suspending the license of a person licensed to practice medicine or surgery in another jurisdiction on grounds for which a licensee may be disciplined under subdivision 1354(a)(23) of this title as an unprofessional conduct complaint. ~~The A certified copy of the order of revocation or suspension shall be conclusive evidence of the fact that the revocation or suspension occurred.~~

(b) The Board shall treat ~~a certified copy as an unprofessional conduct complaint~~ any notice of a statement of a licensing entity in another jurisdiction that verifies that a person licensed to practice medicine or surgery in that jurisdiction failed to renew, surrendered, or otherwise terminated his or her license during, or prior to initiation of, proceedings to revoke or suspend his or her license as an unprofessional conduct complaint. The A certified copy of the statement shall be conclusive evidence of the fact that such termination occurred.

(c) Upon receipt of the certified copy of an order or statement referred to in ~~subsections~~ subsection (a) or (b) of this section, the Board shall follow the procedures for interim suspension set forth in subsection 1365(b) of this ~~title~~ chapter.

(d) The sole issue to be determined at the disciplinary hearing on a complaint filed under subsection (a) of this section shall be the nature of the disciplinary action to be taken by the Board.

* * *

§ 1370. COMPLAINTS; INVESTIGATIVE COMMITTEE

(a)(1) Any individual, organization, or public officer may submit a written complaint to the Board alleging that any individual practicing medicine in the State committed unprofessional conduct or that an individual practiced without being licensed in violation of section 1314 of this chapter. The complaint shall specify the grounds on which the allegations of unprofessional conduct are based.

(2) A person or organization shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Board about alleged incompetent, unprofessional, or unlawful conduct of a licensee.

(b)(1) The Board shall initiate an investigation of the individual complained against whenever a complaint is received. The Board may also act on its own initiative without having received a complaint.

(2) The Executive Director shall designate three or more members, including at least one public member, to serve as an investigative committee to investigate and report to the Board its findings regarding the complaint and whether an evidentiary hearing is warranted. If there is an insufficient number of members to investigate a complaint by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the investigative committee for that matter only.

(3) If the investigative committee determines that an evidentiary hearing is warranted, the Executive Director shall prepare a specification of the charge or charges of unprofessional conduct made against the individual licensed by the Board, a copy of which shall be served upon the subject of the charge or charges, together with the notice of hearing set forth in subsection 1372(b) of this chapter.

§ 1371. ACCESS TO DOCUMENTS; DISCOVERY

(a)(1) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance

with subdivision 1370(b)(3) of this chapter shall be entitled to inspect and copy all information in the possession of the Department of Health pertaining to the licensee, except:

(A) investigatory files that have not resulted in charges of unprofessional conduct;

(B) materials that constitute attorney work product; and

(C) any other document or information that the Board has an obligation to protect from disclosure.

(2) The Executive Director shall notify the licensee of the right to inspect and copy information as provided in subsection 1372(b) of this chapter.

(b) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to produce fact witnesses, expert witnesses, and evidence on the licensee's own behalf, to cross-examine witnesses testifying against the licensee, and to engage in other methods of discovery as set forth by order of the Board or its hearing officer.

(c) A licensee who is notified that a specification of one or more charges of unprofessional conduct have been made against the individual in accordance with subdivision 1370(b)(3) of this chapter shall be entitled to request to depose witnesses by motion to the Board or its hearing officer. Any deposition so ordered shall be subject to:

(1) the provisions of section 1376 of this chapter, relating to confidentiality and the inadmissibility of certain evidence;

(2) limitations or conditions necessary to protect witnesses who are minors or who are adults subject to a guardianship or conservatorship; and

(3) such other reasonable limitations as the Board or its hearing officer may provide in the interests of justice and consistent with the provisions of 3 V.S.A. § 810, relating to rules of evidence and official notice in contested cases.

§ 1372. HEARING PANEL

(a) Composition of hearing panel.

(1) The Executive Director may designate a hearing panel constituting less than a quorum of the Board to conduct hearings that would otherwise be heard by the full Board. A hearing panel shall consist of at least three members, including at least one physician member of the Board and at least one public member of the Board. No member of the hearing panel shall have been a member of the investigative committee that reviewed the matter at the

investigative stage. A party may move to disqualify a member of a hearing panel due to a conflict of interest.

(2) If there is an insufficient number of members to serve on a hearing panel by reason of disqualification, resignation, vacancy, or necessary absence, the Commissioner of Health may, at the request of the Board, appoint ad hoc members to serve on the hearing panel for that matter only.

(b) Time and notice of hearing.

(1) The Executive Director or a hearing officer shall set a time for the evidentiary hearing as soon as convenient following the determination by the investigative committee that an evidentiary hearing is warranted, subject to the discovery needs of the parties as established in any prehearing or discovery conference or in any orders regulating discovery and depositions, or both, but no earlier than 30 days after service of the charge upon the individual complained against. A party may file motions to extend the time of the hearing for good cause.

(2) The Executive Director shall issue a notice of the evidentiary hearing on the charges, which notice shall specify the time and place of the hearing and shall notify the individual complained against that he or she may file with the Executive Director a written response within 20 days of the date of service. The notice shall also notify the individual complained against that a record of the proceeding will be kept, that he or she will have the right to inspect and copy information as set forth in section 1371 of this chapter, and that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses and evidence on his or her own behalf, to cross-examine witnesses testifying against him or her, and to examine such documentary evidence as may be produced against him or her.

(c) Hearing panel report. Within 60 days after holding an evidentiary hearing under this section, unless the Board grants an extension, the hearing panel shall provide a written report of its findings of fact and its recommendations to the full Board, with a transcript of the evidence.

§ 1373. HEARING BEFORE THE BOARD

(a) If the Board deems it necessary, following receipt of the report of the hearing panel pursuant to section 1372 of this chapter and after further notice to the individual complained against, the Board may take additional evidence at a hearing before the Board, which shall be conducted according to the same process as provided for the hearing panel.

(b)(1) Five members of the Board, including at least one physician member and at least one public member, shall constitute a quorum for purposes of this section.

(2) Members of the investigative committee designated pursuant to section 1370 of this chapter shall not sit with the Board when it conducts hearings under this section.

§ 1374. DECISION AND ORDER

(a) Regardless of whether the Board makes its determination on the findings of the hearing panel pursuant to section 1372 of this chapter alone, on the findings of the hearing panel as supplemented by a hearing before the Board pursuant to section 1373 of this chapter, or on its own findings, the Board shall render its decision on the merits of the charge or charges on the basis of the evidence in the record before it.

(b)(1) If a majority of the members of the Board present and voting find that the individual complained against committed unprofessional conduct as specified in one or more of the charges, the Board shall prepare written findings of fact, conclusions, and an order, copies of which shall be served upon the individual complained against.

(2)(A) In its order, the Board may do one or more of the following:

(i) reprimand the individual complained against;

(ii) condition, limit, suspend, or revoke the license, certificate, or practice of the individual complained against; or

(iii) take such other action relating to discipline or practice as the Board determines appropriate, including imposing an administrative penalty of not more than \$1,000.00 for each act that constitutes an unprofessional conduct violation.

(B) Any monies received from the imposition of an administrative penalty imposed pursuant to this subdivision (2) shall be deposited into the Board of Medical Practice Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees. The Commissioner of Health's accounting under section 1351 of this chapter shall detail the receipts of administrative penalties and the purposes for which such monies were used.

(c) If the Board finds the individual complained against not guilty of the charge or charges, or the charges against the individual are dismissed, the Board shall promptly order a dismissal of the charges and issue a statement that the charges were not proved.

(d) Any order issued by the Board under this section shall be in full force and effect until further order of the Board or of a court of competent jurisdiction.

§ 1375. SUBPOENAS; CONTEMPT

(a) The Board may issue subpoenas to compel the attendance of witnesses at any investigation or hearing.

(b) The Board shall issue subpoenas on behalf of the individual complained against at the request of such person.

§ 1376. CONFIDENTIALITY; INADMISSIBILITY OF CERTAIN EVIDENCE

(a) A hearing panel or the Board, or both, may close portions of a hearing or hearings to the public if the panel or Board deems it appropriate in order to protect the confidentiality of an individual or for medical and other protected health information pertaining to any identifiable person that is otherwise confidential under State or federal law.

(b) In any proceeding under section 1372 or 1373 of this chapter that addresses an applicant's or licensee's alleged sexual misconduct, evidence of the sexual history of a victim of the alleged sexual misconduct shall neither be subject to discovery nor be admitted into evidence. Neither opinion evidence nor evidence of the reputation of a victim's sexual conduct shall be admitted. At the request of a victim, a hearing panel or the Board may close portions of hearings to the public if the panel or Board deems it appropriate in order to protect the identity of a victim and the confidentiality of his or her medical records.

§ 1377. NONDISCIPLINARY FINANCIAL PENALTY

(a) For violations of statutes and Board rules of an administrative nature, the Board may, in its sole discretion, elect to offer a licensee the opportunity to pay a nondisciplinary financial penalty of not more than \$250.00 for each instance of noncompliance. If the licensee accepts the offer and submits the required payment, the matter shall be considered to be closed in lieu of investigating the failure to comply with the rule or statute as unprofessional conduct.

(b) A matter closed by payment of a nondisciplinary financial penalty shall not be considered to be a disciplinary action, and the matter shall remain confidential in the manner of dismissed charges in accordance with section 1318 of this chapter.

(c) The Board shall not be required to offer the option of a nondisciplinary financial penalty in any particular case and may elect to process any matter as a disciplinary action.

(d) Any monies received from nondisciplinary financial penalties imposed pursuant to this section shall be deposited into the Board of Medical Practice

Regulatory Fee Fund for the purpose of providing education and training for Board members and licensees.

Subchapter 3. Licenses

§ 1391. QUALIFICATIONS FOR MEDICAL LICENSURE

~~(a) Upon payment of an examination fee, a person who has attained the age of majority, and is of good moral character, who is a graduate of a legally chartered college or university authorized to confer degrees in medicine and surgery, which is recognized by the Board, shall be entitled to examination. Evidence of good moral character and competence in being able to communicate in reading, writing, and speaking the English language, shall be presented from the chief of service and two other active physician staff members at the hospital where the person was last affiliated. In the discretion of the Board, evidence from different sources may be presented~~

Basic requirements.

(1) An applicant for physician licensure as a medical doctor shall meet each of the requirements set forth in subdivisions (2)(A) through (D) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.

(2) An applicant shall submit evidence of identity acceptable to the Board as set forth by rule and shall establish that the applicant:

(A) is at least 18 years of age;

(B) has completed high school, or the equivalent, and at least two years of undergraduate postsecondary school;

(C) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule, with a degree of doctor of medicine or an equivalent as may be determined by the Board; and

(D) is of sound moral character and professional competence as evidenced by:

(i) references submitted in accordance with rules adopted by the Board;

(ii) a personal interview, as may be required in the discretion of the Board; and

(iii) the applicant's entire personal history, as established by information about the applicant's academic, licensing examination,

employment, professional credentialing, professional certification, professional regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process.

~~(b) If a person successfully completes the examination, he or she may then apply for licensure to practice medicine in the State of Vermont. In addition, each applicant may be interviewed by a Board member~~

Postgraduate training requirements.

(1) A graduate of a U.S. or Canadian medical school accredited by a body that is acceptable to the Board shall submit evidence of the successful completion of at least two years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.

(2) A graduate of a Board-approved medical school outside the United States or Canada shall submit evidence of success of completing at least three years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board and that meets such other requirements as the Board may establish by rule.

~~(c) Students who have completed the studies of anatomy, physiology, chemistry, and histology may be examined after presenting a certificate from the secretary of the college or university in which they are pursuing their studies that they have completed the work of the second year. The fee that shall accompany such certificate shall be half of that for the final examination and shall be credited to the student as a part of the whole fee when he or she takes his or her final examination, which examination shall not include the subjects in which such student was found qualified by such previous examination~~

Examination. An applicant shall satisfy the Board's requirements for medical licensing examination as established by the Board by rule. The Board may identify which examinations are accepted, set passing standards, and set limits on time and numbers of attempts for exams. The Board may establish by rule exceptions or alternative means to meet examination requirements.

~~(d) In its discretion, the Board may refuse applicants who are graduates of foreign universities or medical schools unless their credentials have first been passed upon and approved by the educational council for foreign medical graduates~~

ECFMG certificate. A graduate of a medical school outside the United States or Canada shall also submit evidence of certification by the Educational Commission for Foreign Medical Graduates unless the individual qualifies for licensure as a Fifth Pathway applicant, as established by the Board by rule.

~~(e) An applicant for limited temporary license, who shall furnish the Board with satisfactory proof that he or she has attained the age of majority, is of good moral character, is a graduate of a legally chartered medical school of this country or of a foreign country that is recognized by the Board and which has power to grant degrees in medicine, that all other eligibility requirements for house officer status have been met, and that he or she has been appointed an intern, resident, fellow, or medical officer in a licensed hospital or in a clinic that is affiliated with a licensed hospital, or in any hospital or institution maintained by the State, or in any clinic or outpatient clinic affiliated with or maintained by the State, may upon the payment of the required fee, be granted a limited temporary license by the Board as a hospital medical officer for a period of up to 54 weeks and such license may be renewed or reissued, upon payment of the fee, for the period of the applicant's postgraduate training, internship, or fellowship program. Such limited temporary license shall entitle the said applicant to practice medicine only in the hospital or other institution designated on his or her certificate of limited temporary license and in clinics or outpatient clinics operated by or affiliated with such designated hospital or institution and only if such applicant is under the direct supervision and control of a licensed physician. Such licensed physician shall be legally responsible and liable for all negligent or wrongful acts or omissions of the limited temporary licensee and shall file with the Board the name and address both of himself or herself and the limited temporary licensee and the name of such hospital or other institution. Such limited temporary license shall be revoked upon the death or legal incompetency of the licensed physician or, upon ten days written notice, by withdrawal of his or her filing by such licensed physician. The limited temporary licensee shall at all times exercise the same standard of care and skill as a licensed physician, practicing in the same specialty, in the State of Vermont. Termination of appointment as intern, resident, fellow, or medical officer of such designated hospital or institution shall operate as a revocation of such limited temporary license. An application for limited temporary license shall not be subject to subsection 1391(d) of this title.~~

Current medical practice. An applicant for licensure shall have actively engaged in the practice of medicine, as defined by section 1311 of this chapter, within three years prior to the date on which the application for licensure becomes complete. In its discretion, the Board may license an applicant who does not meet this practice requirement but who agrees to such conditions as the Board may reasonably require to verify or confirm the applicant's readiness to reenter the practice of medicine.

(f) License by faculty appointment.

(1) The Board may issue a license without examination to a reputable physician who is a resident of a foreign country and who furnishes to the Board satisfactory proof of appointment to the faculty of a medical college in Vermont that is accredited by the Liaison Committee on Medical Education (LCME). The Board may establish additional conditions and requirements by rule for this type of license.

(2) An applicant for a license pursuant to this subsection shall furnish to the Board satisfactory proof that the applicant is at least 18 years of age, has good moral character, is licensed to practice medicine in the applicant's country of residence, and has been appointed to the faculty of an LCME-accredited medical college located in Vermont. The application shall include detailed information concerning the nature and term of the appointment, the method by which the applicant's performance will be monitored and evaluated, and any other information the Board may require by rule.

(3) A license issued pursuant to this subsection shall be for a period not to exceed the term of the faculty appointment and may, in the Board's discretion, be for a shorter period.

(4) A license issued pursuant to this subsection shall expire automatically upon termination for any reason of the licensee's faculty appointment.

§ 1392. LIMITED TEMPORARY LICENSE FOR POSTGRADUATE TRAINING

(a) Qualifications for limited training license.

(1) An applicant for a limited training license to practice medicine in a postgraduate training program shall meet each of requirements set forth in subdivisions (2)(A) through (E) of this subsection. A requirement may be met either by satisfying the requirement on its own terms or by qualifying for an exception established in this chapter or by the Board by rule.

(2) An applicant shall submit evidence of identity acceptable to the Board and shall establish that the applicant:

(A) is at least 18 years of age;

(B) has graduated from a medical school accredited by an organization that is acceptable to the Board, or from a medical school that has been approved by the Board by rule;

(C) has been accepted to participate in a postgraduate medical training program accredited by a body approved by the Board by rule;

(D) is of sound moral character and professional competence as evidenced by the applicant's entire personal history, as established by information about the applicant's academic, licensing examination, employment, professional credentialing, professional certification, professional regulation, civil litigation, and criminal records submitted by the applicant or otherwise obtained by the Board in the application process; and

(E) will be practicing in a program under the supervision of a Vermont-licensed physician who has acknowledged in writing:

(i) the responsibility to ensure that the program operates in accordance with the requirements of the accrediting body; and

(ii) the responsibility to ensure that physicians in training practice only under the close supervision and control of Vermont-licensed physicians.

(b) Terms of limited training license.

(1) A limited training license shall be issued for the period of a "training year," which shall run from July 1 through June 30. All limited training licenses shall expire at 12:00 midnight on July 1, regardless of when issued, unless the holder leaves the program before that date, in which case the license expires upon the holder leaving the program. The Board may issue a limited training license up to 90 days prior to the beginning of a training year.

(2) A limited training license shall be renewed annually for each licensee who intends to continue to practice in a training program, in accordance with such requirements as the Board may provide by rule.

(3) A limited training license authorizes the holder to practice only within the approved training program and only at sites that are part of the hospital or other facility hosting the training program, along with such other locations as may be formally designated as a training site of the program.

(4) A limited training license shall become invalid 14 days after the supervising physician described in subdivision (a)(2)(E) of this subsection stops supervising the program for any reason, unless documentation of a new supervising physician is filed with the Board prior to the expiration of the 14-day period.

(5) A physician practicing under a limited training license is subject to the provisions of section 1354 of this chapter.

§ 1393. EXAMINATIONS

~~The examinations shall be wholly or partly in writing, in the English language, and shall be of a practical character, sufficiently strict to test the qualifications of the applicant. In its discretion the Board may use multiple~~

~~choice style examinations provided by the National Board of Medical Examiners or by the Federation of State Medical Boards, or as determined by rule. The examination shall embrace the general subjects of anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology, materia medica, therapeutics, and legal medicine. The subjects covered by the National Board of Medical Examiners examination shall be considered to have met the requirements of this section. If the applicant passes the examination approved by the Board and meets the other standards for licensure, he or she will qualify for licensure. [Repealed.]~~

§ 1394. REEXAMINATIONS

~~A person failing an examination may be reexamined. The limitation on the number of reexaminations shall be determined by the Board, by rule. The fee for reexamination shall be as required by subsection 1391(a) of this title. [Repealed.]~~

* * *

§ 1396. REQUIREMENTS FOR ADMISSION TO PRACTICE

~~(a) The standard of requirements for admission to practice in this State, under section 1395 of this title, shall be as follows:~~

~~(1) Academic: Preliminary requirements to be a high school education or its equivalent, such as would admit the student to a recognized university, and a two years' course of study in a college of arts and sciences.~~

~~(2) Medical: Be a graduate of a medical college approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(3) Postgraduate training: Have completed at least a one-year hospital program of postgraduate training approved by the Board or approved by an accrediting body satisfactory to the Board.~~

~~(4) Moral: Shall present letters of reference as to moral character and professional competence from the chief of service and two other active physician staff members at the hospital where he or she was last affiliated. In the discretion of the Board, letters from different sources may be presented.~~

~~(5) Language: Shall demonstrate competence in reading, writing, and speaking the English language.~~

~~(6) Examination: The examination in writing shall have embraced 13 subjects of 90 questions, viz.: anatomy, physiology, chemistry, pathology, bacteriology, hygiene, practice of medicine, surgery, obstetrics, gynecology, materia medica, therapeutic, and legal medicine. The grade achieved in each subject must have been at least 75 percent, and a license shall not be~~

recognized when a lower rating was obtained.

~~(7) Practice: Shall have practiced medicine within the last three years as defined in section 1311 of this title or shall comply with the requirements for updating knowledge and skills as defined by Board rules.~~

~~(b) In cases it deems appropriate, the Board may waive the requirements of subdivisions (a)(1) and (2) of this section for an applicant who is a graduate of a medical college that is neither approved by the Board nor by an accrediting body satisfactory to the Board. As a condition of granting a waiver, the Board may require that the applicant complete up to three years of postgraduate training satisfactory to the Board. A waiver granted under this section shall be in writing and shall include a statement of the Board reasons for granting the waiver. [Repealed.]~~

* * *

§ 1398. REFUSAL OR REVOCATION OF LICENSES

~~(a) The Board may refuse to issue the licenses provided for in section 1391 of this title to persons a license or certificate to an applicant who applies to be licensed or certified under this chapter and who, by false or fraudulent representations, have has obtained or sought to obtain practice in their the profession, or by false or fraudulent representations of their profession in practice, have has obtained or sought to obtain money or any other thing of value, or who assume names a name other than their the applicant's own for the purpose of misleading others, or for any other immoral, unprofessional, or dishonorable conduct. However, a~~

~~(b) A license or certificate shall not be suspended, except as provided in section 1365 or 1366 of this chapter; revoked; or refused until the holder or applicant:~~

~~(1) is given a hearing before the Board using the same procedures as a hearing on disciplinary matters as set forth in sections 1372 through 1376 of this chapter;~~

~~(2) is offered and declines or fails to attend a hearing; or~~

~~(3) agrees to the action.~~

~~(c) In the event of a revocation, the holder of any license or certificate so revoked shall forthwith promptly relinquish the same license or certificate to the Secretary of the Board.~~

§ 1400. RENEWAL OF LICENSE; CONTINUING MEDICAL EDUCATION

(a) Every person licensed to practice medicine by the Board shall apply

biennially for the renewal of his or her license. 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 Board of Medical Practice Regulatory Fee Fund.

* * *

(f) A person who practices medicine and who fails to renew his or her license in accordance with the provisions of this section shall be deemed an illegal practitioner and shall forfeit the right to so practice or to hold himself or herself out as a person licensed to practice medicine in the State until reinstated by the Board, ~~but nevertheless except that a physician while on extended active duty in the uniformed services of the United States or as a 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 at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the physician's return from activation or deployment, provided the physician notifies the Board of his or her activation or deployment prior to the expiration of the current license and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license.

* * *

Sec. 2. INVESTIGATIVE PROCEDURES

On or before July 1, 2020, the Board of Medical Practice shall post on its website an operations manual, covering topics including procedures for initiating investigations, procedures for notifying licensees of investigations, and standards for investigators' visiting practices. The Board shall inform licensees that the operations manual has been posted and is available for review and comment.

* * * Licensure of Podiatrists * * *

Sec. 3. 26 V.S.A. § 371 is amended to read:

§ 371. ELIGIBILITY

To be eligible for licensure as a podiatrist, an applicant must:

* * *

(4) successfully complete all required steps of the examinations given by the National Board of Podiatry Podiatric Medical Examiners, as set forth by the Board by rule; and

* * *

Sec. 4. 26 V.S.A. § 373 is amended to read:

§ 373. RENEWAL OF LICENSURE

(a) A person licensed by the Board to practice podiatry shall apply biennially for the renewal of his or her license. 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; however, any podiatrist while on extended active duty ~~in the uniformed services of the United States or as a 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 podiatrist at the time of an activation or deployment shall receive an extension of licensure up to 90 days following the podiatrist's return from activation or deployment, provided the podiatrist notifies the Board of his or her activation or deployment prior to the expiration of the current license and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license. The Board shall register the applicant and issue the renewal license. Within one month following the date by which renewal is required, the Board shall pay the license renewal fees into the ~~Medical Practice Board Special~~ Board of Medical Practice Regulatory Fee Fund.

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, after notice and an opportunity for hearing, require reexamination ~~as a condition~~ or other conditions of renewal.

* * *

Sec. 5. 26 V.S.A. § 373(b) is amended to read:

(b) A license that has lapsed for up to 364 days may be reinstated on payment of a renewal fee and a late renewal penalty. A license that has lapsed

for one year or longer may be reinstated upon payment of the reinstatement fee and completion of the reinstatement application as set forth by the Board by rule. The applicant shall not be required to pay renewal fees during periods when the license was lapsed. However, if such license remains lapsed for a period of three years or longer, the Board may, ~~after notice and an opportunity for hearing, require reexamination or other conditions of renewal~~ require the licensee to update his or her knowledge and skills as defined by Board rules.

* * * Addition of Board of Medical Practice to Description of Professional Licensing Boards Entitled to Inspect Prescription Records * * *

Sec. 6. 18 V.S.A. § 4211 is amended to read:

§ 4211. RECORDS CONFIDENTIAL

Prescriptions, orders, and records required by this chapter, and stocks of regulated drugs, shall be open for inspection only to federal or state officers or their specifically authorized agent whose duty it is to enforce the federal drug laws or this chapter, ~~or to~~ authorized agents of professional licensing boards, as that term is defined under 3 V.S.A. chapter 5, or authorized agents of the Board of Medical Practice. No person having knowledge by virtue of his or her office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution, or proceeding before the Board of Health, Board of Pharmacy, Board of Medical Practice, or another licensing or registration board, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

* * * Revisions to Maintenance of Licensure Rulemaking Requirement * * *

Sec. 7. 2011 Acts and Resolves No. 61, Sec. 10 is amended to read:

Sec. 10. ADOPTION OF RULES

The state board of medical practice ~~shall~~ may adopt maintenance of licensure rules for podiatrists, physicians, and physician assistants ~~by September 1, 2012.~~

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Sec. 1 (26 V.S.A. chapter 23) shall take effect on July 1, 2020, except that 26 V.S.A. § 1377 (nondisciplinary financial penalty) shall take effect upon the Board's adoption of a rule setting forth the schedule of statutory and rule violations and penalties.

(b) Secs. 2 (investigative procedures), 3 (26 V.S.A. § 371), 4 (26 V.S.A. § 373), 6 (18 V.S.A. § 4211), 7 (adoption of rules), and this section shall take effect on July 1, 2020.

(c) Sec. 5 (26 V.S.A. § 373(b)) shall take effect 60 days after the Board's adoption of a maintenance of licensure rule for podiatrists in accordance with 2011 Acts and Resolves No. 61, Sec. 10.

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.

Bill Passed in Concurrence

H. 554.

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

An act relating to approval of the dissolution of the Village of Perkinsville and the merger of the Village with the Town of Weathersfield.

Third Reading Ordered

S. 348.

Senate committee bill entitled:

An act relating to temporary elections procedures in the year 2020.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered on a roll call, Yeas 21, Nays 7.

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

Roll Call

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

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

Those Senators absent and not voting were: Rodgers, Sears.

Rules Suspended; Bill Messaged

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

H. 554.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, June 3, 2020.

WEDNESDAY, JUNE 3, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald

Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

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 committee as indicated:

The nomination of

Harrington, Michael A. of Northfield - Commissioner of the Department of Labor, - from June 1, 2020 to February 28, 2021.

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

Consideration Postponed

S. 345.

House proposal of amendment to Senate bill entitled:

An act relating to temporary municipal meeting provisions in response to the COVID-19 outbreak.

Was taken up.

The House proposes to the Senate to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof two new sections to be numbered Sec. 2 and Sec. 3 to read as follows:

Sec. 2. MUNICIPAL PROPERTY TAX; HIGHWAY EXPENDITURES;
GENERAL GOVERNMENT EXPENDITURES

(a) Notwithstanding 19 V.S.A. § 312 and any other provision of law to the contrary, during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, the legislative body of a municipality is authorized to:

(1) borrow monies appropriated from property taxes for the highway expenditures of the municipality as part of the budget approved by the legal voters of the municipality to expend on general government expenditures; and

(2) borrow monies appropriated from property taxes for the general government expenditures of the municipality as part of the budget approved by the legal voters of the municipality to expend on highway expenditures.

(b) The acts permitted by subsection (a) of this section may be adopted by majority vote of the legislative body of a municipality and shall expire on January 1, 2021.

(c) This section shall apply only to property taxes collected by a municipality from the taxpayers. This section shall not apply to any State aid for town highways distributed pursuant to 19 V.S.A. § 306.

(d) This section shall not alleviate the municipality of any Title 19 match requirements.

(e) A municipality that borrows and expends monies under this section shall, not later than December 31, 2021, transfer to any such fund from which such borrowing has been made an amount equal to such borrowed amount together with interest on the borrowed amount at such rate as the legislative body of the municipality shall determine.

Sec. 3. 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 temporary municipal provisions in response to the COVID-19 outbreak.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator MacDonald moved that consideration be postponed.

Which was agreed to.

Third Reading Ordered

H. 750.

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

An act relating to creating a National Guard provost marshal.

Reported that the bill ought to pass in concurrence.

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

Bill Amended; Third Reading Ordered

S. 232.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to implementing the expansion of juvenile jurisdiction.

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

Sec. 1. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. In consultation with diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) The program shall be designed for two purposes:

(1) To assist adults who have been charged with a first or a second misdemeanor or a first nonviolent felony.

(2) To assist adults with persons who have been charged with an offense and who have substance abuse or mental health treatment needs regardless of the person's prior criminal history record, except a person charged with a felony offense that is a crime listed in 13 V.S.A. § 5301(7) shall not be eligible under this section. Persons who have attained 18 years of age who are subject to a petition in the Family Division pursuant to 33 V.S.A. chapters 52 or 52A shall also be eligible under this section. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system. ~~A person charged with a felony offense that is a listed crime pursuant to 13 V.S.A. § 5301 shall not be eligible under this section.~~

* * *

Sec. 2. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise

provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other Family Division proceedings and any order of another court of this State, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a pending delinquency may be extended until six months beyond the child's:

(i) 19th birthday if the child was 16 or 17 years of age when he or she committed the offense; or

(ii) 20th birthday if the child was 18 years of age when he or she committed the offense.

(B) ~~In no case shall~~ Except for custody of individuals 18 years of age or older that may be ordered by the court under the authority of chapter 52 of this title, custody of a child or youth 18 years of age or older shall not be retained by or transferred to the Commissioner for Children and Families.

(C) Jurisdiction over a child in need of care or supervision shall not be extended beyond the child's 18th birthday.

(D) Jurisdiction over a youthful offender shall not extend beyond the youth's 22nd birthday.

(d) The court may terminate its jurisdiction over a child prior to the child's 18th birthday by order of the court. If the child is not subject to another juvenile proceeding, jurisdiction shall terminate automatically in the following circumstances:

(1) upon the discharge of a child from juvenile or youthful offender probation, ~~providing~~ provided the child is not in the legal custody of the Commissioner;

(2) upon an order of the court transferring legal custody to a parent, guardian, or custodian without conditions or protective supervision;

(3) upon the adoption of a child following a termination of parental rights proceeding.

Sec. 3. 33 V.S.A. § 5103(c) is amended to read:

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a pending delinquency may be extended until six months beyond the child's:

(i) 19th birthday if the child was 16 or 17 years of age when he or she committed the offense; ~~or~~

(ii) 20th birthday if the child was 18 years of age when he or she committed the offense; or

(iii) 21st birthday if the child was 19 years of age when he or she committed the offense.

* * *

Sec. 4. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters:

* * *

(2) "Child" means any of the following:

(A) an individual who is under 18 years of age and is a child in need of care or supervision as defined in subdivision (3)(A), (B), or (D) of this section (abandoned, abused, without proper parental care, or truant);

(B)(i) an individual who is under 18 years of age, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and was under 16 years of age at the time the petition was filed; or

(ii) an individual who is between 16 and 17.5 years of age, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and who is at high risk of serious harm to himself or herself or others due to problems such as substance abuse, prostitution, or homelessness.

(C) An individual who has been alleged to have committed or has committed an act of delinquency after becoming 10 years of age and prior to becoming 22 years of age, unless otherwise provided in chapter 52 or 52A of this title; provided, however:

(i) that an individual who is alleged to have committed an act before attaining 10 years of age which would be murder as defined in 13 V.S.A. § 2301 if committed by an adult may be subject to delinquency proceedings; and

(ii) that an individual may be considered a child for the period of time the court retains jurisdiction under section 5104 of this title.

* * *

(16)(A) “~~Legal custody~~ Custody” means the legal status created by order of the court under the authority of the juvenile judicial proceedings chapters ~~which~~ for children under 18 years of age that invests in a party to a juvenile proceeding or another person the following rights and responsibilities:

(i) the right to routine daily care and control of the child and to determine where and with whom the child shall live;

(ii) the authority to consent to major medical, psychiatric, and surgical treatment for a child;

(iii) the responsibility to protect and supervise a child and to provide the child with food, shelter, education, and ordinary medical care; and

(iv) the authority to make decisions ~~which~~ that concern the child and are of substantial legal significance, including the authority to consent to civil marriage and enlistment in the U.S. Armed Forces, and the authority to represent the child in legal actions.

(B) If legal custody of a child under 18 years of age is transferred to a person other than a parent, the rights, duties, and responsibilities so transferred are subject to the residual parental rights of the parents.

(C) Custody for individuals who are 18 years of age or older means the status created by order of the court under the authority of chapter 52 of this title that invests in the Commissioner the authority to make decisions regarding placements.

* * *

Sec. 5. 33 V.S.A. § 5204a is amended to read:

§ 5204a. JURISDICTION OVER ADULT DEFENDANT FOR CRIME
COMMITTED WHEN DEFENDANT WAS UNDER ~~AGE~~ 18
YEARS OF AGE

(a) A proceeding may be commenced in the Family Division against a defendant who has attained 18 years of age if:

(1) the petition alleges that the defendant;

(A) before attaining 18 years of age, violated a crime listed in subsection 5204(a) of this title; ~~or~~

(B) after attaining 14 years of age but before attaining 18 years of age, committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; or

(C) after attaining 17 years of age but before attaining 18 years of age, committed any offense not listed in 13 V.S.A. § 5301(7) or subsection 5204(a) of this title, as long as the petition is filed prior to the defendant's 19th birthday;

(2) a juvenile petition was never filed based upon the alleged conduct; and

(3) the statute of limitations has not tolled on the crime which the defendant is alleged to have committed.

(b)(1) The Family Division shall, except as provided in subdivision (2) of this subsection, transfer a petition filed pursuant to subdivision (a)(1)(A) of this section to the Criminal Division if the Family Division finds that:

(A) there is probable cause to believe that while the defendant was less than 18 years of age he or she committed an act listed in subsection 5204(a) of this title;

(B) there was good cause for not filing a delinquency petition in the Family Division when the defendant was less than 18 years of age;

(C) there has not been an unreasonable delay in filing the petition; and

(D) transfer would be in the interest of justice and public safety.

(2)(A) If a petition has been filed pursuant to subdivision (a)(1)(A) of this section, the Family Division may order that the defendant be treated as a youthful offender consistent with the applicable provisions of chapter 52A of this title if the defendant is under 23 years of age and the Family Division:

(i) makes the findings required by subdivisions (1)(A), (B), and (C) of this subsection;

(ii) finds that the youth is amenable to treatment or rehabilitation as a youthful offender; and

(iii) finds that there are sufficient services in the Family Division system and the Department for Children and Families or the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(B) If the Family Division orders that the defendant be treated as a youthful offender, the court shall approve a disposition case plan and impose conditions of probation on the defendant.

(C) If the Family Division finds after hearing that the defendant has violated the terms of his or her probation, the Family Division may:

(i) maintain the defendant's status as a youthful offender, with modified conditions of probation if the court deems it appropriate; or

(ii) revoke the defendant's youthful offender status and transfer the petition to the Criminal Division pursuant to subdivision (1) of this subsection.

(3) The Family Division shall in all respects treat a petition filed pursuant to subdivision (a)(1)(B) of this section in the same manner as a petition filed pursuant to section 5201 of this title, except that the Family Division's jurisdiction shall end on or before the defendant's 22nd birthday, if the Family Division:

(A) finds that there is probable cause to believe that, after attaining 14 years of age but before attaining 18 years of age, the defendant committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; and

(B) makes the findings required by subdivisions (b)(1)(B) and (C) of this section.

(4) In making the determination required by subdivision (1)(D) of this subsection, the court may consider, among other matters:

(A) the maturity of the defendant as determined by consideration of his or her age; home; environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community;

(B) the extent and nature of the defendant's prior criminal record and record of delinquency;

(C) the nature of past treatment efforts and the nature of the defendant's response to them;

(D) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(E) the nature of any personal injuries resulting from or intended to be caused by the alleged act;

(F) whether the protection of the community would be best served by transferring jurisdiction from the Family Division to the Criminal Division of

the Superior Court.

(c) If the Family Division does not transfer a petition filed pursuant to subdivision (a)(1)(A) of this section to the Criminal Division or order that the defendant be treated as a youthful offender pursuant to subsection (b) of this section, the petition shall be dismissed.

(d)(1) The Family Division shall treat a petition filed pursuant to subdivision (a)(1)(C) of this section in all respects in the same manner as a petition filed pursuant to section 5201 of this title if the court:

(A) finds that there is probable cause to believe that, after attaining 17 years of age but before attaining 18 years of age, the defendant committed an offense not listed in 13 V.S.A. § 5301(7) or subsection 5204(a) of this title; and

(B) makes the findings required by subdivisions (b)(1)(B) and (C) of this section.

(2) The Family Division's jurisdiction over cases filed pursuant to subdivision (a)(1)(C) of this section shall end on or before the defendant's 20th birthday.

Sec. 6. 33 V.S.A. § 5206 is amended to read:

§ 5206. CITATION OF 16- AND 17- YEAR-OLDS TO 18-YEAR-OLDS

(a)(1) If a child was over 16 years of age and under ~~18~~ 19 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

(2) If, after the child is cited to the Family Division, the State's Attorney chooses to file the charge in the Criminal Division of the Superior Court, the State's Attorney shall state in the information the reason why filing in the Criminal Division is in the interest of justice.

(b) Offenses for which a law enforcement officer is not required to cite a child to the Family Division of the Superior Court shall include:

(1) 23 V.S.A. §§ 674 (driving while license suspended or revoked); 1128 (accidents-duty to stop); and 1133 (eluding a police officer).

(2) Fish and wildlife offenses that are not minor violations as defined by 10 V.S.A. § 4572.

(3) ~~A listed crime as defined in 13 V.S.A. § 5301.~~

(4) An offense listed in subsection 5204(a) of this title.

Sec. 7. 33 V.S.A. § 5206 is amended to read:

§ 5206. CITATION OF 16- TO ~~18-YEAR-OLDS~~ 19-YEAR-OLDS

(a)(1) If a child was over 16 years of age and under ~~19~~ 20 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

* * *

Sec. 8. 33 V.S.A. § 5280 is amended to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER
PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 14 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

(d) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the youth shall be offered a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the Family Division shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days of the offer for the risk and needs screening.

(1) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(2) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

(e) If ~~The State's Attorney shall refer directly to court diversion~~ a youth ~~alleged to have committed any offense other than those specified in subsection 5204(a) of this title who presents a low to moderate risk to reoffend based on the results of the risk and needs screening,~~ ~~the State's Attorney shall refer a youth directly to court diversion~~ unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

Sec. 9. 33 V.S.A. § 5287 is amended to read:

§ 5287. TERMINATION OR CONTINUANCE OF PROBATION

(a) A motion or stipulation may be filed at any time in the Family Division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the State's Attorney, the youth, the Department, or the court on its own motion. ~~The court shall set the motion for hearing and provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families and the Department of Corrections.~~

(b) In determining whether a youth has successfully completed the terms of probation, the court shall consider:

- (1) the degree to which the youth fulfilled the terms of the case plan and the probation order;
- (2) the youth's performance during treatment;
- (3) reports of treatment personnel; and
- (4) any other relevant facts associated with the youth's behavior.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the Family Division case. The Family Division shall provide notice of the dismissal to the Criminal Division, which shall dismiss the criminal case.

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the Criminal Division shall be expunged, and all records relating to the case in the Family Court shall be sealed pursuant to section 5119 of this title.

(e) If the court denies the motion to discharge the youth from probation, the court may extend or amend the probation order as it deems necessary.

(f) Upon the termination of the period of probation, the youth shall be discharged from probation.

Sec. 10. 33 V.S.A. subchapter 6 is amended to read:

Subchapter 6. Placement of ~~Minors~~ in Secure Facilities

§ 5291. DETENTION OR TREATMENT OF ~~MINORS~~ INDIVIDUALS CHARGED AS DELINQUENTS IN SECURE FACILITIES FOR THE DETENTION OR TREATMENT OF DELINQUENT CHILDREN

(a) Prior to disposition, the court shall have the sole authority to place a child who is in the custody of the Department in a secure facility used for the detention or treatment of delinquent children until the Commissioner determines that a suitable placement is available for the child. The court shall not order placement in a secure facility without a recommendation from the Department that placement in a secure facility is necessary. The court order shall include a finding that no other suitable placement is available and the child presents a risk of injury to himself or herself, to others, or to property.

* * *

Sec. 11. 28 V.S.A. § 1101 is amended to read:

§ 1101. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER REGARDING JUVENILE SERVICES

The Commissioner is charged with the following powers and responsibilities regarding the administration of juvenile services:

(1) to provide appropriate, ~~separate~~ facilities for the custody and treatment of offenders under 25 years of age committed to his or her custody in accordance with the laws of the State;

* * *

Sec. 12. REDUCTION IN FORCE OF WOODSIDE JUVENILE REHABILITATION CENTER EMPLOYEES

On or before the date of passage of this act, the State of Vermont and the collective bargaining representative of the employees employed at the

Woodside Juvenile Rehabilitation Center facility shall engage in bargaining regarding whether and how to modify any terms of the applicable collective bargaining agreement in relation to permanent status classified employees who are subject to a reduction in force from their positions at the Woodside Juvenile Rehabilitation Center facility.

Sec. 13. POPULATION FUNDING COMMITMENT; AGENCY OF
HUMAN SERVICES; WOODSIDE JUVENILE
REHABILITATION CENTER; PLAN FOR JUSTICE-INVOLVED
YOUTHS

(a) The Fiscal Year 2021 budget as proposed by the Administration:

(1) anticipates closure of the secure Woodside Juvenile Rehabilitation Center facility that provides short and long-term placements and treatment services for justice-involved youths and youths in the custody of the Department for Children and Families; and

(2) allocates in FY21 a total of \$2,500,000.00 in General Funds and any Federal Medicaid matching funds to serve this population in alternative placements approved by the Department for Children and Families.

(b) It is the intent of the General Assembly that the Woodside Juvenile Rehabilitation Center facility remain open until its closure is authorized by the appropriate committees of the General Assembly as provided in this subsection. Upon completion of its plan as provided in subsection (c) of this section, the Agency shall report to the appropriate committees as follows:

(1) prior to the adjournment of the 2020 legislative session, the Agency shall report to the Senate Committee on Judiciary and the House Committee on Human Services; or

(2) after the adjournment of the 2020 legislative session, the Agency shall report to the Joint Fiscal Committee and the Joint Legislative Justice Oversight Committee.

(c) The appropriate committees as set forth in subsection (b) of this section shall authorize the closure of the facility upon approving the Agency's plan to:

(1) adequately fund alternative programs and placements for youths served by Woodside, including those programs and placements that currently accept justice-involved youths who present a risk of injury to themselves, to others, or to property; and

(2) provide placements for all youths under 18 years of age who are in the custody of the Department of Corrections, and who have historically been placed at Woodside Juvenile Rehabilitation Center instead of a Department of Corrections facility pursuant to the memorandum of understanding between

the two departments.

Sec. 14. AGENCY OF HUMAN SERVICES; PLAN FOR YOUTHS WITH MENTAL HEALTH DISORDERS

(a) During the 2020 legislative interim, the Agency of Human Services shall develop a plan to provide comprehensive mental health treatment services to youths, including justice-involved youths, with severe mental health disorders.

(b) On or before January 15, 2021, the Agency shall report to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, the Senate Institutions Committee, the House Human Services Committee, and the Senate Committee on Health and Welfare on its plans pursuant to this subsection and recommendations for repurposing of the Woodside facility.

Sec. 15. APPROPRIATION

In FY21, the amount of \$2,500,000.00, as reflected in the Governor's proposed FY2021 budget, is appropriated from the General Fund to the Agency of Human Services to fund short and long-term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families.

Sec. 16. EFFECTIVE DATES

(a) Secs. 3 (33 V.S.A. § 510(c)) and 7 (33 V.S.A. § 5206) shall take effect on July 1, 2022.

(b) This section and Sec. 15 (appropriation) shall take effect on passage.

(c) The rest of this act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: By striking out Sec. 15, appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 15. FUNDING INTENT

(a) It is the intent of the General Assembly to appropriate funds in FY21 to the Agency of Human Services in the amount necessary to fund short- and long-term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families.

(b) Due to the impact of the COVID-19 pandemic, the General Assembly anticipates that the FY21 budget will be developed in an initial transition phase, followed by a full budget development in a special session. To assist the General Assembly in appropriating the proper funding for short- and long-term residential placements and treatment services pursuant to subsection (a) of this section, on or before August 15, 2020, the Secretary of Administration or designee shall provide to the House and Senate Committees on Appropriations, the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare:

(1) the status of operations of the Woodside Juvenile Rehabilitation Center facility in FY21, including the projected date for cessation of operations at the facility and the cost and funding sources identified for operation of the facility for any period of time during FY21;

(2) the projected costs and funding sources to provide short- and long-term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families for any period of time in FY21 subsequent to the cessation of operations at Woodside; and

(3) the projected annualized cost of providing such placements and treatment services and the proposed funding sources.

Second: In Sec. 16, effective dates, subsection (b), by striking out the word “appropriation” and inserting in lieu thereof the words funding intent

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 of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

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

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 294.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to expanding access to expungement and sealing of criminal history records.

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. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

* * *

(7) "Listed crime" means any of the following offenses:

- (A) stalking as defined in section 1062 of this title;
- (B) aggravated stalking as defined in subdivision 1063(a)(3) or (4)(b) of this title;
- (C) domestic assault as defined in section 1042 of this title;
- (D) first degree aggravated domestic assault as defined in section 1043 of this title;
- (E) second degree aggravated domestic assault as defined in section 1044 of this title;
- (F) sexual assault as defined in section 3252 of this title or its predecessor as it was defined in section 3201 or 3202 of this title;
- (G) aggravated sexual assault as defined in section 3253 of this title;
- (H) lewd or lascivious conduct as defined in section 2601 of this title;
- (I) lewd or lascivious conduct with a child as defined in section 2602 of this title;
- (J) murder as defined in section 2301 of this title;
- (K) aggravated murder as defined in section 2311 of this title;
- (L) manslaughter as defined in section 2304 of this title;
- (M) aggravated assault as defined in section 1024 of this title;
- (N) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;
- (O) arson causing death as defined in section 501 of this title;
- (P) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;
- (Q) maiming as defined in section 2701 of this title;

(R) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;

(S) unlawful restraint in the second degree as defined in section 2406 of this title;

(T) unlawful restraint in the first degree as defined in section 2407 of this title;

(U) recklessly endangering another person as defined in section 1025 of this title;

(V) violation of abuse prevention order as defined in section 1030 of this title, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

(W) operating 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);

(X) ~~careless or negligent~~ or grossly negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(Y) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(Z) burglary into an occupied dwelling as defined in subsection 1201(c) of this title;

(AA) the attempt to commit any of the offenses listed in this section;

(BB) abuse (section 1376 of this title), abuse by restraint (section 1377 of this title), neglect (section 1378 of this title), sexual abuse (section 1379 of this title), financial exploitation (section 1380 of this title), and exploitation of services (section 1381 of this title);

(CC) aggravated sexual assault of a child in violation of section 3253a of this title;

(DD) human trafficking in violation of section 2652 of this title; and

(EE) aggravated human trafficking in violation of section 2653 of this title.

Sec. 2. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

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

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

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

(4) “Qualifying crime” means: any criminal offense that is not an offense listed in subdivision 5301(7) of this title or a violation of 18 V.S.A. § 4231(c), 4233(c), 4233a(b), 4234a(c), or 4230(c), or any offense for which a person has been granted an unconditional pardon from the Governor.

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

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

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

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

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

~~(v) a predicate offense;~~

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

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

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

~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

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

~~(G) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;~~

~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;~~

~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;~~

~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;~~

~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;~~

~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;~~

~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or~~

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

(5) “Qualifying felony property offense” means a felony level violation of 9 V.S.A. § 4043 related to fraudulent use, 13 V.S.A. § 1801 related to forgery and counterfeiting, 13 V.S.A. § 1802 related to uttering forged or counterfeited instrument, 13 V.S.A. § 1804 related to counterfeiting paper money, 13 V.S.A. § 1816 related to possession or use of credit card skimming devices, 13 V.S.A. § 2001 related to false personation, 13 V.S.A. § 2002 related to false pretenses or tokens, 13 V.S.A. § 2029 related to home improvement fraud, 13 V.S.A. § 2030 related to identity theft, 13 V.S.A. § 2501 related to grand larceny, 13 V.S.A. § 2502 related to petit larceny, 13 V.S.A. § 2503 related to larceny from the person, 13 V.S.A. § 2531 related to embezzlement, 13 V.S.A. § 2532 related to officers or servants of incorporated bank, 13 V.S.A. § 2533 related to receiver or trustee, 13 V.S.A. § 2537 related to holding property in official capacity or belonging to the State or a municipality, 13 V.S.A. § 2561 related to receiving stolen property, 13 V.S.A. § 2575a related to organized retail theft, 13 V.S.A. § 2577 related to retail theft, 13 V.S.A. § 2582 related to theft of services, 13 V.S.A. § 2591 related to theft of rented property, 13 V.S.A. § 2592 related to failure to return a rented or leased motor vehicle, 13 V.S.A. § 3016 related to false claims, 13 V.S.A. § 3701 related to unlawful mischief, 13 V.S.A. § 3705 related to unlawful trespass, 13 V.S.A. § 3733 related to mills, dams or bridges,

13 V.S.A. § 3761 related to unauthorized removal of human remains, 13 V.S.A. § 3767 related to grave markers and ornaments, 13 V.S.A. § 4103 related to access to computer for fraudulent purposes, 13 V.S.A. § 4104 related to alteration, damage, or interference, or 13 V.S.A. § 4105 related to theft or destruction.

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

Sec. 3. 13 V.S.A. § 7602 is amended to read:

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

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

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

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

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

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

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

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

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

(b) Qualifying nonpredicate misdemeanors and possession of a controlled substance offenses. For petitions filed to expunge or seal a criminal history record of a nonpredicate misdemeanor offense or a violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a):

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

(A) At least five years have elapsed since:

(i) the date on which the person successfully completed the terms and conditions of the sentence for the conviction satisfied the judgement, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

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

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

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

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

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

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

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for expungement or sealing as set forth in this subsection, the court may grant the petition without a hearing.

(c) Qualifying predicate misdemeanors. For petitions filed to expunge or seal a criminal history record of a qualifying predicate misdemeanor offense:

(1) The court shall grant the petition and order that the criminal history record be ~~expunged~~ sealed pursuant to section ~~7606~~ 7607 of this title if the following conditions are met:

(A) At least ~~10~~ five years have elapsed since:

(i) the date on which the person successfully completed the terms and conditions of the sentence for the conviction satisfied the judgement; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgement for the subsequent offense, whichever is later.

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

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

(D) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

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

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

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

~~(B) the person committed the qualifying crime after reaching 19 years of age. A criminal history record sealed pursuant to this subsection (c) shall be eligible for expungement pursuant to section 7606 of this title five years after the date on which sealing order is issued if the person does not commit any criminal offense subsequent to the sealed.~~

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for expungement or sealing as set forth in this subsection, the court may grant the petition without a hearing.

* * *

(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

(i) Qualifying felony property offenses and selling, dispensing, or transporting regulated substances offenses. For petitions filed to expunge or seal a criminal history record of a qualifying felony property offense or a violation of 18 V.S.A. § 4230(b), 4231(b), 4232(b), 4233(b), 4234(b), 4234a(b), 4234b(b), 4235(c), or 4235a(b):

(1) The court shall grant the petition and order that the criminal history record be sealed pursuant to section 7607 of this title if the following conditions are met:

(A) At least eight years have elapsed since:

(i) the date on which the person satisfied the judgment for the conviction; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

(B) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

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

(2) A criminal history record sealed pursuant to this subsection (i) shall be eligible for expungement pursuant to section 7606 of this title eight years after the date on which sealing order is issued if the person does not commit any criminal offense subsequent to the sealed offense.

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for sealing as provided in this subsection, the court may grant the petition to seal without a hearing.

(j) Qualifying felonies. For petitions filed to expunge or seal a criminal history record of any other qualifying felony offense not specified in subsection (f), (h), or (i) of this section:

(1) The court shall grant the petition and order that the criminal history record be sealed pursuant to section 7607 of this title if the following conditions are met:

(A) At least 10 years have elapsed since the date on which the person satisfied the judgment for the conviction or, if the person committed a subsequent offense, 10 years from the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

(B) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

(2) A criminal history record sealed pursuant to this subsection (j) shall not be eligible for expungement pursuant to section 7606 of this title unless the respondent stipulates to the expungement.

(3) If the respondent stipulates to a petition to seal filed prior to, on, or after the date the offense is eligible for sealing as provided in this subsection, the court may grant the petition to seal without a hearing.

Sec. 4. 33 V.S.A. § 5119 is amended to read:

§ 5119. SEALING OF RECORDS

* * *

(g) On application of a person who has pleaded guilty to or has been convicted of the commission of a crime under the laws of this State which the person committed prior to attaining the age of ~~24~~ 25, or on the motion of the court having jurisdiction over such a person, after notice to all parties of record and hearing, the court shall order the sealing of all files and records related to the proceeding if it finds:

(1) two years have elapsed since the final discharge of the person;

(2) the person has not been convicted of a listed crime as defined in 13 V.S.A. § 5301 or adjudicated delinquent for such an offense ~~after the initial conviction~~ for 10 years prior to the application or motion, and no new proceeding is pending seeking such conviction or adjudication; and

(3) the person's rehabilitation has been attained to the satisfaction of the court.

* * *

Sec. 5. 23 V.S.A. § 2303 is added to read:

§ 2303. EXPUNGEMENT OF VIOLATION RECORDS

(a) Automatic expungement. The Judicial Bureau shall automatically enter an expungement order for convictions or adjudications of the following violations on the two-year anniversary of the satisfaction of the judgment:

- (1) section 301 of this title (operating an unregistered vehicle);
- (2) subsection 307(a) of this title (failing to possess registration);
- (3) section 611 of this title (failing to possess license);
- (4) subsection 676(a) of this title (operating after suspension);
- (5) section 601 of this title (operating without a license);
- (6) section 800 of this title (operating without insurance); and
- (7) subsection 1222(c) of this title (operating an uninspected vehicle).

(b) Effect of expungement.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the individual whose record is expunged shall be treated in all respects as if he or she had never been convicted or adjudicated of the violation. This includes the expungement of any points accumulated pursuant to chapter 25 of this title.

(2) The Judicial Bureau shall report the expungement to the Department of Motor Vehicles within 14 days.

(3) The Judicial Bureau shall keep a special index of cases that have been expunged together with the expungement order. The index shall list only the name of the individual convicted or adjudicated of the violation, his or her date of birth, the docket number, and the violation that was the subject of the expungement. All other court documents and records that are subject to an expungement order, whether held by the Judicial Bureau or the Department of Motor Vehicles, shall be destroyed.

(4) Upon receiving an inquiry from any person regarding an expunged record, the Judicial Bureau and Department of Motor Vehicles shall respond that "NO RECORD EXISTS."

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

Sec. 6. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)~~(A)~~ No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more

than two mature marijuana plants or four immature marijuana plants. A person who violates this subdivision shall be assessed a civil penalty as follows:

- (A) not more than \$100.00 for a first offense;
- (B) not more than \$200.00 for a second offense; and
- (C) not more than \$500.00 for a third or subsequent offense.

(2)(A) No person shall knowingly and unlawfully possess more than two ounces of marijuana or more than ten grams of hashish or more than four mature marijuana plants or eight immature marijuana plants. For a first offense under this subdivision (A)(2), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than ~~one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants~~ two ounces of marijuana or more than ten grams of hashish or more than four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041, except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening, which may be considered at sentencing in the same manner as a presentence report.

(3) A person knowingly and unlawfully possessing ~~two~~ eight ounces of marijuana or ~~10 grams~~ 1.4 ounces of hashish or knowingly and unlawfully cultivating more than four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than one pound of marijuana or more than 2.8 ounces of hashish or knowingly and unlawfully cultivating more than six mature marijuana plants or 12 immature

marijuana plants shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(5) A person knowingly and unlawfully possessing more than 10 pounds of marijuana or more than one pound of hashish or knowingly and unlawfully cultivating more than 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(6) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(7) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

* * *

Sec. 7. EXPUNGEMENT OF MARIJUANA CRIMINAL HISTORY RECORDS

(a) As used in this section:

(1) "Court" means the Criminal Division of the Superior Court.

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

(b) The court shall order the expungement of criminal history records of violations of 18 V.S.A. § 4230(a)(1) that occurred prior to July 1, 2020. The process for expunging these records shall be completed not later than July 1, 2021.

(c) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The court shall issue the person a certificate stating that the offense for which the person

was convicted has been decriminalized and therefore warrants issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

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

(e) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

(f)(1) The court shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to this chapter. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

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

(3) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Administrative Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) All other court documents in a case that are subject to an expungement order shall be destroyed.

(5) The court shall follow policies adopted pursuant to 13 V.S.A. § 7606 in implementing this section.

(g) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that "NO RECORD EXISTS."

Sec. 8. VERMONT SENTENCING COMMISSION; EXPUNGEMENT OR SEALING OF LISTED CRIMES REPORT

During the 2020 legislative interim, the Vermont Sentencing Commission shall consider whether a comprehensive policy that provides an avenue for

expungement or sealing of all offenses will serve the interests of justice. On or before October 15, 2020, the Commission shall report to the Joint Legislative Justice Oversight Committee regarding any policy recommendations regarding the expungement and sealing of criminal history records, including a recommendation for whether and how to provide an avenue to seal or expunge all offenses, including the crimes listed in 13 V.S.A. § 5301(7) and 18 V.S.A. chapter 84 drug trafficking offenses.

Sec. 9. APPROPRIATION

In FY21, \$1,075,000.00 is appropriated on a one-time basis from the General Fund, based on availability, to the judiciary to fund additional positions and other itemized costs to assist with compliance with the requirements of this act.

Sec. 10. EFFECTIVE DATES

(a) Sec. 7 (expungement of marijuana criminal history records) and this section shall take effect on passage.

(b) The rest of this act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

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

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 of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

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

Thereupon, third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 348.

Senate bill entitled:

An act relating to temporary elections procedures in the year 2020.

Was taken up.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the bill as follows:

First: In Sec. 1 (amending 2020 Acts and Resolves No. 92, Sec. 3), by striking out the subsection (a) introductory paragraph and inserting in lieu thereof a new subsection (a) introductory paragraph to read:

(a) In the year 2020, the Secretary of State is authorized, ~~in consultation and agreement with the Governor,~~ to order or permit, as applicable, appropriate elections procedures for the purpose of protecting the health, safety, and welfare of voters, elections workers, and candidates in carrying out elections, including:

Second: In Sec. 1 (amending 2020 Acts and Resolves No. 92, Sec. 3), by adding a new subsection (c) to read as follows:

(c) If the Secretary of State orders or permits the mailing of 2020 General Election ballots to all registered voters pursuant to subsection (a) of this section, the Secretary shall:

(1) inform the Governor as soon as reasonably practicable following the Secretary's decision to do so; and

(2) require the return of those ballots to be in the manner prescribed by 17 V.S.A. § 2543 (return of ballots) as set forth in Sec. 1a of this act, the provisions of which shall apply to that return.

Third: By adding a new Sec. 1a to read as follows:

Sec. 1a. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

(a) After marking the ballots and signing the certificate on the envelope, the early or absentee voter to whom the same are addressed shall return the ballots to the clerk of the town in which he or she is a voter, in the manner prescribed, except that in the case of a voter to whom ballots are delivered by justices, the ballots shall be returned to the justices calling upon him or her, and they shall deliver them to the town clerk.

(b) Once an early voter absentee ballot has been returned to the clerk in the envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason.

(c) If a ballot includes more than one page, the early or absentee voter need only return the page upon which the voter has marked his or her vote.

(d)(1) All early voter absentee ballots returned as follows shall be counted:

(A) by any means, to the town clerk's office before the close of business on the day preceding the election;

(B) by mail, to the town clerk's office before the close of the polls on the day of the election; and

(C) by hand delivery to the presiding officer at the voter's polling place.

(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.

(3)(A) An early voter absentee ballot may be returned only by the voter; the justices of the peace who delivered the ballot, if applicable; or an authorized family member or caregiver acting in the voter's behalf.

(B)(i) Any person who returns an early voter absentee ballot knowing the person is without authorization from the voter shall be fined not more than \$100.00 per violation for the first three violations, not more than \$500.00 per violation for the fourth through ninth violations, and not more than \$1,000.00 per violation for the tenth and subsequent violations.

(ii) The Attorney General or a State's Attorney, whenever he or she has reason to believe any person to be or to have been in violation of this subdivision (3), shall conduct a civil investigation in accordance with the procedures set forth in section 2904 of this title.

(C) As used in this subdivision (3):

(i) "Family member" means a voter's spouse, child, sibling, parent, spouse's parent, grandparent, or spouse's grandparent.

(ii) "Caregiver" means an individual providing care, including medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided that is required because of the voter's age or disability.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Benning?, Senator Benning requested that the question be divided.

Thereupon, the *first* proposal of amendment was disagreed to on a roll call, Yeas 7, Nays 22.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Brock, Collamore, McNeil, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Balint, Baruth, Bray, Champion, Clarkson, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Parent, Pearson, Perchlik, Pollina, Sirotkin, White.

The Senator absent and not voting was: Rodgers.

Thereupon, the *second* recommendation of amendment was agreed to on a roll call, Yeas 18, Nays 10.

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: Benning, Brock, Champion, Collamore, Hardy, Hooker, Kitchel, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Sears, Sirotkin, Starr, Westman.

Those Senators who voted in the negative were: Balint, Baruth, Bray, Clarkson, Cummings, Ingram, Lyons, MacDonald, Pollina, White.

Those Senators absent and not voting were: Ashe, Rodgers.

Thereupon, the *third* recommendation of amendment was disagreed to on a roll call, Yeas 5, Nays 24.

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

Roll Call

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

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

The Senator absent and not voting was: Rodgers.

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

Bill Passed in Concurrence with Proposal of Amendment**H. 438.**

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

An act relating to the Board of Medical Practice and the licensure of physicians and podiatrists.

Third Reading Ordered**S. 349.**

Senate committee bill entitled:

An act relating to emergency funding for local government.

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

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

Third Reading Ordered**H. 950.**

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

An act relating to allowing remote witnesses for advance directives for a limited time.

Reported that the bill ought to pass in concurrence.

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

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were ordered messaged to the House forthwith:

S. 348, S. 438.

Remarks Journalized

During announcements Senator Bray addressed the Chair and on motion of Senator Campion his remarks were entered into the Journal and are as follows:

“I rise on a point of personal privilege, June 3, 2020.

I rise today in our Senate Chamber, a beautiful sacred space for democracy, to bear witness.

Yesterday, I watched a carefully reported *New York Times* video, using multiple cameras, that showed the timeline and events around the death of an American at the hands of his government.

Over a period of 8 minutes and 43 seconds, a Minneapolis policeman literally crushed the life out of man in his custody.

It was sickening to watch. It was sickeningly brutal—not in some loud, noisy, and violent way, but in its quiet, steady, manner of treating a person as an object that could simply be murdered slowly and surely before a group of onlookers, on a public street, in broad daylight.

The government that exists to ensure our inalienable right to life, liberty, and happiness was instead operating at that moment in a manner that blasphemes our democratic ideals.

Mr. President, we here,—though more than a thousand miles from Minnesota—are part of that government—and we work in the People’s House on behalf of our neighbors and our communities.

There are fewer than two thousand senators in this country, and while we tend to be modest about our positions, we are in fact cloaked in great power and authority when we are sworn into office. In the days ahead, we must use that power and authority to further address issues of racism and justice in Vermont. It is proper and necessary that we do so.

But today, here, now, I rise to bear witness. To speak aloud in our place of work the name of GEORGE PERRY FLOYD, American, born 1973, Fayetteville, North Carolina.

I pray for the repose of his soul, for comfort for his family, and for a just and meaningful process of introspection, reconciliation, and genuine healing for our state and country through timely, tangible action.”

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o’clock in the afternoon on Thursday, June 4, 2020.

THURSDAY, JUNE 4, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Message from the House No. 50

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. 959. An act relating to education property tax.

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

Bill Referred to Committee on Appropriations

S. 237.

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 promoting affordable housing.

Bill Referred

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

H. 959.

An act relating to education property tax.

To the Committee on Finance.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 232. An act relating to implementing the expansion of juvenile jurisdiction.

S. 294. An act relating to expanding access to expungement and sealing of criminal history records.

S. 349. An act relating to emergency funding for local government.

Bill Passed in Concurrence

H. 950.

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

An act relating to allowing remote witnesses for advance directives for a limited time.

Third Reading Ordered**H. 254.**

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

An act relating to adequate shelter for livestock.

Reported that the bill ought to pass in concurrence.

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

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 232, S. 294, S. 349, H. 950.

Adjournment

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

FRIDAY, JUNE 5, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons

	Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bill Referred to Committee on Appropriations

S. 220.

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 educating specified professionals on the State's energy goals.

**Consideration Resumed; House Proposal of Amendment Concurred In;
Rules Suspended; Delivered to Governor**

S. 345.

Consideration was resumed on Senate bill entitled:

An act relating to temporary municipal meeting provisions in response to the COVID-19 outbreak.

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

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Monday, June 8, 2020, at one o'clock in the afternoon pursuant to J.R.S. 56.

MONDAY, JUNE 8, 2020

Pursuant to Rule 8 of the Senate Rules, the time for convening of the Senate having been set at 1:00 P.M., the Senate was called to order by John H. Bloomer, Jr., Secretary of the Senate.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 51

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 a bill originating in the Senate of the following title:

S. 347. An act relating to suspension of time frames for civil license suspension hearings for certain DUI offenses.

And has passed the same in concurrence.

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

J.R.S. 56. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

H. 948. An act relating to temporary municipal proceedings provisions in response to the COVID-19 outbreak.

And has severally concurred therein.

Adjournment

On motion of Senator Ashe, the Senate adjourned until nine o'clock and thirty minutes in the forenoon on Tuesday, June 9, 2020.

TUESDAY, JUNE 9, 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.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald

Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Rules Suspended; Bill Committed

Appearing on the Calendar for action, on motion of Senator Ashe the rules were suspended and Senate bill entitled:

S. 219. An act relating to requiring law enforcement to comply with race data reporting requirements in order to receive State grant funding.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Appropriations, Senator Ashe moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Judiciary with the report of the Committee on Appropriations *intact*,

Which was agreed to.

Bill Referred to Committee on Appropriations

S. 124.

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 miscellaneous law enforcement amendments.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 57.

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. 57. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, June 11, 2020, or, Friday, June 12, 2020, it be to meet again no later than Tuesday, June 16, 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 tomorrow:

S. 350.

By the Committee on Economic Development, Housing and General Affairs,

An act relating to creating emergency economic recovery grants.

Rules Suspended; Third Reading Ordered**S. 350.**

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

An act relating to creating emergency economic recovery grants.

Was taken up for immediate consideration.

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

Thereupon, pending the question, Shall the bill be read third time?, Senators Sirotkin, Balint, Brock, Clarkson and Hooker moved to amend the bill as follows:

First: In Sec. 2, coronavirus emergency economic grants, in subsection (b)(3), by striking out the words “taxable sales” and inserting in lieu thereof the words total sales

Second: In Sec. 4, guidelines; reporting, by inserting a subsection (c) to read as follows:

(c) In the event the federal Department of the Treasury determines that an expenditure of funds made available from the CARES Act was not necessary or otherwise impermissible under the Act, the Agency and the Department shall hold harmless any grant recipient that accepted grant funds in good faith reliance on the State concerning the business’s eligibility for, or use of, the grant award.

Third: By renumbering Sec. 5, effective date, to be Sec. 6 and inserting a new Sec. 5 to read as follows:

Sec. 5. HOUSING; HOMELESSNESS; APPROPRIATION

(a) The amount of \$23,000,000.00 is appropriated from the Coronavirus Relief Fund to the Vermont Housing and Conservation Board, which funding the Board shall use, in part through grants to nonprofit housing partners and service organizations, for housing and facilities necessary to provide safe shelter and assistance for persons who are, or are at risk of, experiencing homelessness, in order to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.

(b) The Board shall adopt guidelines governing the use of the funds to:

(1) establish application and award procedures for grant recipients;

(2) establish standards for the amount and eligible use of grant funds;
and

(3) establish procedures to ensure that grant awards comply with the requirements of the CARES Act and that the State maintains adequate records to demonstrate compliance with the Act.

Which was agreed to.

Thereupon, third reading of the bill was ordered, on a roll call, Yeas, 29, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Rodgers.

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was placed on all remaining stages of its passage.

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

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Proposal of Amendment; Consideration Postponed**H. 750.**

House bill entitled:

An act relating to creating a National Guard provost marshal.

Was taken up.

Thereupon, pending third reading of the bill, Senators Hardy and Perchlik moved to propose to the House to amend the bill as follows:

First: In Sec. 1, 20 V.S.A. § 428, by inserting a subdivision (b)(4) to read as follows:

(4) Respond to allegations of sexual assault within the Vermont National Guard, including:

(A) reporting and documenting allegations of sexual assault within the Guard;

(B) coordinating and communicating with the Vermont National Guard Sexual Assault Response Coordinator as appropriate;

(C) coordinating and communicating with federal, State, and local law enforcement in relation to allegations of sexual assault by a member of the Vermont National Guard; and

(D) coordinating with State's Attorneys and the Attorney General in cases related to an alleged sexual assault by a member of the Vermont National Guard.

Second: In Sec. 1, 20 V.S.A. § 428, in subsection (c), immediately following the words "may be exercised statewide", by inserting the words with respect to criminal activity in the National Guard only

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by Senators Hardy and Perchlik?, Senator White requested that the question be divided.

Thereupon, the *first* proposal of amendment was decided in affirmative.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by Senators Hardy and Perchlik in the *second* proposal of amendment?, on motion of Senator Ashe, consideration of the bill was postponed until tomorrow.

Bill Amended; Third Reading Ordered**S. 227.**

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

An act relating to the provision of personal care products by lodging establishments.

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

* * * Single-use Products * * *

Sec. 1. 10 V.S.A. chapter 159, subchapter 5 is amended to read:

Subchapter 5. ~~Single-Use Carryout Bags; Expanded Polystyrene Food Service Products; Single-use Plastic Straws; and Single-use Plastic Stirrers~~ Products

§ 6691. DEFINITIONS

As used in this subchapter:

(1) “Agency” means the Agency of Natural Resources.

* * *

(6) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources. “Plastic” includes all materials identified with resin identification codes 1 to 7.

(7) “Point of sale” means a check-out stand, cash register, or other point of departure from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser.

* * *

(10) “Secretary” means the Secretary of Natural Resources.

* * *

(14) “Single-use product” or “single use” means a product that is generally recognized by the public as an item to be discarded after one use.

* * *

(16) “Lodging establishment” has the same meaning as in 18 V.S.A. § 4301.

(17) “Personal care product” means a product intended to be applied to or used on the human body in the shower or bath or on any part of the human body, including shampoo, hair conditioner, moisturizer, toothpaste, and bath soap.

(18) “Small container” means a container made of glass, plastic, or other material with less than six-ounce capacity that is intended to be nonreusable by the end user.

* * *

§ 6701. PERSONAL CARE PRODUCTS; SMALL CONTAINER;
LODGING ESTABLISHMENTS

(a) The purpose of this section is to encourage lodging establishments to use bulk dispensers of personal care products to reduce waste and lower operating costs while still providing products for the health and safety of guests.

(b) A lodging establishment shall not provide a personal care product in a small container in a sleeping room accommodation, in a space within the sleeping room accommodation, or within a bathroom used by the public or guests beginning on:

(1) January 1, 2023, for a lodging establishment with more than 50 rooms; and

(2) January 1, 2024, for a lodging establishment with 50 rooms or fewer.

(c) A lodging establishment may provide a personal care product in a small container to a person at no cost, upon request, at a place other than a sleeping room accommodation, a space within the sleeping room accommodation, or within a bathroom used by the public or guests.

(d) A lodging establishment that violates the requirements of this section shall be subject to a civil penalty of not more than \$300.00. Upon a second or subsequent violation, the lodging establishment shall be subject to a civil penalty of not more than \$500.00. A violation of this section shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by the Department of Health or the Agency of Natural Resources.

(e) Beginning on July 1, 2023, the requirements of this section preempt and supersede municipal bylaws regulating personal care products. A violation of this subsection is enforceable in the same manner as preemption under section 6699 of this title.

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

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

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

* * *

(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.

* * *

(30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging establishments of personal use products in small plastic bottles.

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

* * * Extended Producer Responsibility Report * * *

Sec. 3. REPORT ON EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING AND PRINTED MATERIALS

(a) The Office of Legislative Council, after consultation with the Chair of the Senate Committee on Natural Resources and Energy, the Chair of the House Committee on Natural Resources and Energy, the Solid Waste Division of the Department of Environmental Conservation, solid waste management entities, representatives of businesses, and other interested parties, shall draft legislation that would establish requirements under statute for an extended producer responsibility program in the State for packaging and printed material. The draft legislation shall consider inclusion of the following:

(1) A definition of packaging to include, at a minimum, material used to market, contain, wrap, protect, and deliver consumer goods, including food and beverages, personal care products, general consumer goods, and food service ware.

(2) A definition of printed material to include at a minimum newsprint and inserts, magazines and catalogues, direct mail, office paper, and telephone

directories.

(3) A definition of a producer of a product that clearly identifies the manufacturer ultimately financially responsible for collection and recycling or disposal of packaging and printed material.

(4) Exemptions for small producers and for product packaging that is already covered under the Vermont beverage container redemption law and Vermont's other extended producer responsibility statutes.

(5) A definition of covered entities that includes at a minimum all generators of printed material and packaging in the State.

(6) Provisions for the establishment of a nonprofit stewardship organization or organizations of producers of packaging and printed material and how to set, collect, and track fees for producers based on what they sell into the State and how the fees will be used to support the State's recycling programs including payment of:

(A) 100 percent of the cost of collection, transport, and recycling of packaging and printed material that is readily recyclable and sold into the State;

(B) the costs of waste reduction and recycling education; and

(C) the cost of recycling infrastructure.

(7) A requirement that fees established by a stewardship organization encourage packaging design that reduces its environmental impact by assessing higher fees for packaging and printed material sold into the State that are more harmful to the environment and lower fees for those that cause less environmental harm. The environmental considerations that the Secretary may address include recyclability of a product, recycled content in a product, greenhouse gas emissions from production of a product, and the toxicity of a product.

(8) Provisions of a stewardship plan to be submitted by a stewardship organization describing how producers will provide for the collection, transportation, and recycling of packaging and printed material using existing infrastructure.

(9) Requirements for a stewardship organization to submit data obtained from producers to the State including data regarding the amount of packaging and printed material sold into the State, recovery rates of recyclables, fees collected, and the entire cost of the program so that:

(A) there is transparency and accountability in assessing the success of the program;

(B) there is consistency with internationally accepted standards; and

(C) there is sufficient information to evaluate the effectiveness of the program.

(10) Performance goals to be set at or above existing recycling recovery rates, with penalties if the goals are not met.

(11) Convenience provisions that at a minimum meet the convenience requirements of 2012 Acts and Resolves No. 148.

(12) A recommended goal for the percentage reduction in the amount of waste generated State-wide from single-use products. The recommendation shall be based on review of similar percentage reduction goals in other states, such as the California goal of reducing the amount of waste generated from single-use products by 75 percent by 2030.

(13) A recommended goal for the percentage of post-consumer recycled content in packaging, including recommendations for the reduction of plastic packaging. The recommendation shall be based on similar percentage goals for post-consumer content in other states, such as the Washington state goal of reducing plastic packaging 20 percent by 2025.

(14) Roles and responsibilities of the Agency of Natural Resources.

(15) A method by which producers can protect themselves against producers that fail to register with a program. These methods may include a private right of action, requirements that online retailers of packaging be responsible for paying into a fund in support of the program if the products they sell are from producers who are not part of the stewardship program, or other methods to ensure fairness and full compliance.

(16) A recommended method for coordinating among other northeastern states an extended producer responsibility program or other provisions for the management and disposition of packaging and printed material.

(b) The draft legislation required under subsection (a) of this section shall not include proposed changes to the beverage container redemption law under 10 V.S.A. chapter 53.

(c) On or before January 15, 2021, the Office of Legislative Council shall submit the draft legislation required by this section to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife.

* * * Beverage Container Redemption * * *

Sec. 4. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers that contain liquor, a deposit of not less than five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. that contain liquor, a deposit of 15 cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the Liquor Control Enterprise Fund for administration of this subsection.

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of such ~~the~~ beverage containers in an amount that is three and one-half cents per container for containers of beverage brands that are part of a commingling program and ~~four~~ five cents per container for containers of beverage brands that are not part of a commingling program.

* * *

Sec. 5. Subsection 10-109(b) of the Agency of Natural Resources' Environmental Protection Regulations for the Deposit for Beverage Containers is amended to read:

(b) Any commingling agreement shall contain, at a minimum, the following criteria:

(1) The agreement shall include pick up of commingled beverage containers from:

(A) at least 30 percent of the beverage containers redeemed in the state State of Vermont; or

(B) as otherwise approved by the Secretary.

* * * Product Stewardship Primary Batteries * * *

Sec. 6. 10 V.S.A. § 7581(10) is amended to read:

(10) "Primary battery" means a nonrechargeable battery weighing two kilograms or less, including alkaline, carbon-zinc, and lithium metal batteries. "Primary battery" shall not mean:

(A) ~~a battery intended for industrial, business-to-business, warranty or maintenance services, or nonpersonal use;~~

~~(B)~~ a battery that is sold in a computer, computer monitor, computer peripheral, printer, television, or device containing a cathode ray tube;

~~(C)~~(B) a battery that is not easily removable or is not intended to be removed from a consumer product; and

~~(D)~~(C) a battery that is ~~sold or~~ used in a medical device, as that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(h), as may be amended, provided that the medical device is not designed and marketed for sale or resale principally to consumers for personal use.

Sec. 7. 10 V.S.A. § 7584 is amended to read:

§ 7584. PRIMARY BATTERY STEWARDSHIP PLAN

(a) Primary battery stewardship plan required. On or before June 1, 2015, each producer selling, offering for sale, distributing, or offering for promotional purposes a primary battery in the State shall individually or as part of a primary battery stewardship organization submit a primary battery stewardship plan to the Secretary for review.

(b) Primary battery stewardship plan; minimum requirements. Each primary battery stewardship plan shall include, at a minimum, all of the following elements:

* * *

(6) Education and outreach.

(A) A primary battery stewardship plan shall include an education and outreach program. The education and outreach program may include mass media advertising in radio or television broadcasts or newspaper publications of general circulation in the State, retail displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program shall describe the outreach procedures that will be used to provide notice of the program to businesses, municipalities, certified solid waste management facilities, retailers, wholesalers, and haulers. At a minimum, the education and outreach program shall notify the public of the following:

~~(A)~~(i) that there is a free collection program for all primary batteries; and

~~(B)~~(ii) the location of collection points and how to access the collection program.

(B) In the event that a producer or primary battery stewardship organization does not meet the annual collection rate performance goal established under subdivision (8) of this subsection, the Secretary may require

the producer or battery stewardship organization to conduct more outreach, provide additional educational materials, or improve collection accessibility.

* * *

(8) Performance goal; collection rate. A primary battery stewardship plan shall include a collection rate performance goal for the primary batteries subject to the plan. The collection rate includes the estimated total weight of primary batteries that will be sold or offered for sale in the State by the producer or the producers participating in the primary battery stewardship plan.

* * *

Sec. 8. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

(1) ~~Lead-acid batteries~~ Batteries, after July 1, ~~1990~~ 2020.

* * *

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

Senator Campion, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

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 Natural Resources and Energy?, Senators Bray, Campion, MacDonald, Parent and Rodgers moved to amend the recommendation of the Committee on Natural Resources and Energy as follows:

By striking out Sec. 9 (Effective Date) and its reader assistance heading in their entireties and inserting in lieu thereof the following:

* * * Universal Recycling Variance Authority * * *

Sec. 9. VARIANCE OF UNIVERSAL RECYCLING REQUIREMENTS;
COVID-19

(a) A solid waste management facility or commercial hauler may apply to the Secretary of Natural Resources to issue a variance to one or more of the

following requirements as a result of a declared state of emergency under 20 V.S.A. chapter 1 due to the COVID-19 coronavirus:

(1) the requirement for a solid waste management facility to collect mandated recyclables, leaf and yard residuals and wood waste, and food residuals separate from solid waste under 10 V.S.A. § 6605(j);

(2) the requirement for a commercial hauler to offer to collect mandated recyclables and food residuals separate from solid waste under 10 V.S.A. § 6607a(g)(1); and

(3) the prohibition under 10 V.S.A. § 6621a on the landfill disposal by a solid waste management facility of mandated recyclables, leaf and yard residuals and wood waste, or food residuals.

(b) The Secretary may grant a variance under this section upon a finding that:

(1) the proposed variance will not endanger human health or safety;

(2) compliance with the requirement would produce serious hardship to the applicant without equal or greater benefits to the public; and

(3) the inability to comply with the requirement or the difficulty in complying with the requirement is attributable to the COVID-19 coronavirus, including personnel shortages during the declared state of emergency due to illness or contractors or laboratories not operating due to not being designated as critical during the declared state of emergency.

(c) The Secretary of Natural Resources shall include the following in any variance issued under this section:

(1) a requirement that the solid waste management facility or commercial hauler comply with the relevant requirement for which a variance is sought to the maximum extent feasible in light of hardship posed by the COVID-19 coronavirus; and

(2) if compliance with the relevant requirement is not possible, the authority of the Secretary of Natural Resources to impose conditions that require an applicant to return to compliance as soon as practicable or according to a schedule of compliance issued by the Secretary.

(d) Prior to issuing a variance under subsection (a), the Secretary of Natural Resources shall conduct public notice and comment according to the requirements of 10 V.S.A. § 7716 (Type 5). Decisions made by the Secretary of Natural Resources under this section shall be reviewable by the Environmental Division of the Superior Court under 10 V.S.A. chapter 220.

(e) A variance issued under subsection (a) of this section shall be issued for not more than 60 days and, upon request of the solid waste management facility or commercial hauler, may be renewed in the same manner as an original application for a variance under this section.

(f) If the Secretary of Natural Resources grants a variance under this section, the Secretary shall notify the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish and Wildlife of the issued variance and shall include a copy of the variance with the notice.

* * * Effective Dates * * *

Sec. 10. EFFECTIVE DATES

(a) This section and Sec. 9 (universal recycling variance authority) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2020.

Which was agreed to.

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

Bill Amended; Third Reading Ordered

H. 936.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to sexual exploitation of children.

Reported recommending that the bill be amended as follows:

First: In Sec. 1, 13 V.S.A. chapter 64, in section 2821, by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) "Sexual conduct" means any of the following:

(A) any conduct involving contact between the penis and the vulva, the penis and the penis, the penis and the anus, the mouth and the penis, the mouth and the anus, the vulva and the vulva, or the mouth and the vulva;

(B) any intrusion, however slight, by any part of a person's body or any object into the genital or anal opening of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(C) any intentional touching, not through the clothing, of the genitals, anus, or breasts of another with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desire of any person;

(D) masturbation;

(E) bestiality; or

(F) sadomasochistic abuse for sexual purposes.

Second: In Sec. 1, 13 V.S.A. chapter 64, in section 2821, by adding a subdivision (6) to read as follows:

(6) “Peer-to-peer network” means a network in which two or more computers or devices share files without requiring a separate server computer or server software.

Third: By inserting a new Sec. 2 to read as follows:

Sec. 2. LEGISLATIVE PROPOSAL

The Attorney General, in collaboration with the Defender General and the Department of State’s Attorneys and Sheriffs, shall examine the issue of simulated sexual conduct by, with, or on a child under 16 years of age as it relates to child sexual abuse material for the purpose of developing a clear, narrowly tailored legislative proposal that prohibits such conduct while ensuring that a substantial amount of constitutionally protected speech is not inadvertently swept into the purview of the statute. The Attorney General shall submit the recommendation not later than November 1, 2020 to the Joint Legislative Committee on Justice Oversight.

Fourth: By renumbering Sec. 2, effective date, to be Sec. 3, and by striking out “July 1, 2020” and inserting in lieu thereof 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, the recommendations of amendment were severally agreed to, and third reading of the bill was ordered.

Third Reading Ordered

H. 635.

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

An act relating to regulation of long-term care facilities.

Reported that the bill ought to pass in concurrence.

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

During announcements Senator White addressed the Chair and on motion of Senator MacDonald her remarks were entered into the Journal and are as follows:

“Otto Trautz was a faithful and overly devoted state employee who died this weekend. Even after his retirement he worked tirelessly to make government more efficient and less confusing. Two of those efforts were his devotion to reducing the number of unnecessary reports we produce and the number of nonfunctioning or duplicative boards we have. This may sound somewhat boring but he also had a really great sense of humor. He came to Senate Government Operations in sunglasses and called himself the “Reports Terminator”. And in reporting to us he compared reports to kudzu and sang the recommended bill language to the tune of “I Dream the Impossible Dream”. I report this to remember and acknowledge a devoted state employee”

Message from the House No. 52

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. 716. An act relating to Abenaki hunting and fishing licenses.

H. 960. An act relating to miscellaneous health care provisions.

H. 961. An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

In the passage 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, June 10, 2020.

WEDNESDAY, JUNE 10, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bills Referred

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

H. 716.

An act relating to Abenaki hunting and fishing licenses.

To the Committee on Natural Resources and Energy.

H. 960.

An act relating to miscellaneous health care provisions.

To the Committee on Health and Welfare.

H. 961.

An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

To the Committee on Appropriations.

Consideration Resumed; Bill Amended; Bill Passed in Concurrence with Proposal of Amendment**H. 750.**

Consideration was resumed on House bill entitled:

An act relating to creating a National Guard provost marshal.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as proposed by Senators Hardy and Perchlik in the *second* proposal of amendment?, Senator Hardy requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Hardy and Perchlik moved that the Senate propose to the House amend the bill as follows:

In Sec. 1, 20 V.S.A. § 428, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Powers. The provost marshal and the assistant provost marshal shall have the same powers and immunities as those conferred on the State Police by section 1914 of this title. The powers granted to the provost marshal and the assistant provost marshal under this section may be exercised statewide with respect to criminal activity in the National Guard only. Nothing in this subsection shall be construed to prevent an individual serving as the provost marshal or assistant provost marshal from working as an officer in another law enforcement agency or from exercising the law enforcement authority granted to officers working in that agency.

Which was agreed to.

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

Bill Passed in Concurrence

H. 254.

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

An act relating to adequate shelter for livestock.

Bill Amended; Third Reading Ordered

S. 224.

Senator Ingram, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to evidence-based structured literacy instruction for students in kindergarten–grade 3 and students with dyslexia and to teacher preparation programs.

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

* * * Postsecondary Educational Institutions; Closing * * *

Sec. 1. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a)(1) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each covered college, which are its member colleges and each college that was a member of AVIC within the prior year, under which each covered college agrees to:

(A) upon the request of AVIC, properly administer the student academic records of a covered college that fails to comply with the requirements of this subsection; and

(B) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another covered college or other entity selected by AVIC, maintaining the records of a covered college that fails to comply with the requirements of this subsection.

(2)(A) If an institution of higher education is placed on probation by its accrediting agency, the institution shall:

(i) not later than five business days after learning that it has been placed on probation, inform the Secretary of Education of its status, and

(ii) not later than 60 days after being placed on probation, submit an academic record plan for students to the Secretary for approval.

(B) The academic record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution's records, with funds set aside, if necessary, for the permanent maintenance of the academic records.

(C) If the Secretary does not approve the plan, the State may take action under subsections (d) and (e) of this section.

(3) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1)(A) promptly inform the ~~State Board~~ Secretary;

(2)(B) prepare the academic record of each current and former student in a form satisfactory to the ~~State Board~~ Secretary and including interpretive information required by the ~~Board~~ Secretary; and

(3)(C) deliver the records to a person designated by the ~~State Board~~ Secretary to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

(b) Persons acting as a repository may microfilm records received under this section.

(c) Students and former students of the discontinuing institution shall be entitled to verified copies of their academic records upon payment of a reasonable fee.

(d) When an institution of higher education is unable or unwilling to comply substantially with the record preparation and delivery requirements of subsection (a) of this section, the ~~State Board~~ Secretary shall bring an action in Superior Court to compel compliance with this section, and may in a proper case obtain temporary custody of the records.

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the ~~State Board~~ Secretary may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure

to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

(f) The State Board shall adopt rules under this section for its proper administration. The rules may include provisions for preparing and maintaining transferred records. Persons acting as a repository of records are bound only by maintenance provisions to which they agreed before receiving transferred records.

~~(g) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:~~

~~(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and~~

~~(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.~~

Sec. 2. TRANSITION

On or before August 1, 2020, the Association of Vermont Independent Colleges (AVIC) shall amend its memorandum of understanding with its member colleges under 16 V.S.A. § 175 to require that each member college that terminates its membership with AVIC continue to comply with the terms of the memorandum for a period of one year after the date of termination.

* * * Oath; Repeal * * *

Sec. 3. 16 V.S.A. § 12 is amended to read:

§ 12. OATH

~~A superintendent, a principal or teacher in a public school of the State, a professor, instructor, or teacher who will be employed by a university or college in the State that is supported in whole or in part by public funds, or a headmaster or teacher who will be employed by an independent school or other educational institution accepted by the Agency as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the U.S. Constitution, the Vermont Constitution, and all State and federal laws; provided, however, that an oath shall not be required of any person who is a citizen of a foreign country. [Repealed.]~~

* * * Small School Support * * *

Sec. 4. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) ~~In~~ As used in this section:

* * *

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

* * *

* * * School Wellness * * *

Sec. 5. 16 V.S.A. § 136 is amended to read:

§ 136. WELLNESS PROGRAM; ADVISORY COUNCIL ON WELLNESS AND COMPREHENSIVE HEALTH

(a) As used in this section:

* * *

(5) “Wellness program” means a program that includes comprehensive health education as defined in section 131 of this title, fitness, and nutrition.

(b) ~~The Secretary with the approval of the State Board shall establish an Advisory Council on Wellness and Comprehensive Health that shall include at least three members with expertise in health services, health education, or health policy associated with the health services field. The members shall serve without compensation but shall receive their actual expenses incurred in connection with their duties relating to wellness and comprehensive health programs. The Council shall assist the Agency to plan, coordinate, and encourage wellness and comprehensive health programs in the public schools, and shall meet not less than twice a year.~~

(c) The Secretary shall collaborate with other agencies and councils working on childhood wellness to:

(1) Supervise the preparation of appropriate ~~nutrition and fitness~~ wellness program curricula for use in the public schools, promote programs for the preparation of teachers to teach these curricula, and assist in the development of wellness programs.

* * *

~~(5) Create a process for schools to share with the Department of Health any data collected about the height and weight of students in kindergarten through grade six. The Commissioner of Health may report any data compiled under this subdivision on a countywide basis. Any reporting of data must protect the privacy of individual students and the identity of participating schools.~~

* * *

Sec. 6. SCHOOL WELLNESS POLICY

On or before January 15, 2021, the Agency of Education, in collaboration with the Advisory Council on Wellness and Comprehensive Health created under 16 V.S.A. § 136, shall update and distribute to school districts a model wellness program policy, using the expanded definition of “wellness program” under 16 V.S.A. § 136, as amended by this act, that shall:

(1) be in compliance with all relevant State and federal laws; and

(2) reflect nationally accepted best practices for comprehensive health education and school wellness policies, such as guidance from the Centers for Disease Control and Prevention’s Whole School, Whole Community, Whole Child Model.

* * * Electoral Functions; Unified Union School District * * *

Sec. 7. ELECTIONS; UNIFIED UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of law to the contrary, the election of a director to the board of a unified union school district who is to serve on the board after the expiration of the term for an initial director shall be held at the unified union school district’s annual meeting unless otherwise provided in the district’s articles of agreement.

(b) Notwithstanding any provision of law to the contrary, if a vacancy occurs on the board of a unified union school district, and the vacancy is in a seat that is allocated to a specific town, the clerk of the unified union school district shall immediately notify the selectboard of the town. Within 30 days after the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held at an annual or special meeting, unless otherwise provided in accordance with the unified union school district’s articles of agreement.

(c) This section is repealed on July 1, 2021.

Sec. 8. ELECTORAL FUNCTIONS; UNION SCHOOL DISTRICT;
MEMBER DISTRICT THAT IS ALSO A UNION SCHOOL
DISTRICT

(a) If a union elementary or union high school district has a member district that is also a union school district, then the legislative body or appropriate officer of each city, town, or incorporated village within the member union school district shall perform electoral functions on behalf of the union elementary or union high school district, including accepting nominations, warning meetings, and conducting elections and the voting process on other matters, when those functions are ordinarily performed by and in member town districts on behalf of a union school district.

(b) This section is repealed on July 1, 2021.

* * * Menstrual Hygiene Products * * *

Sec. 9. 16 V.S.A. § 1432 is added to read:

§ 1432. MENSTRUAL HYGIENE PRODUCTS

(a) By enacting this statute, the General Assembly intends to ensure that a female student attending a public school or an approved independent school has access to menstrual hygiene products at no cost and without the embarrassment of having to request them.

(b) A school district and an approved independent school shall make menstrual hygiene products available at no cost in a majority of gender-neutral bathrooms and bathrooms designated for females that are generally used by females in any of grades five through 12 in each school within the district or under the jurisdiction of the board of the independent school. The school district or independent school, in consultation with the school nurse who provides services to the school, shall determine which of the gender-neutral bathrooms and bathrooms designated for females to stock with menstrual hygiene products and which brands to use.

(c) School districts and approved independent schools shall bear the cost of supplying menstrual hygiene products and may seek grants or partner with a nonprofit or community-based organization to fulfill this obligation.

* * * Special Education; Technical Changes * * *

Sec. 10. 16 V.S.A. § 2961 is amended to read:

§ 2961. CENSUS GRANT

(a) As used in this section:

* * *

(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over the most recent three school years for which data are available.

(4) “Uniform base amount” means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; and

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

(B) ~~the statewide average daily membership for prekindergarten through grade 12 for the 2019–2020 school year~~ long-term membership.

* * *

(d)(1)(A) For fiscal year ~~2021~~ 2022, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

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

(B) The amount determined under subdivision (A) of this subdivision (1) shall be divided by the supervisory union’s long-term membership, to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

(2) For fiscal year ~~2025~~ 2026 and subsequent fiscal years, the amount of the census grant for a supervisory union shall be the uniform base amount multiplied by the supervisory union’s long-term membership.

(3) For fiscal years ~~2022, 2023, and 2024~~ 2023, 2024, and 2025, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union’s long-term membership by a base amount

established under this subdivision. The base amounts for each supervisory union for fiscal years ~~2022, 2023, and 2024~~ 2023, 2024, and 2025 shall move gradually the supervisory union's fiscal year ~~2024~~ 2022 base amount to the fiscal year ~~2025~~ 2026 uniform base amount by prorating the change between the supervisory union's fiscal year ~~2024~~ 2022 base amount and the fiscal year ~~2025~~ 2026 uniform base amount over this three-fiscal-year period.

Sec. 11. 16 V.S.A. § 2967 is amended to read:

§ 2967. AID PROJECTION

(a) On or before December 15, the Secretary shall publish an estimate, by each supervisory union, of its anticipated State special education expenditures funding under this chapter for the ensuing school year.

(b) As used in this section, State special education expenditures funding shall include:

(1) ~~costs~~ funds eligible for grants and reimbursements under sections 2961 and 2962 of this title;

(2) ~~costs~~ funds for services for persons who are visually impaired;

(3) ~~costs~~ funds for persons who are deaf or hard of hearing;

(4) ~~costs~~ funds for the interdisciplinary team program;

(5) funds expended for training and programs to meet the needs of students with emotional or behavioral challenges under subsection 2969(c) of this title; and

(6) funds expended for training under subsection 2969(d) of this title.

Sec. 12. 16 V.S.A. § 2975 is amended to read:

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

The Secretary may use ~~up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature~~ funds for allowable special education expenditures, as defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall be appropriated in the amount of two percent times the Census Grant as defined in section 2961 of this title. The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

Sec. 13. 2018 Acts and Resolves No. 173, Sec. 17 is amended to read:

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year ~~2021~~ 2022.

(b) On or before November 1, ~~2019~~ 2020, a supervisory union shall submit to the Secretary such information as required:

(1) by the Secretary to estimate the supervisory union's projected fiscal year ~~2021~~ 2022 extraordinary special education reimbursement under Sec. 5 of this act; and

(2) for IDEA reporting in a format specified by the Secretary.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 14. 2018 Acts and Resolves No. 173, Sec. 18 is amended to read:

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION COSTS

* * *

(b) This section is repealed on July 1, ~~2020~~ 2021.

* * * Gender Balance; UVM and VSC Boards * * *

Sec. 15. GENDER BALANCE; UNIVERSITY OF VERMONT AND VERMONT STATE COLLEGES BOARDS

(a) The Board of Trustees of the University of Vermont (UVM) currently is composed of an overwhelming majority of men, with 20 men and five women. The Board of Trustees of the Vermont State Colleges (VSC) currently has gender balance on its Board.

(b) The State goal is to have the UVM Board achieve gender balance by 2025 and maintain it thereafter and the VSC Board maintain gender balance. Gender balance means, for the UVM Board, that the 25 member Board is composed of 12 or 13 members who identify as women and for the VSC Board, that the 15 member Board is composed of seven or eight members who identify as women. The UVM self-perpetuating Board members have an obligation to address the Board's gender imbalance in their appointment of trustees.

(c) Given that the UVM and VSC Boards have four categories of trustees, which include those appointed by the Governor, those appointed by the General Assembly, and those appointed by the self-perpetuating trustees, as well as student trustees, it is also incumbent on the Legislative and Executive Branches to undertake efforts to further the State goal in achieving and maintaining gender balance on these Boards.

(d) On or before January 31, 2021 and annually thereafter, as part of their annual budget presentations to the General Assembly, UVM and VSC shall provide, at a minimum, the most recent five years of information on the gender composition of their respective Boards of Trustees. This information shall include the appointing entity, initial appointment date, and length of service and shall summarize recruitment and replacement strategies employed for recently expired and imminently expiring Trustee positions.

* * * Proficiency-based Education; Appropriation * * *

Sec. 16. PROFICIENCY BASED EDUCATION; APPROPRIATION

(a) To support school districts in the implementation of proficiency-based education, the Agency of Education provides funding for projects that focus on school and systems-based proficiency efforts that are designed to:

(1) develop consistent frameworks, particularly for grading and reporting but also for instructional practices and coordinated curricula; and

(2) ensure all students graduate career and college ready.

(b) The sum of \$400,000.00 is appropriated to the Agency of Education from the Education Fund for fiscal year 2021 to support school districts that have faced challenges in the implementation of proficiency-based education, particularly with respect to grading and reporting.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 10–12 shall take effect on July 1, 2021, and school districts and approved independent schools shall comply with the requirements of Sec. 9 of this act for the 2021–2022 school year and thereafter.

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

An act relating to making miscellaneous changes to education laws.

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 be amended as

recommended by the Committee on Education with the following amendment thereto:

By striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Postsecondary Educational Institutions; Closing * * *

Sec. 1. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a)(1) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each covered college, which are its member colleges and each college that was a member of AVIC within the prior year, under which each covered college agrees to:

(A) upon the request of AVIC, properly administer the student academic records of a covered college that fails to comply with the requirements of this subsection; and

(B) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another covered college or other entity selected by AVIC, maintaining the records of a covered college that fails to comply with the requirements of this subsection.

(2)(A) If an institution of higher education is placed on probation by its accrediting agency, the institution shall:

(i) not later than five business days after learning that it has been placed on probation, inform the Secretary of Education of its status, and

(ii) not later than 60 days after being placed on probation, submit an academic record plan for students to the Secretary for approval.

(B) The academic record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution's records, with funds set aside, if necessary, for the permanent maintenance of the academic records.

(C) If the Secretary does not approve the plan, the State may take action under subsections (d) and (e) of this section.

(3) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1)(A) promptly inform the State Board Secretary;

~~(2)(B)~~ prepare the academic record of each current and former student in a form satisfactory to the ~~State Board Secretary~~ and including interpretive information required by the ~~Board Secretary~~; and

~~(3)(C)~~ deliver the records to a person designated by the ~~State Board Secretary~~ to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

(b) Persons acting as a repository may microfilm records received under this section.

(c) Students and former students of the discontinuing institution shall be entitled to verified copies of their academic records upon payment of a reasonable fee.

(d) When an institution of higher education is unable or unwilling to comply substantially with the record preparation and delivery requirements of subsection (a) of this section, the ~~State Board Secretary~~ shall bring an action in Superior Court to compel compliance with this section, and may in a proper case obtain temporary custody of the records.

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the ~~State Board Secretary~~ may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

(f) The State Board shall adopt rules under this section for its proper administration. The rules may include provisions for preparing and maintaining transferred records. Persons acting as a repository of records are bound only by maintenance provisions to which they agreed before receiving transferred records.

~~(g) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:~~

~~(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and~~

~~(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.~~

Sec. 2. TRANSITION

On or before August 1, 2020, the Association of Vermont Independent Colleges (AVIC) shall amend its memorandum of understanding with its member colleges under 16 V.S.A. § 175 to require that each member college that terminates its membership with AVIC continue to comply with the terms of the memorandum for a period of one year after the date of termination.

* * * Oath; Repeal * * *

Sec. 3. 16 V.S.A. § 12 is amended to read:

§ 12. OATH

~~A superintendent, a principal or teacher in a public school of the State, a professor, instructor, or teacher who will be employed by a university or college in the State that is supported in whole or in part by public funds, or a headmaster or teacher who will be employed by an independent school or other educational institution accepted by the Agency as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the U.S. Constitution, the Vermont Constitution, and all State and federal laws; provided, however, that an oath shall not be required of any person who is a citizen of a foreign country. [Repealed.]~~

* * * Small School Support * * *

Sec. 4. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) ~~In~~ As used in this section:

* * *

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

* * *

* * * Electoral Functions; Union School Districts * * *

Sec. 5. ELECTORAL FUNCTIONS; UNION SCHOOL DISTRICT;
MEMBER DISTRICT THAT IS ALSO A UNION SCHOOL
DISTRICT

(a) If a union elementary or union high school district has a member district that is also a union school district, then the legislative body or appropriate officer of each city, town, or incorporated village within the member union school district shall perform electoral functions on behalf of the union elementary or union high school district, including accepting nominations, warning meetings, and conducting elections and the voting process on other matters, when those functions are ordinarily performed by and in member town districts on behalf of a union school district.

(b) This section is repealed on July 1, 2021.

* * * Gender Balance; UVM and VSC Boards * * *

Sec. 6. GENDER BALANCE; UNIVERSITY OF VERMONT AND
VERMONT STATE COLLEGES BOARDS

(a) The Board of Trustees of the University of Vermont (UVM) currently is composed of an overwhelming majority of men, with 20 men and five women. The Board of Trustees of the Vermont State Colleges (VSC) currently has gender balance on its Board.

(b) The State goal is to have the UVM Board achieve gender balance by 2025 and maintain it thereafter and the VSC Board maintain gender balance. Gender balance means, for the UVM Board, that the 25 member Board is composed of 12 or 13 members who identify as women and for the VSC Board, that the 15 member Board is composed of seven or eight members who identify as women. The UVM self-perpetuating Board members have an obligation to address the Board's gender imbalance in their election of trustees.

(c) Given that the UVM and VSC Boards have four categories of trustees, which include those appointed by the Governor, those elected by the General Assembly, and those elected by the self-perpetuating trustees, as well as student trustees, it is also incumbent on the Legislative and Executive Branches to undertake efforts to further the State goal in achieving and maintaining gender balance on these Boards.

(d) On or before January 31, 2021 and annually thereafter, as part of their annual budget presentations to the General Assembly, UVM and VSC shall provide, at a minimum, the most recent five years of information on the gender composition of their respective Boards of Trustees. This information shall include the appointing entity, initial appointment date, and length of service

and shall summarize recruitment and replacement strategies employed for recently expired and imminently expiring Trustee positions.

* * * Effective Date * * *

Sec. 7. 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 making miscellaneous changes to education laws.

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, pending the question, Shall the bill be amended as recommended by the Committee on Education?, as amended, Senator Sears moved to amend the recommendation of the Committee on Education, as amended as follows:

By striking out Sec. 6 in its entirety and inserting in lieu thereof the following:

Sec. 6. 16 V.S.A. App. chapter 1, § 1-2 is amended to read:

§ 1-2. BOARD OF TRUSTEES; MEMBERSHIP, TERMS OF SERVICE;
PRESIDING CHAIR

The Board of Trustees of the University of Vermont and State Agricultural College shall be composed of ~~25~~ 16 members, whose term of office shall be six years, except as to those who are members ex officio and to those who are student members. Three members shall be appointed by the Governor with the consent of the Senate. ~~During the legislative session of 1955, the Governor shall appoint one member for a term of two years, one member for a term of four years, and one member for a term of six years and it~~ It shall be the duty of the Governor during the session of the Legislature prior to expiration of the term of office of any of the members to appoint for the term of six years a successor to the member whose term is expiring. The terms of office of the Trustees shall expire on the last day of February in the respective years of expiration, and the terms of office of their successors shall thereafter begin on March 1 and expire on the last day of February.

~~Nine members shall be those who have been heretofore elected by the Legislature as members of the Board of Trustees of the University of Vermont~~

~~and State Agricultural College, and whose terms have not expired, and their successors, and it shall be the duty of the Legislature at its session during which the terms of office of any class of the members expire to elect three successor members for terms of six years. The terms shall commence on March 1 in the year of election. The nine Trustees and their successors shall also constitute the Board of Trustees of the Vermont Agricultural College.~~

No member of the Vermont General Assembly shall serve as a member of the Board of Trustees of the University of Vermont and State Agricultural College. If a sitting member of the Board is elected and chooses to serve in the Vermont General Assembly, he or she shall resign his or her Board membership prior to taking the oath of office to serve in the General Assembly.

* * *

Sec. 7. 2 V.S.A. § 10 is amended to read:

§ 10. ELECTION OF STATE AND JUDICIAL OFFICERS

(a) At 10 o'clock and 30 minutes, forenoon, on the seventh Thursday after their biennial meeting and organization, the Senate and House of Representatives shall meet in joint assembly and proceed therein to elect the State officers, except judicial officers, whose election by the Constitution and laws devolves in the first instance upon them in joint assembly, including the Sergeant at Arms, and the Adjutant and Inspector General, ~~and legislative trustees of the University of Vermont and State Agricultural College.~~ In case election of all such officers shall not be made on that day, they shall meet in joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such officers are elected.

* * *

Sec. 8. TRANSITION

The term of any current legislative member of the Board of Trustees of the University of Vermont and State Agricultural College shall expire on July 1, 2020.

Sec. 9. GENDER BALANCE; UNIVERSITY OF VERMONT AND VERMONT STATE COLLEGES BOARDS

(a) The Board of Trustees of the University of Vermont and State Agricultural College (UVM) currently is composed of an overwhelming majority of men, with 20 men and five women. The Board of Trustees of the Vermont State Colleges (VSC) currently has gender balance on its Board.

(b) The State goal is to have the UVM Board achieve gender balance by 2025 and maintain it thereafter and the VSC Board maintain gender balance. The number of Trustees on the UVM Board shall be reduced on July 1, 2020 from 25 to 16 under this act. Gender balance means, for the UVM Board, that the 16-member Board is composed of eight members who identify as women and for the VSC Board, that the 15-member Board is composed of seven or eight members who identify as women. The UVM self-perpetuating Board members have an obligation to address the Board's gender imbalance in their election of trustees.

(c) Given that the UVM Board includes those appointed by the Governor and the VSC Board includes those appointed by the Governor and the General Assembly, it is also incumbent on the Executive and Legislative Branches to undertake efforts to further the State goal in achieving and maintaining gender balance on these Boards.

(d) On or before January 31, 2021 and annually thereafter, as part of their annual budget presentations to the General Assembly, UVM and VSC shall provide, at a minimum, the most recent five years of information on the gender composition of their respective Boards of Trustees. This information shall include the appointing entity, initial appointment date, and length of service and shall summarize recruitment and replacement strategies employed for recently expired and imminently expiring Trustee positions.

And the remaining section be renumbered to be numerically correct.

Thereupon, pending the question, Shall the recommendation of amendment of the Committee on Education?, as amended, be amended as recommended by Senator Sears?, Senator Sears requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Education, as amended?, was decided in the affirmative and third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 227.

Senate bill entitled:

An act relating to the provision of personal care products by lodging establishments.

Was taken up.

Thereupon, pending third reading of the bill, Senator Bray moved to amend the bill by in Sec. 2, 4 V.S.A. § 1102 (Judicial Bureau jurisdiction), in

subdivision (b)(30), by striking out the words “plastic bottles” and inserting in lieu thereof the word containers

Which was agreed to.

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

Bill Passed in Concurrence

H. 635.

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

An act relating to regulation of long-term care facilities.

Bill Passed in Concurrence with Proposals of Amendment

H. 936.

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

An act relating to sexual exploitation of children.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 227, H. 254, H. 635, H. 750, H. 936.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, June 11, 2020.

THURSDAY, JUNE 11, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District

Senator Christopher A. Bray
Senator Ruth Ellen Hardy

Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

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 tomorrow:

S. 351.

By the Committee on Agriculture,

An act relating to providing financial relief assistance to the agricultural community due to the COVID-19 public health emergency.

Third Reading Ordered**H. 608.**

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

An act relating to incompatible local offices.

Reported that the bill ought to pass in concurrence.

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

Proposal of Amendment; Third Reading Ordered**H. 558.**

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

An act relating to exempting the Victims Compensation Board from the Open Meeting Law.

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

Sec. 1. 13 V.S.A. § 5358a is amended to read:

§ 5358a. APPLICATION INFORMATION; CONFIDENTIALITY

* * *

(d) Meetings of the Victims Compensation Board relating to victims compensation or offender restitution shall not be subject to the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2. Annually, the Board shall hold an open meeting to present information and data concerning the victims compensation and offender restitution programs, including aggregate information on cases, pecuniary loss, expense reimbursement, restitution orders, profits from crimes, and nonidentifying information on the amounts of compensation awarded to victims.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

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

Adjournment

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

FRIDAY, JUNE 12, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald

Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

**Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed;
Bill Messaged**

S. 351.

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

An act relating to providing financial relief assistance to the agricultural community due to the COVID-19 public health emergency.

Was taken up for immediate consideration.

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

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was placed on all remaining stages of its passage.

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

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was ordered messaged to the House forthwith.

Bill Passed in Concurrence with Proposal of Amendment

H. 558.

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

An act relating to exempting the Victims Compensation Board from the Open Meeting Law.

Bill Passed in Concurrence**H. 608.**

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

An act relating to incompatible local offices.

Third Reading Ordered**H. 958.**

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

An act relating to communications union districts.

Reported that the bill ought to pass in concurrence.

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

Bill Amended; Third Reading Ordered**S. 59.**

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

An act relating to the creation of the Sports Betting Study Committee.

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

Sec. 1. SPORTS BETTING; FINDINGS

The General Assembly finds that:

- (1) An estimated 28 percent of adults in the United States bet on sports.
- (2) Based on current participation rates and expected growth, studies have estimated that Vermont could generate from \$1.1 million to \$4.2 million in gaming revenue taxes.
- (3) As of March 2020, 15 states have active legal sports betting operations while an additional five states and Washington, D.C. have enacted laws or adopted ballot measures to permit legal sports betting.
- (4) Legislation has also been introduced in at least 26 states, including Vermont, to legalize, regulate, and tax sports betting.
- (5) Given the widespread participation in sports betting, the General Assembly finds that careful examination of whether and how best to regulate

sports betting in Vermont and protect Vermonters involved in sports betting is necessary.

Sec. 2. SPORTS BETTING; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Sports Betting Study Committee to examine whether and how to regulate sports betting in Vermont.

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

(1) the Attorney General or designee;

(2) the Commissioner of Liquor and Lottery or designee;

(3) the Commissioner of Taxes or designee;

(4) the Secretary of State or designee;

(5) the Secretary of Commerce and Community Development or designee;

(6) two current members of the Senate, who shall be appointed by the Committee on Committees; and

(7) two current members of the House, who shall be appointed by the Speaker of the House.

(c) Powers and duties. The Study Committee shall study various models for legalizing, taxing, and regulating sports betting, including the following issues:

(1) studies carried out by other states concerning the legalization, taxation, and regulation of sports betting;

(2) laws enacted by other states to legalize, tax, and regulate sports betting;

(3) potential models for legalizing and regulating sports betting in Vermont, including any advantages or drawbacks to each model;

(4) potential models for legalizing and regulating online sports betting, including any advantages or drawbacks to each model;

(5) potential tax and fee structures for sports betting activities; and

(6) potential restrictions or limitations on the types of sports that may be bet on.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before December 15, 2020, the Study Committee shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Attorney General or designee shall call the first meeting of the Committee 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) The Committee shall cease to exist on December 30, 2020.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee serving in their 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 four meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when amended as recommended by the Committee on Economic Development Housing and General Affairs.

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.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 558, H. 608.

Senate 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 on the part of the Senate:

By Senators Parent and Brock,

By Reps. McCarthy and Toof,

S.C.R. 20.

Senate concurrent resolution congratulating Destiny Thompson on winning first place for Region 1 in Hildene's 2020 Eighth Grade Lincoln Essay Competition.

By Senators Champion and Sears,

By Reps. Bates and others,

S.C.R. 21.

Senate concurrent resolution congratulating Bennington native Alyssa Clark on her remarkable running achievement.

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. Hango and others,

By Senators Brock and Parent,

H.C.R. 297.

House concurrent resolution congratulating O.C. McCuin & Sons of Highgate on its centennial.

By Reps. Potter and others,

By Senators Collamore, Hooker and McNeil,

H.C.R. 298.

House concurrent resolution congratulating the 2020 Mill River Union High School Minutemen Division II championship cheerleading team.

By Reps. Fagan and others,

By Senators Collamore, Hooker and McNeil,

H.C.R. 299.

House concurrent resolution congratulating the Rutland High School Raiders cheerleading program on winning its sixth consecutive Division I championship.

By Reps. Burke and others,

By Senators Balint and White,

H.C.R. 300.

House concurrent resolution congratulating the 2020 Brattleboro Union High School Colonels Division I championship boys' Nordic skiing team.

By Reps. Rogers and others,

By Senators Westman and Benning,

H.C.R. 301.

House concurrent resolution in memory of former Representative Bernard Juskiewicz of Cambridge.

By Reps. Macaig and McCullough,

By Senators Ingram and Lyons,

H.C.R. 302.

House concurrent resolution honoring former Williston Town Manager Richard McGuire.

By Rep. Long,

H.C.R. 303.

House concurrent resolution congratulating Richard Veitch of Townshend on his designation as the fourth Vermont Cartoonist Laureate.

By Reps. Grad and others,

By Senators Cummings, Pearson and Pollina,

H.C.R. 304.

House concurrent resolution congratulating the 2020 Harwood Union High School Highlanders Division II championship boys' ice hockey team.

By Rep. Ancel,

H.C.R. 305.

House concurrent resolution in memory of Robert Irving Barasch of Plainfield.

By Reps. Canfield and others,

By Senators Collamore, Hooker and McNeil,

H.C.R. 306.

House concurrent resolution congratulating the 2020 Fair Haven Union High School Slaters State championship bowling team.

By Reps. Canfield and others,

By Senators Collamore, Hooker and McNeil,

H.C.R. 307.

House concurrent resolution congratulating the 2020 Fair Haven Union High School Slaters Division II championship boys' basketball team.

By Reps. Myers and others,

H.C.R. 308.

House concurrent resolution congratulating the 2020 Essex High School Hornets girls' ice hockey program on winning a second consecutive Division I championship.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 309.

House concurrent resolution in memory of former Pownal Town Moderator and State Representative Charles B. Palmer of Pownal.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 310.

House concurrent resolution congratulating the Mount Anthony Union High School Patriots on winning a 32nd consecutive State wrestling championship.

By Reps. Christie and others,

By Senators Clarkson, McCormack and Nitka,

H.C.R. 311.

House concurrent resolution congratulating the 2020 Hartford High School Hurricanes Division II championship girls' indoor track and field team.

By Rep. Potter,

H.C.R. 312.

House concurrent resolution congratulating the Rutland County Agricultural Society on the 175th anniversary of the Vermont State Fair.

By Reps. Marcotte and Page,

By Senators Rodgers and Starr,

H.C.R. 313.

House concurrent resolution honoring Steven Edgerley for his outstanding community leadership in Orleans County.

By Reps. Strong and others,

By Senators Rodgers and Starr,

H.C.R. 314.

House concurrent resolution designating Wednesday, September 23, 2020 as Alexander Twilight Day in Vermont.

By Reps. Austin and others,

By Senator Mazza,

H.C.R. 315.

House concurrent resolution congratulating Madison Chagnon of Colchester on her selection by the Burlington Free Press as Miss Hockey 2020.

By Reps. McFaun and others,

By Senators Cummings, Perchlik and Pollina,

H.C.R. 316.

House concurrent resolution congratulating the 2020 Spaulding High School Crimson Tide Division II championship girls' ice hockey team.

By Reps. Masland and Briglin,

By Senator MacDonald,

H.C.R. 317.

House concurrent resolution congratulating the 2020 Thetford Academy Panthers Division II championship boys' indoor track and field team.

By Reps. Masland and Briglin,

By Senator MacDonald,

H.C.R. 318.

House concurrent resolution congratulating the Thetford Academy Panthers boys' basketball program on winning a second consecutive Division III championship.

By Reps. Sullivan and others,

By Senators Campion and Sears,

H.C.R. 319.

House concurrent resolution honoring the Shaffe family and Shaffe's Men's Shop of Bennington.

By Reps. Corcoran and others,

By Senators Campion and Sears,

H.C.R. 320.

House concurrent resolution congratulating the Fiddlehead at Four Corners fine art and contemporary craft gallery on its 20th anniversary.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, June 16, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 57.

TUESDAY, JUNE 16, 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.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Message from the House No. 53

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 bills originating in the Senate of the following titles:

S. 128. An act relating to physician assistant licensure.

S. 301. An act relating to miscellaneous telecommunications changes.

S. 338. An act relating to justice reinvestment.

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

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

S. 350. An act relating to creating emergency economic recovery grants.

And has passed the same in concurrence.

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

H.C.R. 297. House concurrent resolution congratulating O.C. McCuin & Sons of Highgate on its centennial.

H.C.R. 298. House concurrent resolution congratulating the 2020 Mill River Union High School Minutemen Division II championship cheerleading team.

H.C.R. 299. House concurrent resolution congratulating the Rutland High School Raiders cheerleading program on winning its sixth consecutive Division I championship.

H.C.R. 300. House concurrent resolution congratulating the 2020 Brattleboro Union High School Colonels Division I championship boys' Nordic skiing team.

H.C.R. 301. House concurrent resolution in memory of former Representative Bernard Juskiewicz of Cambridge.

H.C.R. 302. House concurrent resolution honoring former Williston Town Manager Richard McGuire.

H.C.R. 303. House concurrent resolution congratulating Richard Veitch of Townshend on his designation as the fourth Vermont Cartoonist Laureate.

H.C.R. 304. House concurrent resolution congratulating the 2020 Harwood Union High School Highlanders Division II championship boys' ice hockey team.

H.C.R. 305. House concurrent resolution in memory of Robert Irving Barasch of Plainfield.

H.C.R. 306. House concurrent resolution congratulating the 2020 Fair Haven Union High School Slaters State championship bowling team.

H.C.R. 307. House concurrent resolution congratulating the 2020 Fair Haven Union High School Slaters Division II championship boys' basketball team.

H.C.R. 308. House concurrent resolution congratulating the 2020 Essex High School Hornets girls' ice hockey program on winning a second consecutive Division I championship.

H.C.R. 309. House concurrent resolution in memory of former Pownal Town Moderator and State Representative Charles B. Palmer of Pownal.

H.C.R. 310. House concurrent resolution congratulating the Mount Anthony Union High School Patriots on winning a 32nd consecutive State wrestling championship.

H.C.R. 311. House concurrent resolution congratulating the 2020 Hartford High School Hurricanes Division II championship girls' indoor track and field team.

H.C.R. 312. House concurrent resolution congratulating the Rutland County Agricultural Society on the 175th anniversary of the Vermont State Fair.

H.C.R. 313. House concurrent resolution honoring Steven Edgerley for his outstanding community leadership in Orleans County.

H.C.R. 314. House concurrent resolution designating Wednesday, September 23, 2020 as Alexander Twilight Day in Vermont.

H.C.R. 315. House concurrent resolution congratulating Madison Chagnon of Colchester on her selection by the Burlington Free Press as Miss Hockey 2020.

H.C.R. 316. House concurrent resolution congratulating the 2020 Spaulding High School Crimson Tide Division II championship girls' ice hockey team.

H.C.R. 317. House concurrent resolution congratulating the 2020 Thetford Academy Panthers Division II championship boys' indoor track and field team.

H.C.R. 318. House concurrent resolution congratulating the Thetford Academy Panthers boys' basketball program on winning a second consecutive Division III championship.

H.C.R. 319. House concurrent resolution honoring the Shaffe family and Shaffe's Men's Shop of Bennington.

H.C.R. 320. House concurrent resolution congratulating the Fiddlehead at Four Corners fine art and contemporary craft gallery on its 20th anniversary.

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

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

S.C.R. 20. Senate concurrent resolution congratulating Destiny Thompson on winning first place for Region 1 in Hildene's 2020 Eighth Grade Lincoln Essay Competition.

S.C.R. 21. Senate concurrent resolution congratulating Bennington native Alyssa Clark on her remarkable running achievement.

And has adopted the same in concurrence.

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 fifteenth day of June, 2020 he approved and signed bills originating in the Senate of the following titles:

S. 255. An act relating to captive insurance.

S. 283. An act relating to the Town of Hartford's tax increment financing district.

S. 343. An act relating to delaying special education changes due to the COVID-19 state of emergency.

S. 345. An act relating to temporary municipal provisions in response to the COVID-19 outbreak.

S. 347. An act relating to suspension of time frames for civil license suspension hearings for certain DUI offenses.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 58.

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. 58. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, June 18, 2020, or, Friday, June 19, 2020, it be to meet again no later than Tuesday, June 23, 2020.

Bill Amended; Bill Passed**S. 224.**

Senate bill entitled:

An act relating to evidence-based structured literacy instruction for students in kindergarten–grade 3 and students with dyslexia and to teacher preparation programs.

Was taken up.

Thereupon, pending third reading of the bill, Senators Brock and White moved to amend the bill by striking out Sec. 6 in its entirety and inserting in lieu thereof the following:

Sec. 6. GENDER BALANCE; UNIVERSITY OF VERMONT AND
VERMONT STATE COLLEGES BOARDS

(a) The Board of Trustees of the University of Vermont (UVM) currently is composed of an overwhelming majority of men, with 20 men and five women. The Board of Trustees of the Vermont State Colleges (VSC) currently has gender balance on its Board.

(b) The State goal is to have balanced representation on Vermont public bodies that ensures equity and the opportunity for all members of society to participate based on merit, regardless of their gender or gender identity, race, creed, national origin, marital status, sexual orientation, disability status, or any other personal descriptor. Given the gender imbalance on the UVM Board, it is not clear that this goal is being met by the appointers and electing authorities of Board members.

(c) Given that the UVM and VSC Boards have four categories of trustees, which include those appointed by the Governor, those elected by the General Assembly, and those elected by the self-perpetuating trustees, as well as student trustees, it is incumbent on the appointing and electing authorities to use their best efforts to further the State goal of ensuring that the Boards reflect the balance and composition of students, faculty, and the general population that they represent, recognizing that their efforts will be monitored by the General Assembly and the public.

(d) On or before January 31, 2021 and annually thereafter, as part of their annual budget presentations to the General Assembly, UVM and VSC shall provide, at a minimum, the most recent five years of information on the gender

composition of their respective Boards of Trustees, as well any other information the Boards have available on their diversity. This information shall include the appointing or electing authority, initial appointment date, and length of service and shall summarize recruitment and replacement strategies employed for recently expired and imminently expiring Trustee positions.

Which was agreed to.

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

Bill Passed in Concurrence

H. 958.

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

An act relating to communications union districts.

Bill Amended; Third Reading Ordered

S. 220.

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

An act relating to educating specified professionals on the State's energy goals.

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

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(28) Audiologists and Hearing Aid Dispensers

* * *

(41) ~~Audiologists and~~ Speech-Language Pathologists

* * *

Sec. 2. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) The Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The services provided by the Office shall include:

* * *

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the Office as effectively as possible.

(A) Licenses may be issued and renewed according to that schedule for periods of up to two years ~~with an appropriate pro-rata adjustment of fees.~~

(B) A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

* * *

(i)(1) The Director shall actively monitor the actions of boards attached to the Office and shall ensure that all board actions pursued or decided are lawful, consistent with State policy, reasonably calculated to protect the public, and not an undue restraint of trade.

(2) If the Director finds a an exercise of board action authority or discretion does not meet those standards, the Director may, except in the case of disciplinary actions:

(A) provide written notice to the board explaining the perceived inconsistency, which notice shall have the effect of staying that action and implementing any alternative prescribed by the Director;

(B) schedule a public meeting with the board to resolve questions about the action and explore alternatives; and

(C) within 60 days following that meeting, issue a written directive finding that:

(i) the ~~action~~ exercise of board authority or discretion is consistent with State policy, in which case the action shall be reinstated;

(ii) the ~~action~~ exercise of board authority or discretion is inconsistent with State policy in form, but may be modified to achieve consistency, in which case the board may issue a modified action consistent with the Director's recommendation; or

~~(iii) the action exercise of board authority or discretion is inconsistent with State policy in purpose, in which case the board shall terminate efforts to implement the action and shall not spend further funds toward its implementation any alternative prescribed by the Director shall stand as the regulatory policy of the State.~~

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for ~~biennial~~ license renewal for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

~~(2)(A)~~ The Office may inquire directly of the Vermont Crime Information Center, the Federal Bureau of Investigation, the National Crime Information Center, or other holders of official criminal record information, and may arrange for such inquiries to be made by a commercial service.

~~(B) Background checks may be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events.~~

~~(3) Applicants subject to background checks shall be notified that a check is required, if fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall be provided such other information as may be required by federal law or regulation. Prior to acting on an initial or renewal application, the Office may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events. Each applicant shall consent to the release of criminal history records to the Office on forms developed by the Vermont Crime Information Center.~~

(k) When, by reason of disqualification, resignation, vacancy, or necessary absence, a board is unable to form a quorum or assign one or more members to assist in the investigation and prosecution of complaints or license

applications, or to adjudicate a contested case, the Secretary of State may appoint ad hoc members, either as voting members to establish a quorum at a specific meeting or as nonvoting members to assist Office investigators and prosecutors.

Sec. 3. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

(1) Application for registration, \$75.00, except application for:

(A) Private investigator and security services employees, unarmed registrants, \$60.00.

(B) Private investigator and security service employees, transitory permits, \$60.00.

(C) Private investigator and security service employees, armed registrants, \$120.00.

(2) Application for licensure or certification, \$100.00, except application for:

* * *

(F) Private investigator or security services agency, \$340.00.

(G) Private investigator and security services agency, \$400.00.

(H) Private investigator or security services sole proprietor, \$250.00.

(I) Private investigator or security services unarmed licensee, \$150.00.

(J) Private investigator or security services armed licensee, \$200.00.

(K) Private investigator and security services instructor, \$120.00.

(3) Optician trainee registration, \$50.00.

(4) Biennial renewal, \$240.00, except biennial renewal for:

* * *

(M) Private investigator or security services agency, or both, \$300.00.

(N) Private investigator or security services unarmed licensee,

\$120.00.

(O) Private investigator or security services armed licensee, \$180.00.

(P) Private investigator or security services unarmed registrant, \$80.00.

(Q) Private investigator or security services armed registrant, \$130.00.

(R) Private investigator or security services sole proprietor, \$250.00.

(S) Private investigator or security services instructor, \$180.00.

* * *

Sec. 4. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR PROFESSIONS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board or the Director, in the case of professions that have advisor appointees, may exercise the following powers:

* * *

(c)(1) Boards and administrative law officers sitting in disciplinary cases shall do so impartially and without ex parte knowledge of the case in controversy.

(2) A State prosecuting attorney assigned by the Office of Professional Regulation shall be responsible for prosecuting disciplinary cases before boards or administrative law officers.

* * *

(d) A board or the Director shall notify parties, in writing, of their right to appeal final decisions of the board. A board or the Director shall also notify complainants in writing of the result of any disciplinary investigation made with reference to a complaint brought by them to the board or Director. When a disciplinary investigation results in a stipulation filed with the board, the board or the Director shall provide the complainant with a copy of the stipulation and notice of the stipulation review scheduled before the board. The complainant shall have the right to be heard at the stipulation review.

(e)(1) When a board or the Director, in the case of professions that have advisor appointees, intends to deny an application for a license, the board or Director shall send the applicant written notice of the decision by certified mail. The notice shall include a statement of the reasons for the action and shall advise the applicant that the applicant may file a petition within 30 days

of the date on which the notice is mailed with the board or the Director for review of its or his or her preliminary decision.

(2) At the hearing, the applicant shall bear the burden of proving that the preliminary denial should be reversed and that the license should be granted.

(3) After the hearing, the board or Director shall affirm or reverse the preliminary denial, explaining the reasons therefor in writing.

(f)(1)(A) ~~A board~~ The Director may appoint a hearing officer, who shall be an attorney admitted to practice in this State, to conduct a hearing that would otherwise be heard by ~~the~~ a board. A hearing officer appointed under this subsection may administer oaths and exercise the powers of the board properly incidental to the conduct of the hearing.

(B) When disciplinary charges are pending concurrently against a single individual or entity, in one profession or multiple, the Director is authorized to order that the matters be consolidated in a single proceeding.

(2) ~~When~~ In board professions, when a hearing is conducted by a hearing officer, the officer shall report findings of fact and conclusions of law to the board. The report shall be made within 60 days of the conclusion of the hearing unless the board grants an extension. The provisions of section 811 of this title regarding proposals for decision shall not apply to the hearing officer report.

(3) The board may take additional evidence and may accept, reject, or modify the findings and conclusions of the hearing officer. Judgment on the findings shall be rendered by the board.

* * *

(h)(1) A board member, hearing officer, or administrative law officer having a personal or pecuniary interest or the appearance of a personal or pecuniary interest in the outcome of any board decision shall not participate in deciding the matter.

(2)(A) A board member, hearing officer, or administrative law officer whose disqualification is sought shall either disqualify himself or herself or, without ruling on the request for disqualification, refer the request to the Secretary of State, who shall rule on the request.

(B) The ruling of the Secretary of State on a request for disqualification shall be final and shall be subject to review only upon appeal of a final order of a board under section 130a of this title or of an administrative law officer under subsection (j) of this section. ~~When a board is unable to convene a quorum by reason of disqualification, resignation,~~

~~vacancy, or necessary absence, the Secretary of State shall appoint ad hoc members to serve on the board for that matter only, after consulting with the chair of the board involved. Ad hoc members shall have the same qualifications as required by law for the absent members.~~

* * *

~~(j) Notwithstanding the provisions of section 130a of this title, hearings~~ Hearings involving denials of licensure or disciplinary matters concerning persons in professions that have advisor appointees shall be heard by an administrative law officer appointed by the Secretary of State.

~~(k)(1)~~ Whenever completion of certain continuing education requirements is a condition of renewal, the board may require the applicant to develop and complete a specific corrective action plan, to be completed within 90 days.

~~(l)(2)~~ A board may grant a temporary renewal license pending the completion of the required continuing education.

~~(l)~~ Unless a disciplinary order expressly provides to the contrary, discipline against any license or credential issued by a regulatory body attached to the Office to an individual or entity shall be applicable as a matter of law to all other licenses issued to that licensee by that regulatory body.

* * *

* * * Accountants * * *

Sec. 5. 26 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ACCOUNTANTS

* * *

Subchapter 2. Board of Public Accountancy

* * *

§ 54. GENERAL POWERS AND DUTIES OF THE BOARD

* * *

~~(c) The Board annually may submit a proposed budget to the Secretary of State. [Repealed.]~~

* * *

§ 56. FEES

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

* * *

(4) ~~Registration of foreign firm for temporary practice~~\$ ~~50.00~~ [Repealed.]

* * *

Subchapter 3. Licenses

* * *

§ 74. FIRMS; REGISTRATION AND OWNERSHIP

(a) A firm shall be required to obtain registration pursuant to this section if the firm:

* * *

(3) does not have an office in this State but performs services described in subdivision 13(1)(A)(i), (iii), or (iv) of this ~~title~~ chapter for a client with a home office in this State.

(b) A firm that does not have an office in this State may perform those services set forth in subdivision 13(1)(A)(ii), 13(1)(A)(v), or 13(3) of this chapter for a client with a home office in this State, may otherwise practice public accounting as authorized under this chapter, and may use the title “CPA” or “CPA firm” without a registration issued only if the firm:

(1) meets the qualifications set forth in subsections (c) and (d) of this section;

(2) meets the requirements of ~~section 75e~~ subsection 75(c) of this ~~title~~ chapter, as applicable; and

(3) performs services through an individual with practice privileges set forth under section 74c of this ~~title~~ chapter.

* * *

(d) Any CPA or RPA firm as defined in this chapter may include nonlicensee owners, provided that:

(1) The firm designates a licensee of this State or, in the case of a firm that is required to have a registration pursuant to subsection (a) of this section, a licensee who meets the requirements set forth in section 74c of this ~~title~~ chapter who is responsible for the proper registration of the firm, and identifies that individual to the Board.

* * *

(f) Any individual exercising practice privileges pursuant to section 74c of this ~~title~~ chapter, and who is responsible for supervising attest services and signs or authorizes someone to sign the accountant’s report on behalf of the

firm, shall meet the experience and competency requirements set forth in the professional standards for those services.

* * *

Subchapter 4. Discipline

* * *

§ 78. DISCIPLINARY MATTERS

~~(a) In addition to other powers specifically established by law, the Board may:~~

~~(1) Refuse to accept the return of a license tendered by the subject of a disciplinary investigation;~~

~~(2) Refuse to license a person who is under investigation in another jurisdiction for an offense that would constitute unprofessional conduct in this State; and~~

~~(3) Issue warnings and reprimands, condition, suspend, revoke, or reinstate licenses, and order restitution to aggrieved consumers.~~

~~(b) The Board shall accept complaints from any member of the public, any licensee, any state or federal agency, or the Attorney General. The Board may initiate disciplinary action in any complaint against a licensee and may act without having received a complaint.~~

~~(c) After hearing, the Board may take disciplinary action against a licensee, registrant, or applicant found guilty of unprofessional conduct.~~

~~(d) On petition, the Board may reinstate any license or registration it earlier conditioned, revoked, or suspended.~~

~~(e) Appeals from final Board decisions shall be taken in accordance with 3 V.S.A. § 130a. [Repealed.]~~

* * * Funeral Services * * *

Sec. 6. 26 V.S.A. § 1252 is amended to read:

§ 1252. APPLICATION; QUALIFICATIONS

(a) Funeral director.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination as a funeral director provided that he or she has:

* * *

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection (a), the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the Director to ensure competence as a funeral director.

(b) Embalmer.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination in embalming provided that he or she has:

* * *

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection, the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the Director to ensure competence as an embalmer.

* * *

* * * Nursing * * *

Sec. 7. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

* * *

§ 1573. VERMONT STATE BOARD OF NURSING

* * *

(c) Each member of the Board shall be a ~~citizen of the United States and a~~ resident of this State.

* * *

§ 1574. POWERS AND DUTIES

(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

* * *

(3) Adopt rules setting standards for approval of medication nursing assistant and nursing education programs in Vermont, including all clinical facilities. The Board may require reimbursement for actual and necessary costs incurred for site surveys.

(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.

(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.

(C) Standards for nursing education programs and clinical facilities shall:

(i) rely upon the standards of recognized national accrediting bodies without duplicating the function of those bodies;

(ii) call for the annual reporting of data, including graduation rates and examination pass rates, appropriate to verify that programs are capable of meeting national standards and sustaining responsible operation in the interests of the public; and

(iii) be waivable by the Director of Professional Regulation if the Director finds that a program has exhausted reasonable efforts to comply and that such waiver will not compromise a program's educational integrity.

(4) [Repealed.]

~~(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.~~

~~(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.~~

* * *

Sec. 8. REPEAL OF BOARD OF NURSING FACULTY REQUIREMENTS IN RULE

The rules of the Board of Nursing governing the faculty of bachelor and associate degree programs and the faculty of practical nursing programs, set forth in Administrative Rules of the Board of Nursing, CVR 03-030-170, §§ 4.23 (faculty, bachelor and associate degree programs) and 4.24 (faculty, practical nursing programs), are repealed.

* * * Optometry * * *

Sec. 9. 26 V.S.A. chapter 30 is amended to read:

CHAPTER 30. OPTOMETRY

* * *

Subchapter 3. Examinations and Licenses

* * *

§ 1718. FEES

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

(1) Application	\$225.00
(2) Biennial renewal	\$425.00 <u>\$350.00</u>

* * *

Subchapter 6. Therapeutic Pharmaceutical Agents

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

* * *

* * * Osteopathy * * *

Sec. 10. 26 V.S.A. § 1794 is amended to read:

§ 1794. FEES

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

(1) Application	
(A) Licensure	\$500.00
(B) Limited temporary license	\$ 50.00
(2) Biennial license renewal	\$350.00 <u>\$300.00</u>

* * *

* * * Pharmacy * * *

Sec. 11. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(15)(A) “Practice of pharmacy” means:

* * *

(vii) ~~optimizing drug therapy through~~ the practice of clinical pharmacy; and

* * *

(B) “Practice of clinical pharmacy” or “clinical pharmacy” means:

(i) the health science discipline in which, in conjunction with the patient’s other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient’s health and wellness;

(ii) providing patient care services within the pharmacist’s authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; ~~or~~

(iii) practicing pharmacy pursuant to a collaborative practice agreement; or

(iv) prescribing as provided under section 2023 of this subchapter.

* * *

(21) “Self-administered hormonal contraceptive” means a contraceptive medication or device approved by the U.S. Food and Drug Administration that prevents pregnancy by using hormones to regulate or prevent ovulation and that uses an oral, transdermal, or vaginal route of administration.

* * *

§ 2023. CLINICAL PHARMACY; PRESCRIBING

(a) In accordance applicable with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy, including prescribing as set forth in subsection (b) of this section, provided that a pharmacist shall not:

(1) prescribe a regulated drug as defined in 18 V.S.A. § 4201;

(2) prescribe a biological product as defined in 18 V.S.A. § 4601, other than a vaccine or insulin medication; or

(3) initiate antibiotic therapy, except pursuant to a collaborative practice agreement.

(b) A pharmacist may prescribe in the following contexts:

(1) Collaborative practice agreement. A pharmacist may prescribe, for the patient or patients of a prescribing practitioner licensed pursuant to this title, within the scope of a written collaborative practice agreement with that

primary prescriber.

(A) The collaborative practice agreement shall require the pharmacist and collaborating practitioner to contemporaneously notify each other of any change in the patient's pharmacotherapy or known medical status.

(B) Under a collaborative practice agreement, a pharmacist may select or modify antibiotic therapy for a diagnosed condition under the direction of the collaborating practitioner.

(2) State protocol.

(A) A pharmacist may prescribe in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

(i) opioid antagonists;

(ii) epinephrine auto-injectors;

(iii) tobacco cessation products;

(iv) tuberculin purified protein derivative products;

(v) self-administered hormonal contraceptives;

(vi) dietary fluoride supplements;

(vii) influenza vaccines; and

(viii) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services.

(B)(i) State protocols shall be valid if signed by the Commissioner of Health and the Director of Professional Regulation, and the Board of Pharmacy shall feature the active protocol conspicuously on its website.

(ii) The Commissioner of Health may invalidate a protocol if the Commissioner finds that the protocol's continued operation would pose an undue risk to the public health, safety, or welfare and signs a declaration to that effect. Upon such a declaration, the Director shall remove the invalidated protocol from the Board website and shall cause electronic notice of the protocol's discontinuation to be transmitted to all Vermont drug outlets.

(3) Accessory devices. A pharmacist may prescribe accessory-type devices, such as spacers, needles, and diabetic testing supplies, where clinically indicated in the judgment of the pharmacist.

(4) Prescriber-authorized substitution. A prescribing practitioner licensed pursuant to this title may authorize a pharmacist to substitute a drug

with another drug in the same therapeutic class that would, in the opinion of the pharmacist, have substantially equivalent therapeutic effect even though the substitute drug is not a therapeutic equivalent drug, provided:

(A) the prescriber has clearly indicated that drug product substitution is permissible by indicating “therapeutic substitution allowed” or similar designation;

(B) the drug product substitution is intended to ensure formulary compliance with the patient’s health insurance plan or otherwise to minimize cost to the patient;

(C) the patient’s voluntary, informed consent is obtained in writing;
and

(D) the pharmacist or designee notifies the prescriber which drug was dispensed as a substitute within five days of dispensing.

(5) Over-the-counter availability. A pharmacist may prescribe over-the-counter drugs where appropriate to reduce costs to the patient, such as by drawing from a health savings account or flexible spending account.

(6) Short-term extensions.

(A) A pharmacist may extend a previous prescription in the absence of a collaborative practice agreement or a State protocol so long as the pharmacist provides only sufficient quantity to the patient until the patient is able to consult with another practitioner, not to exceed a five-day supply or the smallest available unit, and takes all reasonable measures to notify the patient’s primary care provider of record or the appropriate original prescriber, if the original prescriber is different from the primary care provider of record.

(B) A short-term extension shall be provided on a one-time basis.

(c) Board rules shall:

(1) specify the required elements of a collaborative practice agreement;

(2) prohibit conflicts of interest and inappropriate commercial incentives related to prescribing, such as reimbursement based on brands or numbers of prescriptions filled, renewing prescriptions without request by a patient, steering patients to particular brands or selections of products based on any commercial relationships, or acceptance of gifts offered or provided by manufactures in violation of 18 V.S.A. § 4631a;

(3) define appropriate bounds of short-term extension prescribing; and

(4) establish minimum standards for patient privacy in clinical consultation.

* * *

Subchapter 5. ~~Registration of Facilities~~ Drug Outlets

§ 2061. REGISTRATION AND LICENSURE

* * *

(g) Any nonpharmacist owner of a retail or institutional drug outlet may be denied the right to own another pharmacy for a period to be determined by the Board, if he or she is found to be in violation of any of the grounds listed under ~~section 2051 of this title~~ 3 V.S.A. § 129a.

* * *

§ 2063. NOTIFICATIONS

(a) All licensed drug outlets shall report to the Board of Pharmacy within 48 hours the occurrence of any of the following changes:

* * *

(3) any and all other matters and occurrences as the Board may properly require by ~~rules and regulations~~ rule.

* * *

~~Subchapter 6. Wholesale Distributors and Manufacturers~~

* * *

Sec. 12. PROTOCOL IMPLEMENTATION; TARGET DATES;
RULEMAKING

(a) On or before January 1, 2021, the Commissioner of Health shall:

(1) approve State protocols respecting opioid antagonists, self-administered hormonal contraceptives, and influenza vaccines in accordance with the procedure for establishing valid protocols set forth in 26 V.S.A. § 2023(b)(2) in Sec. 11 of this act; or

(2) provide affirmative notice to the Senate Committees on Government Operations and on Health and Welfare and the House Committees on Government Operations and on Health Care that the Commissioner was unable to approve those protocols by that date.

(b) On or before January 1, 2021, the Board of Pharmacy shall adopt rules consistent with the provisions of 26 V.S.A. § 2023(c) as set forth in Sec. 11 of this act. If the Board is unable to adopt rules by that date, the Board shall adopt an emergency rule until such time as it completes the rulemaking process.

* * * Physical Therapists * * *

Sec. 13. 26 V.S.A. § 2103 is amended to read:

§ 2103. EXAMINATION

* * *

(e) An applicant for licensure who does not pass the examination on the first attempt may retake the examination one additional time without reapplication for licensure within six months of the first ~~or~~ examination. Before the Director may approve an applicant for subsequent testing beyond two attempts, an applicant shall reapply for licensure and shall submit evidence satisfactory to the Director of having successfully completed additional clinical training or course work, or both, as determined by the Director.

* * *

* * * Veterinary Medicine * * *

Sec. 14. 26 V.S.A. § 2414 is amended to read:

§ 2414. FEES

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

- (1) Application \$ 100.00
- (2) Biennial renewal ~~\$ 200.00~~ \$175.00

* * * Landscape Architects * * *

Sec. 15. 26 V.S.A. § 2613 is amended to read:

§ 2613. EXEMPTIONS

(a) This chapter shall not affect or prevent:

* * *

(7) the design of irrigation systems; ~~and~~ or

(8) officers or employees of the federal government from working in connection with their employment.

* * *

* * * Review of Regulatory Laws * * *

Sec. 16. 26 V.S.A. chapter 57 is amended to read:

CHAPTER 57. REVIEW OF REGULATORY LAWS

* * *

§ 3105. CRITERIA AND STANDARDS

(a) A profession or occupation shall be regulated by the State only when:

(1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(3) the public cannot be effectively protected by other means.

* * *

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation and upon the request of the House or Senate Committee on Government Operations, the Office shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the ~~appropriate House or~~ and Senate Committee Committees on Government Operations.

(e) After the review of a proposal to regulate a profession or to amend the scope of a regulated profession, the Office may decline to conduct an analysis and evaluation ~~of the proposed regulation~~ if it finds that:

(1) the proposed regulatory scheme appears to regulate fewer than 250 individuals; ~~and~~

(2) the Office previously conducted an analysis and evaluation of the proposed regulation of the same profession or occupation, and no new information has been submitted that would cause the Office to alter or modify the recommendations made in its earlier report on that proposed regulation; or

(3) a proposal presented by petition would, in the opinion of the Director, call for the unwarranted expenditure of State resources.

* * *

§ 3107. INFORMATION REQUIRED OF APPLICANTS

Prior to review under this chapter and prior to consideration by the General Assembly of any bill that proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors, in writing, to the extent requested by the House

or Senate Committee on Government Operations:

* * *

§ 3108. PRELIMINARY ASSESSMENT OF SCOPE OF PRACTICE

(a) Office preliminary assessment.

(1) Prior to review under this chapter and consideration by the General Assembly of any bill to materially amend the scope of practice permitted for a regulated profession or occupation, and upon the request of the House or Senate Committee on Government Operations or upon the direct petition from a regulated profession or occupation, the Office shall make, in writing, a preliminary assessment of whether the proposed scope of practice amendment is consistent with the principles and standards set forth in this chapter.

(2) The Office shall report its preliminary assessment to the House and Senate Committees on Government Operations and, where a report pertains to a health care profession, to the House Committee on Health Care and the Senate Committee on Health and Welfare.

(b) Required supporting information. A profession proposing by petition a material amendment of a scope of practice shall explain each of the following factors, in writing, to the extent requested by the Office or the House or Senate Committee on Government Operations, not later than July 1 of the year preceding the next regular session of the General Assembly:

(1) A description of the practices and activities that the profession or occupation would be permitted to engage in if the scope of practice is amended.

(2) Public health, safety, or welfare benefits, including economic benefits that the requestor believes will be achieved if the request is implemented and, if applicable, a description of any harm to public health if the request is implemented.

(3) The impact the amendment of the scope of practice will have on the public's access to occupational services.

(4) A description of the current laws and regulations, both federal and State, pertaining to the profession, including a description of the current education, training, and examination requirements and any relevant certification requirements applicable to the profession for which the amended scope of practice is being sought.

(5) The extent to which the public can be confident that a practitioner is competent to perform the activities and practices permitted under the amended scope of practice, including a description of the nature and duration of the

education and training for performing these activities and practices, if any. The description of the education and training shall include the following information:

(A) whether the educational requirement includes a substantial amount of supervised practical experience;

(B) a description of the courses and professional educational programs, including relevant syllabi and curricula, training professionals to perform the activities and practices being proposed under the expanded scope of practice;

(C) whether educational programs exist in this State;

(D) whether there will be an experience requirement;

(E) whether the experience must be acquired under a registered, certified, or licensed practitioner;

(F) whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; and

(G) whether all applicants will be required to pass an examination and, if an examination is required, by whom it will be developed and how the costs of development will be met.

(6) A description of how the request relates to the profession's ability to practice to the full extent of the profession's education and training.

(7) For health care professionals, a description of the impact an amendment to the scope of practice will have within the health care system, including:

(A) the anticipated economic impact such an expansion will have for the system, for patients, and for other health care providers; and

(B) identification of any health care professions that can reasonably be anticipated to be directly impacted by the request, the nature of the impact, and efforts made by the requestor to discuss the request with such health care professionals.

(8) A summary of the known scope of practice changes either requested or enacted in the State concerning the profession in the five-year period preceding the date of the current request.

(9) A summary of regional and national trends, legislation, laws, and regulations concerning licensure of the profession making the request, and a summary of relevant scope of practice provisions enacted in other states.

(10) How the standards of the profession or occupation will be

maintained, including whether effective quality assurance standards pertaining to the activities and practices permitted under the proposed expanded scope of practice exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards.

(11) A profile of the practitioners in this State, including a list of associations, organizations, and other groups representing the practitioners and including an estimate of the number of practitioners in each group.

(c) Exemption. In lieu of submitting a scope of practice request as described in subsection (b) of this section, a person proposing an amendment to a scope of practice may submit a request for an exemption. The request for exemption shall be submitted to the Office not later than July 1 of the year preceding the next regular session of the General Assembly and shall include a plain language description of the request. The Office may grant the exemption if:

(1) there exist exigent circumstances that necessitate an immediate response to the request, and the delay imposed by analysis would threaten the public health, safety, or welfare;

(2) there is not substantial dispute concerning the scope of practice request; or

(3) the requested amendment is not material, meaning the amendment would not alter the balance of risks and harms to the public health, safety, or welfare; the regulatory burdens on any other group; or the enforcement authority or character of the regulatory program.

(d) Impacted persons.

(1) Any person acting on behalf of a profession that may be directly impacted by a scope of practice request submitted pursuant to this section may submit to the Office a written statement identifying the nature of the impact not later than October 1 of the year preceding the next regular session of the General Assembly. That person shall indicate the nature of the impact by taking into consideration the criteria set forth in subsection (b) of this section and shall provide a copy of the written impact statement to the requestor.

(2) Not later than October 15 of that year, the requestor shall submit a written response to the Office and the person that provided the written impact statement. The requestor's written response shall include a description of areas of agreement and disagreement between the respective professions.

* * * Private Investigative and Security Services * * *

Sec. 17. 26 V.S.A. chapter 59 is amended to read:

CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

Subchapter 1. General Provisions

§ 3151. DEFINITIONS

As used in this chapter:

(1)(A) “Director” means the Director of the Office.

~~(B) “Board” means the State Board of Private Investigative and Security Services~~ “Office” means the Office of Professional Regulation.

* * *

Subchapter 2. ~~State Board of Private Investigative and Security Services~~
Administration

§ 3161. ~~STATE BOARD REGULATION OF PRIVATE INVESTIGATIVE AND SECURITY SERVICES; DIRECTOR; ADVISOR APPOINTEES~~

~~The State Board of Private Investigative and Security Services is created. The Board shall consist of five members appointed by the Governor: one shall be a provider of private investigative services; one shall be a provider of private security services; two shall be members of the public with no financial interest in either service other than as a consumer or potential consumer. The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.~~

(a)(1) The Director shall administer the provisions of this chapter.

(2) The Director shall consult the advisor appointees prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter.

(b)(1) The Secretary of State shall appoint five persons of suitable qualifications in accordance with this section to advise the Director in matters concerning private investigative and security services.

(A) Two advisors shall be members of the public with no financial interest, either personally or through a spouse, in private investigative services or security services.

(B) One advisor shall be a provider of private investigative services.

(C) One advisor shall be a provider of private security services.

(D) The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services.

(2) The Secretary of State shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms.

§ 3162. BOARD RULEMAKING AUTHORITY DIRECTOR; POWERS AND DUTIES

The ~~Board~~ Director shall adopt rules necessary for the ~~performance of its duties~~ effective administration of this chapter, including rules prescribing minimum standards and qualifications for:

* * *

Subchapter 3. Licensing

§ 3171. LICENSING

* * *

(c) Individual registrations may be transferred upon approval by the ~~Board~~ Director.

§ 3172. LICENSES

The ~~Board~~ Director shall issue agency licenses for private investigative services, private security guard services, or combination guard agency licenses to applicants that submit all of the following:

* * *

§ 3173. PRIVATE INVESTIGATOR LICENSES

(a) ~~A person shall not engage in the business of private investigation or provide private investigator services in this State without first obtaining a license.~~ The ~~Board~~ Director shall issue a license to a private investigator after obtaining and approving all of the following:

(1) ~~an application filed in proper form~~ evidence that the applicant has attained the age of majority;

(2) ~~the application fee~~ evidence that the applicant has successfully passed any examination required by rule; and

(3) ~~evidence that the applicant has attained the age of majority; and~~

~~(4) evidence that the applicant has successfully passed any examination required by rule the application fee.~~

(b) The ~~Board~~ Director may make inquiries if he or she deems necessary into the character, integrity, and reputation of the applicant.

(c) The ~~Board~~ Director shall require that a person ~~licensed~~ seeking licensure to practice independently as a private investigator has had appropriate experience in investigative work, for a period of not less than two years, as determined by the ~~Board~~ Director. Such experience may include having been regularly employed as a ~~private detective investigator~~ licensed in another state or as an investigator for a private detective investigative agency licensed in this or another state or having been a sworn member of a federal, state, or municipal law enforcement agency.

* * *

§ 3174. SECURITY GUARD LICENSES

~~(a) A person shall not engage in the business of a security guard or provide guard services in this State without first obtaining a license. The Board Director shall issue a license to a security guard after obtaining and approving all of the following:~~

~~(1) an application filed in proper form evidence that the applicant has attained the age of majority;~~

~~(2) the application fee evidence that the applicant has successfully passed any examination required by rule; and~~

~~(3) evidence that the applicant has attained the age of majority;~~

~~(4) evidence that the applicant has successfully passed any examination required by rule the application fee.~~

(b) The ~~Board~~ Director may make inquiries if he or she deems necessary into the character, integrity, and reputation of the applicant.

(c) The ~~Board~~ Director shall require that a person ~~licensed~~ seeking licensure to practice independently as a security guard has had experience satisfactory to the ~~Board~~ Director in security work for a period of not less than two years. Such experience may include having been licensed as a security guard in another state or regularly employed as a security guard for a security agency licensed in this or another state or having been a sworn member of a federal, state, or municipal law enforcement agency.

* * *

§ 3175. EXAMINATIONS

The ~~Board~~ Director shall prepare, or have prepared, and administer, separate examinations for private investigators and private security services. Each examination shall be designed to test the competency of the applicant with respect to the lawful and safe provision of each respective service to the public.

§ 3175a. FIREARMS INSTRUCTOR LICENSURE; PROGRAM OF INSTRUCTION

(a) The ~~Board~~ Director shall license firearms training course instructors of private investigators and security guards licensed under this chapter and shall adopt rules governing the licensure of instructors and the approval of firearms and guard dog training programs.

(b) The ~~Board~~ Director shall not issue a license as a firearms training program instructor without first obtaining and approving all of the following:

(1) ~~the application filed in the proper form~~ evidence that the applicant has attained the age of majority;

(2) ~~the application fee established in subdivision 3178a(a)(5)(A) of this title~~ a copy of the applicant's training program;

(3) ~~evidence that the applicant has obtained the age of majority~~ proof of certification as an instructor from an instructor's course approved by the Director;

(4) ~~a copy of the applicant's training program~~ federal background check; and

(5) ~~proof of certification as an instructor from an instructor's course approved by the Board;~~

(6) ~~a federal background check~~ the application fee.

(c) ~~Instructors licensed under this section are subject to the same renewal requirements as others licensed under this chapter, and prior to renewal are required to show proof of current instructor licensure and pay the renewal fee established in subdivision 3178a(a)(5)(B) of this title. [Repealed.]~~

§ 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

(a) An applicant for a license to provide guard dog services shall demonstrate to the ~~Board~~ Director competence in the handling of guard dogs in a guard dog training program approved by the ~~Board~~ Director and taught by an instructor currently licensed under this section.

(b) The ~~Board~~ Director shall not issue a license as a guard dog training program instructor without first obtaining and approving all of the following:

(1) ~~the application filed in the proper form~~ evidence that the applicant has attained the age of majority;

(2) ~~the application fee set forth in section 3178 of this title~~ a copy of the applicant's training program;

(3) ~~evidence that the applicant has obtained the age of majority~~ proof of certification as an instructor from an instructor's course approved by the Director;

(4) ~~a copy of the applicant's training program~~ federal background check; and

(5) ~~proof of certification as an instructor from an instructor's course approved by the Board;~~

(6) ~~a federal background check~~ the application fee.

§ 3175c. FIREARMS TRAINING AND CERTIFICATION

(a) A licensee seeking a firearms certification shall ~~meet the following requirements:~~

(1) ~~An applicant for a private investigator or security guard license to provide armed services shall demonstrate to the Board~~ Director competence in the safe use of firearms by successfully completing a firearms training program approved by the ~~Board.~~ Director;

(2) ~~An applicant shall pay the required fee;~~

(3) ~~An applicant shall obtain~~ provide the Director with evidence that the applicant has attained the age of majority; and

(4) ~~An applicant shall receive a satisfactory federal background check.~~

(b) ~~No~~ A licensee ~~may~~ shall not possess a firearm while performing professional services unless certified and in good standing under this section.

§ 3176. EMPLOYEES OF AGENCIES

* * *

(b) An agency shall register all agency investigative and security employees with the ~~Board~~ Office. Employees shall carry identification ~~in a form satisfactory to the Board~~ indicating the licensee by whom the person is employed.

(c) An employee of a licensee shall not function as an armed private investigator, armed guard, armed courier, or handler of guard dogs unless the employee ~~demonstrates to the Board~~ competency in a manner deemed

~~appropriate by the Board holds an active specialty designation authorizing the use of firearms or guard dogs, as applicable.~~

(d) ~~The Board Director~~ may make inquiries it deems necessary into the character, integrity, and reputation of the employee.

(e) As a prerequisite to registration, all investigative and security employees shall take and successfully complete a training program approved by the ~~Board Director~~.

(f) A licensed agency or other entity conducting a training program approved by the ~~Board Director~~ pursuant to this section shall maintain training records for not less than five years. The retained records shall include, at a minimum, records of the courses taught, subjects covered, and persons who have received instruction. Training records shall be made available to the ~~Office of Professional Regulation~~ upon request. A licensed agency shall maintain its training records at its regular place of business within the State of Vermont.

§ 3176a. TRANSITORY PRACTICE

The Director of the ~~Office of Professional Regulation~~, under rules adopted by the ~~Board Director~~, may grant a transitory permit to practice as a private investigator to a person who is not a resident of Vermont and has no established place of business in this State, if that person is legally qualified by license to practice as a private investigator in any state or country that regulates such practice. Practice under a transitory permit shall not exceed 30 days in any calendar year.

* * *

§ 3178a. FEES

~~(a) Applicants and persons regulated under this chapter shall pay the following fees:~~

~~(1) Application for agency license:~~

~~(A) Investigative agency _____ \$ 340.00~~

~~(B) Security agency _____ \$ 340.00~~

~~(C) Investigative/security agency _____ \$ 400.00~~

~~(D) Sole proprietor _____ \$ 250.00~~

~~(2) Application for individual license:~~

~~(A) Unarmed licensee _____ \$ 150.00~~

~~(B) Armed licensee _____ \$ 200.00~~

~~(3) Application for employee registration:~~

(A) Unarmed registrants	_____	\$ 60.00
(B) Armed registrants	_____	\$ 120.00
(C) Transitory permits	_____	\$ 60.00

~~(4) Biennial renewal:~~

(A) Investigative agency	_____	\$ 300.00
(B) Security agency	_____	\$ 300.00
(C) Investigative/security agency	_____	\$ 300.00
(D) Unarmed licensee	_____	\$ 120.00
(E) Armed licensee	_____	\$ 180.00
(F) Unarmed registrants (agency employees)	_____	\$ 80.00
(G) Armed registrants (agency employees)	_____	\$ 130.00
(H) Sole proprietor	_____	\$ 250.00

~~(5) Instructor licensure:~~

(A) Application for licensure	_____	\$ 120.00
(B) Biennial renewal	_____	\$ 180.00

~~(b) A sole proprietor of an investigative agency or security agency shall only pay the sole proprietor fees pursuant to this section, provided the agency has no other registered investigative or security employees. [Repealed.]~~

~~* * *~~

Subchapter 4. Unprofessional Conduct and Discipline

§ 3181. UNPROFESSIONAL CONDUCT

(a) It shall be unprofessional conduct for a licensee, registrant, or applicant to engage in conduct prohibited by this section, or by 3 V.S.A. § 129a.

(b) Unprofessional conduct means any of the following:

~~* * *~~

~~(13) failing to provide information requested by the Board Director;~~

~~* * *~~

~~(15) failing to notify the Board Director of a change in ownership, partners, officers, or qualifying agent;~~

~~* * *~~

* * * Real Estate Appraisers * * *

Sec. 18. 26 V.S.A. chapter 69 is amended to read:

CHAPTER 69. REAL ESTATE APPRAISERS

* * *

Subchapter 3. Licenses, Certifications, and Registrations

§ 3316. LICENSING AND REGISTRATION FEES

~~In addition to the fees otherwise authorized by law, the Director may charge the fees for professions Applicants and persons regulated by the Director as under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).~~

* * *

§ 3321. RENEWALS

(a) ~~A~~ Except for a license issued to an appraisal management company, a licensed issued under this chapter shall be renewed biennially upon payment of the required fee and upon satisfactory completion of the minimum continuing education requirements established by AQB during the immediately preceding two-year period. An appraisal management company shall renew its license annually in compliance with State and federal regulations.

(b) If an individual or an appraisal management company fails to renew in a timely manner, he ~~or~~, she, or it may renew the license within 30 days of the renewal date by satisfying all requirements set forth in law, including, as applicable, those requirements of AQB for reactivation and payment of an additional late renewal penalty.

(c) The Director may reactivate the license of an individual or an appraisal management company whose license has lapsed for more than 30 days upon payment of the renewal fee, the reactivation fee, and the late renewal penalty, provided the individual ~~has satisfied all~~ or appraisal management company has satisfied all the requirements set forth in law, including, as applicable, those requirements of AQB for reactivation.

(d) The Director may require, by rule, as a condition of reactivation, that an applicant, other than an appraisal management company, undergo review of one or more aspects of the applicant's professional work in the practice of real estate appraising, provided that the manner and performance results of the review be specified by the Director. Such a review requirement shall:

* * *

(e) ~~An appraisal management company shall renew its registration biennially.~~ [Repealed.]

* * *

* * * Dieticians * * *

Sec. 19. 26 V.S.A. § 3387 is amended to read:

§ 3387. APPLICATION

A person who desires to be certified as a dietitian shall apply to the Director in writing, on a form furnished by the Director, accompanied by payment of a the required fee required pursuant to section 3388 of this title and evidence that the applicant meets the requirements set forth in section 3385 of this title chapter.

* * * Naturopathic Physicians * * *

Sec. 20. 26 V.S.A. § 4126 is amended to read:

§ 4126. ADVISOR APPOINTEES

* * *

~~(d) Notwithstanding 3 V.S.A. § 129(j), when an advisor appointee is unable to serve as an administrative law officer by reason of disqualification or necessary absence, the Secretary of State may appoint a suitable person to serve as the administrative law officer in lieu of the advisor appointee. [Repealed.]~~

* * * Midwives * * *

Sec. 21. 26 V.S.A. chapter 85 is amended to read:

CHAPTER 85. MIDWIVES

§ 4181. DEFINITIONS

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise:

* * *

~~(6) "VMA" means the Vermont Midwives Alliance.~~

* * *

§ 4185. DIRECTOR; DUTIES

* * *

(b)(1) The Director shall adopt general rules necessary to perform his or her duties under this chapter, maintain and make available a list of approved programs for continuing education, and₂ by January 1, 2001, in consultation with the Commissioner of Health, the Vermont Medical Society, and the

Vermont chapter of the American College of Nurse-Midwives, adopt specific rules defining the scope and practice standards, including risk-assessment criteria, based at a minimum, on the practice standards of the ~~Vermont Midwives Alliance (VMA)~~ and the Midwives Alliance of North America (MANA), and defining a protocol and formulary for drug use by licensed midwives, including anti-hemorrhagic drugs and oxygen.

(2)(A) Once initially established by rule, the formulary for medication use by licensed midwives, including anti-hemorrhagic agents and oxygen, shall be updated by the Director as necessary, subject to the approval of the Commissioner of Health and notwithstanding the provisions of 3 V.S.A. chapter 25.

(B) The Director shall update the protocol and formulary, in consultation with the Commissioner of Health or his or her designee, the Vermont Midwives Association, the Vermont Medical Society, and the Vermont chapter of the American College of Nurse-Midwives to ensure licensed midwives have available those medications deemed necessary to maintain best practice standards and deemed necessary for licensed midwives to provide prenatal and postpartum care consistent with accepted and prevailing standards of care for mothers and their babies.

* * *

Sec. 22. MIDWIVES, DEPARTMENT OF HEALTH; REPEAL OF DATA SUBMISSION AND DATA ACCESS REQUIREMENTS

2011 Acts and Resolves No. 35, Secs. 7 (requiring midwives and APRN certified nurse midwives to submit data on home births) and 8(a) (requiring the Department of Health to access midwife data) are repealed.

* * * Electrologists * * *

Sec. 23. 26 V.S.A. § 4404 is amended to read:

§ 4404. DIRECTOR; DUTIES

* * *

(b) The Director may inspect electrology offices used for the practice of electrology. ~~No A fee shall not be charged for initial inspections under this subsection; however, if the Director determines that it is necessary to inspect the same premises under the same ownership more than once in any two-year period, a reinspection fee may be charged, as provided in section 4410 of this title. The Director may waive all or a part of the reinspection fee in accordance with criteria established by rule.~~

* * *

* * * Respiratory Care * * *

Sec. 24. 26 V.S.A. § 4712 is amended to read:

§ 4712. EXEMPTIONS FROM LICENSURE

(a) ~~No~~ A person shall not practice respiratory care or represent himself or herself to be a respiratory care practitioner unless he or she is licensed under this chapter, except that this chapter shall not prohibit:

(1) A person matriculated in an education program approved by the ~~board~~ Director who is pursuing a degree in respiratory care or respiratory therapy from satisfying supervised clinical education requirements related to the person's respiratory care education while under direct supervision of a respiratory care practitioner or physician.

* * *

* * * Motor Vehicle Racing * * *

Sec. 25. 26 V.S.A. § 4801 is amended to read:

§ 4801. DEFINITIONS

As used in this chapter:

* * *

(8) "Regulation," unless otherwise specified, means a regulation or rule or amendment, revision, or repeal of a regulation or rule adopted by the ~~commission~~ Director.

* * *

* * * Pollution Abatement Facility Operators * * *

Sec. 26. 26 V.S.A. § 5121 is amended to read:

§ 5121. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a pollution abatement facility operator, an applicant shall be at least 18 years of age; be able to read and write the English language; ~~hold a high school diploma, General Equivalency Diploma (GED), or equivalent;~~ and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

* * *

* * * Notaries Public * * *

Sec. 27. 24 V.S.A. § 183 is amended to read:

§ 183. ~~CERTIFICATE OF APPOINTMENT OF NOTARY PUBLIC~~

~~Immediately after the appointment of a notary public, the county clerk shall send to the Secretary of State a certificate of such appointment, on blanks furnished by the Secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. The Secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, the Secretary may certify the appointment, qualification, and signature of a notary public on tender of his or her legal fees. [Repealed.]~~

* * * Massage Therapists, Bodyworkers, and Touch Professionals * * *

Sec. 28. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(49) Massage Therapists, Bodyworkers, and Touch Professionals

Sec. 29. 26 V.S.A. chapter 105 is added to read:

CHAPTER 105. MASSAGE THERAPISTS, BODYWORKERS, AND TOUCH PROFESSIONALS

Subchapter 1. General Provisions

§ 5401. DEFINITIONS

As used in this chapter:

(1) “Director” means the Director of the Office of Professional Regulation.

(2)(A) “Establishment” means any place of business that:

(i) offers the practice of massage or the practice of bodywork or where the practice of massage or the practice of bodywork is conducted on the premises of the business; or

(ii) represents itself to the public by any title or description of services incorporating the words “touch professional,” “bodywork,” “massage,” “massage therapy,” “massage therapist,” “massage practitioner,”

“massagist,” “masseur,” “masseuse,” “energy work,” or other words identified by the Director in rules.

(B) A “place of business” includes any office, clinic, facility, salon, spa, or other location not otherwise exempted under section 5404 of this chapter where a person or persons engage in the practice of massage or the practice of bodywork.

(3) “Practice of massage” and “practice of bodywork” mean offering or engaging in massage or bodywork in exchange for consideration.

(4)(A) “Massage” and “Bodywork” mean systems of structured touch that are:

(i)(I) applied to the superficial, soft or deep tissue, muscle, or connective tissue of another person by manual means, including friction, gliding, rocking, tapping, kneading, and nonspecific stretching; or

(II) designed to affect the energy fields of the body for the purpose of promoting and maintaining health and well-being; and

(ii) provided to clients in a manner in which the clients remove street clothing and have a reasonable expectation of privacy.

(B) Massage and bodywork may include the use of therapies such as heliotherapy or hydrotherapy; the use of moist, hot, and cold external applications; and the use of oils or other lubricants.

(C) Neither massage nor bodywork include the diagnosis of illness, disease, impairment, or disability.

(5) “Massage therapist, bodyworker, or touch professional” means a person who holds a registration from the Office to practice massage or practice bodywork or both.

§ 5402. PROHIBITIONS

(a) An individual shall not engage in or offer the practice of massage or the practice of bodywork unless the individual is registered with the Office.

(b) It shall be a violation of this chapter for any individual to engage in the practice of massage or the practice of bodywork, or to offer to engage in the practice of massage or the practice of bodywork, if the individual’s registration has been suspended or revoked.

(c) An individual shall not use in connection with the individual’s name any letters, words, titles, or insignia indicating or implying that the individual is offering or engaging in the practice of massage or the practice of bodywork, including the terms “massage therapist,” “bodyworker,” or “touch

professional,” unless the individual holds a registration in accordance with this chapter.

§ 5403. UNAUTHORIZED PRACTICE

Any individual who engages in the practice of massage or the practice of bodywork without a registration from the Office shall be subject to the penalties provided in 3 V.S.A. § 127 (unauthorized practice).

§ 5404. EXEMPTIONS

(a) The following shall not require a registration under this chapter:

(1) the practice of massage or the practice of bodywork by a student as part of a professional massage or bodywork education program;

(2) the practice of massage or the practice of bodywork by an apprentice as part of a massage or bodywork apprenticeship; or

(3) the practice of massage or the practice of bodywork provided to clients in a manner in which the clients do not remove street clothing or do not have a reasonable expectation of privacy.

(b) The provisions of this chapter requiring individuals to be registered shall not apply to individuals who engage in or offer the practice of massage or the practice of bodywork in the course of their customary duties as physicians, podiatrists, physician assistants, nurses, osteopaths, acupuncturists, athletic trainers, barbers, cosmetologists, estheticians, electrologists, chiropractors, midwives, naturopathic physicians, occupational therapists, physical therapists, or respiratory care practitioners.

(c) Nothing in this chapter shall prohibit a massage therapist, bodyworker, or touch professional from engaging in or offering the practice of massage or the practice of bodywork at a location that is not an establishment, so long as prior to engaging in that practice at that location, the registrant and his or her client agree that the location is acceptable.

Subchapter 2. Administration

§ 5411. DUTIES OF THE DIRECTOR

(a) Generally. The Director shall:

(1) provide general information to applicants for registration as a massage therapist, bodyworker, or touch professional;

(2) receive applications for registration and provide registrations to applicants qualified under this chapter;

(3) administer fees as established by law;

- (4) refer all disciplinary matters to an administrative law officer;
- (5) explain appeal procedures to applicants and registrants; and
- (6) explain complaint procedures to the public.

(b) Rules.

(1) The Director shall adopt rules requiring a massage therapist, bodyworker, or touch professional to disclose to each new client before the first treatment the following information:

- (A) the professional qualifications and experience of the registrant;
- (B) actions that constitute unprofessional conduct;
- (C) the method for filing a complaint against a registrant; and
- (D) the method for making a consumer inquiry with the Office.

(2) The Director shall adopt rules regarding the display of:

(A) the registrations of employed or contracted massage therapists, bodyworkers, or touch professionals at an establishment; and

(B) information regarding unprofessional conduct and filing complaints with the Office.

(3) The rules described in this subsection (b) shall include provisions relating to the manner in which the information disclosed shall be distributed or displayed, and a requirement that a massage therapist, bodyworker, or touch professional and his or her client sign an acknowledgement that the information was disclosed.

(4) The Director may adopt other rules as necessary to perform his or her duties under this chapter.

§ 5412. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three advisors of suitable qualifications, as described in this section, to advise the Director on matters relating to the practice of massage and the practice of bodywork.

(b) The Secretary shall appoint the advisors to serve, at the Secretary's pleasure, for five-year staggered terms. To stagger the advisors' terms, the Secretary may initially appoint two of the advisors for less than a five-year term.

(c) Two of the three advisors shall be massage therapists, bodyworkers, or touch professionals registered under this chapter who have been actively engaged in the practice of massage or the practice of bodywork, or both for the three-year period immediately preceding appointment. These two advisors

shall maintain their registrations in this State and be actively engaged in the practice of massage or the practice of bodywork, or both during their incumbency.

(d) The Director shall seek the advice of the advisors in carrying out the provisions of this chapter.

Subchapter 3. Registrations

§ 5421. APPLICATION

A person who desires to be registered under this chapter shall apply for a registration in the manner specified by the Director, accompanied by payment of the required fee.

§ 5422. REGISTRATION BY ENDORSEMENT

The Director may issue a registration to an individual under this chapter if the individual holds a license, registration, certification, or other authorization to practice massage therapy or bodywork from a U.S. or Canadian jurisdiction.

§ 5423. ESTABLISHMENTS; DESIGNEE AND INSPECTION

(a) An establishment shall designate a massage therapist, bodyworker, or touch professional to be responsible for ensuring the establishment complies with the requirements of this chapter and the rules adopted by the Director.

(b) A person authorized by the Director may enter any establishment for the purpose of inspection when a complaint has been filed with the Office regarding the practice of massage or the practice of bodywork at that establishment. A fee shall not be charged for any inspection under this subsection.

§ 5424. REGISTRATION RENEWAL

(a) A registration under this chapter shall be renewed every two years by submission of a new, completed application and shall be accompanied by payment of the required fee.

(b) A registration that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

§ 5426. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5427. DISPLAY OF REGISTRATION

A massage therapist, bodyworker, or touch professional shall conspicuously display his or her registration in any establishment where the registrant is

engaged in the practice of massage or the practice of bodywork.

§ 5428. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct set forth in 3 V.S.A. § 129a and the following:

- (1) engaging in activities in violation of 13 V.S.A. § 2605 (voyeurism);
- (2) engaging in a sexual act with a client;
- (3) conviction of a crime committed while engaged in the practice of massage or the practice of bodywork;
- (4) performing massage or bodywork that the massage therapist, bodyworker, or touch professional knows or has reason to know has not been authorized by a client or the client's legal representative; and
- (5) engaging in conduct of a character likely to deceive, defraud, or harm the public.

Sec. 30. TRANSITIONAL PROVISION; ADVISOR APPOINTEES

Notwithstanding the provisions of 26 V.S.A. § 5412 in Sec. 29 of this act that require a massage therapist, bodyworker, or touch professional advisor appointee to be registered under 26 V.S.A. chapter 105, the Secretary of State may initially appoint advisor appointees who are not registered under this chapter because the law has yet to take effect, provided those advisor appointees otherwise meet the requirements of 26 V.S.A. § 5412.

Sec. 31. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING.

(a) There are created within the Secretary of State's Office of Professional Regulation one new position in the licensing division and one new position in the enforcement division.

(b) Any funding necessary to support the positions created in subsection (a) of this section and the implementation of 26 V.S.A. chapter 105 set forth in Sec. 29 of this act shall be derived from the Office's Professional Regulatory Fee Fund and not from the General Fund.

Sec. 32. OFFICE OF PROFESSIONAL REGULATION; REGULATORY REVIEW

On or before November 1, 2023, the Office of Professional Regulation shall assess the manner in which the public is protected by the registration of massage therapists, bodyworkers, and touch professionals as set forth in this act and submit any recommended amendments to the law to the Senate and House Committees on Government Operations.

* * * Climate Change and State Energy Goals * * *

Sec. 33. SPECIFIED REGULATORY ENTITIES; OFFICE OF PROFESSIONAL REGULATION; REPORT ON CURRENT AND RECOMMENDED CONTINUING EDUCATION; CLIMATE CHANGE AND STATE ENERGY GOALS

(a)(1) On or before November 15, 2020, the regulatory entity for each of the following professions shall submit to the Director of the Office of Professional Regulation the information described in subdivision (2) of this subsection:

- (A) architects licensed under 26 V.S.A. chapter 3;
- (B) landscape architects licensed under 26 V.S.A. chapter 46;
- (C) pollution abatement facility operators licensed under 26 V.S.A. chapter 99;
- (D) potable water supply and wastewater system designers licensed under 26 V.S.A. chapter 97;
- (E) professional engineers licensed under 26 V.S.A. chapter 20;
- (F) property inspectors licensed under 26 V.S.A. chapter 19;
- (G) real estate appraisers licensed under 26 V.S.A. chapter 69;
- (H) real estate brokers and salespersons licensed under 26 V.S.A. chapter 41;
- (I) gas appliance installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(C);
- (J) oil burning equipment installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(D); and
- (K) limited oil burning equipment installers, inspectors, and services certified under 20 V.S.A. § 2731(c)(4)(F);
- (L) each type of electrician licensed under 26 V.S.A. chapter 15; and
- (M) each type of plumber licensed under 26 V.S.A. chapter 39.

(2) In accordance with subdivision (1) of this subsection, each regulatory entity shall submit to the Director of the Office the following information regarding its regulated profession:

- (A) any current continuing education relating to climate change or the State's energy goals or both that is offered to the profession;
- (B) any continuing education relating to climate change or the State's

energy goals or both that should be offered to the profession; and

(C) a description of how the profession addresses its role in mitigating the effects of climate change and in furthering the State's energy goals, and how any current and recommended continuing education addresses those issues.

(3) "Regulatory entity" has the same meaning as in 26 V.S.A. § 3101a.

(b) On or before January 15, 2021, the Director of the Office of Professional Regulation shall compile the information submitted to the Director under subsection (a) of this section and report it, along with any further recommendations, to the Senate and House Committees on Government Operations.

* * * Effective Dates * * *

Sec. 34. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Secs. 28 and 29 (massage therapists, bodyworkers, and touch professionals) shall take effect on November 1, 2020.

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

An act relating to professional regulation.

And that when so amended the bill ought to pass.

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

First: In Sec. 3, 3 V.S.A. § 125 (fees), in subsection (b), following the subdivision (4) introductory paragraph ("Biennial renewal, \$240.00, except biennial renewal for:"), by inserting the following:

* * *

(J) ~~Appraisal management company registration, \$600.00.~~
[Repealed.]

Second: In Sec. 3, 3 V.S.A. § 125 (fees), in subsection (b), after the last set of ellipses, by inserting the following:

(7) Annual renewal for appraisal management company registration, \$300.00.

* * *

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 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 Finance.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, Senators Lyons, Cummings, Ingram, McCormack and Westman moved to amend the recommendation of the Committee on Government Operations, as amended as follows:

First: In Sec. 11, 26 V.S.A. chapter 36 (pharmacy), in section 2023 (clinical pharmacy; prescribing), in subdivision (a)(2), following “prescribe a biological product as defined in 18 V.S.A. § 4601, other than” by striking out “a vaccine or insulin medication; or” and inserting in lieu thereof an insulin medication, an influenza vaccine or vaccine to mitigate a significant public health risk, or, pursuant to a collaborative practice agreement, another vaccine; or

Second: In Sec. 11, 26 V.S.A. chapter 36 (pharmacy), in section 2023 (clinical pharmacy; prescribing), in subdivision (b)(2)(A), by striking out subdivisions (vii) and (viii) in their entireties and inserting in lieu thereof the following:

(vii) influenza vaccines;

(viii) in the event of a significant public health risk, an appropriate vaccine to mitigate the effects on public health after finding that existing channels for vaccine administration are insufficient to meet the public health need; and

(ix) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services.

Third: In Sec. 16, 26 V.S.A. chapter 57 (review of regulatory laws), in section 3108 (preliminary assessment of scope of practice), in subdivision (a)(1), following “and upon the request of the House or Senate Committee on Government Operations” by inserting or, in the case of a health care profession, the House Committee on Health Care or the Senate Committee on Health and Welfare,

Which was agreed to.

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

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 224, H. 958.

Message from the House No. 54

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. 607. An act relating to increasing the supply of nurses and primary care providers in Vermont.

H. 611. An act relating to the Older Vermonters Act.

H. 943. An act relating to approval of amendments to the charter of the City of St. Albans.

In the passage 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, June 17, 2020.

WEDNESDAY, JUNE 17, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District

Senator Christopher A. Bray
Senator Ruth Ellen Hardy

Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Message from the House No. 55

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 a bill originating in the Senate of the following title:

S. 348. An act relating to temporary elections procedures in the year 2020.

And has passed the same in concurrence.

The Governor has informed the House that on June 15, 2020, he approved and signed bills originating in the House of the following titles:

H. 554. An act relating to approval of the dissolution of the Village of Perkinsville and the merger of the Village with the Town of Weathersfield.

H. 643. An act relating to banking and insurance.

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

H. 947. An act relating to temporary municipal tax rate provisions in response to COVID-19.

H. 948. An act relating to temporary municipal proceedings provisions in response to the COVID-19 outbreak.

H. 950. An act relating to allowing remote witnesses for advance directives for a limited time.

H. 951. An act relating to the municipal emergency statewide education property tax borrowing program.

H. 953. An act relating to fiscal year 2020 supplemental budget adjustments.

Rules Suspended; Bill Committed

H. 955.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

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

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Institutions, Senator Ashe moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Institutions *intact*,

Which was agreed to.

Bill Referred to Committee on Appropriations

S. 256.

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 New Vermont Employee Incentive Program.

Bills Referred

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

H. 607.

An act relating to increasing the supply of nurses and primary care providers in Vermont.

To the Committee on Health and Welfare.

H. 611.

An act relating to the Older Vermonters Act.

To the Committee on Health and Welfare.

H. 943.

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

To the Committee on Government Operations.

Bill Amended; Bill Passed

S. 59.

Senate bill entitled:

An act relating to the creation of the Sports Betting Study Committee.

Was taken up.

Thereupon, pending third reading of the bill, Senators Hardy and Ingram moved to amend the bill in Sec. 2, Sports Betting Study Committee, by striking out subdivisions (c)(5) and (6) in their entirety and inserting in lieu thereof subdivisions (c)(5) through (7) to read as follows:

(5) potential tax and fee structures for sports betting activities;

(6) potential restrictions or limitations on the types of sports that may be bet on, including whether and to what extent restrictions should be imposed with respect to the participant age, amateur status, and location of sporting events that may be bet on; and

(7) potential impacts on various socioeconomic and demographic groups and on problem gambling, and the resources necessary to address the identified impacts.

Which was agreed to.

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

Bill Amended; Bill Passed

S. 220.

Senate bill entitled:

An act relating to educating specified professionals on the State's energy goals.

Was taken up.

Thereupon, pending third reading of the bill, Senator White moved to amend the bill as follows:

First: In Sec. 11, 26 V.S.A. chapter 36 (pharmacy), in § 2023 (clinical pharmacy; prescribing), in subdivision (b)(2) (State protocol), by striking out subdivision (A) in its entirety and inserting in lieu thereof a new subdivision (A) to read as follows:

(A) A pharmacist may prescribe, order, or administer in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

(i) opioid antagonists;

(ii) epinephrine auto-injectors;

(iii) tobacco cessation products;

(iv) tuberculin purified protein derivative products;

(v) self-administered hormonal contraceptives;

(vi) dietary fluoride supplements;

(vii) influenza vaccines;

(viii) in the event of a significant public health risk, an appropriate vaccine to mitigate the effects on public health after finding that existing channels for vaccine administration are insufficient to meet the public health need;

(ix) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services; and

(x) tests for SARS-CoV for asymptomatic individuals or related serology for individuals by entities holding a Certificate of Waiver pursuant to the Clinical Laboratory Amendments of 1988 (42 U.S.C. § 263a).

Second: By adding a new Sec. 12a to read as follows:

Sec. 12a. SUNSET OF PHARMACIST AUTHORITY TO ORDER OR
ADMINISTER SARS-COV TESTS

In Sec. 11, 26 V.S.A. § 2023(b)(2)(A)(x) (clinical pharmacy prescribing; State protocol; SARS-CoV testing) shall be repealed on July 1, 2021.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Ashe, Pearson, Champion, Hardy and Perchlik moved to amend the bill by striking out Secs. 33 (specified regulatory entities; Office of Professional Regulation; report on current and recommended continuing education; climate change and State energy goals) and 34 (effective dates) and their accompanying reader assistance headings in their entirety and inserting in lieu thereof the following:

* * * State Energy Goals * * *

Sec. 33. 3 V.S.A. § 138 is added to read:

§ 138. REQUIRED EDUCATION FOR SPECIFIED LICENSEES; STATE ENERGY GOALS

(a) The following licensees are required to complete the education module regarding the State's energy goals as described in this section:

- (1) architects licensed under 26 V.S.A. chapter 3;
- (2) landscape architects licensed under 26 V.S.A. chapter 46;
- (3) pollution abatement facility operators licensed under 26 V.S.A. chapter 99;
- (4) potable water supply and wastewater system designers licensed under 26 V.S.A. chapter 97;
- (5) professional engineers licensed under 26 V.S.A. chapter 20;
- (6) property inspectors licensed under 26 V.S.A. chapter 19;
- (7) real estate appraisers licensed under 26 V.S.A. chapter 69; and
- (8) real estate brokers and salespersons licensed under 26 V.S.A. chapter 41.

(b) The Office shall require each of the licensees described in subsection (a) of this section to complete an education module regarding the State's energy goals and how each licensee's specific profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial licensure and each license renewal. The

module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial licensure shall provide general information regarding the State's energy goals.

(B) The education module for license renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Office shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service for all the licensees set forth in subsection (a) of this section and in consultation with the Department of Taxes for real estate appraisers and real estate brokers and sales persons.

Sec. 34. 20 V.S.A. chapter 173, subchapter 2 is amended to read:

Subchapter 2. Fire Safety Division of Fire Safety

* * *

§ 2731. RULES; INSPECTIONS; VARIANCES

(a) Rules.

(1) The Commissioner is authorized to adopt rules regarding the construction of buildings, maintenance and operation of premises, and prevention of fires and removal of fire hazards, and to prescribe standards necessary to protect the public, employees, and property against harm arising out of or likely to arise out of fire.

(2)(A) The Commissioner shall require each of the following certificant to complete an education module regarding the State's energy goals and how each certificant's specific profession can further those goals:

(i) gas appliance installers, inspectors, and servicers certified under subdivision (c)(4)(C) of this section;

(ii) oil burning equipment installers, inspectors, and servicers certified under subdivision (c)(4)(D) of this section; and

(iii) limited oil burning equipment installers, inspectors, and services certified under subdivision (c)(4)(F) of this section.

(B) The education module shall be not more than two hours and shall be required as a condition of initial certification and certification renewal. The module shall include education on any State or utility incentives relevant to the profession.

(i) The education module for initial certification shall provide general information regarding the State's energy goals.

(ii) The education module for certification renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(C) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

(b) Inspections.

(1) The Commissioner shall conduct inspections of premises to assure ensure that the rules adopted under this subchapter are being observed and may establish priorities for enforcing these rules and standards based on the relative risks to persons and property from fire of particular types of premises.

(2) The Commissioner may also conduct inspections to assure ensure that buildings are constructed in accordance with approved plans and drawings.

(c) Fees. The following fire prevention and building code fees are established:

* * *

(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:

(A) Water-based fire protection system design:

(i) Initial certification: \$150.00.

(ii) Renewal: \$50.00.

(B) Water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: \$115.00.

(ii) Renewal: \$50.00.

(C) Gas appliance installation, inspection, and service: \$60.00.

(D) Oil burning equipment installation, inspection, and service: \$60.00.

(E) Fire alarm system inspection and testing: \$90.00.

(F) Limited oil burning equipment installation, inspection, and service: \$60.00.

(G) Domestic water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: \$60.00.

(ii) Renewal: \$20.00.

(H) Fixed fire extinguishing system design, installation, inspection, servicing, and recharging:

(i) Initial certification: \$60.00.

(ii) Renewal: \$20.00.

(I) Emergency generator installation, maintenance, repair, and testing: \$30.00;

(J) Chimney and solid fuel burning appliance cleaning, maintenance, and evaluation: \$30.00.

* * *

(e) Variances; exemptions. The Except for any rules requiring the education module regarding the State's energy goals described in subdivision (a)(2) of this section, the Commissioner may grant variances or exemptions from rules adopted under this subchapter where strict compliance would entail practical difficulty, unnecessary hardship, or is otherwise found unwarranted, provided that:

(1) any such variance or exemption secures the public safety and health;

(2) any petitioner for such a variance or exemption can demonstrate that the methods, means, or practices proposed to be taken in lieu of compliance with the rule or rules provide, in the opinion of the Commissioner, equal protection of the public safety and health as provided by the rule or rules;

(3) the rule or rules from which the variance or exemption is sought has not also been adopted as a rule or standard under 21 V.S.A. chapter 3, subchapters 4 and 5; and

(4) any such variance or exemption does not violate any of the provisions of 26 V.S.A. chapters 3 and 20 or any rules adopted thereunder.

* * *

Sec. 35. 20 V.S.A. chapter 173, subchapter 5 is amended to read:

Subchapter 5. Boilers and Pressure Vessels

* * *

§ 2883. BOILER INSPECTIONS

(a) ~~The commissioner~~ Commissioner has authority to obtain specific information from boiler inspectors on forms ~~which that~~ that shall first be approved by the ~~commissioner~~ Commissioner.

(b) ~~The commissioner~~ Commissioner may authorize qualified inspectors to conduct inspections under such rules as the ~~commissioner~~ Commissioner may prescribe.

(1) If a boiler or pressure vessel is insured, the inspection may be conducted by a qualified inspector who is employed, or contractually authorized, by the insurer.

(2) If a boiler or pressure vessel is not insured, the inspection may be conducted by any qualified inspector authorized by the ~~commissioner~~ Commissioner. In case the inspection is made by such an inspector, ~~no a~~ a fee shall not be charged by the ~~division~~ Division, except a process fee of \$30.00 for issuance of an operating certificate.

(c)(1) The fee for a person requesting a three-year authorization to conduct inspections shall be \$150.00.

(2) A licensed boiler inspector shall carry liability insurance in an amount determined by the ~~department~~ Department.

§ 2884. QUALIFICATIONS OF INSPECTORS

(a) Examination. All boiler inspectors shall have passed the examination required by the National Board of Boiler and Pressure Vessel Inspectors, and hold annual certification from ~~such that~~ that board.

(b) Education. The Commissioner shall require each boiler inspector to complete an education module regarding the State's energy goals and how the boiler inspection profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial authorization and authorization renewal. The module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial authorization shall provide general information regarding the State's energy goals.

(B) The education module for authorization renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

* * *

Sec. 36. 26 V.S.A. chapter 15, subchapter 3 is amended to read:

Subchapter 3. Licensing Electricians

§ 901. ELECTRICIANS' LICENSING BOARD

(a) A board for the licensing of electricians is created, to be known as the "Electricians' Licensing Board."

(b) ~~The board~~ Board consists of the Commissioner of Public Safety or a member of that Department designated by the Commissioner and four persons appointed by the Governor with the advice and consent of the Senate.

(1) The four appointed members shall serve for terms of three years, beginning on July 1 in the year of appointment, and they shall include one licensed master electrician, one licensed journeyman electrician, one person associated with the public electrical utility industry who is knowledgeable in technical as well as operational issues of the electrical utility industry, and one person associated with the fire insurance industry.

(2) ~~No~~ Not more than two appointed members' terms shall expire in the same year.

(c) The Governor shall appoint one of the members of the Board to serve as its chair.

* * *

§ 905. APPLICATION; EXAMINATIONS, EDUCATION, AND FEES

(a)(1) Each applicant for a license shall submit to the Board, on forms furnished by it, a written application containing such relevant information as the Board may require, accompanied by the required examination fee.

(2) The examination fee shall be established by the Board but shall be no greater than the cost associated with administering the examination. Notwithstanding 32 V.S.A. § 502(a), if the examination is conducted by an outside testing service, the required examination fee may be paid directly to the testing service.

* * *

(d)(1) Three-year electrical license fees shall be:

- | | |
|---|-------------------------|
| (A) For a masters license (initial and renewal) | \$150.00; |
| (B) For a journeyman's license (initial and renewal) | \$115.00; |
| (C) For a type-S journeyman's license (initial and renewal) per field | \$115.00 ₅ ; |
| (2) The fee for a certificate for framing shall be: | \$10.00. |

* * *

(g) In addition to other education requirements of this subchapter, the Commissioner shall require each applicant to complete an education module regarding the State's energy goals and how the electrician profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial licensure and license renewal. The module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial licensure shall provide general information regarding the State's energy goals.

(B) The education module for license renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

* * *

Sec. 37. 26 V.S.A. chapter 39 is amended to read:

CHAPTER 39. PLUMBERS AND PLUMBING

* * *

Subchapter 2. Plumber's Examining Board

§ 2181. PLUMBER'S EXAMINING BOARD; MEMBERSHIP; POWERS

(a) A The Plumber's Examining Board, within the Department of Public Safety, ~~hereinafter called "Board,"~~ shall consist of five members, one of whom shall be the Commissioner of Public Safety or designee and one of whom shall represent the Commissioner of Health or designee. The remaining three members shall be appointed by the Governor with the advice and consent of the Senate. One of the appointive members shall be a master plumber, one

shall be a journey plumber, and one shall be a public member not associated with the plumbing or heating trades.

* * *

Subchapter 3. Licenses

* * *

§ 2193. APPLICATIONS AND; EXAMINATIONS; EDUCATION, AND FEES

(a)(1) Each applicant for license shall present to the executive office of the Board on blanks furnished by the Board, a written application for examination and license containing such information as the Board may require, accompanied by the fee required. Notwithstanding 32 V.S.A. § 502(a), if the examination is conducted by an outside testing service, the required examination fee may be paid directly to the testing service.

(2) Examinations shall be in whole or in part in writing and shall include the theoretical and practical nature of plumbing or specialties, or both, and knowledge of State laws and Department of Health and Environmental Conservation regulations and such other regulations as the Board may determine necessary to satisfactorily determine the qualifications of the applicant. Examinations shall be relevant to the instructional material taught in classes, codes used, and new developments and procedures within the trade.

* * *

(c) License and renewal fees are as follows:

(1) Master plumber license	\$ 120.00
(2) Journeyman plumber license	\$ 90.00
(3) Specialist license	\$ 50.00
(4) Master renewal fee	\$ 120.00
(5) Journeyman renewal fee	\$ 90.00
(6) Specialist renewal fee	\$ 50.00
(7) License certificate	\$ 10.00

(d) Master and journeyman plumbers shall be exempt from paying license or renewal fees as specialists.

(e) In addition to other education requirements of this subchapter, the Commissioner shall require each applicant to complete an education module regarding the State's energy goals and how the plumbing profession can further those goals.

(1) The education module shall be not more than two hours and shall be required as a condition of initial licensure and license renewal, except that master and journeyman plumbers who complete this education module shall not be required to complete this education module for any additional specialty license. The module shall include education on any State or utility incentives relevant to the profession.

(A) The education module for initial licensure shall provide general information regarding the State's energy goals.

(B) The education module for license renewal shall provide any updates on the State's energy goals and any updates regarding corresponding State energy programs applicable to the profession.

(2) The Commissioner shall consider any recommendations on these education modules provided by relevant stakeholders and approve education modules in consultation with the Agency of Natural Resources and the Department of Public Service.

* * *

* * * Effective Dates; Application * * *

Sec. 38. EFFECTIVE DATES; APPLICATION

This act shall take effect on July 1, 2020, except that:

(1) Secs. 28 and 29 (massage therapists, bodyworkers, and touch professionals) shall take effect on November 1, 2020; and

(2) Secs. 33–37 (State energy goals; education modules) shall take effect on July 1, 2021, except that all existing licensed, certified, or authorized professionals to whom these provisions apply shall be required to obtain the education module for initial licensure as a condition of their upcoming renewal and shall thereafter be required to obtain the education module for renewal at the subsequent renewal cycle.

Which was agreed to.

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

Proposal of Amendment; Third Reading Ordered

H. 961.

Senator Kitchel, for the Committee on Appropriations, to which was referred House bill entitled:

An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF)

appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

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:

* * * Transitional Fiscal Year 2021 First Quarter Appropriations * * *

Sec. A.1. INTENT

(a) Intent. Due to the COVID-19 pandemic, revenue into the State's major funds are forecast to be significantly reduced. At the time of the passage of this act, the full degree of this impact remains undefined. In addition, it is unclear if there will be changes in guidance concerning the use of current federal relief funding or if additional federal funding will be made available to the State. The intent of this transitional budget bill is to provide spending authority for the State to operate in the first quarter of fiscal year 2021 to meet statutory requirements while at the same time recognizing the need to address the longer-term issues raised by the expected substantial reduction in State revenues in fiscal year 2021 and beyond.

(b) It is the intent of the Legislature to develop the full fiscal year budget in August and September of 2020, after the establishment of new official State revenue forecasts for fiscal years 2021 and 2022.

Sec. A.2. FISCAL CAPACITY

(a) Fiscal Capacity. The Secretary of Administration is authorized to establish fiscal capacity to the greatest extent possible in the first quarter of fiscal year 2021 through the following mechanisms:

(1) A nonessential position hiring freeze. From July 1 through September 30, 2020, the Secretary of Administration shall not authorize positions to be filled unless a determination is made that filling the position is critical for State operation or pandemic response. The Secretary shall notify the Legislative Joint Fiscal Committee of any approved hiring that takes place during this period. Notwithstanding 3 V.S.A. § 327(b) and 3 V.S.A. § 2222(i), vacant positions shall not be swept to the position pool before September 30, 2020 unless authorized by the Joint Fiscal Committee.

(2) Available fund balances. Fund balances at the close of fiscal year 2020 and fund capacity projected to be available in fiscal year 2021 as result of collection of deferred receipts from fiscal year 2020.

(3) Carryforward appropriation balances. Appropriation balances that are carried forward from fiscal year 2020.

(4) Available federal funds. Utilization of Federal Medical Assistance Percentage rate changes and federal funding streams related to COVID-19 response and relief available for existing programs, including administrative allowances.

(b) The Administration shall not make substantive changes to policies or program structure prior to the development and approval of the full 2021 budget unless such changes are submitted to and approved by the Joint Fiscal Committee. Any such approval shall be after soliciting input from relevant legislative policy committees.

(c) In their presentation of recommendations for the full fiscal year 2021 budget in August and September 2020, agencies and departments shall report on any portion of the fiscal capacity achieved and authorized by this section.

Sec. A.3. PHASE I -DIRECT APPROPRIATIONS FISCAL YEAR 2021
FIRST QUARTER

(a) The following appropriations are made for the first quarter of fiscal year 2021 as follows:

(1) The Vermont Veterans' Home: \$684,446 General Fund.

(2) State Teachers' Retirement System: \$119,013,146 General Fund and \$6,881,055 Education Fund. This fully funds the fiscal year 2021 obligation.

(3) Retired Teachers' Health Care and Medical Benefits: \$31,798,734 General Fund. This fully funds the fiscal year 2021 obligation.

(4) State Treasurer Unclaimed Property: \$1,134,819 Private Purpose Trust Funds.

(5) Debt Service: \$75,828,995 General Fund, \$540,918 Transportation Fund, \$504,738 ARRA Fund, and \$2,502,613 TIB Debt Service Fund. This fully funds the fiscal year 2021 obligation.

(6) Military's divisions will be appropriated General Fund as follows:

(A) Military Administration: \$1,368,238.

(B) Military Air Service Contract: \$210,693.

(C) Military Building Maintenance: \$589,662.

(D) Military Veterans' Affairs: \$217,257.

(7) Homeowner rebate: \$16,600,600 of General Fund.

(b) In fiscal year 2021, there is appropriated General Funds to the Vermont State College System for one-time bridge funding to allow system

restructuring to be implemented for the 2021/2022 academic year: \$5,000,000.

Sec. A.4. PHASE I -PRORATED APPROPRIATIONS FISCAL YEAR
2021 FIRST QUARTER

(a) For all appropriations units that are not listed in Sec. A.3 of this act and were enacted pursuant to 2019 Acts and Resolves No. 72, sections B.100 through B.1001, as amended by 2020 Acts and Resolves No. 88, the following prorations shall apply to establish the Phase I interim appropriations for the operations of State government for the period beginning on July 1, 2020 and ending on September 30, 2020:

(1) All funds in the Agency of Natural Resources except the General Fund: 50%.

(2) All funds in the Agency of Transportation: 60%:

(A) With the exception of the Clean Water Fund prorated at 50% pursuant to subdivision (7)(B) of this subsection (a).

(3) Vermont Student Assistance Corporation: 50%.

(4) Vermont State Colleges: 25%:

(A) These funds are to be distributed in July 2020.

(5) Vermont Housing and Conservation Board: 40%.

(6) Payments in Lieu of Taxes: 100%.

(7) Clean Water Fund and Agricultural Water Quality Special Fund appropriations shall be prorated:

(A) Agency of Natural Resources: 50%.

(B) Agency of Transportation: 50%.

(C) Agency of Agriculture, Food and Markets: 50%.

(D) Agency of Commerce and Community Development: 50%.

(E) Agency of Administration: 50%.

(8) Treasurer, Teacher, State Employee and Municipal Pension Systems administration: 30%.

(9) All other appropriations:

(A) 25% of General Fund appropriations.

(B) 100% of all Education Fund appropriations.

(C) 25% of all remaining appropriations by fund.

Sec. A.5. EMERGENCY BOARD AUTHORIZATION

(a) Between July 1 and September 30, 2020, pursuant to the conditions set forth in 32 V.S.A. § 133(b) and in addition to the authority to transfer appropriations pursuant to 32 V.S.A. § 133(b), the Emergency Board is authorized to make expenditures from the General Fund or from any reserve within the General Fund pursuant to its authority under 32 V.S.A. § 133(a) or from other funds of the State. The appropriations in this section shall not exceed one percent of the total appropriations authorized in any fund by this act. This authority is to address any unforeseen spending requirements related to the COVID-19 pandemic.

Sec. A.6. RESCISSION AUTHORITY LIMITATION

(a) The provisions of 32 V.S.A. § 704 shall not apply between July 1, 2020 and September 30, 2020.

* * * Budgetary Specifications and Amendments * * *

(Secs. A.7 through A.40 apply to the appropriations established for the first quarter of fiscal year 2021 in Sec. A.3 and Sec. A.4 of this act that reference the 2019 Acts and Resolves No. 72, Secs. B.100 through B.1001, as amended by 2020 Acts and Resolves No. 88 unless otherwise stated.)

* * * General Government * * *

Sec. A.7. 2014 Acts and Resolves No. 179, Sec. E.100(d), as amended by 2015 Acts and Resolves No. 4, Sec. 74, by 2016 Acts and Resolves No. 172, Sec. E.100.2, by 2017 Acts and Resolves No. 85, Sec. E.100.1, and by 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. E.100.1 is further amended to read:

(d) Position Pilot Program. A Position Pilot is hereby created to assist participating departments in more effectively managing costs of overtime, compensatory time, temporary employees, and contractual work by removing the position cap with the goal of maximizing resources to the greatest benefit of Vermont taxpayers.

* * *

(7) This Pilot shall sunset on ~~July 1~~ September 30, 2020, unless extended or modified by the General Assembly.

Sec. A.8. 2017 Acts and Resolves No. 79, Sec. 13 is amended to read:

Sec. 13. STATE ETHICS COMMISSION FUNDING SOURCE
SURCHARGE; REPEAL

(a) Surcharge

* * *

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the activities of the State Ethics Commission set forth in Sec. 7 of this act.

(b) Repeal. This section shall be repealed on ~~June 30, 2020~~ June 30, 2021.

Sec. A.9. BUDGET REPORT

(a) Notwithstanding 32 V.S.A. § 306, for fiscal year 2021 the Governor shall submit to the General Assembly, not later than the August 18, 2020. A budget which shall embody estimates, requests, and recommendations for appropriations or other authorizations for expenditures from the State Treasury for the remainder of fiscal year 2021. The budget shall be based upon the official State revenue estimates, including the Medicaid estimated caseloads and per-member per-month expenditures, adopted by the Emergency Board pursuant to section 305a of this title.

Sec. A.10. [RESERVED]

Sec. A.11. Vermont state retirement system

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2021, investment fees shall be paid from the corpus of the Fund.

Sec. A.12. 3 V.S.A. § 479a is amended to read:

§ 479a. STATE EMPLOYEES' POSTEMPLOYMENT BENEFITS TRUST FUND

(a) A "State Employees' Postemployment Benefits Trust Fund" (Benefits Fund) is hereby created for the purpose of accumulating and providing reserves to support retiree postemployment benefits for members, and to make distributions from the Benefits Fund for current and future postemployment benefits for retirees of the Vermont State Employees' Retirement System, excluding pensions and benefits otherwise appropriated by statute and for the payment of reasonable and proper expenses of administering the Benefits Fund and related benefit plans. The Benefits Fund shall not be part of the Retirement System but is intended to comply with and be a tax-exempt governmental trust under Section 115 of the Internal Revenue Code of 1986, as amended.

(b) Into the ~~State Employees' Postemployment Benefits Trust~~ Fund shall be deposited:

(1) ~~All~~ all assets remitted to the State as a subsidy on behalf of the members of the Vermont State Employees' Retirement System for employer-sponsored qualified prescription drug plans pursuant to the Medicare

Prescription Drug Improvement and Modernization Act of 2003, except that any subsidy received from an Employer Group Waiver Program is not subject to this requirement-;

(2) ~~Any~~ any appropriations by the General Assembly for the purposes of paying current and future retiree postemployment benefits for members of the Vermont State Employees' Retirement System-; and

(3) ~~Amounts~~ amounts contributed or otherwise made available by members of the System or their beneficiaries for the purpose of paying current or future postemployment benefits costs.

(c) The ~~State Employees' Postemployment~~ Benefits Trust Fund shall be administered by the State Treasurer. The Treasurer may invest monies in the ~~State Employees' Postemployment~~ Benefits Trust Fund in accordance with the provisions of 32 V.S.A. § 434 or, in the alternative, may enter into an agreement with the Committee to invest such monies in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, in a manner similar to the Committee's investment of retirements system monies. All balances in the ~~State Employees' Postemployment~~ Benefits Trust Fund at the end of the fiscal year shall be carried forward. Interest earned shall remain in the ~~State Employees' Postemployment~~ Benefits Trust Fund. The Treasurer's annual financial report to the Governor and the General Assembly shall contain an accounting of receipts, disbursements, and earnings of the ~~State Employees' Postemployment~~ Benefits Trust Fund.

(d) All funds of the ~~State Employees' Postemployment~~ Benefits Trust Fund shall be held in one or more trusts, custodial accounts treated as trusts, or a combination thereof. Contributions to the Benefits Fund shall be irrevocable and it shall be impossible at any time prior to the satisfaction of all liabilities, with respect to employees and their beneficiaries, for any part of the corpus or income of the Benefits Fund to be used for, or diverted to, purposes other than the payment of retiree postemployment benefits to members and their beneficiaries and reasonable expenses of administering the Benefits Fund and related benefit plans.

Sec. A.13. 3 V.S.A. § 523 is amended to read:

§ 523. VERMONT PENSION INVESTMENT COMMITTEE; DUTIES

(a) The Vermont Pension Investment Committee shall be responsible for the investment of the assets of the State Teachers' Retirement System of Vermont, the Vermont State Employees' Retirement System, and the Vermont Municipal Employees' Retirement System pursuant to section 472 of this title, 16 V.S.A. § 1943, and 24 V.S.A. § 5063. The Committee shall strive to maximize total return on investment, within acceptable levels of risk for public

retirement systems, in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902. The Committee may, in its discretion, subject to approval by the Attorney General, also enter into agreements with municipalities administering their own retirement systems to invest retirement funds for those municipal pension plans. The State Treasurer shall serve as the custodian of the funds of all three retirement systems. The Committee may, in its discretion, also enter into agreements with the State Treasurer to invest the State Employees' Postemployment Benefits Trust Fund, established in 3 V.S.A. § 479a, and the Retired Teachers' Health and Medical Benefits Fund, established in 16 V.S.A. § 1944b.

* * *

Sec. A.14. 10 V.S.A. § 9 is amended to read:

§ 9. INVESTMENT IN VERMONT COMMUNITY LOAN FUND

Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the State Treasurer is authorized to invest up to ~~\$1,500,000.00~~ \$2,000,000.00 of short-term operating or restricted funds in the Vermont Community Loan Fund on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)-(c).

Sec. A.15. Payments in lieu of taxes

(a) This appropriation is for State payments in lieu of property taxes under 32 V.S.A. chapter 123, subchapter 4, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act. Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. A.16. Payments in lieu of taxes – Montpelier

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. A.17. Payments in lieu of taxes – correctional facilities

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. A.18. SOFTWARE VENDOR CONTRACT AND USER
AGREEMENTS COMPLIANCE WITH STATE LAW

(a) The Agency of Digital Services, the Judiciary and the Legislative Information Technology department shall report to the Joint Information Technology Oversight Committee and the Joint Legislative Justice Oversight Committee not later than September 1, 2020 on the status of how software

vendors that the State currently engages for the provision of services are bringing contracts and user agreements into compliance with Vermont law so as not to contain presumptively unconscionable terms per 9 V.S.A. chapter 152.

* * * Protection to Persons and Property * * *

Sec. A.19. Attorney general

(a) Notwithstanding any other provisions of law, the Office of the Attorney General, Medicaid Fraud and Residential Abuse Unit, is authorized to retain, subject to appropriation, one-half of the State share of any recoveries from Medicaid fraud settlements, excluding interest, that exceed the State share of restitution to the Medicaid Program. All such designated additional recoveries retained shall be used to finance Medicaid Fraud and Residential Abuse Unit activities.

Sec. A.20. JUDICIAL SYSTEM ROLLOUT AND E-FILING FEES

(a) The Judiciary shall meet with representatives of the Vermont Bar Association and other court users to listen to and respond to court users' experience with the Odyssey File and Serve system and to examine alternatives to the current e-filing charges. The Judiciary shall report its efforts and recommendations for improving the rollout of the program and for improving court users' experience with the system, including costs, to the Joint Fiscal Committee and Joint Legislative Justice Oversight Committee not later than October 30, 2020.

Sec. A.21. Public safety – administration

(a) The Commissioner of Public Safety is authorized to enter into a performance-based contract with the Essex County Sheriff's Department to provide law enforcement service activities agreed upon by both the Commissioner of Public Safety and the Sheriff.

Sec. A.22. Public safety – fire safety

(a) Of this General Fund appropriation, \$13,750 shall be granted to the Vermont Rural Fire Protection Task Force for the purpose of designing dry hydrants.

Sec. A.23. Military – Administration

(a) The amount of \$1,026,105 shall be disbursed to the Vermont Student Assistance Corporation for the National Guard educational assistance program established in 16 V.S.A. § 2856 and the National Guard Tuition Benefit Program established in 16 V.S.A. § 2857.

Sec. A.24. LEGISLATIVE APPROVAL OF MILITARY SECURITY
GUARD CLASS ACTION

(a) Pursuant to Article 16 (3)(f) of the Collective Bargaining Agreement in effect for fiscal year 2020, the Legislature approves for the Department of the Military:

(1) The spending of federal funds in fiscal year 2020 estimated to be \$87,453 to fund the reclassification of thirty (30) Security Guard positions representing a financial impact greater than one percent (1%).

* * * Human Services * * *

Sec. A.25. VERMONT HEALTH BENEFIT EXCHANGE RULES

(a) The Agency of Human Services may adopt rules pursuant to 3 V.S.A. chapter 25 to conform Vermont's rules regarding health care eligibility and enrollment and the operation of the Vermont Health Benefit Exchange to State and federal law and guidance. The Agency may use the emergency rules process pursuant to 3 V.S.A. § 844 prior to June 30, 2021, but only in the event that new State or federal law or guidance requires Vermont to amend or adopt its rules in a time frame that cannot be accomplished under the traditional rulemaking process. An emergency rule adopted under these exigent circumstances shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

Sec. A.26. 2019 Acts and Resolves No. 72, Sec. C.100 is amended to read:

Sec. C.100. FISCAL YEAR 2019 ONE-TIME APPROPRIATIONS

(a) In fiscal year 2019, funds are appropriated from the General Fund and shall be carried forward as follows:

* * *

(19) To the Department for Children and Families, Woodside Rehabilitation Center: \$260,000 for costs associated with ~~transitioning from a treatment facility to a detention facility~~ providing additional clinical support and training.

* * *

Sec. A.27. Corrections - correctional services

(a) The special funds appropriation of \$152,000 for the supplemental facility payments to Newport and Springfield, pursuant to Sec. A.4 of this act, shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. A.28. REDUCTION IN FORCE OF WOODSIDE JUVENILE
REHABILITATION CENTER EMPLOYEES

(a) On or before the date of passage of this act, the State of Vermont and the collective bargaining representative of the employees employed at the Woodside Juvenile Rehabilitation Center facility shall engage in bargaining regarding whether and how to modify any terms of the applicable collective bargaining agreement in relation to permanent status classified employees who are subject to a reduction in force from their positions at the Woodside Juvenile Rehabilitation Center facility.

Sec. A.29. POPULATION FUNDING COMMITMENT; AGENCY OF
HUMAN SERVICES; WOODSIDE JUVENILE
REHABILITATION CENTER; PLAN FOR JUSTICE-INVOLVED
YOUTHS

(a) The fiscal year 2021 budget as proposed by the Administration:

(1) anticipates closure of the secure Woodside Juvenile Rehabilitation Center facility that provides short and long-term placements and treatment services for justice-involved youths and youths in the custody of the Department for Children and Families; and

(2) allocates in fiscal year 2021 a total of \$2,500,000 in General Funds and any Federal Medicaid matching funds to serve this population in alternative placements approved by the Department for Children and Families.

(b) It is the intent of the General Assembly that the Woodside Juvenile Rehabilitation Center facility remain open until its closure is authorized by the appropriate committees of the General Assembly as provided in this subsection. Upon completion of its plan as provided in subsection (c) of this section, the Agency shall report to the appropriate committees as follows:

(1) prior to the adjournment of the 2020 legislative session, the Agency shall report to the Senate Committee on Judiciary and the House Committee on Human Services; or

(2) after the adjournment of the 2020 legislative session, the Agency shall report to the Joint Fiscal Committee and the Joint Legislative Justice Oversight Committee.

(c) The appropriate committees as set forth in subsection (b) of this section shall authorize the closure of the facility upon approving the Agency's plan to:

(1) adequately fund alternative programs and placements for youths served by Woodside, including those programs and placements that currently accept justice-involved youths who present a risk of injury to themselves, to others, or to property; and

(2) provide placements for all youths under 18 years of age who are in the custody of the Department of Corrections, and who have historically been placed at Woodside Juvenile Rehabilitation Center instead of a Department of Corrections facility pursuant to the memorandum of understanding between the two departments.

Sec. A.30. AGENCY OF HUMAN SERVICES; PLAN FOR YOUTHS
WITH MENTAL HEALTH DISORDERS

(a) During the 2020 legislative interim, the Agency of Human Services shall develop a plan to provide comprehensive mental health treatment services to youths, including justice-involved youths, with severe mental health disorders.

(b) On or before January 15, 2021, the Agency shall report to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, the Senate Institutions Committee, the House Human Services Committee, and the Senate Committee on Health and Welfare on its plans pursuant to this subsection and recommendations for repurposing of the Woodside facility.

Sec. A.31. FUNDING INTENT: JUSTICE-INVOLVED YOUTH

(a) It is the intent of the General Assembly to appropriate funds in fiscal year 2021 to the Agency of Human Services in the amount necessary to fund short- and long-term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families.

(b) Due to the impact of the COVID-19 pandemic, the General Assembly anticipates that the fiscal year 2021 budget will be developed in an initial transition phase, followed by a full budget development in a special session. To assist the General Assembly in appropriating the proper funding for short- and long-term residential placements and treatment services pursuant to subsection (a) of this section, on or before August 15, 2020, the Secretary of Administration or designee shall provide to the House and Senate Committees on Appropriations, the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare:

(1) the status of operations of the Woodside Juvenile Rehabilitation Center facility in fiscal year 2021, including the projected date for cessation of operations at the facility and the cost and funding sources identified for operation of the facility for any period of time during fiscal year 2021;

(2) the projected costs and funding sources to provide short- and long-term residential placements and treatment services for justice-involved youth

and youth in the custody of the Department for Children and Families for any period of time in fiscal year 2021 subsequent to the cessation of operations at Woodside; and

(3) the projected annualized cost of providing such placements and treatment services and the proposed funding sources.

Sec. A.32. 2019 Acts and Resolves No. 72, Sec. B.301 as amended by 2020 Acts and Resolves No. 88, Sec. 12, as amended by Sec. 5 of H.953 of 2020 as passed by the house and senate is further amended to read:

Sec. B.301 Secretary's office - global commitment		
Operating expenses	3,150,212	3,150,212
Grants	<u>1,629,912,361</u>	<u>1,629,912,361</u>
Total	1,633,062,573	1,633,062,573
Source of funds		
General fund	513,632,278	513,632,278
Special funds	<u>44,969,169</u>	34,969,169
Tobacco fund	21,049,373	21,049,373
State health care resources fund	22,601,110	22,601,110
Federal funds	1,015,442,864	1,015,442,864
Interdepartmental transfers	<u>25,367,779</u>	<u>25,367,779</u>
Total	1,633,062,573	1,633,062,573

Sec. A.33. 2019 Acts and Resolves No. 72, Sec. B.309 as amended by 2020 Acts and Resolves No. 88, Sec. 17 as amended by Sec. 8 of H.953 of 2020 as passed by the house and senate is further amended to read:

Sec. B.309 Department of Vermont health access - Medicaid program - state only		
Grants	<u>49,128,572</u>	<u>49,128,572</u>
Total	49,128,572	49,128,572
Source of funds		
General fund	39,150,622	39,150,622
Federal funds	0	85,500
Global Commitment fund	9,892,450	9,892,450
Enterprise funds	<u>85,500</u>	<u>0</u>
Total	49,128,572	49,128,572

Sec. A.34. 2019 Acts and Resolves No. 72, Sec. B.346 as amended by 2020 Acts and Resolves No. 88, Sec. 34 as amended by Sec. 14 of H.953 of 2020 as passed by the House and Senate is further amended to read:

Sec. B.346 Total human services		
Source of funds		
General fund	960,370,523	960,370,523

Special funds	123,782,144	123,782,144
Tobacco fund	23,088,208	23,088,208
State health care resources fund	22,601,110	22,601,110
Federal funds	1,464,072,845	1,464,158,345
Global Commitment fund	1,583,073,476	1,583,073,476
Internal service funds	2,035,610	2,035,610
Interdepartmental transfers	46,373,468	46,373,468
Permanent trust funds	25,000	25,000
Enterprise funds	<u>85,500</u>	<u>0</u>
Total	4,255,507,884	4,255,507,884

* * * K-12 Education * * *

Sec. A.35. 2019 Acts and Resolves No. 72, Sec. E.504.2 is amended to read:

Sec. E.504.2 Education – flexible pathways

(a) Of this appropriation, ~~\$3,026,500~~ \$3,916,000 from the Education Fund shall be distributed to school districts for reimbursement of high school completion services pursuant to 16 V.S.A. § 943(c). Notwithstanding 16 V.S.A. § 4025(b), of this Education Fund appropriation, the amount of:

* * *

Sec. A.36. State teachers' retirement system

(a) In accordance with 16 V.S.A. § 1944(g)(2), the annual contribution to the State Teachers' Retirement System (STRS) shall be \$132,141,701 of which \$125,894,201 shall be the State's contribution and \$6,247,500 shall be contributed from local school systems or educational entities pursuant to 16 V.S.A. § 1944c.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, \$7,213,271 is the "normal contribution," and \$124,928,430 is the "accrued liability contribution."

Sec. A.37. PREFUNDING OF THE TEACHERS' HEALTH CARE AND MEDICAL BENEFITS FUND

(a) Of the amount appropriated in Sec. A.3 of this act, \$2,400,000 is intended to pre-fund Retired Teachers' Health Care and Medical Benefits at the earliest possible date.

Sec. A.38. 16 V.S.A. § 1944b is amended to read:

§ 1944b. RETIRED TEACHERS' HEALTH AND MEDICAL BENEFITS FUND

* * *

(d) The Treasurer may invest monies in the Benefits Fund in accordance with the provisions of 32 V.S.A. § 434 or, in the alternative, may enter into an agreement with the Vermont Pension Investment Committee to invest such monies in accordance with the standards of care established by the prudent investor rule under 14A V.S.A. § 902, in a manner similar to the Committee's investment of retirement system monies. Interest earned shall remain in the Benefits Fund, and all balances remaining at the end of a fiscal year shall be carried over to the following year. The Treasurer's annual financial report to the Governor and the General Assembly shall contain an accounting of receipts, disbursements, and earnings of the Benefits Fund.

* * *

* * * Higher Education * * *

Sec. A.39. University of Vermont

(a) The Commissioner of Finance and Management shall issue warrants to pay monthly installments of the appropriation in Sec. A.4 of this act to the University of Vermont on or about the 15th day of each calendar month during the first quarter of the year.

* * * Natural Resources * * *

Sec. A.40. 2019 Acts and Resolves No. 72, Sec. E.711.1 is amended as follows:

Sec. E.711.1 BENNINGTON WATER LINE EXTENSION

(a) Waiver of bond vote. The Town of Bennington shall receive a loan for the Operational Unit C / Chapel Road Project in an amount of up to ~~\$1,500,000~~ \$2,000,000 to receive a loan subsidy in the form of 100 percent principal forgiveness with no interest or administrative fee from funds authorized in 24 V.S.A § 4753(a)(3). Notwithstanding the provisions of 24 V.S.A. § 4755(a)(3), the loan is not required to be evidenced by a municipal bond.

* * *

* * * Transportation * * *

Sec. A.41. Transportation – central garage

(a) This appropriation is authorized pursuant to Sec. A.4 of this act, notwithstanding the provisions of 19 V.S.A. § 13(c)(2).

Sec. A.42. Transportation – town highway structures

(a) This appropriation is authorized pursuant to Sec. A.4 of this act, notwithstanding the provisions of 19 V.S.A. § 306(e).

Sec. A.43. Transportation – town highway class 2 roadway

(a) This appropriation is authorized pursuant to Sec. A.4 of this act, notwithstanding the provisions of 19 V.S.A. § 306(h).

Sec. A.44. Transportation – town highway aid program

(a) This appropriation is authorized pursuant to Sec. A.4 of this act, notwithstanding the provisions of 19 V.S.A. § 306(a).

(b) The Agency of Transportation shall distribute \$6,776,442.25 to towns in the apportionments provided under 19 V.S.A. § 306(a)(3) for the first quarterly payment of town highway aid.

* * * Coronavirus Relief Fund; Administrative Provisions * * *

Sec. A.45. CONSISTENCY WITH CARES ACT AND GUIDANCE

(a) The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this act complies with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance because the costs to be covered:

(1) are necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19);

(2) were not accounted for in Vermont’s fiscal year 2020 budget; and

(3) were, or will be, incurred during the period beginning on March 1, 2020 and ending on December 30, 2020.

Sec. A.46. GRANT RECIPIENT REQUIREMENTS; REVERSION AND REALLOCATION SCHEDULE

(a) All appropriations made from the State’s Coronavirus Relief Fund (CRF) in this and other bills passed after March 1, 2020 as part of the 2020 legislative session are made with the knowledge that the statutory and regulatory context is constantly changing. Additional federal legislation may further change the potential for and appropriateness of CRF usage. As a result:

(1) Appropriations from the CRF are subject to changes in source of funds that may occur as the result of subsequent legislation or through administrative actions, where permissible by law.

(2) Specific CRF uses may need to change based on changes to federal laws or on revised or updated federal guidance.

(3) It is the responsibility of all entities receiving CRF monies to ensure compliance with all federal guidelines as to CRF spending and use.

(4) Unless otherwise authorized by the Commissioner of Finance and Management, any monies appropriated from the CRF shall revert to the CRF to the extent that they have not been expended by December 20, 2020 to enable reallocation.

Sec. A.47. CORONAVIRUS RELIEF FUND GRANTS; CONDITIONS

(a) Any person receiving a grant comprising monies from the Coronavirus Relief Fund shall use the monies only for purposes that comply with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance.

(b) Any person who expends monies from the Coronavirus Relief Fund for purposes not eligible under Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance shall be liable for repayment of the funds to the State of Vermont; provided, however, that a person shall not be liable for such repayment if the person expended the monies in good faith reliance on authorization of the proposed expenditure by or specific guidance from the agency or department administering the grant program.

(c) The Attorney General or a State agency or department administering a grant program established or authorized under this act may seek appropriate criminal or civil penalties as authorized by law for a violation of the terms or conditions of the applicable program, grant, or award.

Sec. 48. CORONAVIRUS RELIEF FUND; RECORD KEEPING;
COMPLIANCE

(a) In order to ensure compliance with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136, and related guidance, and to assist the State in demonstrating such compliance:

(1) any agency or department, and any subrecipient of a grant, that is authorized to disburse grant funds appropriated by this act shall include standard audit provisions, as required by Agency of Administration Bulletins 3.5 and 5, in all contracts, loans, and grant agreements; and

(2) each grant recipient shall report on its use of the monies received pursuant to this act to the agency or department administering the grant as required by that agency or department and shall maintain records of its expenditures of the monies for three years, or for a longer period if so required by State or federal law, to enable verification as needed.

* * * COVID-19 Expenditures * * *

Sec. A.49. ONE-TIME CORONAVIRUS RELIEF FUND (CRF)
APPROPRIATIONS

(a) The following appropriations are authorized on a one-time basis in

fiscal year 2021 from the Coronavirus Relief Fund (CRF) established under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act to address necessary expenditures with respect to the COVID-19 public health emergency. These expenditures were not accounted for in the State budget most recently approved as of March 27, 2020 and were incurred during the period that began on March 1, 2020, in accordance with the Department of Treasury's May 28, 2020 interpretation of limitations on the permissible use of fund payments.

(1) Legislature: \$2,000,000 is appropriated to the Legislature for costs incurred for an estimated six-week extension of the 2020 session in fiscal year 2021 (August and September 2020) due to the response to the Coronavirus pandemic. This extension to legislative work may be conducted in a remote or partially remote manner.

(2) The Vermont State Colleges (VSC): \$22,758,000 is granted to the VSC for costs and business disruption impacts through December 30, 2020 due to the COVID-19 pandemic.

(3) The University of Vermont (UVM): \$19,355,000 is granted to UVM for costs and business disruption impacts through December 30, 2020 due to the COVID-19 pandemic as outlined in the May 5, 2020 memo submitted to the House Appropriations Committee from the UVM Vice President for Finance and Treasurer. This includes capacity for the University's Business Resource Center to engage with and provide assistance to pandemic impacted businesses in Vermont or relocating to Vermont through December 30, 2020.

(4) The Vermont Student Assistance Corporation (VSAC): \$5,000,000 is granted to VSAC for impacts due to the COVID-19 pandemic.

(5) State's Attorneys: \$1,977,000 is appropriated to the Department of State's Attorneys for costs incurred or anticipated to be incurred in response to the COVID-19 pandemic.

(6) Defender General: \$753,000 is appropriated to the Defender General for costs incurred or anticipated to be incurred in response to the COVID-19 pandemic.

(7) Vermont Center for Crime Victim Services: \$742,500 is appropriated to Center for Crime Victim Services for costs incurred or anticipated to be incurred in response to the COVID-19 pandemic. These funds are allocated as follows:

(A) \$502,500 for domestic and sexual violence providers direct costs including PPE; hazard pay; equipment and HIPAA-compliant video conference services; increased shelter sanitation costs and increased direct aid to survivors

moved into in the community to meet COVID-19 health and safety recommendations.

(B) \$80,000 for no cost legal representation to victims of domestic and sexual violence through the Vermont Network's Justice for Victims Legal Clinic because the pandemic has made it more difficult for victims to find attorneys and understand how they may participate remotely in judicial proceedings.

(C) \$160,000 for providing domestic and sexual violence victim's advocates with remote access to the Forensic Nursing Program due to COVID-19 because victim's advocates are restricted by hospitals from being physically present with victims during the pandemic as an infection control strategy.

(8) Judiciary: \$2,608,500 is appropriated to the Judiciary for costs incurred in response to the COVID-19 pandemic.

(9) Agency of Human Services: \$300,000 is appropriated to the Agency of Human Services to be granted to Vermont Legal Aid for increased costs of providing access to justice services in response to the COVID-19 pandemic. Up to 50% of this amount shall be used to cover the cost of per use electronic judicial filing fees though December 30, 2020 to ensure all court users have timely access to justice as the judicial system resumes operations relying on greater digital remote online processes to ensure public health and safety after closure due to COVID-19.

(10) Department of Corrections: \$2,500,000 is appropriated to the Department of Corrections to address the health and safety of persons under the custody of the Commissioner of Corrections and Department of Corrections staff due to the COVID-19 emergency. These funds are allocated below, allocations that cannot be used by December 30, 2020 may be reallocated to other eligible COVID-19 cost categories. Any reallocations shall be reported to the Joint Legislative Justice Oversight Committee, the Commissioner of Finance and Management and the Joint Fiscal Office:

(A) \$760,000 for temperature scanners and six full body scanners at State correctional facilities, temperature scanners at field service offices, and personal protective equipment (PPE) at State correctional facilities and field service offices for COVID-19 mitigation.

(B) \$700,000 for technology upgrades to support the COVID-19 necessitated transition from in-person programs and services to remote on-line access across facilities including WIFI heating mapping in the facilities, the Community High School of Vermont learning management system, as well as devices, applications, and video conferencing services.

(C) \$363,000 to be granted to community justice centers. Of which \$252,000 is the estimated amount for direct costs incurred at the centers as a

result of COVID-19. The remainder is to provide increased program capacity at the transitional housing programs operated by some community justice centers for individuals reentering into the community to reduce the risk of spreading COVID-19 in State correctional facilities.

(D) \$350,000 to for the Department to increase rental housing and supporting program capacity in the community. Of this amount \$200,000 is the estimated amount for direct rental assistance for first and last month for individuals reentering the community to reduce the risk of spreading COVID-19 in State correctional facilities. The remaining amount is to increase and provide domestic violence and batterer intervention programs in the community required for COVID-19 reentering individuals.

(E) \$327,000 to be granted to Vermont Network Against Domestic Violence. \$130,000 to provide \$10,000 grants for each of the thirteen Domestic Violence Offender Accountability Programs to immediately transition to remote access. The remaining funds to support victims of domestic and sexual violence who are incarcerated and reentering the community by remote contact systems and more extensive use of support personnel to ameliorate the impact of COVID-19 that has required the department to isolate some incarcerated individuals and to limit the in-person contacts of these re-entering individuals.

(F) The Commissioner of Corrections shall report to the Joint Legislative Justice Oversight Committee in November 2020 if the funding in this section and in Sec. 36(a)(8) of H.953 of 2020 as passed by the House and Senate for rental assistance; changes in community supervision; reentry and community programming support or pilot programs provided through community service partner organizations; and domestic violence offender reentry programs and victim support programs have decreased incarceration and if the impact is sufficient to continue to provide funding in the future for these programs. Specifically, the Commissioner shall identify if any of these programs should continue to be funded after the pandemic emergency because of their continued potential to further reduce overall incarceration rates.

(11) Auditor: \$100,000 is appropriated to the State Auditor for State single audit costs to be incurred in response to COVID-19 funding. The Auditor is authorized to fill two vacant positions.

(12) Secretary of State: \$2,000,000 is appropriated to the Secretary of State for developing and implementing the Vermont Business Portal to provide digital access for Vermont-based businesses to at least four State agencies. This project's phase one is to facilitate communications with all registered businesses and business types in the period of the COVID-19 pandemic by

bringing more transactions online to facilitate remote work; and increase overall employee and agency efficiency in operations.

(13) Department for Children and Families (DCF): \$1,400,000 is appropriated to DCF, Office of Economic Opportunity, to be granted to the Community Action Agencies for the Statewide Community Action Network's Economic Micro Business Recovery Assistance for the COVID-19 Epidemic (EMBRACE) to assist the most disadvantaged Vermont microbusiness owners impacted by COVID-19 business closure orders with to access grants and technical assistance.

(14) Department of Disabilities, Aging, and Independent Living (DAIL): \$100,000 is appropriated to DAIL to be granted to the Vermont Association for the Blind and Visually Impaired for a technology training program (iPad and iPhone training) for older Vermonters who experience decreased vision and blindness and others who are blind or visually impaired to address social isolation resulting from social distancing.

(15) Department of Disabilities, Aging and Independent Living (DAIL) \$2,450,000 is appropriated DAIL to provide financial stability grant funding to the twelve adult day providers statewide to continue to support the facilities, service infrastructure and necessary operating costs for July 2020 through September 2020 as these programs remained closed due the COVID-19 crisis and prepare to reopen safely for the vulnerable populations they service at the end of their closure period.

(16) Agency of Agriculture, Food and Markets: \$1,000,000 is appropriated to the Agency of Agriculture, Food and Markets for the COVID-19 Working Lands Program for eligible pandemic response proposals from agriculture, food and markets participants.

(17) Department of Forests, Parks and Recreation: \$500,000 is appropriated to the Department of Forests, Parks and Recreation to make payments to refund cancellations due to COVID-19 for State parks' reservations that were paid in advance.

Sec. A.50. PRE-K–12 EDUCATION PANDEMIC COSTS: CORONAVIRUS
RELIEF FUND APPROPRIATIONS

(a) Total appropriation. The sum of \$50,000,000 is appropriated in fiscal year 2020 to the Agency of Education to fund eligible fiscal years 2020 and 2021 expenditures of Vermont prekindergarten–grade 12 public schools and approved independent schools. Eligible expenditures shall conform with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136, and related guidance, and shall be determined by the Secretary of Education. This

funding is allocated under subsections (b), (c), and (d) of this section. Any unused portion of this funding shall carry over into fiscal year 2021.

(b) Efficiency Vermont. The amount of \$6,500,000 shall be granted to Efficiency Vermont for the air quality improvement program in Sec. A.51 of this act.

(c) Prekindergarten-12 schools.

(1) Public schools. The sum of \$41,000,000 shall be granted for the purpose of reimbursing COVID-19 costs incurred by school districts.

(A) The appropriations under this subdivision (c)(1) shall not be used for costs incurred by a prekindergarten program that is not operated by a school district.

(B) Notwithstanding 16 V.S.A. § 567, a school district that has a fiscal year 2020 surplus shall carry those surplus funds into fiscal year 2021 as revenue without waiting for an audit to confirm the existence or amount of the surplus funds. Notwithstanding any other provision of law to the contrary, the Agency of Education shall evaluate the amount of education fund payments authorized by 16 V.S.A. chapter 133 needed to fund a school district's budget, taking into account surplus funds and other factors it determines to be relevant, and shall subtract from the district's first two fiscal year 2021 education fund payments an amount it determines is unnecessary to fund the district's budget.

(2) Approved independent schools. The sum of up to \$1,500,000 shall be granted for the purpose of reimbursing COVID-19 costs incurred by approved independent schools that, as of March 27, 2020 (the date of enactment of the CARES Act), had one or more students enrolled whose tuition was funded by the student's sending school district (publicly funded student).

(A) The maximum reimbursement to an approved independent school under this subdivision (2) shall be an amount equal to \$422 for each publicly funded student who was enrolled as of March 27, 2020.

(B) An approved independent school that receives funds from the Coronavirus Relief Fund under this subdivision (2) shall provide access to the Agency of Education for the purpose of auditing the school's use of those funds.

(3) Administration and guidance. The Agency of Education shall administer these reimbursement programs, on or about June 26, 2020 issue guidance to school districts and approved independent schools on reimbursable costs, and establish a process for submission of, and reimbursement for, these costs. The guidance issued by the Agency shall allow for use of that funding

to cover all costs permitted under the CARES Act and related guidance, and under any other applicable law.

(d) Accounting and technical assistance. Up to \$1,000,000 shall be available to provide accounting and technical assistance to the supervisory unions and school districts to fully identify COVID-19 expenses and accurately process these within the statewide accounting system.

(e) Purpose or determination of necessity; due to COVID-19. The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to assist public schools and approved independent schools cover a variety of COVID-19 costs. The guidance required to be issued by the Agency of Education under this section to public schools and approved independent schools is intended to ensure that their costs are due to or resulting from COVID-19.

Sec. A.51. SCHOOL INDOOR AIR QUALITY GRANT PROGRAM;
CORONAVIRUS RELIEF FUND; APPROPRIATION

(a) Appropriation. The sum of \$6,500,000 appropriated in Sec.A.50(b) of this act from the Coronavirus Relief Fund for Efficiency Vermont in fiscal year 2021 is for purposes of providing grants to Vermont K–12 covered schools to upgrade heating, ventilation, and air conditioning (HVAC) systems, and filtration and other methods of air treatment, in response to the COVID-19 emergency.

(b) Purpose or determination of necessity; due to COVID-19. The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to make immediate improvements to the indoor air quality in K–12 covered schools to improve health and safety and to mitigate the threat of the spread of COVID-19.

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

(d) Program established. There is established within Efficiency Vermont the School Indoor Air Quality Grant Program to provide grants to K–12 covered schools in Vermont to repair, maintain, and upgrade heating, ventilation, and air conditioning (HVAC) systems in reference to COVID-19-specific guidelines from the U.S. Centers for Disease Control and Prevention (CDC) and the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE).

(e) Administration; implementation.

(1) The Program shall be administered by Efficiency Vermont, which shall be responsible for:

(A) providing education and outreach to schools on the Program;

(B) providing informational guidance and best practices for school ventilation and air filtration systems; and

(C) awarding available grants to covered schools under the Program, which may be paid directly to a contractor on behalf of a covered school.

(2) Efficiency Vermont, in consultation with the Agency of Education, the Vermont Superintendents Association, and experts in the field of heating, ventilation, and air conditioning, shall design the Program. The Program design shall establish:

(A) An outreach and education plan.

(B) An equitable system for distributing grants statewide based on geographic location, school size, and grant dollar amount.

(C) Guidelines for the ventilation, filtration, monitoring, humidification, and dehumidification measures and costs that will be eligible for grant funding. Eligible measures may include handheld meters, system evaluation, and retrocommissioning.

(3) Efficiency Vermont is authorized to use up to \$100,000 of the amount appropriated in subsection (a) of this section for administration. As the entity appointed to serve as Efficiency Vermont, the Vermont Energy Investment Corp. (VEIC) is authorized to collect their federally approved indirect rate of 9.3 percent on the Program funds expended.

(f) Contracting with vendors; bidding exception. Due to the public health risk posed by COVID-19, any project receiving grant funds under the Program shall be deemed to be an emergency repair for the purposes of 16 V.S.A. § 559(e), and a covered school may enter into a contract with an independent third party without the need to competitively bid the contract.

(g) Report. On or before September 15, 2020, Efficiency Vermont shall submit an update on the Program to the House and Senate Committees on Education. On or before March 15, 2021, Efficiency Vermont shall submit a final report on the Program, which shall include a list of the covered schools served, projects completed, funds expended, results and benefits of the projects completed, and overall lessons learned and recommendations for possible future school ventilation improvement programs.

Sec. A.52. H.953 (Supplemental Budget Adjustment) of 2020 is amended by striking out in Sec. 36, subdivision (a)(7) in its entirety and insert in lieu thereof a new (a)(7) to read as follows:

(7) The Agency of Human Services (AHS) for Emergency

Medical/Ambulance Services: \$3,000,000 is appropriated to AHS for Emergency Medical/Ambulance Services costs and financial assistance during the COVID-19 pandemic, which shall be allocated as follows:

(A) \$400,000 for the necessary training and support of emergency medical personnel, including volunteers, which shall be transferred to the Department of Health for disbursement. In order to address the needs of Vermonters as a result of the COVID-19 pandemic, the Department, in consultation with the Emergency Medical Services Advisory Committee, shall use the monies expeditiously to provide funding for live and online training opportunities for emergency medical responders, emergency medical technicians, and advanced emergency medical technicians and for other emergency medical personnel training-related purposes. The Department and the Advisory Committee shall prioritize training opportunities for volunteer emergency medical personnel to maximize the response capabilities of all areas in the State.

(B) \$500,000 for paramedic training, including paramedic certificate programs for prospective paramedics, continuing education opportunities for licensed paramedics, and recruitment. These funds shall be transferred to the Department of Health for disbursement.

(i) Funding under this subdivision (7)(B) shall be prioritized for training through Vermont programs that include clinical and field internship work to be completed prior to December 30, 2020.

(ii) The Department may collaborate with the Vermont Student Assistance Corporation, or similar entity, to disburse funding to approved paramedic training programs, to qualified applicants seeking a paramedic certificate, and to licensed paramedics pursuing continuing education opportunities.

(iii) The Department may allocate funds for recruitment of qualified paramedics to meet the needs of emergency medical service (EMS) and ambulance service providers in the State and ensure that emergency patient care and transportation services are available to Vermonters in all parts of the State. Such costs may include reimbursement for relocation, short-term housing stipends pending relocation, reimbursement for costs associated with Vermont licensure, and other allowed costs.

(C) \$100,000 for AHS in coordination with the Department of Financial Regulation (DFR) to engage through sole source contract one or more financial consultants to assist Vermont EMS and ambulance service providers with applications needed for federal provider relief funds related to COVID-19 funding, State prospective payments related to COVID-19 through

the Agency of Human Services and the Department of Vermont Health Access, and other grant funding that may be available in response to the pandemic.

(D) \$2,000,000, of which five percent shall be reserved for extraordinary financial relief to Vermont EMS and ambulance service providers upon demonstrated need, and the remainder of which may be used to make EMS and ambulance service provider stabilization grants in a manner determined by AHS that recognizes the need for administrative simplicity and is proportionate to EMS and ambulance service provider organization size.

(E) On or before January 15, 2021, AHS and the Department of Health shall report to the House Committees on Appropriations, on Health Care, and on Government Operations and the Senate Committees on Appropriations, on Health and Welfare, and on Government Operations with an accounting of its use of the funds appropriated to AHS for disbursement by the Department pursuant to this subsection.

Sec. A.53. COVID-19 UNEMPLOYMENT ADMINISTRATION COSTS

(a) The Department of Labor is authorized to use \$4,700,000 for COVID-19 Unemployment Administration Costs from the funds allocated under the conditions for the acceptance of the Coronavirus Relief Fund grant to Vermont adopted and as amended on May 5, 2020 by the Joint Fiscal Committee.

* * * Definitions; Other Legal or Budgetary Context * * *

Sec. A.54. APPROPRIATIONS DEFAULT AND TIMING LIMITATIONS

(a) If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the Commissioner of Finance and Management.

(b) Unless codified or otherwise specified, all narrative portions of this act apply only to the first quarter of the fiscal year ending on September 30, 2021.

Sec. A.55. DEFINITIONS

(a) As used in this act:

(1) "Encumbrances" means a portion of an appropriation reserved for the subsequent payment of existing purchase orders or contracts. The Commissioner of Finance and Management shall make final decisions on the appropriateness of encumbrances.

(2) "Grants" means subsidies, aid, or payments to local governments, to community and quasi-public agencies for providing local services, and to persons who are not wards of the State for services or supplies and means cash or other direct assistance, including pension contributions.

(3) “Operating expenses” means property management; repair and maintenance; rental expenses; insurance; postage; travel; energy and utilities; office and other supplies; equipment, including motor vehicles, highway materials, and construction; expenditures for the purchase of land and construction of new buildings and permanent improvements; and similar items.

(4) “Personal services” means wages and salaries, fringe benefits, per diems and contracted third-party services, and similar items.

Sec. A.56. RELATIONSHIP TO EXISTING LAWS

(a) Except as specifically provided, this act shall not be construed in any way to negate or impair the full force and effect of existing laws.

Sec. A.57. OFFSETTING APPROPRIATIONS

(a) In the absence of specific provisions to the contrary in this act, when total appropriations are offset by estimated receipts, the State appropriations shall control, notwithstanding receipts being greater or less than anticipated.

Sec. A.58. FEDERAL FUNDS

(a) In the first quarter of fiscal year 2021, the Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may accept federal funds available to the State of Vermont, including block grants in lieu of or in addition to funds herein designated as federal. The Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during the first quarter of fiscal year 2021, federal funds available to the State of Vermont and designated as federal in this and other acts of the 2020 session of the Vermont General Assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the Governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The Governor may spend such funds for such purposes for not more than 45 days prior to Legislative or Joint Fiscal Committee approval. Notice shall be given to the Joint Fiscal Committee without delay if the Governor intends to use the authority granted by this section, and the Joint Fiscal Committee shall meet in an expedited manner to review the Governor’s request for approval.

Sec. A.59. NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized State positions, both classified and exempt, excluding temporary

positions as defined in 3 V.S.A. § 311(11), shall not be increased during the first quarter of fiscal year 2021. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction.

* * * Effective Dates Secs. A.1 – A.59 * * *

Sec. A.60. EFFECTIVE DATES

(a) This section and Secs. A.7 (pilot position sunset extension), A.8 (sunset extension), A.9 (Budget Report), A.12 (State Employees' Postemployment Benefits Trust Fund), A.13 (Vermont Pension Investment Committee; Duties), A.14, (Investment in Vermont Community Loan Fund), A.20 (e-filing), A.24 (military reclassification), A.26 (repurposing one-time appropriation), A.28-A.31 (Woodside), A.32-A.34 (Agency of Human Services fiscal year budget adjustments), A.35 (education fund appropriation technical correction), A.38 (Retired Teachers' Health and Medical Benefits Fund), A.40 (Bennington waterline loan subsidy increase), A.50-A.51 (Pre-K-12 CRF appropriations), A.52 (emergency medical/ambulance services funding), and A.53 (Labor Department authorization) shall take effect upon passage.

(b) All remaining A sections shall take effect on July 1, 2020.

And by renumbering all the sections of the bill to be numerically correct (including internal references) and adjusting all the totals to be arithmetically correct.

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, on a roll call, Yeas 29, 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: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Rodgers.

Thereupon, third reading of the bill was ordered.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 59, S. 220.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, June 18, 2020.

THURSDAY, JUNE 18, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Franklin District	Senator Randolph D. Brock
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald

Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Message from the House No. 56

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. 946. An act relating to approval of the adoption of the charter of the Town of Elmore.

H. 965. An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

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

Message from the House No. 57

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. 963. An act relating to sunsets related to judiciary procedures.

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. 339. An act relating to miscellaneous changes to laws related to vehicles.

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

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

J.R.S. 54. Joint resolution relating to the annual State lands transactions.

J.R.S. 58. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Referred

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

H. 946.

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

To the Committee on Government Operations.

H. 963.

An act relating to sunsets related to judiciary procedures.

To the Committee on Judiciary.

H. 965.

An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

To the Committee on Appropriations.

Bill Amended; Third Reading Ordered

S. 237.

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

An act relating to promoting affordable housing.

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

* * * Municipal Zoning * * *

Sec. 1. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

(4) A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational, and other public sites; buildings and facilities, including hospitals, libraries, power generating plants and transmission lines; water supply, lines, facilities, and service areas; sewage disposal, lines, facilities, and service areas; refuse disposal, storm drainage, and other similar facilities and activities; and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs, and method of financing.

* * *

(10) A housing element that shall include a recommended program for addressing low and moderate income persons' housing needs as identified by the regional planning commission pursuant to subdivision 4348a(a)(9) of this title. The program ~~should account for permitted accessory dwelling units, as defined in subdivision 4412(1)(E)~~ shall comply with the requirements of section 4412 of this title, which to provide affordable housing.

* * *

Sec. 2. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

(a) Notwithstanding any existing bylaw, the following land development provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable housing.

* * *

(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality. Within any regulatory district that allows multiunit residential

dwelling, no bylaw shall have the effect of prohibiting multiunit residential dwellings of four or fewer units as an allowed, permitted use, or of conditioning approval based on the character of the area.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to ~~an owner-occupied~~ a single-family dwelling on an owner-occupied lot. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling unit means ~~an efficiency or one-bedroom apartment a distinct unit~~ that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling or 900 square feet, whichever is greater.

~~(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.~~

(F) Nothing in subdivision (a)(1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units; or

(ii) a bylaw that ~~requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit:~~

~~(I) a new accessory structure;~~

~~(II) an increase in the height or floor area of the existing dwelling; or~~

~~(III) an increase in the dimensions of the parking areas regulates short-term rental units distinctly from residential rental units.~~

* * *

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.

(A) A municipality may prohibit development of a lot not served by and able to connect to municipal sewer and water service if either of the following applies:

- (i) the lot is less than one-eighth acre in area; or
- (ii) the lot has a width or depth dimension of less than 40 feet.

* * *

(b) Inclusive Development.

(1) Except in a municipality that has reported substantial municipal constraints in accordance with subdivision (b)(2) of this section and notwithstanding any existing bylaw other than flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, the following land development provisions shall apply in every municipality:

(A) No bylaw shall have the effect of prohibiting the creation of residential lots of at least:

(i) 10,890 square feet or one-quarter acre within any regulatory district allowing residential uses served by and able to connect to a water system operated by a municipality; or

(ii) 5,400 square feet or one-eighth acre within any regulatory district allowing residential uses served by and able to connect to a water and sewer system operated by a municipality.

(B) The appropriate municipal panel or administrative officer, as applicable, shall condition any subdivision approval on obtaining a State wastewater permit pursuant to 10 V.S.A. chapter 64.

(C) No bylaw shall have the effect of prohibiting or requiring conditional use approval for a two-unit dwelling on any lot within any regulatory district allowing residential uses served by and able to connect to a water and sewer system operated by a municipality to any greater extent than a one-unit dwelling would be prohibited or restricted within such district with no additional review, dimensional, or other controls than would be required for a single-family dwelling without a second unit.

(D) When a bylaw establishes a parking minimum for residential properties, each residential parking space that will be leased separately from residential units shall count as two spaces for purposes of meeting the parking minimum for any proposed development located within a half mile of a transit stop. The parking space lease costs shall be reasonably proportional to the production, operation, and maintenance cost of the space to reduce generalized subsidy of leased spaces by other residents. A municipality may condition the

municipal land permit on continuation of the separate leasing of parking spaces and residential units.

(2) A municipality may opt out of the requirements of subdivision (1) of this subsection by filing a Substantial Municipal Constraint Report with the Department of Housing and Community Development.

(A) The Substantial Municipal Constraint Report shall demonstrate that:

(i) the municipality's bylaws comply with all of the requirements of subsection (a) of this section; and

(ii) the municipality has documented substantial municipal constraints on its municipal water, municipal sewer, or other services that prevent the adoption of bylaws that conform to the requirements of subdivision (1) of this subsection (b).

(B) On or before January 1, 2021, the Department of Housing and Community Development shall provide a template and guidance on the form and content of the Substantial Municipal Constraint Report.

(C) The Department of Housing and Community Development shall post all Substantial Municipal Constraint Reports on the Department's website, and shall promptly provide a copy to the municipality's regional planning commission, the State program directors for municipal and water sewer funding, the Vermont Community Development Board, the Vermont Downtown Development Board, the Vermont Housing and Conservation Board, and the Natural Resources Board, as well as any person requesting notice. Any person may provide comment on the municipality's report to the Commissioner of Housing and Development within 60 days of the filing. The Department shall post all comments with the Report on the Department's website.

(D) A municipality that has filed a Substantial Municipal Constraint Report shall update the Report each time it updates its municipal plan or bylaws. Failure to update the Report shall disqualify the municipality from the incentives identified in subdivision (3) of this subsection (b) and may subject the municipality to review by the Commissioner of Housing and Community Development pursuant to section 4351 of this title.

(3) Incentives and funding.

(A) On or before July 1, 2021, any municipality that requests technical assistance from a regional planning commission to update local bylaws to address inclusionary growth as described in subdivision (1) of this subsection (b) shall receive priority technical assistance through additional

funding made available to the applicable regional planning commission by section 4306 of this title or municipal funding made available through the Municipal Planning Grant Program established by section 4306 of this title and may use resources developed by the Department of Housing and Community Development to assist with the updates.

(B) The following State funding programs shall prioritize funding in municipalities that have updated their bylaws to comply with this subsection or are actively pursuing actions that will bring their bylaws into compliance with this section:

(i) State funding for Municipal Water and Sewer Systems;

(ii) Municipal Planning Grants under section 4306 of this title;

(iii) Vermont Community Development Program under 10 V.S.A. chapter 29, subchapter 1; and

(iv) Neighborhood Development Area Historic Tax Credits under 32 V.S.A. § 5930cc.

(4) Pursuant to 27 V.S.A. § 545, in a municipality that has adopted bylaws that comply with subdivision (1) of this subsection (b), deeds may not be restricted by covenants, conditions, or restrictions that conflict with the duly adopted municipal bylaws or policies. This subsection shall not affect the enforceability of any existing deed restrictions.

Sec. 3. 27 V.S.A. § 545 is added to read:

§ 545. COVENANTS, CONDITIONS, AND RESTRICTIONS OF
SUBSTANTIAL PUBLIC INTEREST

Deed restrictions, covenants, or similar binding agreements added after July 1, 2020 that prohibit or have the effect of prohibiting land development allowed under the municipal bylaws in a municipality that has adopted a bylaw in accordance with 24 V.S.A. § 4412(b)(1) shall not be valid. This section shall not affect the enforceability of any property interest held in whole or in part by a qualified organization or State agency as defined in 10 V.S.A. § 6301a, including any restrictive easements, such as conservation easements and historic preservation rights and interests defined in 10 V.S.A. § 822. This section shall not affect the enforceability of any property interest that is restricted by a housing subsidy covenant as defined by section 610 of this title and held in whole or in part by an eligible applicant as defined in 10 V.S.A. § 303(4) or the Vermont Housing Finance Agency.

 Sec. 4. REPORT ON SUBSTANTIAL MUNICIPAL CONSTRAINTS

On or before January 15, 2023, the Department of Housing and Community Development shall report to the General Assembly on any Substantial Municipal Constraint Reports received. The report shall address the number of municipalities that have reported substantial municipal constraints, the nature of the constraints, the impact on the development of housing in those municipalities, and any steps the Department recommends towards reducing or eliminating constraints.

* * * Act 250 Downtown Exemption * * *

Sec. 5. 10 V.S.A. § 6001 is amended to read:

* * *

(27) “Mixed income housing” means a housing project in which the following apply:

(A) ~~Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:~~

~~(i) at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

~~(ii) At the time of initial sale at least 20 percent of the housing units have a purchase price that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency meet the requirements of affordable owner-occupied housing under subdivision (29)(A) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

(B) Rental housing. ~~At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of For~~ not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.

* * *

(35) “Priority housing project” means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

~~(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, or designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or~~

~~(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.~~

* * *

Sec. 6. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project development or subdivision that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p) of this section on the basis of that designation.

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit issued by an appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit for a development or subdivision located in a downtown development area or a neighborhood development area is extinguished.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

~~(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change. [Repealed.]~~

* * *

Sec. 7. REPEALS

The following are repealed:

- (1) 10 V.S.A. § 6083a(d) (neighborhood development area fees).
- (2) 10 V.S.A. § 6086b (downtown development).

Sec. 8. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(f)(1) This subsection shall apply to a subdivision or development that:

- (A) was previously permitted pursuant to 10 V.S.A. chapter 151;
- (B) is located in a downtown development district or neighborhood development area designated pursuant to chapter 76A of this title; and
- (C) has applied for a permit or permit amendment required by zoning regulations or bylaws adopted pursuant to this subchapter.

(2) The appropriate municipal panel reviewing a municipal permit or permit amendment pursuant to this subsection shall include conditions contained within a permit previously issued pursuant to 10 V.S.A. chapter 151 unless the panel determines that the permit condition pertains to any of the following:

- (A) the construction phase of the project that has already been constructed;
- (B) compliance with another State permit that has independent jurisdiction;
- (C) federal or State law that is no longer in effect or applicable;

(D) an issue that is addressed by municipal regulation and the project will meet the municipal standards; or

(E) a physical or use condition that is no longer in effect or applicable, or that will no longer be in effect or applicable once the new project is approved.

(3) After issuing or amending a permit containing conditions pursuant to this subsection, the appropriate municipal panel shall provide notice and a copy of the permit to the Natural Resources Board.

(4) The appropriate municipal panel shall comply with the notice and hearing requirements provided in subdivision 4464(a)(1) of this title. In addition, notice shall be provided to those persons requiring notice under 10 V.S.A. § 6084(b) and shall explicitly reference the existing Act 250 permit.

(5) The appropriate municipal panel's decision shall be issued in accord with subsection 4464(b) of this title and shall include specific findings with respect to its determinations pursuant to subdivision (2) of this subsection.

(6) Any final action by the appropriate municipal panel affecting a condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land records.

Sec. 9. 24 V.S.A. § 2792(a) is amended to read:

(a) A "Vermont Downtown Development Board," also referred to as the "State Board," is created to administer the provisions of this chapter. The State Board shall be composed of the following members or their designees:

* * *

(12) The executive director of the Vermont Housing and Conservation Board or designee.

Sec. 10. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(b) Within 45 days of receipt of a completed application, the State Board shall designate a downtown development district if the State Board finds in its written decision that the municipality has:

(1) Demonstrated a commitment to protect and enhance the historic character of the downtown through the adoption of a design review district, through the adoption of an historic district, or through the adoption of regulations that adequately regulate the physical form and scale of development that the State Board determines substantially meet the historic

preservation requirements in subdivisions 4414(1)(E) and (F) of this title, ~~or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title.~~

* * *

(4) A housing element in its plan in accordance with subdivision 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this title and that includes clear implementation steps for achieving mixed income housing, including affordable housing, a timeline for implementation, responsibility for each implementation step, and potential funding sources.

(5) Adopted one of the following to promote the availability of affordable housing opportunities in the municipality:

(A) inclusionary zoning as provided in subdivision 4414(7) of this title;

(B) a restricted housing trust fund with designated revenue streams;

(C) a housing commission as provided in section 4433 of this title; or

(D) impact fee exemptions or reductions for affordable housing as provided in section 5205 of this title.

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. Beginning on July 1, 2022, any community under review or seeking renewal shall comply with subdivisions (b)(4) and (5) of this section. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

(1) require corrective action;

(2) provide technical assistance through the Vermont Downtown Program;

(3) limit eligibility for the benefits established in section 2794 of this chapter without affecting any of the district's previously awarded benefits; or

(4) remove the district's designation without affecting any of the district's previously awarded benefits.

Sec. 11. 24 V.S.A. § 2793a. is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(c) A village center designated by the State Board pursuant to subsection (a) of this section is eligible for the following development incentives and benefits:

* * *

~~(4) The following State tax credits for projects located in a designated village center:~~

~~(A) A State historic rehabilitation tax credit of ten percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.~~

~~(B) A State façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).~~

~~(C) A State code improvement tax credit of 50 percent under 32 V.S.A. § 5930cc(c) The Downtown and Village Center Tax Credit Program described in 32 V.S.A. § 5930aa et seq.~~

* * *

Sec. 12. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF NEIGHBORHOOD DEVELOPMENT AREAS

* * *

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

* * *

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas, except those areas containing preexisting development and areas suitable for infill development as defined in section 29-201 of the Vermont Flood Hazard Area and River Corridor Rule. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the

municipality shall select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of “important natural resources” as defined in subdivision 2791(14) of this title and flood hazard areas and river corridors. If an “important natural resource” is included within a proposed neighborhood development area, the applicant shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized. If the neighborhood development area includes flood hazard areas or river corridors, the local bylaws must contain provisions consistent with the Agency of Natural Resources rules required under 10 V.S.A. § 754(a) to ensure that new infill development within a neighborhood development area occurs outside the floodway, new development is elevated or floodproofed at least two feet above Base Flood Elevation, or otherwise reasonably safe from flooding, and will not cause or contribute to fluvial erosion hazards within the river corridor. If the neighborhood development area includes flood hazard areas or river corridors, local bylaws shall also contain provisions to protect river corridors outside of the neighborhood development area consistent with the Agency of Natural Resources model river corridor bylaws.

(B) Is served by planned or existing transportation infrastructure that conforms with “complete streets” principles as described under 19 V.S.A. § 309d and establishes pedestrian access directly to the downtown, village center, or new town center.

(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government.

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

(B) a community or alternative wastewater system approved by the Agency of Natural Resources.

(7) ~~The~~ Within the neighborhood development area, the municipal bylaws allow minimum lot sizes of one-quarter of an acre or less and minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater.

(A) The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

~~(A)~~(B) Regulations that adequately regulate the physical form and scale of development may be used to demonstrate compliance with this requirement.

~~(B)~~(C) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. ~~The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.~~

(8) Local bylaws, regulations, and policies applicable to the neighborhood development area substantially conform with neighborhood design guidelines developed by the Department pursuant to section 2792 of this title. These policies shall:

(A) ensure that all investments contribute to a built environment that enhances the existing neighborhood character and supports pedestrian use;

(B) ensure sufficient residential density uses and building heights;

(C) minimize the required ~~lot sizes~~, setbacks, ~~and~~ parking requirements, and street widths; and

(D) require conformance with “complete streets” principles as described under 19 V.S.A. § 309d, street and pedestrian connectivity, and street trees.

(9) Residents hold a right to utilize household energy conserving devices.

(10) The application includes a map or maps that, at a minimum, identify:

(A) “important natural resources” as defined in subdivision 2791(14) of this title;

(B) existing slopes of 25 percent or steeper;

(C) public facilities, including public buildings, public spaces, sewer or water services, roads, sidewalks, paths, transit, parking areas, parks, and schools;

(D) planned public facilities, roads, or private development that is permitted but not built;

(E) National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government;

(F) designated downtown, village center, new town center, or growth center boundaries as approved under this chapter and their associated neighborhood planning area in accordance with this section; and

(G) delineated areas of land appropriate for residential development and redevelopment under the requirements of this section.

(11) The application includes the information and analysis required by the Department's guidelines under section 2792 of this title.

(12) A housing element in its plan in accordance with subdivision 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this title and that includes clear implementation steps for achieving mixed income housing, including affordable housing, a timeline for implementation, responsibility for each implementation step, and potential funding sources.

(13) The application includes information in the proposed neighborhood development area that the municipality has adopted one of the following to promote the availability of affordable housing opportunities in the municipality:

(A) inclusionary zoning as provided in subdivision 4414(7) of this title;

(B) a restricted housing trust fund with designated revenue streams;

(C) a Housing Commission as provided in section 4433 of this title;

or

(D) impact fee exemptions or reductions for affordable housing as provided in section 5205 of this title.

* * *

(e) Length of designation. Initial designation of a neighborhood development area shall be reviewed concurrently with the next periodic review conducted of the underlying designated downtown, village center, new town center, or growth center.

(1) The State Board, on its motion, may review compliance with the designation requirements at more frequent intervals.

(2) If the underlying downtown, village center, new town center, or growth center designation terminates, the neighborhood development area designation also shall terminate.

(3) If at any time the State Board determines that the designated neighborhood development area no longer meets the standards for designation established in this section, it may take any of the following actions:

- (A) require corrective action within a reasonable time frame;
- (B) remove the neighborhood development area designation; or
- (C) prospectively limit benefits authorized in this chapter.

(4) Action taken by the State Board under subdivision (3) of this subsection shall not affect benefits already received by the municipality or a land owner in the designated neighborhood development area.

(5) Beginning on July 1, 2022, any community under review or seeking renewal shall comply with subdivisions (c)(12) and (13) of this section.

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, ~~any~~ a proposed development within that area shall be eligible for each of the benefits listed in this subsection. These benefits shall accrue upon approval by the district coordinator, who shall review, provided that the project meets the density requirements set forth in subdivision (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met, as determined by the administrative officer, as defined in chapter 117 of this title. These benefits are:

(1) ~~The~~ the application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D); and

(2) ~~The application fee reduction for residential development stated in 10 V.S.A. § 6083a(d).~~

~~(3) The~~ the exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).

(g) Neighborhood development area incentives for municipalities. Once a municipality has a designated neighborhood development area, it may receive:

(1) priority consideration for municipal planning grant funds; and

(2) training and technical assistance from the Department to support an application for benefits from the Department.

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood

planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the designation. The State Board shall provide the municipality with at least 14 days' prior written notice of the Board's meeting to consider the application, and the municipality shall submit to the State Board the municipality's response, if any, to the application before or during that meeting. On approval of a neighborhood development area designation under this subsection, the applicant ~~may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain~~ shall be eligible for the benefits granted to neighborhood development areas, subject to approval by the administrative officer, as provided in subsection (f) of this section.

* * * Tax Credits * * *

Sec. 13. 32 V.S.A. § 5930aa is amended to read:

§ 5930aa. DEFINITIONS

As used in this subchapter:

(1) "Qualified applicant" means an owner or lessee of a qualified building involving a qualified project, but does not include a State or federal agency or a political subdivision of either; or an instrumentality of the United States.

(2) "Qualified building" means a building built at least 30 years before the date of application, located within a designated downtown or village center, or neighborhood development area, which, upon completion of the project supported by the tax credit, will be an income-producing building not used solely as a single-family residence. Churches and other buildings owned by religious organization may be qualified buildings, but in no event shall tax credits be used for religious worship.

(3) "Qualified code improvement project" means a project:

(A) to install or improve platform lifts suitable for transporting personal mobility devices, limited use or limited application elevators, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the Department of Public Safety;

(B) to abate lead paint conditions or other substances hazardous to human health or safety in a qualified building; or

(C) to redevelop a contaminated property in a designated downtown, ~~or~~ village center, or neighborhood development area under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

(4) “Qualified expenditures” means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) “Qualified façade improvement project” means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown ~~or~~, designated village center, or neighborhood development area. Façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont Division for Historic Preservation.

(6) “Qualified Flood Mitigation Project” means any combination of structural and nonstructural changes to a building located within an area subject to the River Corridor Rule or within the flood hazard area as mapped by the Federal Emergency Management Agency that reduces or eliminates flood damage to the building or its contents. The project shall comply with the municipality’s adopted flood hazard and river corridor bylaw, if applicable, and a certificate of completion shall be submitted by a registered engineer, architect, qualified contractor, or qualified local official to the State Board. Improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places shall be consistent with Secretary of the Interior’s Standards for Rehabilitation, as determined by the Vermont Division for Historic Preservation.

(7) “Qualified historic rehabilitation project” means an historic rehabilitation project that has received federal certification for the rehabilitation project.

~~(7)~~(8) “Qualified project” means a qualified code improvement, qualified façade improvement, or qualified historic rehabilitation project as defined by this subchapter.

~~(8)~~(9) “State Board” means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.

* * * Wastewater Connection Permits * * *

Sec. 14. 10 V.S.A. § 1974(9) is added to read:

(9) A person who receives an authorization from a municipality that administers a program registered with the Secretary pursuant to section 1983 of this title.

Sec. 15. 10 V.S.A. § 1983 is added to read:

§ 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM
AND POTABLE WATER SUPPLY CONNECTIONS

(a) A municipality may issue an approval for a connection or an existing connection with a change in use to the municipal sanitary sewer collection line via a sanitary sewer service line or a connection to a water main via a new water service line in lieu of permits issued under this chapter, provided that the municipality documents the following in a form prescribed by the Secretary:

(1) The municipality owns or has legal control over connections to a public community water system permitted pursuant to chapter 56 of this title and connections to a wastewater treatment facility permitted pursuant to chapter 47 of this title.

(2) The municipality shall only issue authorizations for:

(A) a sanitary sewer service line that connects to the sanitary sewer collection line that serves a single connection; and

(B) a water service line that connects to the water main that serves a single connection.

(3) The building or structure connects to both the sanitary sewer collection line and public community water system.

(4) The municipality issues approvals that comply with the technical standards for sanitary sewer service lines and water service lines adopted by the Secretary under this chapter.

(5) The municipality requires documentation in the land records that the connection authorized by the municipality was installed in accordance with the technical standards.

(6) The program requires the retention of plans that show the location and design of authorized connections.

(b) The municipality shall notify the Secretary 30 days in advance of terminating any registration. The municipality shall provide all approvals and plans to the Secretary as a part of this termination notice.

Sec. 16. STUDY OF SUBDIVISION REGULATIONS IN AUTHORIZED MUNICIPALITIES

The Agency of Natural Resources' Technical Advisory Committee shall report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy on whether municipalities authorized under 10 V.S.A. § 1983 should also have jurisdiction to issue permits in lieu of the Secretary for subdivisions when the lot is served by municipal water and sewer.

* * * Age-Specific Housing Study * * *

Sec. 17. STATEWIDE HOUSING STUDY

(a)(1) The Department of Housing and Community Development, in collaboration with the Department of Disabilities, Aging, and Independent Living, shall conduct a Statewide Housing Study to evaluate the current and projected needs for age-specific housing in Vermont.

(2) The Departments shall include recommendations for an age-specific housing plan and policies with measurable objectives that are focused on older Vermonters, in particular those with very low income or who are caregivers or living with disabilities.

(b) The Departments shall submit the Study to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on General, Housing, and Military Affairs on or before January 15, 2021.

* * * Funding for Affordable Housing * * *

Sec. 18. FINDINGS AND PURPOSE; FUNDING FOR AFFORDABLE HOUSING

(a) Findings. The General Assembly finds that:

(1) In 2017, the General Assembly, in partnership with the Vermont Housing and Conservation Board, the Vermont Housing Finance Agency, the State Treasurer, and other affordable housing stakeholders, provided for the funding and creation of an affordable housing bond to support the development of affordable housing throughout the State.

(2) The results of the Housing for All Revenue Bond initiative greatly exceeded original estimates by raising \$37 million in bond proceeds, creating or improving more than 800 homes across the State, generating \$172 million in construction activity, and leveraging \$198 million in other public and private funding.

(3) Additional investments through the Vermont Housing and Conservation Board are necessary to sustain and build on the success of the Housing for All Revenue Bond and create needed affordable housing options for Vermonters including:

(A) creating new multifamily and single-family homes;

(B) addressing blighted properties and other existing housing stock requiring reinvestment, including in mobile home parks; and

(C) providing service-supported housing in coordination with the Agency of Human Services, including housing for those who are elderly, homeless, in recovery, experiencing severe mental illness, or leaving incarceration.

(b) Purpose and intent.

(1) The purpose of this section is to promote the development and improvement of permanently affordable housing for current and future Vermont residents throughout the State.

(2) It is the intent of the General Assembly to provide funding to the Vermont Housing and Conservation Board in accordance with 10 V.S.A. § 312.

(c) Appropriations. In fiscal year 2021, the amount of \$13,073,840.00 is appropriated to the Vermont Housing and Conservation Board from property transfer tax revenues pursuant to 32 V.S.A. § 9602, which represents an increase of \$2,269,000.00 from the fiscal year 2020 appropriation to the Vermont Housing and Conservation Board from property transfer tax revenues. It is the intent of the General Assembly that this increase of \$2,269,000.00 is used for housing projects, of which approximately \$750,000.00 shall be used for mobile home park infrastructure needs.

* * * Short-term Rentals * * *

Sec. 19. SHORT-TERM RENTALS

(a) The Department of Housing and Community Development may exercise its authority under 3 V.S.A. § 844 to adopt emergency rules to collect sufficient data to allow the State to understand the impact of short-term rentals on the availability of housing in this State while balancing the privacy interests of short-term rental operators and their guests.

(b) On or before January 15, 2021, the Department shall submit a report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on General, Housing, and Military Affairs that includes:

(1) information concerning the data it collects pursuant to this section and in conjunction with any housing needs assessment the Department conducts in conjunction with the Vermont Housing Finance Agency and Vermont Housing and Conservation Board;

(2) a compilation of the legal frameworks adopted by U.S. states and municipalities to regulate short-term rentals; and

(3) recommendations for any statutory and municipal regulation of short-term rentals in this State.

Sec. 20. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To regulate by means of an ordinance or bylaw the operation of short-term rentals within the municipality, provided that the ordinance or bylaw does not adversely impact the availability of long-term rental housing. As used in this subdivision, “short-term rental” means a furnished house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

* * * Homelessness Prevention * * *

Sec. 21. HOMELESSNESS PREVENTION

(a) Consistent with the report mandated in 2019 Acts and Resolves No. 72, Sec. E.300.4, the Secretary of Human Services shall take reasonable measures, including increasing case management services under a “housing first” model for Vermonters who are homeless, to reduce the loss of specialized federal rental assistance vouchers.

(b) The Secretary shall report to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Health and Welfare and to the House Committees on Appropriations, on General, Housing, and Military Affairs, on Human Services, and on Health Care on or before October 15, 2020 on measures taken, and results achieved, in increasing the use of specialized federal assistance vouchers.

* * * Mobile Home Parks * * *

Sec. 22. MOBILE HOME PARK INFRASTRUCTURE

(a) The Department of Environmental Conservation shall:

(1) assist the Town of Brattleboro and the Tri-Park Cooperative in the implementation of the Tri-Park Master Plan and Deerfield River & Lower Connecticut River Tactical Basin Plan, including through loan forgiveness or restructuring of State Revolving Loans RF1-104 and RF3-163 and additional loans, to allow for the relocation of homes in the floodplain and improvements to wastewater and stormwater infrastructure needs;

(2) provide similar assistance to the extent possible to similarly situated mobile home parks that also have relocation or infrastructure needs; and

(3) identify statutory and programmatic changes necessary to assist in the implementation of the plans and to improve access and terms by mobile home parks and other small communities to the Clean Water Revolving Loan Fund, Water Infrastructure Sponsorship Program and the Drinking Water State Revolving Fund.

(b) On or before January 15, 2021, the Department shall report on actions taken and recommendations for statutory or programmatic changes to the Senate Committees on Economic Development, Housing and General Affairs and on Institutions and to the House Committees on General, Housing, and Military Affairs and on Corrections and Institutions.

Sec. 23. 10 V.S.A. § 10 is amended to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a)(1) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

~~(b)(2)~~ The amount authorized in subdivision (1) of this subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities.

(b) The Treasurer may use amounts available under this section to provide financing for infrastructure projects in Vermont mobile home parks and may modify the terms of such financing in his or her discretion as is necessary to

promote the availability of mobile home park housing and to protect the interests of the State.

* * * Vermont Housing Incentive Program * * *

Sec. 24. 10 V.S.A. chapter 29, subchapter 3 is added to read:

Subchapter 3. Vermont Housing Incentive Program

§ 699. VERMONT HOUSING INCENTIVE PROGRAM

(a) Purpose. Recognizing that Vermont's rental housing stock is some of the oldest in the country and that much of it needs updating to meet code requirement and other standards, this section is intended to incentivize private apartment owners to make significant improvements to both housing quality and weatherization by providing small grants that are matched by the private apartment owner.

(b) Creation of Program. The Department of Housing and Community Development shall design and implement a Vermont Housing Incentive Program to provide funding to regional nonprofit housing partner organizations to provide incentive grants to private landlords for the rehabilitation and improvement, including weatherization, of existing rental housing stock.

(c) Administration. The Department shall require any nonprofit regional housing partner organization that receives funding under this Program to develop a standard application form for property owners that describes the application process and includes clear instructions and examples to help property owners apply, a selection process that ensures equitable selection of property owners, and a grants management system that ensures accountability for funds awarded to property owners.

(d) Grant Requirements. The Department shall ensure that each grant complies with the following requirements:

(1) A property owner may apply for a grant for improvements to not more than four rental units that are vacant, blighted, or otherwise do not comply with applicable rental housing health and safety laws.

(2) A property owner shall:

(A) match the value of a grant at least two-to-one with his or her own funds and not through in-kind services;

(B) include a weatherization component; and

(C) comply with applicable permit requirements and rental housing health and safety laws.

(3) The Department and the property owner shall ensure that not fewer than half of the rental units improved with grant funds have rents that are affordable to households earning not more than 80 percent of area median income and remain affordable for not less than seven years.

(4) If a property owner sells or transfers a property improved with grant funds within seven years of receiving the grant, the property owner shall:

(A) repay the amount of the grant funds upon sale or transfer; or

(B) ensure that the property continues to remain affordable for the remainder of the seven-year period required in subdivision (3) of this subsection.

(e) As used in this section:

(1) “Blighted” means that a rental unit is not fit for human habitation and does not comply with the requirements of applicable building, housing, and health regulations.

(2) “Vacant” means that a rental unit has not been leased or occupied for at least 90 days prior to the date a property owner submits a grant application and remains unoccupied at the time the grant is awarded.

* * * Appropriations * * *

Sec. 25. APPROPRIATIONS

(a) The sum of \$150,000.00 is appropriated to the Municipal and Regional Planning Fund from the General Fund in fiscal year 2021 to be used by regional planning commissions to assist municipalities in updating their bylaws to include inclusionary housing bylaws.

(b) The sum of \$150,000.00 is appropriated to the Municipal and Regional Planning Fund from the General Fund in fiscal year 2021 to be used by municipal planning commissions to assist municipalities in updating their bylaws to include inclusionary housing bylaws.

(c) The sum of \$50,000.00 is appropriated to Agency of Commerce and Community Development from the General Fund in fiscal year 2021 to provide technical assistance to homeowners and developers who seek to develop accessory dwelling units for existing residential properties and for small residential projects of less than \$1,000,000.00 in anticipated construction costs.

(d) The sum of \$800,000.00 is appropriated to the Agency of Human Services from the General Fund to increase case management services under a “housing first” model for Vermonters who are homeless pursuant to Sec. 22 of this act.

(e) The sum of \$1,000,000.00 is appropriated to the Department of Housing and Community Development from the General Fund to provide funding through the Vermont Housing Incentive Program created in 10 V.S.A. § 699.

* * * Implementation of Incentives * * *

Sec. 26. IMPLEMENTATION

The incentives and funding established in 24 V.S.A. §4412(b)(3) shall be available immediately to municipalities that adopt bylaws to comply with 24 V.S.A. §4412(b)(1) prior to the effective date of July 1, 2023.

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except in Sec. 2, 24 V.S.A. § 4412(b) shall take effect on July 1, 2023.

And that when so amended the bill ought to pass.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Economic Development Housing and General Affairs with the following amendments thereto:

First: By adding a new Sec. 13a to read as follows:

Sec. 13a. 32 V.S.A. § 5930cc is amended to read:

§ 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX CREDITS

* * *

(d) Flood Mitigation Tax Credit. The qualified applicant of a qualified flood mitigation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$75,000.00.

Second: By striking out Sec. 23, 10 V.S.A. § 10 in its entirety and inserting in lieu thereof the following:

Sec. 23. 10 V.S.A. § 10 is amended to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit

facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities. The Treasurer may use amounts available under this section to provide financing for infrastructure projects in Vermont mobile home parks and may modify the terms of such financing in his or her discretion as is necessary to promote the availability of mobile home park housing and to protect the interests of the State.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Economic Development Housing and General Affairs and Finance with the following amendment thereto:

By striking out Secs. 18 (Findings And Purpose; Funding For Affordable Housing), 24 (10 V.S.A. chapter 29, subchapter 3), and 25 (Appropriations) and their reader assistance headings in their entireties and by renumbering the remaining sections to be numerically correct.

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 Economic Development, Housing and General Affairs was amended as recommended by the Committee on Finance.

Thereupon, the recommendation of the Committee on Economic Development, Housing and General Affairs, as amended was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing General Affairs and Housing, as amended? was agreed to and third reading of the bill was ordered.

**Proposals of Amendment Amended; Bill Passed in Concurrence with
Proposals of Amendment**

H. 961.

House bill entitled:

An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

Was taken up.

Thereupon, pending third reading of the bill, Senator Kitchel moved that the Senate proposal of amendment be amended as follows:

First: In Sec. A.9 by striking out subsection (a) in its entirety and insert in lieu thereof a new subsection (a) to read as follows:

(a) Notwithstanding 32 V.S.A. § 306, for fiscal year 2021 the Governor shall submit to the General Assembly, not later than the August 18, 2020, a budget which shall embody estimates, requests, and recommendations for appropriations or other authorizations for expenditures from the State Treasury for the remainder of fiscal year 2021. The budget shall be based upon the official State revenue estimates, including the Medicaid estimated caseloads and per-member per-month expenditures, adopted by the Emergency Board pursuant to section 305a of this title.

Second: In Sec. A.18 by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The Agency of Digital Services, the Department of Buildings and General Services; the Judiciary; and the Legislative Information Technology department shall report to the Joint Information Technology Oversight Committee and the Joint Legislative Justice Oversight Committee not later than September 1, 2020 on the status of how software vendors that the State currently engages for the provision of services are bringing contracts and user agreements into compliance with Vermont law so as not to contain presumptively unconscionable terms per 9 V.S.A. chapter 152.

Third: By inserting a new section to be numbered Sec. A.24.a to read as follows:

Sec. A.24.a GLOBAL COMMITMENT WAIVER AMENDMENT

(a) The Secretary of Human Services is authorized to seek a no-change extension of Vermont's Global Commitment to Health Section 1115 Demonstration for the period of January 1, 2022 through December 31, 2023 from the Centers for Medicare and Medicaid Services.

Fourth: In Sec. A.29 by striking out subdivision (b)(2) in its entirety and insert in lieu thereof a new subdivision (b)(2) to read as follows:

(2) after the adjournment of the 2020 legislative session, the Agency shall jointly report to the Joint Legislative Child Protection Oversight Committee and the Joint Legislative Justice Oversight Committee.

Fifth: In Sec. A.31 by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) To assist the General Assembly in appropriating the proper funding for short- and long-term residential placements and treatment services pursuant to subsection (a) of this section, on or before August 18, 2020, the Secretary of Administration or designee shall provide to the House and Senate Committees on Appropriations, the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare:

(1) the status of operations of the Woodside Juvenile Rehabilitation Center facility in fiscal year 2021, including the projected date for cessation of operations at the facility and the cost and funding sources identified for operation of the facility for any period of time during fiscal year 2021;

(2) the projected costs and funding sources to provide short- and long-term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families for any period of time in fiscal year 2021 subsequent to the cessation of operations at Woodside; and

(3) the projected annualized cost of providing such placements and treatment services and the proposed funding sources.

Sixth: In Sec. A.49 by striking out subdivision (a)(7)(A) in its entirety and inserting in lieu thereof a new subdivision (a)(7)(A) read as follows:

(A) \$502,500 for the COVID-19 costs at the Center for Crime Victim Services, the Vermont Network Against Domestic Violence and its member organizations. These costs include PPE; hazard pay; equipment and HIPAA-compliant video conference services; increased shelter sanitation costs and increased direct aid to survivors moved into in the community to meet COVID-19 health and safety recommendations.

and by inserting a new subdivision to be numbered subdivision (18) to read as follows:

(18) Agency of Administration, Director of Racial Equity: \$50,000 is appropriated to the Agency of Administration for specialized training on equity and inclusion. This training is to increase understanding and response capabilities given the disproportionate impacts on communities of color and the New Americans communities of the COVID-19 pandemic.

Seventh: In Sec. A.50 by striking out subdivision (c)(1)(B) in its entirety and inserting in lieu thereof a new subdivision (c)(1)(B) read as follows:

(B) A school district that has fiscal year 2020 funds available from this section shall carry those funds into fiscal year 2021 as revenue without waiting for an audit to confirm the existence or amount of the available funds. Notwithstanding any other provision of law to the contrary, the Agency of Education shall evaluate the amount of education fund payments authorized by 16 V.S.A. chapter 133 needed to fund a school district's education spending, taking into account any funds available that resulted from the fiscal year 2020 appropriation under this section and other factors it determines to be relevant, and shall subtract from the district's first and second fiscal year 2021 education fund payments an amount it determines is not necessary to fully fund the district's education spending.

Eighth: In Sec. A.51 by striking out subsections (d)-(g) in their entirety and inserting in lieu thereof new subsections (d)-(g) to read as follows:

(d) Program established. There is established within Efficiency Vermont the School Indoor Air Quality Grant Program ("the Program") to provide grants to K-12 covered schools in Vermont to repair, maintain, and upgrade heating, ventilation, and air conditioning (HVAC) systems in reference to COVID-19-specific guidelines from the U.S. Centers for Disease Control and Prevention (CDC) and the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE).

(e) Administration; implementation.

(1) The Program shall be administered by Efficiency Vermont, which shall be responsible for:

(A) providing education and outreach to schools on the Program;

(B) providing informational guidance and best practices for school ventilation and air filtration systems; and

(C) awarding available grants to covered schools under the Program, which may be paid directly to a contractor on behalf of a covered school.

(2) Efficiency Vermont, in consultation with the Agency of Education, the Vermont Superintendents Association, and experts in the field of heating, ventilation, and air conditioning, shall design the Program. The Program design shall establish:

(A) An outreach and education plan.

(B) An equitable system for distributing grants statewide based on geographic location, school size, and grant dollar amount.

(C) Guidelines for the ventilation, filtration, monitoring, humidification, and dehumidification measures and costs that will be eligible for grant funding. Eligible measures may include handheld meters, system evaluation, and retrocommissioning.

(3)(A) Efficiency Vermont is authorized to use up to \$100,000 of the amount appropriated in subsection (a) of this section for labor.

(B) As the entity appointed to serve as Efficiency Vermont, the Vermont Energy Investment Corp. (VEIC) is also authorized to collect their federally approved indirect rate of 9.3 percent on the Program funds expended.

(C) Monies from the Electric Efficiency Fund created by 30 V.S.A. §209(d)(3) and managed by Efficiency Vermont shall not be used to administer this Program. Where energy savings measures can be implemented in conjunction with the School Indoor Air Quality Grant Program, Efficiency Vermont may leverage its own program budgets, provided the energy savings measures are cost-effective.

(f) Contracting with vendors; bidding exception. Due to the public health risk posed by COVID-19, any project receiving grant funds under the Program shall be deemed to be an emergency repair for the purposes of 16 V.S.A. § 559(e), and a covered school may enter into a contract with an independent third party without the need to competitively bid the contract.

(g) Report. On or before September 15, 2020, Efficiency Vermont shall submit an update on the Program to the House and Senate Committees on Education. On or before March 15, 2021, Efficiency Vermont shall submit a final report on the Program, which shall include a list of the covered schools served, projects completed, funds expended, results and benefits of the projects completed, and overall lessons learned and recommendations for possible future school ventilation improvement programs. The final report shall also include a summary of any Efficiency Vermont programs that were delivered in conjunction with the Program.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Baruth, Hardy, Ingram, McNeil, Parent and Perchlik moved that the Senate proposal of amendment be amended by striking out Sec. A.10 [RESERVED], in its entirety and inserting in lieu thereof the following:

Sec. A.10. SELECT COMMITTEE ON THE FUTURE OF THE VERMONT STATE COLLEGE SYSTEM; REPORTS

(a) Creation. There is created the Select Committee on the Future of the Vermont State College System (Committee) to assist the State of Vermont and the Vermont State Colleges (VSC) in developing a vision and plan for a high-

quality, affordable, sustainable future, a future that is workforce-connected and robust in its online capacities.

(b) Membership.

(1) The Committee shall be composed of up to the following 15 members:

(A) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(B) one current member of the Senate, who shall be appointed by the Committee on Committees;

(C) the President of the University of Vermont or designee and a representative of the UVM Board of Trustees, appointed by the President;

(D) the Interim Chancellor of the Vermont State Colleges (VSC) or designee, and a representative of each of the VSC Board of Trustees, VSC campus administration, VSC faculty, VSC students, and VSC alumni or donor community, each appointed by the Interim Chancellor;

(E) the Secretary of Commerce and Community Development or designee;

(F) the Commissioner of Labor or designee;

(G) two representatives of the business community, appointed by the Steering Group created under subsection (c) of this section; and

(H) the President of the Vermont Student Assistance Corporation or designee.

(2) A Committee member may be appointed to fill more than one role as identified in subdivision (1) of this subsection.

(3) Appointers of members of the Committee shall seek to ensure that the geographical areas of the State hosting VSC campuses are represented on the Committee.

(c) Steering Group. On or before June 29, 2020, the Speaker of the House and the President Pro Tempore shall jointly appoint three members of the Committee, and the Governor shall appoint two members of the Committee, to serve as members of a Steering Group. The Steering Group shall provide leadership to the Committee and shall work with a consulting firm to analyze the issues, challenges, and opportunities facing VSC, as well as create a formal action plan to drive change and innovation in the VSC system. The Steering Group may form one or more subcommittees of the Committee to address key topic areas in greater depth.

(d) Collaboration. The Committee shall seek input from and collaborate with key stakeholders, as directed by the Steering Group.

(e) Powers and duties. The Committee shall study the structure of the current VSC system and build on previous studies and white papers in this area, including the ongoing work and work products of the VSCS Forward Task Force, the NVU Strong Advisory Committee, and the VTC Transition Advisory Task Force. The Select Committee shall also offer recommendations on how to increase affordability for students, access, retention, attainment, relevance, and fiscal sustainability, including the following issues:

(1) the financial sustainability of the VSC system and its impact on institutional capacity to innovate and meet State goals and learners' needs, including a comparison of higher education programs, delivery models, tuition, tuition-reduction and tuition-free programs, and structures in other states;

(2) the current organizational structure of VSC and its ability to promote student success;

(3) the alignment of the VSC system and workforce development goals, policy frameworks, and partnerships between businesses and institutions of higher education that are designed to meet the needs of employers and promote the public value of education; and

(4) collaboration with the University of Vermont to move Vermont toward meeting the concepts in subdivision (3) of this subsection (e).

(f) Consultant. The Vermont Legislative Joint Fiscal Office, in collaboration with the New England Board of Higher Education (NEBHE), shall issue a request for proposal to hire a consultant to assist the Committee with responses due from interested parties on or before July 17, 2020. On or before July 31, 2020, the Steering Group shall select the consultant.

(g) Assistance. The Committee shall have the administrative and technical assistance of the Agency of Education. NEBHE shall provide project management support to the Committee.

(h) Reports. Recognizing the need for short-term solutions on system structure, governance, funding, and sustainability, the Committee, through its Steering Group, shall use a phased approach to reporting. The first interim report shall be due on or before December 20, 2020 and shall focus on the topics described in subdivision (e)(1) of this section; the second interim report shall be due on or before June 15, 2021 and shall focus on the topics described in subdivisions (e)(2), (3), and (4) of this section; and the final report, which shall collate findings relative to subsection (e) of this section and include the

action plan, shall be due on or before December 15, 2021. All reports shall be in writing and be delivered to the General Assembly and the Governor.

(i) Meetings.

(1) The Secretary of Commerce and Community Development or designee shall call the first meeting of the Committee to occur on or before August 28, 2020.

(2) The Speaker of the House and the President Pro Tempore shall jointly select the Committee chair.

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

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

(j) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee 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.

(2) Other members of the Committee, who are not employees of the State of Vermont, shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010.

(3) Compensation and reimbursement under this subsection shall be, in each fiscal year 2021 and 2022, for a maximum of:

(A) six in-person meetings of the Committee;

(B) eight in-person meetings of the Steering Group; and

(C) four remote meetings of up to four subcommittees, assuming compensation and reimbursement for up to five members of each subcommittee.

(k) Appropriations.

(1) The sum of \$20,500.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2021 for per diem compensation and reimbursement of expenses for members of the Committee, Steering Group, and subcommittees.

(2) Of the funds identified in Sec. A.3(b) of this act, the Vermont State Colleges shall transfer to the Vermont Legislative Joint Fiscal Office an amount sufficient to carry out the responsibilities and actions of the Joint Fiscal Office required under this section.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Ashe and Sears moved that the Senate proposal of amendment be amended in Sec. A.21 by adding a new subsection (b) to read as follows:

(b) The Commissioner of Public Safety shall in collaboration with the Commissioner of Mental Health present a plan to the General Assembly by August 18, 2020 that will create the capacity for each State Police barrack to have embedded mental health clinicians from a designated agency or contracted provider to more appropriately respond to situations involving individuals experiencing a mental health emergency. In formulating this plan, the commissioners shall review the embedded mental health clinician model developed in Franklin county for statewide scalability. The Commissioner of Public Safety shall recommend the reallocation of funds for this purpose and explore the potential to match funds under Vermont's Medicaid waiver.

Which was agreed to.

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

House Proposal of Amendment Concurred In

S. 128.

House proposal of amendment to Senate bill entitled:

An act relating to physician assistant licensure.

Was taken up.

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

Sec. 1. 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 experience 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, training, 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 signed by 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 shall receive an extension of licensure up to 90 days following the physician assistant's return from activation or deployment, provided the physician assistant notifies the Board of ~~his or her~~ the activation or deployment prior to the expiration of the current license, and certifies that the circumstances of the activation or deployment impede good faith efforts to make timely application for renewal of the license.

* * *

(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~~ assistants ~~is~~ 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 subsection 1734c(b) of this chapter and subsection (e) of this section, 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 or related 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 or related 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; provided, however, that this does not otherwise limit the liability of the participating physician.~~

§ 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 provide 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, to the extent permitted under federal law, 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)(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.

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, except that in Sec. 1, 26 V.S.A. § 1743a (payment for medical services) shall apply to Medicaid beginning on January 1, 2021, to the extent permitted under federal law.

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

House Proposal of Amendment Concurred In with Amendment

S. 338.

House proposal of amendment to Senate bill entitled:

An act relating to justice reinvestment.

Was taken up.

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

* * * Findings and Purpose * * *

Sec. 1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Almost 80 percent of sentenced Department of Corrections admissions are for people returned or revoked from furlough, parole, and probation, primarily driven by furlough violators.

(2) Nearly one-half of Vermont's sentenced prison population at the end of FY 2019 consisted of people who were returned from community supervision, primarily furlough.

(3) Nearly 80 percent of furlough returns to incarceration are due to technical violations rather than new crime offenses.

(4) A decrease of 106–135 people would represent an 8–10 percent drop in the sentenced incarceration population and could mean a 40–50 percent reduction in the out-of-state contract population.

(5) Revocations and returns from supervision are driving a large share of prison admissions, and limited funding leaves large numbers of high-risk people without the programs and services they need to succeed in the community.

(6) Over the past three years, the average annual proportion of admissions to sentenced incarceration that were persons returning or being revoked from furlough, parole, and probation was 78 percent.

(7) Vermont incarcerates more persons than current facilities can accommodate, and the incarceration population is growing.

(b) The purpose of this act is to:

(1) Improve public safety in Vermont, while creating immediate opportunities to reduce recidivism and achieve long-term savings by reducing contract bed needs significantly.

(2) Make evidence-based programming available to individuals transitioning back into the community in order to support their transition and reduce violations, revocations, and reincarceration.

(3) Streamline the furlough system to eliminate multiple furlough statuses without limiting the availability of supervision within the community for inmates.

* * * Parole * * *

Sec. 2. 28 V.S.A. § 402 is amended to read:

§ 402. DEFINITIONS

Whenever As used in this chapter:

(1) “Parole” means the release of an inmate to the community by the Parole Board before the end of the inmate’s sentence subject to conditions imposed by the Board and subject to the supervision and control of the Commissioner. If a court or other authority files a warrant or detainer against an inmate, the Board may release him or her on parole to answer the warrant and serve any subsequent sentences.

(2) “Interview” means an appearance by the inmate at a meeting of the Parole Board.

(3) “Review” means an evaluation of an inmate’s records without an appearance by the inmate before the Parole Board.

Sec. 3. 28 V.S.A. § 501 is amended to read:

§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION

An inmate who is serving a sentence of imprisonment who is not eligible for presumptive parole pursuant to section 501a of this title shall be eligible for parole consideration as follows:

(1) If the inmate’s sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.

(2) If the inmate’s sentence has a minimum term, the inmate shall be eligible for parole consideration after the inmate has served the minimum term of the sentence.

Sec. 4. 28 V.S.A. § 501a is added to read:

§ 501a. PRESUMPTIVE PAROLE

An inmate who is serving a sentence of imprisonment shall be eligible for presumptive release in accordance with subsection 502a(e) of this title at the expiration of the inmate's minimum or aggregate minimum term of imprisonment if the inmate:

(1) has acquired no new criminal conviction while incarcerated or on supervision for the current offense;

(2) has no outstanding warrants, detainers, commitments, or pending charges;

(3) is compliant with the required services and programming portion of the inmate's case plan during the period of incarceration if the inmate is incarcerated for less than 90 days or is compliant for the 90 days preceding the completion of the inmate's minimum term if the inmate is incarcerated for 90 days or more;

(4) is compliant with the conditions of supervision if the offender is supervised in the community on furlough during:

(A) the entire period of supervision if the term of supervision is less than 90 days; or

(B) the 90 days prior to the consideration of parole eligibility if the term of supervision is 90 days or more;

(5) has no major disciplinary rule violation or pending infractions during the period of incarceration if the inmate is incarcerated for less than 12 months or has no major disciplinary rule violations or pending infractions during the preceding 12 months if the inmate is incarcerated for 12 months or more;

(6) has not had parole revoked on the inmate's current sentence; and

(7) is not serving a sentence for committing a crime specified in 13 V.S.A. § 5301.

Sec. 5. 28 V.S.A. § 501a is amended to read:

§ 501a. PRESUMPTIVE PAROLE

An inmate who is serving a sentence of imprisonment shall be eligible for presumptive release in accordance with subsection 502a(e) of this title at the expiration of the inmate's minimum or aggregate minimum term of imprisonment if the inmate:

(1) has acquired no new criminal conviction while incarcerated or on supervision for the current offense;

(2) has no outstanding warrants, detainers, commitments, or pending charges;

(3) is compliant with the required services and programming portion of the inmate's case plan during the period of incarceration if the inmate is incarcerated for less than 90 days or is compliant for the 90 days preceding the completion of the inmate's minimum term if the inmate is incarcerated for 90 days or more;

(4) is compliant with the conditions of the offender's supervision if the offender is supervised in the community on furlough during:

(A) the entire period of supervision if the term of supervision is less than 90 days; or

(B) the 90 days prior to the consideration of parole eligibility if the term of supervision is 90 days or more;

(5) has no major disciplinary rule violation or pending infractions during the period of incarceration if the inmate is incarcerated for less than 12 months, or has no major disciplinary rule violations or pending infractions during the preceding 12 months if the inmate is incarcerated for 12 months or more;

(6) has not had parole revoked on the inmate's current sentence; and

(7) is not serving a sentence for committing a crime specified in ~~13 V.S.A. § 5301~~ 33 V.S.A. § 5204(a).

Sec. 6. 28 V.S.A. § 502 is amended to read:

§ 502. PAROLE INTERVIEWS AND REVIEWS

(a) The Board shall interview each inmate eligible for parole consideration under section 501 of this title before ordering the inmate released on parole. The Board shall consider all pertinent information regarding an inmate in order to determine the inmate's eligibility for parole. The Board may grant parole only after an inmate is interviewed in accordance with this section. The Parole Board may conduct the interview in person, by telephone or videoconference, or by any other method it deems appropriate.

(b) An initial interview of the inmate shall occur at least 30 days prior to the date when the inmate becomes eligible for parole consideration under section 501 of this title.

(c) An inmate eligible for parole consideration shall, subsequent to the initial interview provided for above, be reviewed and interviewed thereafter, as follows:

~~(1) If the inmate is serving a maximum sentence of less than 15 years:~~

~~(A) the Board shall review the inmate's record once every 12 months;~~

~~(B)(2) the Board shall conduct an interview of the inmate at the request of the Department; and~~

~~(C)(3) upon written request of the inmate, the Board shall conduct an interview, but not more than once in any two-year period annually.~~

~~(2) If the inmate is serving a sentence with a maximum of 15 years up to a maximum of life:~~

~~(A) the Board shall review the inmate's record once every two years;~~

~~(B) the Board shall conduct an interview of the inmate at the request of the Department; and~~

~~(C) upon written request of the inmate, the Board may conduct an interview, but not more than once in any two-year period.~~

(d) The Board in its discretion may hear from attorneys or other persons with an interest in the case before the Board. A person presenting statements to the Board may be required to submit the statement in writing.

(e) Interviews and reviews shall be conducted in accordance with the rules and regulations established by the Board, which shall be consistent with this section.

(f) The Board ~~may~~² when formulating the conditions of a parole, shall take into consideration the emotional needs of the victim of an offender's crime plus the needs of the victim's family.

Sec. 7. 28 V.S.A. § 502a is amended to read:

§ 502a. RELEASE ON PAROLE

(a) ~~No~~ Except as otherwise provided in subsection (d) of this section and section 501 of this title, no inmate serving a sentence with a minimum term shall be released on parole until the inmate has served the minimum term of the sentence, less any reductions for good behavior.

(b) An inmate who is not eligible for presumptive parole pursuant to section 501a of this title shall be released on parole by the written order of the Parole Board if the Board determines:

(1) the inmate is eligible for parole;

(2) there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate; and

(3) the inmate is willing and capable of fulfilling the obligations of a law-abiding citizen.

(c) A parole under subsection (b) or (e) of this section shall be ordered only for the best interests of the community and of the inmate, and shall not be regarded as an award of clemency, a reduction of sentence, or a conditional pardon.

(d) Notwithstanding subsection (a) or (e) of this section, or any other provision of law to the contrary, any inmate who is serving a sentence, including an inmate who has not yet served the minimum term of the sentence, who is diagnosed as having a terminal or serious medical condition so as to render the inmate unlikely to be physically capable of presenting a danger to society, may be released on medical parole to a hospital, hospice, other licensed inpatient facility, or suitable housing accommodation as specified by the Parole Board. Provided the inmate has authorized the release of his or her personal health information, the Department shall promptly notify the Parole Board upon receipt of medical information of an inmate's diagnosis of a terminal or serious medical condition. As used in this subsection, a "serious medical condition" does not mean a condition caused by noncompliance with a medical treatment plan.

(e)(1) The Department shall identify each inmate meeting the presumptive parole eligibility criteria in section 501a of this title and refer each eligible inmate who does not meet the risk criteria set forth in subdivision (2) of this subsection to the Parole Board for an administrative review at least 60 days prior to the inmate's eligibility date.

(2) The Department shall screen each inmate it identifies as eligible for presumptive parole for the risk criteria set forth in this subdivision. If the Department determines that, based on clear and convincing evidence, there is a reasonable probability that the inmate's release would result in a detriment to the community, or that the inmate is not willing and capable of fulfilling the obligations of parole, the Department shall, at least 60 days prior to the inmate's eligibility date, refer the inmate to the Parole Board for a parole hearing.

(3)(A) Within 30 days of the inmate's eligibility date, the Parole Board shall conduct an administrative review of each inmate the Department identifies as eligible for presumptive release who does not meet the risk criteria set forth in subdivision (2) of this subsection. The Board may deny

presumptive release and set a hearing if it determines, through its administrative review, that a victim or victims should have the opportunity to participate in a parole hearing. If the Board determines there is a victim or victims who should be notified, the Department shall notify the victim or victims, and the Board shall provide them with the opportunity to participate in a parole hearing.

(B) The Parole Board shall conduct a parole hearing pursuant to section 502 of this title for each eligible inmate that the Department determines meets the risk criteria in subdivision (2) of this subsection.

* * * Furlough * * *

Sec. 8. 28 V.S.A. § 808 is amended to read:

§ 808. TEMPORARY FURLOUGHS GRANTED TO OFFENDERS

(a) The Department may extend the limits of the place of confinement of an offender at any correctional facility if the offender agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that offender's furlough. The Department may authorize a temporary furlough for a defined period for any of the following reasons:

- (1) ~~To~~ to visit a critically ill relative;
- (2) ~~To~~ to attend the funeral of a relative;
- (3) ~~To~~ to obtain medical services;
- (4) ~~To~~ to contact prospective employers;
- (5) ~~To~~ to secure a suitable residence for use upon discharge.

~~(6) To continue the process of reintegration initiated in a correctional facility. The offender may be placed in a program of conditional reentry status by the Department upon the offender's completion of the minimum term of sentence. While on conditional reentry status, the offender shall be required to participate in programs and activities that hold the offender accountable to victims and the community pursuant to section 2a of this title.~~

(b) An offender granted a temporary furlough pursuant to this section may be accompanied by an employee of the Department, in the discretion of the Commissioner, during the period of the offender's furlough. The Department may use electronic monitoring equipment such as global position monitoring, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment to enable more effective or efficient supervision of individuals placed on furlough.

(c) The extension of the limits of the place of confinement authorized by this section shall in no way be interpreted as a probation or parole of the offender, but shall constitute solely a permitted extension of the limits of the place of confinement for offenders committed to the custody of the Commissioner.

(d) When any enforcement officer, as defined in 23 V.S.A. § 4²; employee of the Department²; or correctional officer responsible for supervising an offender believes the offender is in violation of any verbal or written condition of the temporary furlough, the officer or employee may immediately lodge the offender at a correctional facility or orally or in writing deputize any law enforcement officer or agency to arrest and lodge the offender at such a facility. The officer or employee shall subsequently document the reason for taking such action.

(e) The Commissioner may place on medical furlough any offender who is serving a sentence, including an offender who has not yet served the minimum term of the sentence, who is diagnosed with a terminal or serious medical condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The Commissioner shall develop a policy regarding the application for, standards for eligibility of, and supervision of persons on medical furlough. The offender may be released to a hospital, hospice, other licensed inpatient facility, or other housing accommodation deemed suitable by the Commissioner. As used in this subsection, a “serious medical condition” does not mean a condition caused by noncompliance with a medical treatment plan.

~~(f) While appropriate community housing is an important consideration in release of offenders, the Department shall not use lack of housing as the sole factor in denying furlough to offenders who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony provided that public safety and the best interests of the offender will be served by reentering the community on furlough. The Department shall adopt rules to implement this subsection. [Repealed.]~~

(g) ~~Subsections (b)-(f)~~ Subsection (b) of this section shall also apply to sections 808a and 808c of this title.

Sec. 9. 28 V.S.A. § 808a is amended to read:

§ 808a. TREATMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on treatment furlough to participate in such programs administered by the Department in the community that reduce the offender’s risk to reoffend or that provide reparation to the community in the form of

supervised work activities.

(b) Provided the approval of the sentencing judge, if available, otherwise a Superior Court judge, is first obtained, the Department may place on treatment furlough an offender who has not yet served the minimum term of the sentence, who, in the Department's determination, needs residential treatment services not available in a correctional facility. The services may include treatment for substance abuse or personal violence or any other condition that the Department has determined should be addressed in order to reduce the offender's risk to reoffend or cause harm to himself or herself or to others in the facility. The offender shall be released only to a hospital or residential treatment facility that provides services to the general population. The State's share of the cost of placement in such a facility, net of any private or federal participation, shall be paid pursuant to memoranda of agreement between and within State agencies reflective of their shared responsibilities to maximize the efficient and effective use of State resources. In the event that a memorandum of agreement cannot be reached, the Secretary of Administration shall make a final determination as to the manner in which costs will be allocated.

~~(c)(1) Except as provided in subdivision (2) of this subsection, the Department, in its own discretion, may place on treatment furlough an offender who has not yet served the minimum term of his or her sentence for an eligible misdemeanor as defined in section 808d of this title if the Department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism.~~

~~(2) Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(c) and boating under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be considered eligible misdemeanors for the sole purpose of subdivision (1) of this subsection. [Repealed.]~~

Sec. 10. 28 V.S.A. § 723 is amended to read:

§ 723. CONDITIONAL REENTRY COMMUNITY SUPERVISION
FURLOUGH

(a) ~~When a sentenced offender has served the minimum term of the total effective sentence, the~~ The Department may release the offender from a correctional facility ~~under section 808 of this title for the offender to participate in a reentry program while serving the remaining sentence in the community a person who:~~

(1) has served the minimum term of the person's total effective sentence;

(2) is ineligible for or refuses presumptive parole pursuant to section 501a of this title or has been returned or revoked to prison for a violation of conditions of parole, furlough, or probation; and

(3) agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that person's furlough.

(b) The offender's continued supervision in the community is conditioned on the offender's commitment to and satisfactory progress in his or her reentry program and on the offender's compliance with any terms and conditions identified by the Department.

(c) Prior to release under this section, the Department shall screen and, if appropriate, assess each felony drug and property offender for substance abuse treatment needs using an assessment tool designed to assess the suitability of a broad range of treatment services, and it shall use the results of this assessment in preparing a reentry plan. The Department shall attempt to identify all necessary services in the reentry plan and work with the offender to make connections to necessary services prior to release so that the offender can begin receiving services immediately upon release.

Sec. 11. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF CONDITIONAL REENTRY
COMMUNITY SUPERVISION FURLOUGH

The Department shall identify in the terms and conditions of ~~conditional reentry~~ community supervision furlough those programs necessary to reduce the offender's risk of reoffense and to promote the offender's accountability for progress in the reintegration process. The Department shall make all determinations of violations of conditions of community supervision furlough pursuant to this subchapter and any resulting change in status or termination of community supervision furlough status.

Sec. 12. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF COMMUNITY SUPERVISION
FURLOUGH

(a) Authority of the Department. The Department shall identify in the terms and conditions of community supervision furlough those programs necessary to reduce the offender's risk of reoffense and to promote the offender's accountability for progress in the reintegration process. The Department shall make all determinations of violations of conditions of

community supervision furlough pursuant to this subchapter and any resulting change in status or termination of community supervision furlough status.

(b) 30-day interrupt or revocation. Any interruption of an offender's community supervision furlough after the Department has found a technical violation of furlough conditions shall trigger a Department Central Office case staffing review and Department notification to the Office of the Defender General if duration of the interruption will be thirty days or longer.

(c) Appeal. An offender whose furlough status is revoked or interrupted for 30 days or longer shall have the right to appeal the Department's determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record. The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused its discretion in imposing a furlough revocation or interrupt for 30 days or longer pursuant to subsection (d) of this section.

(d) Technical violations.

(1) As used in this section, "technical violation" means a violation of conditions of furlough that does not constitute a new crime.

(2) It shall be abuse of the Department's discretion to revoke furlough or interrupt furlough status for 30 days or longer for a technical violation, unless:

(A) the offender's risk to reoffend can no longer be adequately controlled in the community, and no other method to control noncompliance is suitable; or

(B) the violation or pattern of violations indicates the offender poses a danger to others or to the community or poses a threat to abscond or escape from furlough.

Sec. 13. 28 V.S.A. § 725 is amended to read:

§ 725. PAROLE HEARING FOR OFFENDERS ON ~~CONDITIONAL~~
~~REENTRY~~ COMMUNITY SUPERVISION FURLOUGH

(a) The Department shall submit to the Parole Board a recommendation relative to whether the offender should be released to parole pursuant to section ~~502a~~ 501 of this title when:

(1) an offender sentenced solely for the commission of one or more unlisted crimes has, in the sole discretion of the Department, successfully

completed 90 days of community supervision in a conditional reentry program furlough; or

(2) an offender sentenced for the commission of at least one or more listed crimes has, in the sole discretion of the Department, successfully completed 180 days of community supervision in a conditional reentry program furlough.

Sec. 14. 28 V.S.A. § 818 is amended to read:

§ 818. EARNED GOOD TIME; REDUCTION OF TERM

(a) On or before ~~July 1, 2020~~ September 1, 2020, the Department of Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned good time program to become effective on January 1, 2021. The Commissioner shall adopt rules to carry out the provisions of this section as an emergency rule and concurrently propose them as a permanent rule. The emergency rule shall be deemed to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

(b) The earned good time program implemented pursuant to this section shall comply with the following standards:

(1) The program shall be available for all sentenced offenders, including furloughed offenders, provided that the program shall not be available to offenders on probation or parole, to offenders eligible for a reduction of term pursuant to section 811 of this title, or to offenders sentenced to life without parole. Offenders currently serving a sentence shall be eligible to begin earning a reduction in term when the earned good time program becomes effective.

(2) Offenders shall earn a reduction of ~~five~~ seven days in the minimum and maximum sentence for each month during which the offender:

(A) is not adjudicated of a major disciplinary rule violation; and

(B) is not reincarcerated from the community for a violation of release conditions, provided that an offender who loses a residence for a reason other than fault on the part of the offender shall not be deemed reincarcerated under this subdivision; and

~~(C) complies with a merit-based system designed to incentivize offenders to meet milestones identified by the Department that prepare offenders for reentry, if the offender has received a sentence of greater than one year.~~

(3) An offender who receives post-adjudication treatment in a residential setting for a substance use disorder shall earn a reduction of one

day in the minimum and maximum sentence for each day that the offender receives the inpatient treatment. While a person is in residential substance abuse treatment, he or she shall not be eligible for good time except as provided in this subsection.

(4) The Department shall:

(A) ensure that all victims of record are notified of the earned good time program at its outset and made aware of the option to receive notifications from the Department pursuant to this subdivision;

(B) provide timely notice ~~no~~ not less frequently than every 90 days to the offender ~~and to any victim of record~~ any time the offender receives a reduction in his or her term of supervision pursuant to this section, ~~and the Department shall;~~

(C) maintain a system that documents and records all such reductions in each offender's permanent record; and

(D) record any reduction in an offender's term of supervision pursuant to this section on a monthly basis and ensure that victims who want information regarding changes in scheduled release dates have access to such information.

~~(5) The program shall become effective upon the Department's adoption of final proposed rules pursuant to 3 V.S.A. § 843.~~

Sec. 15. 13 V.S.A. § 5305 is amended to read:

§ 5305. INFORMATION CONCERNING RELEASE FROM CUSTODY

(a) Victims, other than victims of acts of delinquency, and affected persons shall have the right to request notification by the agency having custody of the defendant before the defendant is released, including a release on bail or conditions of release, furlough, or other community program, upon termination or discharge from probation, or whenever the defendant escapes, is recaptured, dies, or receives a pardon or commutation of sentence. Notice shall be given to the victim or affected person as expeditiously as possible at the address or telephone number provided to the agency having custody of the defendant by the person requesting notice. Any address or telephone number so provided shall be kept confidential. The prosecutor's office shall ensure that victims are made aware of their right to notification of an offender's scheduled release date pursuant to this section.

(b) If the defendant is released on conditions at arraignment, the prosecutor's office shall inform the victim of a listed crime of the conditions of release.

(c) If requested by a victim of a listed crime, the Department of Corrections shall:

(1) at least 30 days before a parole board hearing concerning the defendant, inform the victim of the hearing and of the victim's right to testify before the parole board or to submit a written statement for the parole board to consider; and

(2) promptly inform the victim of the decision of the parole board, including providing to the victim any conditions attached to the defendant's release on parole.

Sec. 16. 28 V.S.A. § 808d is amended to read:

§ 808d. DEFINITION; ELIGIBLE MISDEMEANOR; FURLOUGH AT
THE DISCRETION OF THE DEPARTMENT

~~For purposes of sections 808a-808e~~ As used in section 808c of this title, "eligible misdemeanor" means a misdemeanor crime that is not one of the following crimes:

* * *

* * * Absconding and Escape * * *

Sec. 17. 28 V.S.A. § 808e is amended to read:

§ 808e. ABSCONDING FROM FURLOUGH; WARRANT

(a) The Commissioner of Corrections may issue a warrant for the arrest of a person who has absconded from furlough status in violation of ~~subdivision subsection~~ subsection 808(a)(6), ~~subsection 808(e) or 808(f)~~, or section 808a, 808b, or 808c of this title, requiring the person to be returned to a correctional facility. A law enforcement officer who is provided with a warrant issued pursuant to this section shall execute the warrant and return the person who has absconded from furlough to the Department of Corrections.

(b) A person for whom an arrest warrant is issued pursuant to this section shall not earn credit toward service of his or her sentence for any days that the warrant is outstanding.

Sec. 18. 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. § 808(a)(6)723, 808(e), 808(f), or 808a, 808b, or 808e a violation of this subdivision (1) of this subsection 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.]

* * * Reports to General Assembly * * *

Sec. 19. RACIAL DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM
STUDY AND RECOMMENDATIONS; VERMONT
SENTENCING COMMISSION

(a) During the 2020 legislative interim, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, the Executive Director of Racial Equity, the Chief Superior Judge, the Attorney General, the Defender General, the Department of Corrections, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work with Crime Research Group to identify existing data that explores the relationships between demographic factors and sentencing outcomes and determine whether and where current data systems and collections are insufficient for additional analyses and what staffing or resources are needed to support more robust reporting. Relevant data shall include plea agreements, sentence types and length, criminal history, offense severity, and any other metric that may further identify differences in how people are charged and sentenced by county, race, and gender. The stakeholders identified in this subsection shall also:

(1) Perform an initial analysis of sentencing patterns across the State to identify where the use and length of incarceration may result in or exacerbate racial disparities and make any related proposals for legislative action, including recommendations for further study.

(2) Jointly report their findings pursuant to this subsection and any associated recommendations pursuant to subdivisions (1) and (2) of this subsection to the Joint Legislative Justice Oversight Committee and the Vermont Sentencing Commission on or before December 1, 2020. The report shall include any dissenting opinions among the stakeholders.

(b)(1) The Vermont Sentencing Commission shall consider relevant findings and recommendations developed by the stakeholder group pursuant to subsection (a) of this section and:

(A) consider whether changes to Vermont's sentencing structure are necessary to address the findings and implement the recommendations developed by the stakeholder group; and

(B) if it deems appropriate, issue nonbinding guidance for offenses for which there are racial and geographic disparities in sentencing.

(2) On or before February 26, 2021, the Vermont Sentencing Commission shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions on its determinations pursuant to subdivision (1) of this subsection.

Sec. 20. PAROLE REPORT; JUDICIARY; PAROLE BOARD

On or before January 15, 2022, the Chair of the Vermont Parole Board shall report to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions on the implementation of presumptive parole as established by 28 V.S.A. §§ 501a and 502a. The report shall include an analysis of the current administrative burden of presumptive parole and the anticipated administrative burden of expanding presumptive parole eligibility to offenders who have committed a listed crime as defined in 13 V.S.A. § 5201.

Sec. 21. JUSTICE REINVESTMENT II WORKING GROUP; OVERSIGHT AND IMPLEMENTATION OF JUSTICE REINVESTMENT II

(a) Justice Reinvestment II Working Group. The Justice Reinvestment II Working Group, established by the Governor in Executive Order 03-19, shall oversee the implementation of Justice Reinvestment II as provided in this section. A representative of the Vermont Parole Board shall join the Justice Reinvestment II Working Group to carry out the duties set forth in this section.

(b) Duties. The Working Group shall provide oversight over the rollout of Justice Reinvestment II, including the implementation of case reviews and releases for individuals newly eligible for presumptive parole, calculations of earned good time for eligible individuals within Department of Corrections facilities, and the Department's efforts to assess how its graduated sanctions are implemented in local field offices in compliance with Sec. 23 of this act. The Working Group shall also work with the Council on State Governments to:

(1) based on the information provided by the Agency of Human Services pursuant to Sec. 22 of this act, identify current screening, assessment, and case planning gaps for incarcerated individuals and propose system improvements for minimizing gaps in screening and assessment and ensuring case plans reflect both the individual's identified criminogenic and behavioral health needs;

(2) identify tools to assist in identifying specific offender risk factors that can be targeted with services and treatment programs based on evidence-based practices shown to be effective in reducing recidivism;

(3) determine how to share information about risk assessments and available Department and community-based programming among each other to inform plea agreement, sentencing, and probation revocation decisions;

(4) study the efficacy of using probation as a presumptive sentencing structure for certain types of offenses for which connections to community-based programming leads to better outcomes;

(5) evaluate the policy of probationers earning one day of credit towards their suspended sentence for each day served on probation without violation, including:

(A) how best to implement such a policy without impacting the length of probation terms or suspended sentences imposed;

(B) whether the credit accrued should apply to both the minimum and maximum suspended sentences;

(C) whether accrual of credit equal to the imposed maximum term of imprisonment or statutory maximum term of imprisonment for the offense should result in the termination and discharge of probation; and

(D) whether terms of probation for misdemeanors should be for a specific duration, not to exceed two years, or if the court should have discretion to impose a longer term in the interests of justice;

(6) explore additional options, including an option modeled after probation midpoint reviews provided for in 28 V.S.A. § 252(d), for allowing release from probation prior to the end of the imposed probation term, either in addition to or instead of a policy for providing one day of credit towards a suspended sentence for each day served on probation without violation as detailed in subdivision (5) of this subsection;

(7) evaluate the appeal process set forth in Sec. 12 of this Act for offenders on community supervision furlough who are returned to a correctional facility for 30 days or longer for a technical violation as an appropriate due process mechanism for offenders returned from furlough;

(8) develop funding and appropriation recommendations for future justice reinvestments; and

(9) recommend any necessary legislative action based on information gathered during the implementation of this act.

(c) Reports.

(1) On or before January 15, 2021, the Working Group shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions on the results of its work pursuant to subdivisions (2)–(7) of subsection (b) of this section and suggested legislative action regarding probation and earned credit on probation, a process by which offenders may appeal certain furlough revocations or interrupts by the Department, and how to ensure sentencing, revocation, and plea agreement decisions are informed by available programming, including community treatment programs and individual risk assessment information.

(2) On or before January 15, 2022, the Working Group shall report to the House and Senate Committees on Judiciary and the House Committee on Corrections and Institutions with its findings pursuant to subsection (b) of this section and any recommendations for legislative action.

Sec. 22. AGENCY OF HUMAN SERVICES; REPORT TO JUSTICE
REINVESTMENT II WORKING GROUP

On or before December 1, 2020, the Agency of Human Services, with assistance from the Council of State Governments Justice Center, shall coordinate the provision of the following information to the Justice Reinvestment II Working Group:

(1) the nature and scope of available screening and assessment of mental health and substance use needs among incarcerated populations, and how screening and assessment results inform case plans for sentenced individuals while they are incarcerated and prior to their release into community supervision, including individuals on probation; and

(2) the existing behavioral health collaborative care coordination and case management protocols that serve people in Department of Corrections custody or supervision and any existing challenges to information sharing between service providers and the Department.

Sec. 23. 2020 Acts and Resolves No. 88, Sec. 70a is amended to read:

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

(a) On or before ~~April 1, 2020~~ January 15, 2021, 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~~ positive to negative reinforcements in supervision practices at a 4:1 ratio and require ~~incentives reinforcements~~ to be entered and tracked in the community supervision case management system;

* * *

Sec. 24. REPEALS

28 V.S.A. § 808b (home confinement furlough) and 28 V.S.A. § 808c (reintegration furlough) are repealed on January 1, 2021.

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

(a) This section and Secs. 14 (earned good time; reduction of term) and 25 (repeals) shall take effect on passage.

(b) Sec. 12 (terms and conditions of community supervision furlough) shall take effect on July 1, 2021.

(c) Sec. 5 (presumptive parole) shall take effect on January 1, 2023.

(d) All other sections shall take effect on January 1, 2021.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Sears, Baruth, Benning, Nitka and White moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: By striking out Sec. 11, 28 V.S.A. § 724, in its entirety and inserting in lieu thereof the following:

Sec. 11. 28 V.S.A. § 724 is amended to read:

§ 724. TERMS AND CONDITIONS OF CONDITIONAL REENTRY
COMMUNITY SUPERVISION FURLOUGH

(a) Authority of the Department. The Department shall identify in the terms and conditions of ~~conditional reentry~~ community supervision furlough those programs necessary to reduce the offender's risk of reoffense and to promote the offender's accountability for progress in the reintegration process. The Department shall make all determinations of violations of conditions of community supervision furlough pursuant to this subchapter and any resulting change in status or termination of community supervision furlough status.

(b) 90-day interruption or revocation. Any interruption of an offender's community supervision furlough after the Department has found a technical violation of furlough conditions shall trigger a Department Central Office case staffing review and Department notification to the Office of the Defender General if the interruption will be 90 days or longer.

(c) Appeal. An offender whose furlough status is revoked or interrupted for 90 days or longer shall have the right to appeal the Department's determination to the Civil Division of the Superior Court in accordance with Rule 74 of the Vermont Rules of Civil Procedure. The appeal shall be based

on a de novo review of the record. The appellant may offer testimony, and, in its discretion for good cause shown, the court may accept additional evidence to supplement the record. The appellant shall have the burden of proving by a preponderance of the evidence that the Department abused its discretion in imposing a furlough revocation or interruption for 90 days or longer pursuant to subsection (d) of this section.

(d) Technical violations.

(1) As used in this section, “technical violation” means a violation of conditions of furlough that does not constitute a new crime.

(2) It shall be abuse of the Department’s discretion to revoke furlough or interrupt furlough status for 90 days or longer for a technical violation, unless:

(A) the offender’s risk to reoffend can no longer be adequately controlled in the community, and no other method to control noncompliance is suitable; or

(B) the violation or pattern of violations indicate the offender poses a danger to others or to the community or poses a threat to abscond or escape from furlough.

Second: By striking out Sec. 12, 28 V.S.A. § 724, in its entirety and inserting in lieu thereof the following:

Sec. 12. [Deleted].

Third: In Sec. 21, Justice Reinvestment II Working Group, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) Oversight and implementation of Justice Reinvestment II. Subject to the availability of Bureau of Justice Assistance funding for the involvement of the Council of State Governments, the Justice Reinvestment II Working Group, established by the Governor in Executive Order 03-19, shall oversee the implementation of Justice Reinvestment II as provided in this section. A representative of the Vermont Parole Board shall join the Justice Reinvestment II Working Group to carry out the duties set forth in this section. In the event that such federal funding is not available, the duties set forth in subsection (b) of this section shall be carried out by the Joint Legislative Justice Oversight Committee in consultation with the members of the Justice Reinvestment II Working Group and a representative of the Vermont Parole Board, and any resulting recommendations of the Committee shall be introduced in the form of proposed legislation for the 2021 or 2022 legislative session.

Fourth: In Sec. 21, Justice Reinvestment II Working Group, in subsection (b), by striking out subdivision (7) in its entirety and inserting in lieu thereof

the following:

(7) evaluate the policy of parole eligibility for older adult inmates who are not serving a sentence of life without parole and who have served a portion of their sentence but not the minimum term;

Fifth: In Sec. 21, Justice Reinvestment II Working Group, subdivision (c)(1), by striking out the words “, a process by which offenders may appeal certain furlough revocations or interrupts by the Department,”

Sixth: In Sec. 26, effective dates, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof the following:

(a) This section and Secs. 14 (earned good time; reduction of term), 19 (racial disparities in the criminal justice system study and recommendations; Vermont Sentencing Commission), 21 (Justice Reinvestment II Working Group; oversight and implementation of Justice Reinvestment II), 22 (Agency of Human services; report to Justice Reinvestment II Working Group), and 25 (repeals) shall take effect on passage.

And by relettering the remaining subsections to be alphabetically correct.

Which was agreed to.

Third Reading Ordered

H. 650.

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

An act relating to boards and commissions.

Reported that the bill ought to pass in concurrence.

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

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 338, H. 961.

Rules Suspended; Bill Delivered

On motion of Senator Ashe, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 128.

Adjournment

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

FRIDAY, JUNE 19, 2020

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Shannon MacVean-Brown of Burlington.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Champion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator John S. Rodgers Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil

Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

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 nineteenth day of June, 2020 he approved and signed a bill originating in the Senate of the following title:

S. 350. An act relating to creating emergency economic recovery grants.

Bill Referred to Committee on Finance

H. 656.

House 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 agricultural subjects.

Bill Referred to Committee on Appropriations

H. 959.

House 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 education property tax.

Consideration Postponed

S. 237.

Senate bill entitled:

An act relating to promoting affordable housing.

Was taken up.

Thereupon, pending third reading of the bill, Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White moved to amend the bill as follows:

First: In Sec. 6, 10 V.S.A. § 6081, in subdivision (p)(1), by striking out “Upon receiving notice and a copy of the permit issued by an appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit for a development or subdivision located in a downtown development area or a neighborhood development area is extinguished” and inserting in lieu thereof the following: Existing permits in these areas may seek to be released from jurisdiction pursuant to subsection 6090(c) of this title

Second: By striking out Sec. 8, 24 V.S.A. § 4460, in its entirety and inserting in lieu thereof the following:

* * * Act 250 Release from Jurisdiction * * *

Sec. 8. 10 V.S.A. § 6090 is amended to read:

§ 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

* * *

(c) Change to nonjurisdictional use; release from permit.

(1) On an application signed by each permittee, the District Commission may release land subject to a permit under this chapter from the obligations of that permit and the obligation to obtain amendments to the permit on finding each of the following:

(A) One of the following is true:

(i) the use of the land as of the date of the application is not the same as the use of the land that caused the obligation to obtain a permit under this chapter;

(ii) the municipality where the land is located has adopted permanent zoning and subdivision bylaws, but had not when the permit was issued; or

(iii) the land is located in a designated downtown or neighborhood development area that is exempt from this chapter.

(B) The use of the land as of the date of the application does not constitute development or subdivision as defined in section 6001 of this title and would not require a permit or permit amendment but for the fact that the land is already subject to a permit under this chapter.

(C) The permittee or permittees are in compliance with the permit and their obligations under this chapter.

(2) It shall be a condition of each affirmative decision under this subsection that a subsequent proposal of a development or subdivision on the land to which the decision applies shall be subject to this chapter as if the land had never previously received a permit under the chapter.

(3) An application for a decision under this subsection shall be made on a form prescribed by the Board. The form shall require evidence demonstrating that the application complies with subdivisions (1)(A) through (C) of this subsection. The application shall be processed in the manner described in section 6084 of this title and may be treated as a minor application under that section. In addition to those required to be notified under section 6084, the District Commission shall send notice at the same time to all other parties to the permit and to all current adjacent landowners.

(4) The District Commission shall evaluate the conditions in the existing permit and determine whether the permit conditions are still necessary to mitigate impacts under the criteria of subsection 6086(a). If the District Commission finds that the permit conditions are still necessary, it shall deny the application or approve the application on the condition that the necessary conditions are added to the land's municipal permit.

Third: In Sec. 12, 24 V.S.A. 2793e, by striking out subdivision (c)(7) in its entirety and inserting in lieu thereof the following:

* * *

Fourth: By striking out Secs. 14 (10 V.S.A. § 1974(9)), 15 (10 V.S.A. § 1983), and 16 (study of subdivision regulations in authorized municipalities) and their reader assistance headings in their entireties and inserting in lieu thereof the following:

* * * Wastewater and Potable Water Supply Connections * * *

Sec. 14. 10 V.S.A. § 1972 is amended to read:

§ 1972. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(11) "Change in use" means converting to a different type of use, such as from a residence to a restaurant or office space or from a restaurant to a residence; change from seasonal to year-round use; or scaling up a use, such as increasing the number of employees or adding bedrooms. "Change of use" does not include the addition of a home occupation to a living unit.

(12) "Municipality" means a city, town, fire district, school district, consolidated water district, incorporated village, or unorganized town or gore.

(13) “Sanitary sewer service line” means piping and associated components that conveys wastewater from a building or structure or campground to a wastewater treatment facility, to an indirect discharge system, or to the leachfield of a soil-based wastewater system of less than 6,500 gallons per day. Sanitary sewer service lines also include piping that conveys wastewater from a building or structure or campground to a sanitary sewer collection line.

(14) “Water main” means water piping, such as a transmission main or distribution main, that is part of a public water system as defined in the Agency of Natural Resources’ Water Supply Rule. A water main includes piping leading to fire hydrants.

(15) “Water service line” means the piping that is not a water main and extends from the water main to a building or structure or campground.

Sec. 15. 10 V.S.A. § 1974(9) is added to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

* * *

(9) A person who receives an authorization from a municipality that administers a program registered with the Secretary pursuant to section 1983 of this title.

Sec. 16. 10 V.S.A. § 1983 is added to read:

§ 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM
AND POTABLE WATER SUPPLY CONNECTIONS

(a) Notwithstanding the requirement under section 1976 of this title that the Secretary delegate to a municipality authority to approve a connection and notwithstanding the requirement under section 1973 of this title, a municipality may issue an approval for a connection or an existing connection with a change in use to the municipal sanitary sewer collection line by a sanitary sewer service line or a connection to a water main by a new water service line, provided that the municipality documents the following information in a form prescribed by the Secretary:

(1) The municipality owns or has legal control over connections to:

(A) a public community water system permitted pursuant to chapter 56 of this title; and

(B) a wastewater treatment facility permitted pursuant to chapter 47 of this title.

(2) The municipality shall only issue authorizations for:

(A) a sanitary sewer service line that connects to the sanitary sewer collection line that serves a single connection; and

(B) a water service line that connects to the water main that serves a single connection.

(3) The building or structure connects to both the sanitary sewer collection line and public community water system.

(4) The municipality issues approvals that comply with the technical standards for sanitary sewer service lines and water service lines adopted under the Agency of Natural Resources' Wastewater System and Potable Water Supply Rules.

(5) The municipality requires documentation in the land records of the municipality from a professional engineer or a licensed designer that the connection authorized by the municipality was installed in accordance with the technical standards.

(6) The municipality retains plans that show the location and design of authorized connections.

(b) The municipality shall notify the Secretary 30 days in advance of terminating any registration. The municipality shall provide all approvals and plans to the Secretary as a part of this termination notice.

(c) Upon request of the Secretary, a municipality approving a connection under this section shall provide copies of approvals of connection, connection plans, and any associated documentation.

Sec. 16a. STUDY OF SUBDIVISION REGULATIONS IN AUTHORIZED MUNICIPALITIES

The Agency of Natural Resources' Wastewater and Potable Water Supply Technical Advisory Committee shall report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy on whether municipalities authorized under 10 V.S.A. § 1983 should also have jurisdiction to issue wastewater and potable water supply permits instead of the Agency of Natural Resources for subdivisions when the lot is served by municipal water and sewer.

Fifth: By striking out Sec. 24 (effective dates) and its reader assistance heading in its entirety and inserting in lieu thereof the following:

* * * Act 250 Criterion 1(D) * * *

Sec. 24. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

~~(6) “Floodway” means the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects~~ “Flood hazard area” has the same meaning as under section 752 of this title.

~~(7) “Floodway fringe” means an area which is outside a floodway and is flooded with an average frequency of once or more in each 100 years as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects~~ “River corridor” has the same meaning as under section 752 of this title.

* * *

Sec. 25. 10 V.S.A. § 6086(a)(1)(D) is amended to read:

(D) ~~Floodways~~ Flood hazard areas; river corridors. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria:

(i) ~~the development or subdivision of lands within a floodway flood hazard area or river corridor will not restrict or divert the flow of flood waters, cause or contribute to fluvial erosion, and endanger the health, safety, and welfare of the public or of riparian owners during flooding; and~~

~~(ii) the development or subdivision of lands within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, or welfare of the public or riparian owners during flooding.~~

* * * Trails * * *

Sec. 26. 10 V.S.A. § 442(3) is amended to read:

(3) “Trails” means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes, but the primary purpose shall not be the operation of a motor vehicle. As used in this subdivision, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

Sec. 27. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(38) “Recreational trail” has the same meaning as “trails” in subdivision 442(3) of this title.

(39) “Vermont trails system trail” means a recreational trail recognized by the Agency of Natural Resources pursuant to chapter 20 of this title. For purposes of this chapter, the construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal, county, or State purpose.

Sec. 28. 10 V.S.A. § 6001(3)(A) is amended to read:

(3)(A) “Development” means each of the following:

* * *

(xi) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.

(I) This subdivision (xi) shall be the exclusive mechanism for determining jurisdiction over a recreational trail that is a Vermont trails system trail and shall only apply to the construction of improvements made on or after July 1, 2020.

(II) For purposes of this subdivision (xi), involved land includes:

(aa) land that is physically altered, including any ground disturbance and clearing that will occur; and

(bb) infrastructure that is incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage.

(III) For purposes of this subdivision (xi), involved land does not include land where no ground will be disturbed or cleared or any Vermont trails system trail constructed before July 1, 2020.

Sec. 29. 10 V.S.A. § 6001(3)(C) is amended to read:

(C) For the purposes of determining jurisdiction under subdivision (3)(A) of this section, the following shall apply:

* * *

(vi) Recreational trails. When jurisdiction over a trail has been established pursuant to subdivision (A) of this subdivision (3), jurisdiction shall extend only to the recreational trail and infrastructure that is incidental to

the operation of the trail. Jurisdiction shall not extend to the remainder of a parcel or parcels where a recreational trail is located, unless otherwise determined to be jurisdictional pursuant to another provision of this chapter.

Sec. 30. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(y) No permit or permit amendment shall be required for the construction of improvements on a tract of land that would provide access across a recreational trail, provided that the access is not related to the use of the permitted recreational trail and would not establish jurisdiction under this chapter on its own.

(z) Notwithstanding 1 V.S.A. §213 and § 214, and until January 1, 2022, no permit is required for a Vermont trails system trail recognized pursuant to chapter 20 of this title if the trail was in existence prior to July 1, 2020.

Sec. 31. RECREATIONAL TRAILS RECOMMENDATIONS AND REPORT

On or before December 15, 2020, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that is administered by the Agency of Natural Resources. The report shall include recommendations for revisions to 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to administer the program, potential funding sources, staffing needs, and whether to include other recreational trails. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.

Sec. 32. PROSPECTIVE REPEAL

10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

* * * Forest Blocks * * *

Sec. 33. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(40) “Connecting habitat” means land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and

dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(41) "Forest block" means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

(42) "Fragmentation" means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(43) "Habitat" means the physical and biological environment in which a particular species of plant or wildlife lives.

Sec. 34 10 V.S.A. § 6086(a)(8) is amended to read:

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

(A)(B) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will ~~not~~ outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or

(iii) a reasonably acceptable alternative site is owned or controlled by the applicant ~~which~~ that would allow the development or subdivision to fulfill its intended purpose.

(C) Will not result in an undue adverse impact on forest blocks and connecting habitat. If a project as proposed would result in fragmentation, a permit may only be granted if effects are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

Sec. 35. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules to implement the requirements for the administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how fragmentation of forest block or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses of on-site and off-site mitigation.

(b) The Board shall convene a working group to provide input to the rule prior to pre-filing with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before September 1, 2020.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before September 1, 2021.

* * * The Road Rule * * *

Sec. 36. 10 V.S.A. 6001(3)(A) is amended to read:

(3)(A) “Development” means each of the following:

* * *

(x) The construction of a road or roads and any associated driveways to provide access to or within a tract of land of more than one acre owned or controlled by a person. For the purposes of determining jurisdiction under this subdivision, any new development or subdivision on a parcel of land that will be provided access by the road and associated driveways is land involved in the construction of the road. Jurisdiction under this subdivision shall not apply unless the length of the road and any associated driveways in combination is greater than 2,000 feet. As used in this subdivision, “roads” shall include any new road or improvement to a Class IV road by a private person, including roads that will be transferred to or maintained by a municipality after their construction or improvement. For the purpose of determining the length of any road and associated driveways, the length of all other roads and driveways within the tract of land constructed within any continuous period of 10 years commencing after July 1, 2020 shall be included. This subdivision shall not apply to a State or municipal road, a utility corridor of an electric transmission or distribution company, a road used primarily for farming or forestry purposes, or a road in a designated downtown or neighbor development area. The conversion of a road used for farming or forestry purposes that also meets the requirements of this subdivision shall constitute development.

Sec. 37. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

(a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources ~~(the Secretary)~~ shall complete and maintain resource mapping based on the Geographic Information System (GIS) ~~or other technology~~. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.

(b) ~~The Secretary of Natural Resources~~ shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing

recommendations under chapter 151 of this title to District Commissions on other projects.

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.

* * * Wood Product Manufacturer * * *

Sec. 38. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(44) “Wood products manufacturer” means a manufacturer that aggregates wood products from forestry operations and adds value through processing or marketing in the wood products supply chain or directly to consumers through retail sales. “Wood products manufacturer” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch, and fuel wood; and log and pulp concentration yards. “Wood products manufacturer” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving wood products from forestry operations.

(45) “Wood product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

Sec. 39. 10 V.S.A. § 6086(c) is amended to read:

(c)(1) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and which are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to insure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) Permit conditions on a wood products manufacturer.

(A) A permit condition that sets hours of operation for a wood products manufacturer shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section.

(B) If an adverse impact under subdivisions (a)(1), (5), or (8) of this section would result, a permit with conditions shall allow the manufacturer to operate while mitigating these impacts. A permit with conditions that mitigate these impacts shall allow for deliveries of wood products from forestry operations to the manufacturer outside of permitted hours of operation, including nights, weekends, and holidays, for the number of days demonstrated by the manufacturer as necessary to enable business operations, not to exceed 90 days per year.

(3) Permit with conditions on the delivery of wood heat fuels. A permit with conditions issued to a wood products manufacturer that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the manufacturer to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year. Permits with conditions shall mitigate the undue adverse impacts while enabling the operations of the manufacturer.

(4) Wood products manufacturer holding a permit may request an amendment to existing permit conditions related to hours of operation and seasonal restrictions to be consistent with subdivisions (2) and (3) of this subsection. Requests for condition amendments under this subsection shall not be subject to Act 250 Rule 34E.

* * * Municipal Response to Act 250 Requests * * *

Sec. 40. 10 V.S.A. 6086(g) is added to read:

(g) If a municipality fails to respond to a request by the applicant within 90 days as to the impacts related to subdivision (a)(6) or (7) of this section, the application will be presumed not to have an unreasonable burden on educational, municipal, or governmental services.

* * * Fish and Wildlife Billback Authority * * *

Sec. 41. 10 V.S.A. 6094 is added to read:

§ 6094. ALLOCATION OF COSTS; DEPARTMENT OF FISH AND WILDLIFE

(a) Notwithstanding any other provision of law, the Department of Fish and Wildlife shall have the authority to bill the applicant for the costs of participating in any major permit application before a District Commission, including the costs of employee application review, submissions, comments, and testimony before a District Commission related to impacts on natural resources under subsection 6086(a) of this title, including on wildlife, necessary wildlife habitat, or connecting habitat. The Department may recover

those costs from the applicant after notice to the applicant, including an estimate of the costs of the personnel or services.

(b) From time to time, the Department shall provide the applicant with detailed statements showing the amount of money contracted for or expended on personnel and services. All funds for services under this section shall be paid directly to the Department.

(c) An applicant to which costs are allocated under this section may petition the District Commission to review the costs allocated. The District Commission shall conduct a hearing to determine reasonableness of the costs. The District Commission shall consider the size and complexity of the project and may revise the cost allocations if determined unreasonable.

(d) District Commission decisions regarding the reasonableness of fees may be appealed, by the Department or the applicant, to the Natural Resources Board in accordance with rules adopted by the Board.

Sec. 42. 10 V.S.A. § 6027(h) is amended to read:

(h) The Natural Resources Board may hear appeals of fee refund requests under section 6083a of this title and of allocation of costs under section 6094.

* * * Designation Appeals * * *

Sec. 43. 24 V.S.A. § 2798 is amended to read:

§ 2798. DESIGNATION DECISIONS; ~~NONAPPEAL~~ APPEAL

(a) The A person aggrieved by a designation ~~decisions~~ decision of the State Board under this chapter are not subject to appeal section 2793 or 2793e of this title may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the decision.

(b) The Natural Resources Board shall conduct a de novo hearing on the decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Natural Resources Board shall issue a final decision within 90 days of the filing of the appeal. The provisions of 10 V.S.A. § 6024 regarding assistance to the Natural Resources Board from other departments and agencies of the State shall apply to appeals under this section.

Sec. 44. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

(a) Appeals of any act or decision of a District Commission under this chapter or a district coordinator under subsection 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this

title. For the purpose of this section, a decision of the Chair of a District Commission under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the District Commission.

(b)(1) A determination by the Downtown Development Board designating a downtown development district or neighborhood development area pursuant to 24 V.S.A. chapter 76A is appealable to the Natural Resources Board.

(2) Procedure.

(A) An appeal under this subsection may be brought by any person aggrieved by the determination of the Downtown Development Board.

(B) A notice of appeal must be filed within 30 days of the determination by the Downtown Development Board.

(C) The Natural Resources Board shall conduct all appeals under this section as contested cases pursuant to 3 V.S.A. chapter 25 and procedural rules adopted by the Natural Resources Board.

* * * Effective Dates * * *

Sec. 45. EFFECTIVE DATES

(a)(1) This act shall take effect on July 1, 2020, except that:

(2) Sec. 34, 10 V.S.A. § 6086(a)(8), shall take effect on September 15, 2021; and

(3) in Sec. 2, 24 V.S.A. § 4412(b), shall take effect on July 1, 2023.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White?, Senator Bray requested that the question be divided and in the *fifth* recommendation of amendment Secs. 33 to 37 be considered separately.

Thereupon, pending the question, Shall the bill be amended as moved by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White in the *first* through *fourth* and Secs. 24 to 32 and 38 to 45 of the *fifth* recommendations of amendment? Senator Parent raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that Secs. 24 to 32 and 38 to 45 of the *fifth* recommendation of amendment offered by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White were *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that these recommendations of amendment offered by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White were *not germane* to the bill.

The President thereupon declared that the recommendations of amendment offered by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White, in Secs. 24 to 32 and 38 to 45 of the *fifth* recommendations of amendment could *not* be considered by the Senate and were ordered stricken.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White, in the *first* through *fourth* recommendations of amendment?, on motion of Senator Ashe, consideration of the bill was postponed until the next legislative day.

Bill Passed in Concurrence

H. 650.

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

An act relating to boards and commissions.

Rules Suspended; Bill Messaged

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

H. 650.

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. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 321.

House concurrent resolution in memory of former Bennington Selectboard Chair Thomas Jacobs.

By Reps. Partridge and others,

H.C.R. 322.

House concurrent resolution in memory of Putnam Wentworth Blodgett.

By Reps. Stevens and others,

By Senators Collamore, Cummings, Hooker, McNeil, Perchlik and Pollina,

H.C.R. 323.

House concurrent resolution congratulating the Harwood Union High School Highlanders and the Fair Haven Union High School Slaters on being named 2020 Division II girls' basketball co-champions.

By Reps. Partridge and others,

H.C.R. 324.

House concurrent resolution congratulating the Chroma Technology Corporation of Bellows Falls on winning the 2019 Deane C. Davis Outstanding Business of the Year Award.

Message from the House No. 58

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. 962. An act relating to the duration of temporary relief from abuse orders.

H. 966. An act relating to COVID-19 funding and assistance for broadband connectivity, housing, and economic relief.

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. 321. House concurrent resolution in memory of former Bennington Selectboard Chair Thomas Jacobs.

H.C.R. 322. House concurrent resolution in memory of Putnam Wentworth Blodgett.

H.C.R. 323. House concurrent resolution congratulating the Harwood Union High School Highlanders and the Fair Haven Union High School Slaters on being named 2020 Division II girls' basketball co-champions.

H.C.R. 324. House concurrent resolution congratulating the Chroma Technology Corporation of Bellows Falls on winning the 2019 Deane C. Davis Outstanding Business of the Year 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 Monday, June 22, 2020, at three o'clock and thirty minutes in the afternoon pursuant to J.R.S. 58.

MONDAY, JUNE 22, 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.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator John S. Rodgers Senator Robert A. Starr

Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bill Referred to Committee on Appropriations

H. 942.

House 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 Transportation Program and miscellaneous changes to laws related to transportation.

Bills Referred

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

H. 962.

An act relating to the duration of temporary relief from abuse orders.
To the Committee on Judiciary.

H. 966.

An act relating to COVID-19 funding and assistance for broadband connectivity, housing, and economic relief.

To the Committee on Appropriations.

Consideration Resumed; Bill Ordered to Lie**S. 237.**

Consideration was resumed on Senate bill entitled:

An act relating to promoting affordable housing.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White in the *first*, *second*, *third* and *fourth* recommendation of amendments?, Senator McCormack requested to divide the question.

Thereupon, the bill was amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White in the *first* and *second* recommendation of amendment.

Thereupon, the bill was amended as recommended by Senators Bray, Ashe, Balint, Baruth, Campion, Clarkson, Hardy, Hooker, Lyons, MacDonald, Sirotkin and White in the *third* and *fourth* recommendation of amendment.

Thereupon, Senator Bray, requested and was granted leave to withdraw the remainder of the *fifth* recommendation of amendment.

Thereupon, pending third reading of the bill, Senator McCormack moved to amend the bill as follows:

First: In Sec. 5, 10 V.S.A. § 6001, by striking out subdivision (35) in its entirety.

Second: By striking out Secs. 6, 10 V.S.A. § 6081, 7, repeals, and 8, 10 V.S.A. § 6090, in their entireties.

Third: In Sec. 10, 24 V.S.A. § 2793, by striking out subdivision (b)(1) in its entirety.

Fourth: In Sec. 12, 24 V.S.A. § 2793e, by striking out subdivision (c)(7)(C) in its entirety and inserting in lieu thereof the following:

~~(B)~~(C) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.

Fifth: In Sec. 12, 24 V.S.A. § 2793e, by striking out subdivisions (f)–(h) in their entireties and inserting in lieu thereof the following:

* * *

And by renumbering the remaining sections to be numerically correct.

Which was disagreed to on a roll call, Yeas 3, Nays 27.

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

Roll Call

Those Senators who voted in the affirmative were: McCormack, McNeil, Pollina.

Those Senators who voted in the negative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, Nitka, Parent, Pearson, Perchlik, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Thereupon, pending third reading of the bill, Senators Perchlik and Pearson moved to amend the bill by striking out Sec. 45, effective dates, and its reader assistance heading in its entirety and inserting in lieu thereof the following:

Sec. 45. 30 V.S.A. § 56 is added to read:

§ 56. STRETCH CODE IN DOWNTOWNS AND NEIGHBORHOOD DEVELOPMENT AREAS

Within a downtown development district or neighborhood development area, residential construction with 10 or more units or located on 10 or more acres shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

* * * Effective Dates * * *

Sec. 46. EFFECTIVE DATES

(a)(1) This act shall take effect on July 1, 2020, except that:

(2) Sec. 34, 10 V.S.A. § 6086(a)(8), shall take effect on September 15, 2021;

(3) in Sec. 2, 24 V.S.A. § 4412(b), shall take effect on July 1, 2023; and

(4) Sec. 45, 30 V.S.A. § 56, shall take effect on April 1, 2021.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill by striking out Sec. 20, (homelessness prevention) in its entirety and inserting in lieu thereof the following:

Sec. 20. [Deleted.]

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin moved to amend the bill by striking out Sec. 6, 10 V.S.A. § 6081(p)(1), in its entirety and inserting in lieu thereof the following:

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Existing permits in these areas may seek to be released from jurisdiction pursuant to subsection 6090(c) of this title. Notwithstanding 1 V.S.A. §213 and § 214, and until January 1, 2022, no permit is required for a recreational trail located within a downtown development district or a neighborhood development area if the trail was in existence prior to July 1, 2020.

Thereupon, pending the question, Shall the bill be amended as moved by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin? Senator Parent raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the amendment offered by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the amendment offered by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin was *not germane* to the bill.

The President thereupon declared that the amendment offered by Senators Bray, Balint, Baruth, Campion, Clarkson, Hardy, MacDonald and Sirotkin could *not* be considered by the Senate and the amendment was ordered stricken.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Ashe moved that the bill be ordered to lie.

Which was agreed to.

Bill Amended; Third Reading Ordered

S. 124.

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

An act relating to miscellaneous law enforcement amendments.

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

* * * Vermont Criminal Justice Training Council * * *

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

* * *

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

* * *

Sec. 2. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, ~~of Corrections,~~ of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) the Executive Director of the Department of State's Attorneys and Sheriffs;

(D) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

~~(D)~~(E) a member of the Vermont Police Association, elected by its membership; ~~and~~

~~(E)~~(F) ~~five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association~~ a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(G) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(H) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(I) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(J) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(K) three public members who shall not be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer, current legislators, or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

(2) A member's term shall be three years.

* * *

(c) The public members of the Council set forth in subdivision (a)(1)(K) of this section shall be entitled to receive no per diem compensation for their services, but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be allowed their actual and necessary entitled to receive reimbursement of expenses incurred in the performance of their duties. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.

* * *

Sec. 3. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL MEMBERSHIP

Any existing member of the Vermont Criminal Justice Training Council who will serve on the Council under its new membership as set forth in Sec. 2 of this act may serve the remainder of his or her term in effect immediately prior to the effective date of Sec. 2.

Sec. 4. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer nonovernight courses whenever possible.

(2) The Council may also offer the basic officer's course for ~~pre-service~~ preservice students and educational outreach courses for the public, including firearms safety and use of force.

* * *

Sec. 5. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(2) Level II certification.

* * *

(3) Level III certification.

* * *

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that on and after July 1, 2021, a Level II certified officer may use portfolio experiential learning or College Level Examination Program (CLEP) testing in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

* * *

Sec. 6. COUNCIL; REPORT ON CHANGES IN TRAINING OPTIONS;
RULE ADOPTION DEADLINE

(a) Report. On or before January 15, 2021, the Executive Director of the Vermont Criminal Justice Training Council shall report to the Senate and House Committees on Government Operations regarding the Council's:

(1) plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (the Police Academy) with nonovernight training in other areas of the State, in accordance with 20 V.S.A. § 2355(b)(1) in Sec. 4 of this act; and

(2) changes in the structure of its programs to enable a law enforcement officer to transition from Level II to Level III certification as required by 20 V.S.A. § 2358(c)(2) in Sec. 5 of this act.

(b) Rules. On or before July 1, 2023, the Council shall finally adopt the rules regarding alternate routes to certification required by 20 V.S.A. § 2355(a)(1) in Sec. 4 of this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Sec. 7. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING

~~(a) Nothing in this chapter prohibits any State law enforcement agency, department, or office or any municipality or county of the State from providing additional training beyond basic training to its personnel where no certification is requested of or required by the Council or its Executive Director.~~

~~(b) The head of a State agency, department, or office, a municipality's chief of police, or a sheriff executive officer of a law enforcement agency may seek certification from the Council for any in-service training he or she, or his or her designee may provide to his or her employees law enforcement officers of his or her agency or of another agency, or both.~~

Sec. 8. 20 V.S.A. § 2362a is amended to read:

§ 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT
CURRENT OR FORMER AGENCY

~~(a)(1) Prior to hiring a law enforcement officer who is no longer employed at his or her last law enforcement agency, the executive officer of a potential hiring law enforcement agency shall:~~

~~(A) require that officer to execute a written waiver that explicitly authorizes the officer's:~~

(i) current law enforcement agency employer to disclose its analysis of the officer's performance at that agency, if the officer is still employed at that agency; or

(ii) last law enforcement agency employer to disclose the reason that officer is no longer employed by that agency, if the officer is not currently employed at an agency; and

(B) contact that former agency to ~~determine that reason~~ obtain that disclosure and provide to that agency a copy of that written waiver.

(2) An officer who refuses to execute the written waiver shall not be hired by the potential hiring agency.

(b)(1)(A) If that current or former agency is a law enforcement agency in this State, the executive officer of that current or former agency or designee shall disclose to the potential hiring agency in writing its analysis of the officer's performance at that agency or the reason the officer is no longer employed by the former agency, as applicable.

(B) The executive officer or designee shall send a copy of the disclosure to the officer at the same time he or she sends it to the potential hiring agency.

(2) Such a current or former agency shall be immune from liability for its disclosure described in subdivision (1) of this subsection, unless such disclosure would constitute intentional misrepresentation or gross negligence.

* * *

Sec. 9. LAW ENFORCEMENT AGENCY; DUTY TO DISCLOSE

The requirement of a current law enforcement agency to disclose its analysis of its law enforcement officer's performance at the agency as set forth in 20 V.S.A. § 2362a in Sec. 8 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

Sec. 10. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

§ 2401. DEFINITIONS

As used in this subchapter:

(1) "Category A conduct" means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

- (i) simple assault, second offense;
- (ii) domestic assault;
- (iii) false reports and statements;
- (iv) driving under the influence, second offense;
- (v) violation of a relief from abuse order or of a condition of release;
- (vi) stalking;
- (vii) false pretenses;
- (viii) voyeurism;
- (ix) prostitution or soliciting prostitution;
- (x) distribution of a regulated substance;
- (xi) simple assault on a law enforcement officer; or
- (xii) possession of a regulated substance, second offense.

(2) "Category B conduct" means gross professional misconduct amounting to actions on duty or under color of authority, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency's policy or if not defined by the agency's policy, then as defined by Council policy, ~~such as~~ and shall include:

(A) sexual harassment involving physical contact or misuse of position;

(B) misuse of official position for personal or economic gain;

(C) excessive use of force under color of authority, ~~second~~ first offense;

(D) biased enforcement; or

(E) use of electronic criminal records database for personal, political, or economic gain.

* * *

§ 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) Category ~~(A)~~.

(i) There is a finding of probable cause by a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a credible complaint against the officer that, ~~if deemed credible by the executive officer of the agency as a result of a valid investigation,~~ alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

(2) As part of his or her report, the executive officer of the agency or the chair of the civilian review board shall provide to the Council a copy of any relevant documents associated with the report, including any findings, decision, and the agency's investigative report.

(b) The Executive Director of the Council shall report to the Attorney General and the State's Attorney of jurisdiction any allegations that an officer committed Category A conduct.

* * *

* * * Vermont Crime Information Center * * *

Sec. 11. 20 V.S.A. § 2053 is amended to read:

§ 2053. COOPERATION WITH OTHER AGENCIES

(a) The ~~center~~ Center shall cooperate with other ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers in this ~~state~~ State and with federal and international law enforcement agencies to develop and carry on a uniform and complete ~~state~~ State, interstate, national, and international system of records of ~~criminal activities~~ commission of crimes and information.

(b)(1) All ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers shall cooperate with and assist the ~~center~~ Center in the establishment of a complete and uniform system of records relating to the commission of crimes, arrests, convictions, imprisonment, probation, parole, fingerprints, photographs, stolen property, and other matters relating to the identification and records of persons who have or who are alleged to have committed a crime, or who are missing persons, or who are fugitives from justice.

(2) In order to meet the requirements of subdivision (1) of this subsection, the Center shall establish and provide training on a uniform list of definitions to be used in entering data into a law enforcement agency's system of records, and every law enforcement officer shall use those definitions when entering data into his or her agency's system.

* * * Law Enforcement Advisory Board * * *

Sec. 12. LEAB; REPEAL FOR RECODIFICATION

24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

Sec. 13. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

- (1) the Commissioner of Public Safety;
- (2) the Director of the Vermont State Police;

(3) the Director of the Enforcement Division of the Department of Fish and Wildlife;

(4) the Director of the Enforcement and Safety Division of the Department of Motor Vehicles;

(5) the Chief of the Capitol Police Department;

(6) the Director of the Vermont Criminal Justice Services Division;

(7) a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(8) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(9) a representative of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(10) a member of the Vermont Police Association, appointed by the President of the Association;

(11) the Attorney General or designee;

(12) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(13) the U.S. Attorney or designee;

(14) the Executive Director of the Vermont Criminal Justice Training Council;

(15) the Defender General or designee;

(16) one representative of the Vermont Troopers' Association or its successor entity, elected by its membership;

(17) a member of the Vermont Constables Association, appointed by the President of the Association; and

(18) a law enforcement officer, appointed by the President of the Vermont State Employees Association.

(b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of 10 members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall undertake an ongoing formal review process of law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given monies available.

The Board shall also provide educational resources to Vermonters about public safety challenges in the State.

(d)(1) The Board shall meet not fewer than six times a year to develop policies and recommendations for law enforcement priority needs, including retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

Sec. 14. LEAB; RECODIFICATION DIRECTIVE

(a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory revision, the Office of Legislative Council shall revise accordingly any references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

(b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as previously codified shall be deemed to refer to 20 V.S.A. § 1818.

Sec. 15. LEAB; 2021 REPORT ON MUNICIPAL ACCESS TO LAW ENFORCEMENT SERVICES

As part of its annual report in the year 2021, the Law Enforcement Advisory Board shall specifically recommend ways that towns can increase access to law enforcement services.

* * * Department of Public Safety; Dispatch * * *

Sec. 16. 20 V.S.A. chapter 113 (Commissioner and Members), subchapter 1 is amended to read:

Subchapter 1. General Provisions

§ 1871. DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER

(a) ~~The department of public safety~~ Department of Public Safety, created by 3 V.S.A. § 212, shall include a ~~commissioner of public safety~~ Commissioner of Public Safety.

(b) The head of the ~~department~~ Department shall be a ~~commissioner of public safety~~ the Commissioner of Public Safety, who shall be a citizen of the United States and shall be selected on the basis of training, experience and qualifications. The ~~commissioner~~ Commissioner shall be appointed by the ~~governor~~ Governor, with the advice and consent of the ~~senate~~, ~~for a term of six years~~ Senate.

* * *

(i) ~~The commissioner of public safety~~ Commissioner of Public Safety may enter into contractual arrangements to perform dispatching functions for ~~state~~ State, municipal, or other emergency services, establishing charges sufficient to recover the costs of dispatching. Dispatch positions ~~which that~~ are fully funded under such contracts may be authorized under the provisions of 32 V.S.A. § 5(b). The Commissioner shall adopt rules that set forth the rates for dispatch functions performed under this subsection.

(j) Charges collected under subsections (e), (f), and (i) of this section shall be credited to the Vermont ~~law telecommunications special fund~~ Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

* * *

§ 1873. ~~REMOVAL OF COMMISSIONER~~

~~During his or her term of office, the governor may remove the commissioner upon charges preferred in writing and after hearing, which shall be a public hearing if the commissioner requests the same, upon the following grounds:~~

~~(1) Incompetency amounting to failure to perform his or her official duties competently;~~

~~(2) Misconduct in office which shall be construed to include:~~

~~(a) failure to be of good behavior;~~

~~(b) participation, directly or indirectly, in a political campaign, rally, caucus or other political gathering, other than to vote. [Repealed.]~~

* * *

§ 1875. RADIO COMMUNICATION SYSTEM

(a) ~~The commissioner~~ Commissioner shall establish a communication system as will best enable the ~~department~~ Department to carry out the purposes of this chapter. This shall include a radio set furnished, on written request, to the sheriff and ~~state's attorney~~ State's Attorney of each county on a memorandum receipt.

(b)(1) ~~The commissioner~~ Commissioner may charge to all users of telecommunications services managed, maintained, or operated by the ~~department~~ Department for the benefit of the users a proportionate share of the actual cost of providing the services and products inclusive of administrative costs.

(2) Such charges shall be based on a pro rata allocation of the actual costs of services or products, determined in an equitable manner, which shall be representative of services provided to or system usage by individual units of government, including ~~state~~ State, local, and federal agencies or private nonprofit entities.

(3) Such charges shall be credited to the Vermont ~~communication system special fund~~ Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

Sec. 17. DEPARTMENT OF PUBLIC SAFETY; DISPATCH RULES;
ADOPTION AND APPLICATION

The Department of Public Safety shall finally adopt the rules regarding dispatch rates required by 20 V.S.A. § 1871(i) set forth in Sec. 16 of this act on or before July 1, 2021, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c). These rules shall provide a minimum of three years following final adoption before the dispatch rates set forth in the rules are imposed.

* * * Emergency Medical Services * * *

Sec. 18. 24 V.S.A. chapter 71 is amended to read:

CHAPTER 71. AMBULANCE SERVICES

Subchapter 1. Emergency Medical Services Districts

§ 2651. DEFINITIONS

As used in this chapter:

* * *

(14) ~~“State Board” means the State Board of Health. [Repealed.]~~

* * *

§ 2652. CREATION OF DISTRICTS

The ~~State Board~~ Department of Health may divide the State into emergency medical services districts, the number, size, and boundaries of which shall be determined by the ~~Board~~ Department in the interest of affording adequate and efficient emergency medical services throughout the State.

* * *

§ 2654. RECORDING DETERMINATION OF DISTRICTS

The ~~State Board~~ Department of Health shall cause to be recorded in the office of the Secretary of State a certificate containing its determination of

emergency medical services districts.

* * *

§ 2656. DUTIES AND POWERS OF OFFICERS AND DIRECTORS

(a) The board of directors shall have full power to manage, control, and supervise the conduct of the district and to exercise in the name of the district all powers and functions belonging to the district, subject to such laws or ~~regulations~~ rules as may be applicable.

* * *

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers that include the power to:

* * *

(6) monitor the provision of emergency medical services within the district and make recommendations to the ~~State Board~~ Department of Health regarding licensure, relicensure, and removal or suspension of licensure for ambulance vehicles, ambulance services, and first responder services;

* * *

(b) Two or more contiguous emergency medical services districts by a majority vote of the district board in each of the districts concerned may change the mutual boundaries of their emergency medical services districts. The district boards shall report all changes in district boundaries to the ~~State Board~~ Department of Health.

* * *

Subchapter 2. Licensing Operation of Affiliated Agencies

§ 2681. LICENSE REQUIRED; AMBULANCE LICENSE REQUIREMENT

(a) A person furnishing ambulance services or first responder services shall obtain a license to furnish services under this subchapter.

(b)(1) In order to obtain and maintain a license, an ambulance service shall be required to provide its services in a manner that does not discriminate on the basis of income, funding source, or severity of health needs, in order to ensure access to ambulance services within the licensee's service area.

(2) The Department of Health shall adopt rules in accordance with the provisions of subdivision (1) of this subsection.

§ 2682. ~~POWERS OF STATE BOARD~~ THE DEPARTMENT OF HEALTH

(a) ~~The State Board~~ Department of Health shall administer this subchapter and shall have power to:

* * *

§ 2683. TERM OF LICENSE

Full licenses shall be issued on forms to be prescribed by the ~~State Board~~ Department of Health for a period of three years beginning on January 1, or for the balance of any such three-year period. Temporary, conditional, or provisional licenses may also be issued by the ~~Board~~ Department.

* * *

Sec. 19. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE ALLOCATION PLAN

* * *

(b) The Green Mountain Care Board, in consultation with the Secretary of Human Services or designee, shall publish on its website the Health Resource Allocation Plan identifying Vermont's critical health needs, goods, services, and resources, which shall be used to inform the Board's regulatory processes, cost containment and statewide quality of care efforts, health care payment and delivery system reform initiatives, and any allocation of health resources within the State. The Plan shall identify Vermont residents' needs for health care services, programs, and facilities; the resources available and the additional resources that would be required to realistically meet those needs and to make access to those services, programs, and facilities affordable for consumers; and the priorities for addressing those needs on a statewide basis. The Board may expand the Plan to include resources, needs, and priorities related to the social determinants of health. The Plan shall be revised periodically, but not less frequently than once every four years.

(1) In developing the Plan, the Board shall:

(A) consider the principles in section 9371 of this title, as well as the purposes enumerated in sections 9401 and 9431 of this title;

(B) identify priorities using information from:

(i) the State Health Improvement Plan;

(ii) emergency medical services resources and needs identified by the EMS Advisory Committee in accordance with subsection 909(f) of this title;

(iii) the community health needs assessments required by section 9405a of this title;

~~(iii)~~(iv) available health care workforce information;

~~(iv)~~(v) materials provided to the Board through its other regulatory processes, including hospital budget review, oversight of accountable care organizations, issuance and denial of certificates of need, and health insurance rate review; and

~~(v)~~(vi) the public input process set forth in this section;

(C) use existing data sources to identify and analyze the gaps between the supply of health resources and the health needs of Vermont residents and to identify utilization trends to determine areas of underutilization and overutilization; and

(D) consider the cost impacts of fulfilling any gaps between the supply of health resources and the health needs of Vermont residents.

* * *

Sec. 20. 18 V.S.A. chapter 17 is amended to read:

CHAPTER 17. EMERGENCY MEDICAL SERVICES

* * *

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of 26 V.S.A. chapter 23, persons who are affiliated with an affiliated agency and licensed to provide emergency medical treatment pursuant to the requirements of this chapter and the rules adopted under it are hereby authorized to provide such care without further certification, registration, or licensing.

* * *

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the Department of Health may contract for the provision of specific services.

(b) The Secretary of Human Services, upon the recommendation of the Commissioner of Health, may ~~issue~~ adopt rules to carry out the purposes and responsibilities of this chapter.

* * *

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;
RESPONSIBILITIES

To implement the policy of section 901 of this chapter, the Department of Health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and licensing emergency medical personnel according to their level of training and competence. The Department shall establish by rule at least three levels of emergency medical personnel instructors and the education required for each level.

* * *

(7) Assisting hospitals in the development of programs ~~which~~ that will improve the quality of in-hospital services for persons requiring emergency medical ~~care~~ treatment.

* * *

(9) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical ~~care~~ treatment.

(10) Establishing, by rule, license levels for emergency medical personnel. The Commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

* * *

(B) An individual licensed by the Commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, who is affiliated with an affiliated agency, shall be able to practice fully within the scope of practice for such level of licensure as defined by NHTSA's National EMS Scope of Practice Model consistent with the license level of the affiliated agency, and subject to the medical direction of the emergency medical services district medical advisor.

(C)(i) Unless otherwise provided under this section, an individual seeking any level of licensure shall be required to pass an examination approved by the Commissioner for that level of licensure, except that any psychomotor skills testing for emergency medical responder, or emergency

medical technician licensure shall be accomplished either by the demonstration of those skills competencies as part of the education required for that license level as approved by the Department or by the National Registry of Emergency Medical Technicians' psychomotor examination.

(ii) Written and practical examinations shall not be required for relicensure; however, to maintain licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the Commissioner. The Commissioner shall ensure that continuing education classes are available online and provided on a regional basis to accommodate the needs of volunteers and part-time individuals, including those in rural areas of the State.

* * *

(E) An applicant who has served as a hospital corpsman or a medic in the U.S. Armed Forces, or who is licensed as a registered nurse or a physician assistant shall be granted a permanent waiver of the training requirements to become a licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes the applicable examination approved by the Commissioner for that level of licensure and is affiliated with an affiliated agency.

(F) An applicant who is registered on the National Registry of Emergency Medical Technicians as an emergency medical technician, an advanced emergency medical technician, or a paramedic shall be granted licensure as a Vermont emergency medical technician, an advanced emergency medical technician, or a paramedic without the need for further testing, provided he or she is affiliated with an affiliated agency or is serving as a medic with the Vermont National Guard.

* * *

(11) In addition to the licenses established under subdivision (10) of this section, the Department shall establish by rule an entry-level certification for Vermont EMS first responders.

* * *

§ 906b. ~~TRANSITIONAL PROVISION; CERTIFICATION TO LICENSURE~~

~~Every person certified as an emergency medical provider shall have his or her certification converted to the comparable level of licensure. Until such time as the Department of Health issues licenses in lieu of certificates, each certified emergency medical provider shall have the right to practice in accordance with his or her level of certification. [Repealed.]~~

* * *

§ 906d. RENEWAL REQUIREMENTS; SUNSET REVIEW

(a) Not less than once every five years, the Department shall review emergency medical personnel continuing education and other continuing competency requirements. The review results shall be in writing and address the following:

(1) the renewal requirements of the profession;

(2) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(3) the cost of the renewal requirements for emergency medical personnel; and

(4) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection.

(2) The Department shall amend its rules or propose any necessary statutory amendments to revise any emergency medical personnel continuing education and other continuing competency requirements that are not necessary for the protection of the public health, safety, or welfare.

* * *

§ 909. EMS ADVISORY COMMITTEE; EMS EDUCATION COUNCIL

(a) The Commissioner shall establish the Emergency Medical Services Advisory Committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

* * *

(e) Annually, on or before January 1, the Committee shall report on the EMS system to the House Committees on Government Operations, on Commerce and Economic Development, and on Human Services and to the Senate Committees on Government Operations, on Economic Development, Housing and General Affairs, and on Health and Welfare. The Committee's reports shall include information on the following:

* * *

(6) the nature and costs of dispatch services for EMS providers throughout the State, including the annual number of mutual aid calls to an emergency medical service area that come from outside that area, and suggestions for improvement;

* * *

(f) In addition to its report set forth in subsection (e) of this section, the Committee shall identify EMS resources and needs in each EMS district and provide that information to the Green Mountain Care Board to inform the Board's periodic revisions to the Health Resource Allocation Plan developed pursuant to subsection 9405(b) of this title.

(g) The Committee shall establish from among its members the EMS Education Council, which may:

(1) sponsor training and education programs required for emergency medical personnel licensure in accordance with the Department of Health's required standards for that training and education; and

(2) provide advice to the Department of Health regarding the standards for emergency medical personnel licensure and any recommendations for changes to those standards.

Sec. 21. 32 V.S.A. § 8557 is amended to read:

§ 8557. VERMONT FIRE SERVICE TRAINING COUNCIL

(a)(1) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed \$1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the Commissioner of Financial Regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section.

* * *

(4) An amount not less than \$150,000.00 shall be specifically allocated to the Emergency Medical Services Special Fund established under 18 V.S.A. § 908 for the provision of training programs for certified Vermont EMS first responders and licensed emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics.

* * *

Sec. 22. TRANSITIONAL EMS PROVISIONS

(a) Rules. Except as otherwise provided in this act, on or before July 1, 2021, the Department of Health shall finally adopt or amend the rules required by this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Ambulance service licenses. The requirements for initial ambulance service licensure and renewal set forth in 24 V.S.A. § 2681(b) in Sec. 18 of this act shall apply to initial ambulance service license and renewal applicants on and after July 1, 2021 or on and after the effective date of the Department of Health rules adopted pursuant to that section and subsection (a) of this section, whichever date is later.

(c) Existing EMS Instructor/Coordinator licensees. Any person who is licensed as an EMS Instructor/Coordinator under the Department of Health's Emergency Medical Service Rules in effect immediately prior to the effective date of the rules establishing the new levels of instructor licenses as required by 18 V.S.A. § 906(1) in Sec. 20 of this act shall be deemed to be licensed at the level that is consistent with the scope of practice of the new license levels.

(d) Development of Vermont EMS First Responder certification. The Department of Health shall consult with the EMS Advisory Committee, the University of Vermont's Initiative for Rural Emergency Medical Services, and any other relevant stakeholders in developing the new Vermont EMS First Responder certification required by 18 V.S.A. § 906(11) in Sec. 20 of this act so that certification is established on or before July 1, 2021.

(e) Sunset review of renewal requirements. Pursuant to 18 V.S.A. § 906d (renewal requirements; sunset review) set forth in Sec. 20 this act, the Department of Health shall conduct its first sunset review in conjunction with its rulemaking required by this act and thereafter propose any necessary statutory amendments in accordance with that section.

* * * Public Safety Planning * * *

Sec. 23. 20 V.S.A. § 6 is amended to read:

§ 6. LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT;
TOWN AND CITY PUBLIC SAFETY PLANS

(a) Each town and city of this state State is hereby authorized and directed to establish a local organization for emergency management in accordance with the ~~state emergency management plan~~ State Emergency Management Plan and program.

(1)(A) Except in a town that has a town manager in accordance with ~~chapter 37 of Title 24 V.S.A. chapter 37~~, the executive officer or legislative branch of the town or city is authorized to appoint a town or city emergency management director who shall have direct responsibility for the organization, administration, and coordination of the local organization for emergency management, subject to the direction and control of the executive officer or legislative branch.

(B) If the town or city that has not adopted the town manager form of government and the executive officer or legislative branch of the town or city has not appointed an emergency management director, the executive officer or legislative branch shall be the town or city emergency management director.

(2) The town or city emergency management director may appoint an emergency management coordinator and other staff as necessary to accomplish the purposes of this chapter.

(b) Except as provided in subsection (d) of this section, each local organization for emergency management shall perform emergency management functions within the territorial limits of the town or city within which it is organized, and, in addition, shall conduct such functions outside of the territorial limits as may be required pursuant to the provisions of this chapter and in ~~accord~~ accordance with such regulations as the ~~governor~~ Governor may prescribe.

(c) Each local organization shall participate in the development of an all-hazards plan with the local emergency planning committee and the public safety district.

(d)(1) Each local organization shall annually notify the local emergency planning committee on forms provided by the ~~state emergency response commission~~ State Emergency Response Commission of its capacity to perform emergency functions in response to an all-hazards incident.

(2) Each local organization shall perform the emergency functions indicated on the most recently submitted form in response to an all-hazards incident.

(e) Each town and city legislative body shall adopt a public safety plan in accordance with this subsection that describes how the town or city will address the regular law enforcement, fire, emergency medical service, and dispatch resources, needs, scarcities, costs, and problems within the municipality unrelated to an all-hazards incident, which may include partnering with one or more other municipalities or entities to address those issues.

(1) Concurrently with its annual notification required under subsection (d) of this section, each local organization shall analyze the law enforcement, fire, emergency medical service, and dispatch resources, needs, scarcities, costs, and problems within the municipality and report that information to its legislative body.

(2) After receipt of that information, the legislative body:

(A) shall solicit and accept public comment on the current public safety plan;

(B) may consult with the municipal and regional planning commission, neighboring local organizations, and any other relevant law enforcement, fire, and emergency medical service entities in order to determine how those services may be provided and shared on a regional basis;

(C) shall propose any revisions to the current public safety plan that the legislative body deems necessary, and in that case, shall provide public notice of those proposed revisions and hold at least one public hearing on those proposed revisions not less than 30 days after the public notice of them; and

(D) shall finally adopt any revisions to the current public safety plan.

Sec. 24. TRANSITIONAL PROVISION; INITIAL PUBLIC SAFETY PLAN

Each town and city shall undertake the process to adopt a public safety plan as set forth in Sec. 23 of this act so that every town and city has adopted such a plan on or before July 1, 2023.

Sec. 25. AGENCY OF COMMERCE AND COMMUNITY
DEVELOPMENT; REGIONAL PLANNING COMMISSIONS;
PUBLIC SAFETY PLANNING GRANTS

(a) Appropriation. The sum of \$100,000.00 is appropriated to the Agency of Commerce and Community Development in fiscal year 2021 for three public safety planning grants described in subsection (b) of this section. The Agency shall award the grants in accordance with its procedure established under the Vermont Community Development Act.

(b) Public safety planning grants.

(1) Public safety planning grants are created for the purpose of fostering regional public safety planning.

(2) A regional organization, such as a regional planning commission, union municipal district, joint survey committee, or other qualified organization may apply to the Agency for a public safety planning grant for the purpose of planning the integration, consolidation, or regionalization of public safety functions within the organization's jurisdiction. A grant shall be for a maximum of three years and shall not exceed \$35,000.00, and shall be provided to grantees in different geographic regions of the State.

(3) A grantee shall be required to report annually on or before January 15 to the Senate and House Committees on Government Operations and on Appropriations regarding its planning process and expected result. Each report

shall specifically provide data on and analyze the potential costs and savings of regional consolidation of public safety functions.

(4) As used in this section:

(A)(i) “Planning” means hiring personnel or contracting for services to determine the feasibility of or to establish the procedure to implement, or both, the integration, consolidation, or regionalization of public safety functions.

(ii) “Planning” does not mean implementing such integration, consolidation, or regionalization.

(B) “Public safety functions” means fire, police, emergency medical services, and dispatching services.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

This act shall take effect on July 1, 2020

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

An act relating to governmental structures protecting the public health, safety, and welfare.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended by striking out Sec. 25 (Agency of Commerce of Community Development; regional planning commissions; public safety planning grants) in its entirety and inserting in lieu thereof the following:

Sec. 25. [Deleted.]

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.

Adjournment

On motion of Senator Ashe, the Senate adjourned until nine o'clock and thirty minutes in the forenoon on Tuesday, June 23, 2020.

TUESDAY, JUNE 23, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil

Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bills Referred to Committee on Appropriations

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

H. 552. An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

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

H. 688. An act relating to addressing climate change.

House Proposal of Amendment Concurred In with Amendment

S. 339.

House proposals of amendment to Senate bill entitled:

An act relating to miscellaneous changes to laws related to vehicles.

Were taken up.

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

First: By striking out Sec. 5, 23 V.S.A. § 373, and Sec. 6, 23 V.S.A. § 1222, and the corresponding reader assistance heading in their entireties and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Second: In Sec. 9, 23 V.S.A. § 671, by striking out subsection (c) in its entirety and inserting in lieu thereof

(c) The Commissioner ~~shall not~~ may suspend the license of an operator, or the right of an unlicensed person to operate a motor vehicle, while a prosecution for an offense under this title is pending against such person, ~~unless if:~~

(1) ~~he or she~~ the Commissioner finds upon full reports submitted to him or her by an enforcement officer or motor vehicle inspector that the safety of

the public will be imperiled by permitting such operator or such unlicensed person to operate a motor vehicle;² or

(2) the Commissioner finds that such person operator is seeking to delay the prosecution, but if he or she so finds, he or she may suspend such license or right pending a final disposition of the prosecution.

Third: In Sec. 9, 23 V.S.A. § 671, by striking out subsection (g) in its entirety and relettering subsection (h) to be subsection (g).

Fourth: By inserting the following reader assistance heading before Sec. 13:

* * * Exempt Vehicle Title * * *

Fifth: By striking out Sec. 14, 23 V.S.A. § 1399, in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. 23 V.S.A. § 1399 is amended to read:

§ 1399. EXCEPTIONS FOR CONSTRUCTION AND MAINTENANCE EQUIPMENT; FIRE APPARATUS; AND HEAVY-DUTY TOW AND RECOVERY VEHICLES

(a) As used in this section, “heavy-duty tow and recovery vehicle” means a vehicle that:

(1) is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and

(2) has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

(b) Nothing contained in sections 1391–1398 of this title, shall restrict the weight of:

(1) ~~snow~~ Snow plows, road machines, oilers, traction engines, tractors, rollers, power shovels, dump wagons, trucks, or other construction or maintenance equipment when used by any town, incorporated village, city, or state the State in the construction or the maintenance of any highway, provided that such construction or maintenance is performed by persons employed by or under contract with such town, incorporated village, city, or the State for this purpose. However, any operation of motorized highway building equipment or road making appliances used in construction work contracted by a town, incorporated village, city, or the State shall be unrestricted as to weight only within a construction area.

(2) Nothing contained in sections 1391-1398 of this title shall restrict the weight of municipal Municipal and volunteer fire apparatus.

(3) Heavy-duty tow and recovery vehicles on the Dwight D. Eisenhower System of Interstate and Defense Highways.

Sixth: By inserting a new section to be numbered Sec. 15a to read as follows:

Sec. 15a. 23 V.S.A. § 1437 is added to read:

§ 1437. EXCEPTION FOR TOWAWAY TRAILER TRANSPORTER COMBINATION

(a) As used in this section:

(1) “Towaway trailer transporter combination” means a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers with a total weight that does not exceed 26,000 pounds and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

(2) “Trailer transporter towing unit” means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

(b) Notwithstanding sections 1391–1398 of this title, a towaway trailer transporter combination may be operated on the Dwight D. Eisenhower System of Interstate and Defense Highways, those classes of qualifying Federal-aid Primary System highways as designated by the Secretary of the U.S. Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower System of Interstate and Defense Highways for a distance of one mile or less without a permit if the overall length does not exceed 82 feet unless the Vermont Secretary of Transportation finds the use of a specific highway to be unsafe.

Seventh: By striking out Sec. 26, online permitting system, and its corresponding reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Online Permitting System; Report * * *

Sec. 26. ONLINE PERMITTING SYSTEM; REPORT

(a) Centralized online permitting system.

(1) The Commissioner of Motor Vehicles is authorized to initiate the design and development of a centralized online permitting system. The online system shall provide 24-hour-a-day access to a system where a person can apply for, obtain, and pay for required weight and length permits issued by the Agency of Transportation.

(2) The Commissioner shall design the online system so that, in a future phase, municipally issued weight and length permits may be purchased and issued through the same system. The Commissioner shall consult with stakeholders to establish conditions for municipally issued permits prior to engaging in design and development for the future phase.

(b) Permit study and report.

(1) The Agency of Transportation shall facilitate a study to:

(A) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, or jurisdictional issues for class 2 town highways if municipal permits currently required by municipalities are not required for vehicles that are allowed on State highways without a permit;

(B) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways if an additional permit or permits are not required when a wrecker, as defined under 23 V.S.A. § 4(76), is towing one or more disabled vehicles and the wrecker and disabled vehicle or vehicles individually do not exceed the limitations imposed by 23 V.S.A. chapter 13, subchapter 15, article 1 or are lawfully operating under a blanket permit; and

(C) make recommendations on any limitations, including distance towed, or conditions that should be imposed if an additional permit or permits are not required in the situation identified in subdivision (B) of this subdivision (1).

(2) The Agency shall file a written report on this study with the House and Senate Committees on Transportation on or before January 15, 2021.

Eighth: By striking out Sec. 28, use of lighted paddle signaling devices, in its entirety and inserting in lieu thereof the following:

Sec. 28. USE OF LIGHTED PADDLE SIGNALING DEVICES; REPORT

(a) Pilot program. On or before September 1, 2020, the Agency of Transportation shall identify a minimum of 10 projects to pilot the use of STOP/SLOW paddle signaling devices modified to improve conspicuity by incorporating either white or red flashing lights on the STOP face and either white or yellow flashing lights on the SLOW face in one of the patterns and consistent with the standards detailed in Part 6E.03 of the Manual Uniform on Traffic Control Devices (MUTCD). The Agency shall select projects that will allow the testing of such devices in a range of projects to collect data on the effectiveness, reliability, and availability during the 2021 and 2022 construction seasons.

(b) Report. The Agency shall file a written report on the pilot program identified in subsection (a) of this section with the House and Senate Committees on Transportation on or before December 1, 2022. At a minimum, the report shall cover:

- (1) the selected projects, including location and a brief description; and
- (2) an evaluation of the effectiveness, reliability, and availability of the lighted paddle signaling devices.

Ninth: In Sec. 36, 23 V.S.A. § 1050, in subsection (a) by striking out “~~EMS personnel,~~” and inserting in lieu thereof “EMS personnel,”

Tenth: In Sec. 44, effective dates, in subsection (a) by striking out “~~43 (learner’s permits; 23 V.S.A. § 617(e))~~” and inserting in lieu thereof “42 (translated documents and use of interpreters)”

Eleventh: In Sec. 44, effective dates, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) Notwithstanding 1 V.S.A. § 214, Sec. 43 (learner’s permits; 23 V.S.A. § 617(e)) shall take effect retroactively on June 1, 2020.

(e) All other sections shall take effect on July 1, 2020.

Twelfth: In Sec. 44, effective dates, by striking out subsection (c) in its entirety and relettering the remaining subsections to be alphabetically correct.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senator Perchlik moved that the Senate concur in the House proposals of amendment with an amendment as follows:

In the *Seventh* proposal of amendment in Sec. 26, online permitting system; report, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(b) Permit study and report.

(1) The Agency of Transportation shall facilitate a study to:

(A) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, or jurisdictional issues for class 2 town highways if municipal permits currently required by municipalities are not required for vehicles that are allowed on State highways without a permit;

(B) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, if an additional permit or permits are not required when a wrecker, as defined under 23 V.S.A. § 4(76), is towing one or more disabled vehicles and the wrecker and disabled vehicle

or vehicles individually do not exceed the limitations imposed by 23 V.S.A. chapter 13, subchapter 15, article 1 or are lawfully operating under a blanket permit;

(C) make recommendations on any limitations, including distance towed, or conditions that should be imposed if an additional permit or permits are not required in the situation identified in subdivision (B) of this subdivision (1); and

(D) identify any safety or financial implications to infrastructure, including bridges, culverts, pavement, and roadways, if 23 V.S.A. § 1432(c) is repealed.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Clarkson moved to amend the proposal of amendment offered by Senator Perchlik as follows:

First: In the *Seventh* proposal of amendment in Sec. 26, subdivision (b)(1)(A) after the words “any safety” by inserting the word issues

Second: In the *Seventh* proposal of amendment in Sec. 26, subdivision (b)(1)(B) after the words “any safety” by inserting the word issues

Third: In the *Seventh* proposal of amendment in Sec. 26, subdivision (b)(1)(C) after the words “any safety” by inserting the word issues

Thereupon, pending the question, Shall Senator Perchlik's proposal of amendment be amended as proposed by Senator Clarkson?, Senator McCormack requested leave to be excused from voting on S. 339 pursuant to the provision of Senate Rule 69.

Thereupon, pending the question, Senator McCormack requested and was granted leave to withdraw his request.

Thereupon, the pending question, Shall Senator Perchlik's proposal of amendment be amended as proposed by Senator Clarkson?, was disagreed to.

Thereupon, the pending question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as moved by Senator Perchlik?, was agreed to.

Bill Amended; Third Reading Ordered

S. 119.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to law enforcement training on appropriate use of force, de-escalation tactics, and cross-cultural awareness.

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

Sec. 1. 20 V.S.A. § 2368 is added to read:

§ 2368. STATEWIDE POLICY; LAW ENFORCEMENT USE OF DEADLY FORCE

(a) Definitions. As used in this section:

(1) “Deadly force” means any use of force that creates a substantial risk of causing death or serious bodily injury.

(2) “Imminent threat of death or serious bodily injury” means when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the law enforcement officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

(3) “Law enforcement officer” shall have the same meaning as in 20 V.S.A. § 2351a.

(4) “Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

(5) “Totality of the circumstances” means all facts known to the law enforcement officer at the time, including the conduct of the officer and the words and conduct of the subject leading up to the use of deadly force.

(b) Statewide policy.

(1) The authority to use physical force is a serious responsibility that shall be exercised judiciously and with respect for human rights and dignity and for the sanctity of every human life. Every person has a right to be free from excessive use of force by officers acting under authority of the State.

(2) Law enforcement officers may use deadly force only when necessary in defense of human life. In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer.

(3) The decision by a law enforcement officer to use force shall be evaluated carefully and thoroughly, in a manner that reflects the gravity of that authority and the serious consequences of the use of force by law enforcement officers, in order to ensure that officers use force consistent with law and agency policies.

(4) The decision by a law enforcement officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time.

(5) Any law enforcement officer who has reasonable cause to believe that the person to be arrested has committed a crime may use proportional force if necessary to effect the arrest, to prevent escape, or to overcome resistance.

(c) Use of deadly force.

(1) A law enforcement officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to:

(A) defend against an imminent threat of death or serious bodily injury to the officer or to another person; or

(B) apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

(2) When feasible, a law enforcement officer shall, prior to the use of force, make reasonable efforts to identify himself or herself as a law enforcement officer and to warn that deadly force may be used.

(3) A law enforcement officer shall not use deadly force against a person based on the danger that person poses to himself or herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the law enforcement officer or to another person.

(4) A law enforcement officer who makes or attempts to make an arrest need not retreat or desist from his or her efforts by reason of the resistance or threatened resistance of the person being arrested. A law enforcement officer shall not be deemed an aggressor or lose the right to self-defense by the use of proportional force if necessary in compliance with subdivision (b)(5) of this section to effect the arrest or to prevent escape or to overcome resistance. For

the purposes of this subdivision, “retreat” does not mean tactical repositioning or other de-escalation tactics.

(5) A law enforcement officer shall not use a prohibited restraint on a person for any reason. A law enforcement officer has a duty to intervene when the officer observes another officer using a prohibited restraint on a person.

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2020.

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

An act relating to a statewide use of deadly force policy for law enforcement.

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, 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: Ashe, Baruth, Benning, Bray, Brock, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Balint, Rodgers.

Bill Amended; Third Reading Ordered

S. 219.

Senator Sears, for the Committee on Appropriations, to which was referred Senate bill entitled:

An act relating to requiring law enforcement to comply with race data reporting requirements in order to receive State grant funding.

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

Sec. 1. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

* * *

(k) The Secretary of Administration, or the Secretary's designee, shall review all grants from an agency of the State to a local law enforcement agency or constable, and all such grants shall be subject to the approval of the Secretary or Secretary's designee. The Secretary or Secretary's designee shall approve the grant only if the law enforcement agency or constable has complied with the race data reporting requirements set forth in 20 V.S.A. § 2366(e) within six months prior to the Secretary's or designee's review.

Sec. 2. SECRETARY OF ADMINISTRATION; NOTICE TO LAW ENFORCEMENT AGENCIES

On or before July 1, 2020, the Secretary of Administration shall issue a notice to all Vermont law enforcement agencies and constables that the provisions of 33 V.S.A. § 2222(k) become effective on January 1, 2021, and that, beginning on that date, State grant funding for law enforcement shall be contingent on the agency or constable complying the requirements of 20 V.S.A. § 2366(e).

Sec. 3. EFFECTIVE DATES

(a) Sec. 1 of this act shall take effect on January 1, 2021.

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

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Judiciary, 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:

* * * Law Enforcement Race Data Collection * * *

Sec. 1. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

* * *

(k) The Secretary of Administration or designee shall review all grants from an agency of the State to a local law enforcement agency or constable, and all such grants shall be subject to the approval of the Secretary or designee. The Secretary or designee shall approve the grant only if the law enforcement agency or constable has complied with the race data reporting requirements set forth in 20 V.S.A. § 2366(e) within six months prior to the Secretary's or designee's review.

Sec. 2. SECRETARY OF ADMINISTRATION; NOTICE TO LAW ENFORCEMENT AGENCIES

On or before August 1, 2020, the Secretary of Administration shall issue a notice to all Vermont law enforcement agencies and constables that the provisions of 3 V.S.A. § 2222(k) become effective on January 1, 2021, and that, beginning on that date, State grant funding for law enforcement shall be contingent on the agency or constable complying with the requirements of 20 V.S.A. § 2366(e).

Sec. 3. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION

* * *

(e)(1) On or before September 1, 2014, every State, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

- (A) the age, gender, and race of the driver;
- (B) the reason for the stop;
- (C) the type of search conducted, if any;
- (D) the evidence located, if any; ~~and~~

(E) the outcome of the stop, including whether physical force was employed or threatened in effectuating the stop, and if so, the type of force employed and whether the force resulted in bodily injury or death, and whether:

- (i) a written warning was issued;
- (ii) a citation for a civil violation was issued;
- (iii) a citation or arrest for a misdemeanor or a felony occurred; or
- (iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Executive Director of Racial Equity, the Criminal Justice Training Council, and a vendor chosen by the Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to

the Executive Director of Racial Equity and the vendor chosen by the Criminal Justice Training Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable, user-friendly, and accessible to the public on the receiving agency's website. The receiving agency shall also report the data annually to the General Assembly.

(5) As used in this subsection, "physical force" shall refer to the force employed by a law enforcement officer to compel a person's compliance with the officer's instructions, including contact controls, compliance techniques, defensive tactics, and deadly force.

(f) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that policy or practice is, to the extent of the conflict, abolished.

*** Prohibited Restraints; Unprofessional Conduct ***

Sec. 4. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

§ 2401. DEFINITIONS

As used in this subchapter:

(1) "Category A conduct" means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

(i) simple assault, second offense;

(ii) domestic assault;

(iii) false reports and statements;

(iv) driving under the influence, second offense;

(v) violation of a relief from abuse order or of a condition of release;

- (vi) stalking;
- (vii) false pretenses;
- (viii) voyeurism;
- (ix) prostitution or soliciting prostitution;
- (x) distribution of a regulated substance;
- (xi) simple assault on a law enforcement officer; or
- (xii) possession of a regulated substance, second offense.

(2) “Category B conduct” means gross professional misconduct amounting to actions on duty or under ~~color of~~ authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy, ~~such as~~ and shall include:

- (A) sexual harassment involving physical contact or misuse of position;
- (B) misuse of official position for personal or economic gain;
- (C) excessive use of force under ~~color of~~ authority of the State, ~~second~~ first offense;
- (D) biased enforcement; ~~or~~
- (E) use of electronic criminal records database for personal, political, or economic gain;
- (F) placing a person in a prohibited restraint; or
- (G) failing to intervene when the officer observes another officer placing a person in a prohibited restraint or using excessive force.

* * *

(5) “Unprofessional conduct” means Category A, B, or C conduct.

* * *

(7) “Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

* * *

§ 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF CATEGORY B CONDUCT

(a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Council shall take no action, except that the Council may take action for a first offense under subdivision 2401(2)(F) (placing a person in a prohibited restraint) or 2401(2)(G) (failing to intervene when an officer observes another officer placing a person in a prohibited restraint or using excessive force) of this chapter.

* * *

Sec. 5. 13 V.S.A. § 1032 is added to read:

§ 1032. LAW ENFORCEMENT USE OF PROHIBITED RESTRAINT

(a) As used in this section:

(1) “Law enforcement officer” shall have the same meaning as in 20 V.S.A. § 2351a.

(2) “Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

(3) “Serious bodily injury” shall have the same meaning as in section 1021 of this title.

(b) A law enforcement officer acting in the officer’s capacity as law enforcement who employs a prohibited restraint on a person that causes serious bodily injury to or death of the person shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

(c) Nothing in this section shall be construed to limit or restrict the availability of the justifiable homicide defense pursuant to section 2305 of this title.

* * * Body Cameras * * *

Sec. 6. 20 V.S.A. § 1818 is added to read:

§ 1818. EQUIPMENT OF OFFICERS WITH VIDEO RECORDING DEVICES

The Department shall ensure that every Department law enforcement officer who exercises law enforcement powers is equipped with a body camera or other video recording device on his or her person and that the device is

recording whenever the officer has contact with the public for law enforcement purposes.

Sec. 7. DEPARTMENT OF PUBLIC SAFETY; VIDEO RECORDING DEVICES; ONGOING COSTS

The Department of Public Safety shall immediately initiate the acquisition and deployment of video recording devices to comply with the requirements of 20 V.S.A. § 1818. The ongoing costs of the devices that cannot be accommodated within the Department's budget shall be included in the Department's FY21 budget proposal to the General Assembly in August of 2020.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Sec. 1 (powers and duties; budget and report) of this act shall take effect on January 1, 2021.

(b) Sec. 6 (equipment of officers with video recording devices) shall take effect on August 1, 2020.

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

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

An act relating to addressing racial bias and excessive use of force by law enforcement.

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.

Thereupon, Senator Sears requested and was granted leave to withdraw the report of the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Judiciary?, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Baruth, Benning, Nitka, Sears and White moved to amend the bill as follows:

First: By inserting a Sec. A.1, legislative intent, as follows:

Sec. A.1. LEGISLATIVE INTENT

(a) This act is a continuation of the General Assembly's work over the past several years to create meaningful reforms to address systemic racism and disproportionate use of force by law enforcement. Such reforms include 2017

Act No. 54, an act relating to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel; 2018 Act No. 9, an act relating to racial equity in State government; 2013 Act No. 180, an act relating to a statewide policy on the use of and training requirements for electronic control devices; 2016 Act No. 163, an act relating to a model State policy for use of body cameras by law enforcement officers; and 2017 Act No. 56, an act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council. The ongoing effort includes the work on S.338 (2020), an act relating to justice reinvestment, a data-driven approach to improve public safety, reduce criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. Additionally, several legislative committees continue to study law enforcement policies, training standards, and discipline, including work on updating a model policy for the use of body cameras. Therefore, this act represents one step in the legislature's ongoing effort to combat racial bias and increase accountability in policing.

(b) It is the intent of the General Assembly that law enforcement agencies in Vermont use community policing strategies that develop collaborative partnerships between law enforcement and communities, adopt policies and practices that reflect a guardian mindset towards the citizens they serve, and establish a culture of transparency and accountability to promote public safety and foster public trust. To this end, it is the intent of the General Assembly that law enforcement use de-escalation strategies first and foremost before using force in every community-police interaction.

Second: In Sec. 5, 13 V.S.A. § 1032, by striking out subsection (c) in its entirety.

Which was agreed to.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 29, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Rodgers.

Proposal of Amendment; Third Reading Ordered**H. 955.**

Senator Benning, for the Committee on Institutions, to which was referred House bill entitled:

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

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. 2019 Acts and Resolves No. 42, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2020:

* * *

(7) Montpelier, State House, new drapes and carpeting or carpeting repair in the Governor's ceremonial office and the vestibule near the Governor's ceremonial office, the Hall of Flags, the Cedar Creek Room, the Senate Secretary's Office, and the carpeting or carpeting repair in the Card Room: \$45,000.00

* * *

(c) The following sums are appropriated in FY 2021:

* * *

(4) Statewide, planning, use, and contingency: ~~\$500,000.00~~ \$529,077.00

(5) Burlington, 108 Cherry Street, parking garage repairs:
~~\$7,500,000.00~~ \$7,400,000.00

(6) Montpelier, State House, ~~historical restorations~~ new drapes and carpeting or carpeting repair in the Governor's ceremonial office or in the vestibule near the Governor's ceremonial office, the Hall of Flags, Senate Secretary's Office, and carpeting or carpeting repair in the Card Room:
\$75,000.00

* * *

(11) Montpelier, State House, HVAC, planning and design to address air quality and mold issues: 500,000.00

(12) Newport, Orleans County Courthouse, replacement, site acquisition, planning, and design for a stand-alone courthouse with no retail space: 1,500,000.00

(13) Windsor, costs to renovate space at the former Southeast State Correctional Facility associated with the relocation of the Department of Fish and Wildlife and the Department of Forests, Parks and Recreation from the Springfield State Office Building: \$700,000.00

(14) Statewide, installation of electric vehicle charging facilities in State-owned parking lots under the jurisdiction of the Department of Buildings and General Services: 75,000.00

(15) State House, cafeteria renovation for a flexible meeting room: \$57,000.00

(d)(1) For the amount appropriated in subdivision (b)(4) of this section, the Commissioner of Buildings and General Services is authorized to use up to \$200,000.00 to assess relative costs and resource requirements for potential construction of a correctional facility that ranges in scale issue a request for proposal to hire a consultant to analyze different state-of-the-art correctional facility models in order to accommodate the results of the Council of State Governments’ study described in Sec. 28 of this act; provided, however, that the funds shall only become available after approval by the Joint Fiscal Committee and the Joint Legislative Justice Oversight Committee. If the cost of the analysis exceeds \$200,000.00, the Commissioner is authorized to use the amounts appropriated in subdivisions (b)(4) and (c)(4) of this section to cover the additional cost.

(2) On or before ~~March 15, 2020~~ January 1, 2021, the Commissioner shall submit a copy of the ~~assessment~~ analysis described in subdivision (1) of this subsection to the House Committee on Corrections and Institutions and the Senate Committee on Institutions. Beginning on July 1, 2020, the Commissioner of Buildings and General Services and the Commissioner of Corrections shall provide monthly updates on the status of the analysis to the Joint Legislative Justice Oversight Committee.

(e) It is the intent of the General Assembly that the Commissioner of Buildings and General Services shall look at other State uses for storage of State-owned equipment and whether the former Southeast State Correctional Facility would be an appropriate place for storage.

Appropriation – FY 2020	\$20,323,423.00
Appropriation – FY 2021	\$21,325,813.00 \$24,086,890.00
Total Appropriation – Section 2	\$41,649,236.00 \$44,410,313.00

Sec. 2. 2019 Acts and Resolves No. 42, Sec. 3 is amended to read:

Sec. 3. HUMAN SERVICES

* * *

(c) The following sums are appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

* * *

(4) Brattleboro, Brattleboro Retreat, level 1 bed project construction:
\$1,500,000.00

(5) Windsor and St. Johnsbury, site preparation, relocation and rebuild of a greenhouse at the Caledonia County Workcamp from the former Southeast State Correctional Facility, with the use of inmate labor for the rebuild of the greenhouse, where appropriate:
\$200,000.00

* * *

(d) The sum of ~~\$3,900,000.00~~ \$4,500,000.00 is appropriated in FY 2021 to the Agency of Human Services for the Department of Vermont Health Access, Integrated Eligibility and Enrollment system.

* * *

(f) The Commissioner of Buildings and General Services, in consultation with the Commissioner of Corrections, may use the amount appropriated in subdivision (c)(5) of this section to build a new greenhouse at the Caledonia Work Camp if a new build is more cost-effective than the relocation of the greenhouse from the former Southeast State Correctional Facility. Where appropriate, inmate labor may be used for the new build of a greenhouse.

Appropriation – FY 2020	\$8,828,000.00	<u>\$8,100,000.00</u>
Appropriation – FY 2021	\$5,875,000.00	<u>\$8,175,000.00</u>
Total Appropriation – Section 3		<u>\$14,703,000.00</u>
		<u>\$16,275,000.00</u>

Sec. 3. 2019 Acts and Resolves No. 42, Sec. 5 is amended to read:

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

* * *

~~(c) The sum of \$250,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at statewide historic sites.~~

(d) The following sums are appropriated in FY 2021 to the Agency of Commerce and Community Development for the following projects described in this subsection:

- (1) Underwater preserves: \$25,000.00
- (2) Placement and replacement of roadside historic markers: \$25,000.00
- (3) Highgate Native American Cemetery, slope stabilization, Monument Road: \$100,000.00
- (4) Major maintenance at statewide historic sites: \$250,000.00

~~(e)(d) The funds shall become available after the Agency notifies the Department that the remaining funds to complete the project have been secured. The Agency shall not use the amount appropriated in subdivision (c)(1) of this section for any new underwater preserve projects. It is the intent of the General Assembly that no future capital funding shall be made available for new underwater preserve projects.~~

* * *

Appropriation – FY 2020	\$487,500.00
Appropriation – FY 2021	\$300,000.00 <u>\$400,000.00</u>
Total Appropriation – Section 5	\$787,500.00 <u>\$887,500.00</u>

Sec. 4. 2019 Acts and Resolves No. 42, Sec. 8 is amended to read:

Sec. 8. UNIVERSITY OF VERMONT

(a) The sum of \$1,300,000.00 is appropriated in FY 2020 to the University of Vermont for construction, renovation, and major maintenance at any facility owned or operated in the State by the University of Vermont.

(b) The sum of \$1,000,000.00 is appropriated in FY 2021 to the University of Vermont for the projects described in subsection (a) of this section.

* * *

Sec. 5. 2019 Acts and Resolves No. 42, Sec. 9 is amended to read:

Sec. 9. VERMONT STATE COLLEGES

(a) The sum of \$2,100,000.00 is appropriated in FY 2020 to the Vermont State Colleges for construction, renovation, and major maintenance at any facility owned or operated in the State by the Vermont State Colleges.

(b) The sum of \$2,000,000.00 is appropriated in FY 2021 to the Vermont State Colleges for the projects described in subsection (a) of this section.

* * *

(i) The following sums are appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) Water Pollution Control Fund, Clean Water/EPA Revolving Loan Fund (CWSRF) match: \$1,605,497.00

(2) Municipal Pollution Control Grants, pollution control projects, and planning advances for feasibility studies: \$3,300,000.00

(j) The sum of \$1,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for best management practices at State-owned forest and recreational access points.

(k)(1) The following sums are appropriated in FY 2021 to the Vermont Housing and Conservation Board for the following projects:

(A) Agricultural water quality projects: \$1,100,000.00

(B) Land conservation and water quality projects: \$1,700,000.00

(2) A grant issued under subdivision (1)(A) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost share requirements.

Appropriation – FY 2020	\$12,100,000.00
Appropriation – FY 2021	\$13,900,000.00
Total Appropriation – Section 11	\$26,000,000.00

Sec. 8. 2019 Acts and Resolves No. 42, Sec. 12 is amended to read:

Sec. 12. MILITARY

(a) The sum of \$700,000.00 is appropriated in FY 2020 to the Department of Military for maintenance and renovations at State armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The sum of ~~\$800,000.00~~ \$1,420,000.00 is appropriated in FY 2021 to the Department of Military for the projects described in subsection (a) of this section.

Appropriation – FY 2020	\$700,000.00
Appropriation – FY 2021	\$800,000.00 <u>\$1,420,000.00</u>
Total Appropriation – Section 12	\$1,500,000.00 <u>\$2,120,000.00</u>

Sec. 9. 2019 Acts and Resolves No. 42, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

* * *

(d) The sum of \$2,000,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for renovation costs associated with the relocation of a replacement for the Middlesex Field Station to the former Department of Libraries building in Berlin.

Appropriation – FY 2020		\$2,200,000.00
Appropriation – FY 2021	\$5,400,000.00	<u>\$7,400,000.00</u>
Appropriation – Section 13	\$7,600,000.00	<u>\$9,600,000.00</u>

Sec. 10. 2019 Acts and Resolves No. 42, Sec. 14 is amended to read:

Sec. 14. AGRICULTURE, FOOD AND MARKETS

* * *

(c) The sum of ~~\$200,000.00~~ \$280,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance at the Vermont building of the Eastern States Exposition.

Appropriation – FY 2020		\$300,000.00
Appropriation – FY 2021	\$200,000.00	<u>\$280,000.00</u>
Total Appropriation – Section 14	\$500,000.00	<u>\$580,000.00</u>

Sec. 11. 2019 Acts and Resolves No. 42, Sec. 18 is amended to read:

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,800,000.00 is appropriated in FY 2020 to the Vermont Housing and Conservation Board for housing projects.

(b) The sum of ~~\$1,800,000.00~~ \$3,800,000.00 is appropriated in FY 2021 to the Vermont Housing and Conservation Board for the project described in subsection (a) of this section housing and conservation projects.

Appropriation – FY 2020		\$1,800,000.00
Appropriation – FY 2021	\$1,800,000.00	<u>\$3,800,000.00</u>
Total Appropriation – Section 18	\$3,600,000.00	<u>\$5,600,000.00</u>

Sec. 12. AGENCY OF TRANSPORTATION

(a) The sum of \$50,000.00 is appropriated in FY 2020 to the Agency of Transportation for the Lamoille Valley Rail Trail.

(b) The following sums are appropriated in FY 2021 to the Agency of Transportation for the following projects:

- (1) Lamoille Valley Rail Trail: \$2,830,000.00
 (2) Electric Vehicle Equipment (EVSE) Grant Program: \$750,000.00

(c) For the amount appropriated in subdivision (b)(1) of this section, if matching federal funds are not available or if federal funds do not require a state match, the funds shall be used for projects in a future capital construction act.

(d) On or before January 15, 2021, the Commissioner of Forests, Parks and Recreation, in consultation with the Secretary of Administration, shall develop and submit a plan to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on whether the Lamoille Valley Rail Trail may be developed into a linear State park.

(e) The Secretary of Transportation and the Commissioner of Forests, Parks and Recreation shall develop a memorandum of understanding (MOU) regarding the ongoing maintenance of the Lamoille Valley Rail Trail. On or before January 15, 2021, and prior to execution, the Secretary and Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with a draft of the MOU and an implementation plan for the MOU.

<u>Appropriation – FY 2020</u>	<u>\$50,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$3,580,000.00</u>
<u>Total Appropriation – Section 12</u>	<u>\$3,630,000.00</u>

* * * Financing this Act * * *

Sec. 13. 2019 Acts and Resolves No. 42, Sec. 20 is amended to read:

Sec. 20. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

- (1) of the amount appropriated in ~~2017~~ 2016 Acts and Resolves No. 160, Sec. 13(c) (Waterbury State Office Complex): \$33,404.00
 (2) of the amount appropriated in ~~2017~~ 2016 Acts and Resolves No. 160, Sec. 5(d)(2) (Barre courthouse study): \$10,076.40
 (3) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(b)(11) (109 and 111 State Street, final design and construction): \$104,244.77

(4) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(c)(6), as amended by 2018 Acts and Resolves No. 190, Sec. 1 (120 State Street, life safety and infrastructure improvements): \$456,308.11

(5) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2(c)(10), as amended by 2018 Acts and Resolves No. 190, Sec. 1 (109 and 111 State Street, final design and construction): \$495,755.23

(b)(1) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 8(a)(2) (school construction) to the Agency of Education, the amount of \$1,225,076.00 in unexpended funds reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

(2) Of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 7 (emergency aid for school construction), the amount of \$37,264.89 in unexpended funds is reallocated to defray expenditures authorized in this act.

(3) Of the amount appropriated in 2018 Acts and Resolves No. 42, Sec. 7(a) (emergency aid for school construction), the amount of \$49,382.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(c)(1) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(b)(3) (Unmarked Burial Fund) to the Agency of Commerce and Community Development, the amount of \$29,849.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(2) Of the amount appropriated in 2018 Acts and Resolves No. 190, Sec. 5(d)(4) (Civil War Heritage Trail Sign) to the Agency of Commerce and Community Development, the amount of \$29,948.00 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

* * *

(e) Of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 6(a)(8) (Agricultural Fairs Capital Projects Competitive Grant Program) to the Agency of Agriculture, Food and Markets, the amount of \$18,696.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(f) Of the amount appropriated in 2018 Acts and Resolves No. 190, Sec. 3(b)(3) (Essex, Woodside Juvenile Rehabilitation Center, design and construction documents) to the Agency of Human Services, the amount of \$499,139.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(g) Of the amount appropriated in 2009 Acts and Resolves No. 43, Sec. 9(d) (Montpelier Flood Control) to the Agency of Natural Resources, the amount of \$21,137.83 in unexpended funds is reallocated to defray expenditures authorized in this act.

(h) Of the amount appropriated in 2019 Acts and Resolves No. 42, Sec. 13(b) (School Safety and Security Grant Program) to the Department of Public Safety, the amount of \$25,000.00 in unexpended funds is reallocated to defray expenditures authorized in this act.

(i) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 16 (electronic medical records) to the Vermont Veterans' Home, the amount of \$497,483.00 in unexpended funds is reallocated to defray expenditures in this act.

(j) Of the amount appropriated in 2012 Acts and Resolves No. 104, Sec. 8, amending 2011 Acts and Resolves No. 40, Sec. 12 (Vermont Drinking Water Revolving Loan Fund), the amount of \$130,000.00 in unexpended funds is reallocated to defray expenditures in this act.

(k) Of the amount appropriated in 2018 Acts and Resolves No. 84, Sec. 6(a)(3) (Cultural Facilities Grant Program) to the Vermont Arts Council, the amount of \$8,500.00, and the of the amount appropriated in 2018 Acts and Resolves No. 84, Sec. (6)(b)(3) to the Vermont Arts Council, the amount of \$5,000.00 in unexpended funds are reallocated to defray expenditures in this act.

(l) Of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 15 (State House security), the amount of \$94.67 in unexpended funds is reallocated to defray expenditures in this act.

Total Reallocations and Transfers – Section 20 \$1,375,341.06 \$2, 377,854.50

Sec. 14. GENERAL OBLIGATION BONDS AND APPROPRIATIONS;
FY 2021

The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$11,634,361.55 that were previously authorized but unissued under 2019 Acts and Resolves No. 42 for the purpose of funding the appropriations in this act.

Total Revenues – Section 14 \$11,634,361.55

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 15. SALE OF ENOSBURG ARMORY

Notwithstanding 20 V.S.A. § 542 or any other provision of law to the contrary, on or before December 31, 2020, the Board of Armory

Commissioners is authorized to sell the Enosburg Armory building located at 134 Pearl Street in Enosburg Falls to the Town of Enosburgh for below fair market value, provided that the building is for municipal purposes only. If the Town of Enosburgh no longer uses the building for municipal purposes, the State shall have the right of first refusal.

Sec. 16. 2018 Acts and Resolves No. 190, Sec. 1, amending 2017 Acts and Resolves No. 84, Sec. 2(17), is further amended to read:

(17) Waterbury, Waterbury State Office Complex, Stanley and Wasson, demolition of Stanley Hall, ~~and programming, schematic design, and design development for Wasson Hall:~~ \$950,000.00

Sec. 17. 29 V.S.A. § 157 is amended to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The Commissioner of Buildings and General Services shall:

(1) ~~Maintain~~ maintain the condition of buildings and infrastructure under the Commissioner's jurisdiction to provide a safe and healthy environment through sustainable practices and judicious capital renewal;

(2) ~~Conduct~~ conduct a facilities condition analysis each year of 20 percent of the building area and infrastructure under the Commissioner's jurisdiction so that within five years all property is assessed. ~~At the end of the five years, the process shall begin again. The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.;and~~

(3) conduct investment grade energy audits to develop a pipeline of energy efficiency and conservation measures to be implemented through the State Energy Management Program or during construction projects.

(b) The Commissioner may use up to ~~two~~ four percent of the funds appropriated to the Department of Buildings and General Services for major maintenance and planning for the purpose described in subsection (a) of this section.

Sec. 18. 29 V.S.A. § 166 is amended to read:

§ 166. SELLING OR RENTING STATE PROPERTY

* * *

(b) Upon authorization by the General Assembly, which may be granted by resolution, and with the advice and consent of the Governor, the Commissioner of Buildings and General Services may sell real estate owned by the State.

Such property shall be sold to the highest bidder therefor at public auction or upon sealed bids in the discretion of the Commissioner of Buildings and General Services, who may reject any or all bids. Notice of the sale or a request for sealed bids shall be posted in at least three public places in the town where the property is located and also published three times in a newspaper having a known circulation in the town, the last publication to be not less than 10 days before the date of sale or opening of the bids. Failing to consummate a sale under the method prescribed in this section, the Commissioner of Buildings and General Services is authorized to list the sale of this property with a real estate agent licensed by the State of Vermont. This subsection shall not apply to ~~exchanges of lands~~ the sale, conveyance, exchange, or lease of lands or interests in lands; ~~to the amendment of deeds, leases, and easements;~~ or ~~to sales of timber made in accordance with the provisions of 10 V.S.A. chapter 55 or to the sale of land or interests in land made in accordance with 155~~ or the provisions of 10 V.S.A. chapter 83.

* * *

Sec. 19. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. E.113.1, 2017 Acts and Resolves No. 84, Sec. 29, 2018 Acts and Resolves No. 190, Sec. 18, and 2019 Acts and Resolves No. 42, Sec. 25, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2020~~ July 1, 2021.

Sec. 20. OFFICE RELOCATION; LEGISLATIVE STAFF

Notwithstanding 29 V.S.A. § 165, the Commissioner of Buildings and General Services shall require approval from the Joint Legislative Management Committee for any proposals to relocate space used by the Legislative Branch. The Joint Legislative Management Committee shall consult with the Chair of the House Committee on Corrections and Institutions and the Chair of the Senate Committee on Institutions prior to granting approval.

Sec. 21. 2019 Acts and Resolves No. 42, Sec. 22 is amended to read:

Sec. 22. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

(b)(1) The Commissioner of Buildings and General Services is authorized to transfer ~~a 20-by-20-foot parcel~~ two contiguous tracts of land totaling approximately 3,152 square feet located on the Monocacy National Battlefield Park located at 5201 Urbana Pike, Frederick, Maryland, to the United States

National Park Service.

* * *

Sec. 22. NAMING STATE BUILDING AND FACILITIES; REPORT
CAPITOL COMPLEX COMMISSION; DEPARTMENT OF
LIBRARIES

(a) Intent. It is the intent of the General Assembly to establish a plan for naming State buildings and facilities in the Capitol Complex in Montpelier and Statewide.

(b) Capitol Complex Commission. On or before January 15, 2021, the Capitol Complex Commission shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with recommendations for a process to name State buildings and facilities in the Capitol Complex, as defined in 29 V.S.A. § 182.

(c) Department of Libraries. On or before January 15, 2021, the Department of Libraries shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with recommendations for a process to name all State buildings and facilities, except for buildings and facilities located in the Capitol Complex, as defined in 29 V.S.A. § 182.

* * * COVID-19 Emergency * * *

Sec. 23. COVID-19 EMERGENCY RESPONSE; REALLOCATIONS

(a) Intent. In response to the unprecedented challenges posed by the COVID-19 pandemic, the General Assembly acknowledges that continued funding of capital projects and infrastructure will help boost our local economy and support the health and welfare of Vermonters. Accordingly, it is the intent of the General Assembly that the projects funded in this capital construction act will serve to support and help drive growth in Vermont's economy during this uncertain time.

(b) Reallocation authority. Notwithstanding 29 V.S.A. § 152(a)(20) and (a)(25) nor any other provision of law, the Emergency Board, in consultation with the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, is authorized to reallocate any project balances from any capital construction acts for any capital expenditures associated with the COVID-19 emergency response.

(c) Report. On or before August 15, 2020, the Commissioner of Finance and Management, in consultation with the Joint Fiscal Office and the Office of Legislative Council, shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions, with a review of all

capital expenditures associated with the COVID-19 emergency response, an assessment of whether CARES Act funding may be used to address any capital expenditures, whether any other federal funds are available to meet those needs, and an assessment of any General Fund need that may qualify as a capital expenditure.

* * * Education * * *

Sec. 24. 2016 Acts and Resolves No. 93, Sec. 4 is amended to read:

Sec. 4. EFFECTIVE DATES

* * *

(b) Sec. 3 of this act shall take effect on ~~July 1, 2020~~ July 1, 2022.

* * * Electric Vehicles * * *

Sec. 25. FUNDING FOR ELECTRIC VEHICLE SUPPLY EQUIPMENT

(a) The Agency of Transportation shall establish and administer, through a memorandum of understanding with the Department of Housing and Community Development, a program to support the continued buildout of electric vehicle supply equipment available to the public and build upon the existing VW EVSE Grant Program that the Department of Housing and Community Development has been administering on behalf of the Department of Environmental Conservation.

(b) The Agency is authorized to spend up to \$750,000.00, as appropriated in Sec. 12 of this act, on the Program established in this section in fiscal year 2021. This funding shall initially be used to support grants for the construction and operation of direct current (DC) fast-charging stations strategically located to fill gaps in the State's highway corridor fast-charging network. Any remaining funds may be used to support strategically located level 2 workplace charging.

(c) Grant recipients shall disclose a fee schedule to the Department of Housing and Community Development demonstrating a required user fee for electric vehicle charging that accounts for expenses associated with the equipment, including but not limited to electricity costs.

(d) The Department of Housing and Community Development shall consult with an interagency team consisting of the Commissioner of Housing and Community Development or designee, the Commissioner of Environmental Conservation or designee, the Commissioner of Health or designee, the Commissioner of Public Service or designee, and the Agency's Division Director of Policy, Planning, and Intermodal Development or designee on all major decisions regarding the administration of this Program.

Sec. 26. ELECTRIC VEHICLE CHARGING STATIONS; DEPARTMENT OF BUILDINGS AND GENERAL SERVICES; FEE

Pursuant to 32 V.S.A. § 604, the Department of Buildings and General Services shall charge a fee for consumption of power associated with electric vehicle supply equipment under the jurisdiction of the Department of Buildings and General Services when the electric vehicle supply equipment is available to the public and capable of charging a fee.

* * * Human Services * * *

Sec. 27. BRATTLEBORO RETREAT

(a) For the amount appropriated in Sec. 2 of this act, amending 2019 Acts and Resolves No. 42, Sec. 3(c)(4), the Brattleboro Retreat must comply with the following provisions:

(1) The Retreat shall deliver to the Agency of Human Services monthly reports covering financial performance upon passage of this bill. All financial reports shall be delivered by the end of the month for the previous month's fiscal performance period. Financial reports shall include the following:

(A) income statement, with narrative;

(B) balance sheet, with narrative;

(C) cash flow statement, with narrative;

(D) accounts payable update and summary, with narrative;

(E) accounts receivable update and summary, with narrative; and

(F) a copy of the standard monthly financial package that is provided to the Finance Committee of the Board of Trustees.

(2) The Retreat shall follow best practices outlined in the March 2020 Best Practices Memorandum and ensure compliance with Medicaid billing practices and provider enrollment.

(3) The Retreat shall keep the Agency advised of any event or occurrence that materially impacts its financial stability, performance, staffing service delivery capacity, or viability.

(4) The Retreat shall provide information to the Department of Mental Health necessary for its statutory oversight responsibilities.

(5) The Retreat shall work with the Department of Mental Health to develop an initial strategic plan for the long-term reuse of the renovated facilities to meet future system of care needs.

(6) The Retreat shall provide the State access to the 12 level-1 beds, constructed pursuant to 2018 Acts and Resolves No. 190, Sec. 2, for a period determined by the Secretary of Human Services to be in the best interests of the State.

(7) The Retreat shall adhere to the terms and conditions of the contract with the Department of Mental Health for the operation of the 12 level-1 beds constructed pursuant to 2018 Acts and Resolves No. 190, Sec. 2.

(b) The Brattleboro Retreat, the Agency of Human Services, and the Department of Buildings and General Services shall provide a report at the July and September Joint Fiscal Committee meetings that includes the following information:

(1) the Retreat financial reports, including income statement, balance sheet, and cash flow projections;

(2) the status of the 12 level-1 beds, constructed pursuant to 2018 Acts and Resolves No. 190, Sec. 2, including anticipated opening date and cost estimates to complete;

(3) an update on the development of a long-term strategic plan that analyzes current and future needs of the service delivery priorities and role of the Retreat in Vermont's mental health system of care; and

(4) an update on the strategic plan for the long-term reuse of the renovated facility to meet future system of care needs.

Sec. 28. 2019 Acts and Resolves No. 42, Sec. 31 is amended to read:

Sec. 31. DEPARTMENT OF DISABILITIES, AGING, AND
INDEPENDENT LIVING; RULEMAKING

The Department of Disabilities, Aging, and Independent Living shall amend its rules, pursuant to 3 V.S.A. chapter 25, pertaining to therapeutic community residences to allow secure residential recovery facilities to utilize emergency involuntary procedures so that those amended rules are finally adopted on or before ~~June 1, 2020~~ June 1, 2021, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c). These rules shall be identical to the rules adopted by the Department of Mental Health that govern the use of emergency involuntary procedures in psychiatric inpatient units.

* * * Natural Resources * * *

Sec. 29. 10 V.S.A. § 1283a is added to read:

§ 1283a. CONTAMINANTS OF EMERGING CONCERN SPECIAL FUND

(a) The Contaminants of Emerging Concern Special Fund is established pursuant to 32 V.S.A. chapter 7, subchapter 5 to provide grants to public water systems responding to or remediating emerging contaminants in a public water supply. The Secretary of Natural Resources shall administer the Fund and may make disbursements from the Fund for the following costs:

(1) investigation of an actual or threatened impact to or contamination of natural resources or public assets presented by an emerging contaminant;

(2) reimbursement to any person for:

(A) expenditures made to provide alternative water supplies or to take other emergency measures deemed necessary by the Secretary to protect human health from emerging contaminants; or

(B) expenditures by a public asset to pay for the treatment or disposal of an emerging contaminant;

(3) payment of the costs of oversight or conducting assessment of a natural resource where injury has resulted or is likely to result from of an emerging contaminant; or

(4) payment of the costs of oversight or conducting restoration, replacement, or rehabilitation of a natural resource injured by an emerging contaminant.

(b) The Secretary may bring an action under this section or other available State and federal laws to enforce the obligation to repay the Fund.

(c) As used in this section:

(1) "Emerging contaminant" means:

(A) a hazardous material as defined in subdivision 6602(16) of this title;

(B) any constituent for which the Department of Health has established a health advisory; or

(C) any constituent that the Secretary determines is an imminent and substantial endangerment to human health, natural resources, or public assets.

(2) "Natural resources" means fish, wildlife, biota, air, surface water, groundwater, wetlands, drinking water supplies, or State-held public lands.

(3) "Public asset" means:

(A) any wastewater treatment facility permitted under chapter 47 of this title;

(B) any public water system or noncommunity system permitted under chapter 56 of this title;

(C) any potable water supply permitted under chapter 64 of this title;

or

(D) any facility for the disposal of solid waste permitted under chapter 159, provided that the facility did not know that the waste was an emerging contaminant at the time of disposal.

(4) "Secretary" shall mean Secretary of Natural Resources.

(d) Nothing in this section shall be construed to preclude, supplant, or limit any other statutory or common-law rights or remedies.

* * * Effective Date * * *

Sec. 30. EFFECTIVE DATE

This act shall take effect on passage.

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

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

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

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Institutions?, Senator Balint requested and was granted leave to be excused from voting on H. 955 pursuant to the provisions of Senate Rule 69.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Institutions?, Senators Hardy, Balint, Clarkson, Ingram and McCormack moved to amend the proposal of amendment of the Committee on Institutions by striking out Sec. 30 and its reader assistance heading in their entireties and inserting in lieu thereof the following:

* * * State House * * *

Sec. 30. 2 V.S.A. § 651 is amended to read:

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

(a) The Legislative Advisory Committee on the State House is created.

* * *

(d) The Committee shall meet at the State House at least one time ~~during the months of July and December~~ when the General Assembly is in session and at least one time when the General Assembly is not in session or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

(e) The Committee shall have the assistance of the Office of Legislative Council.

Sec. 31. 2 V.S.A. § 653 is amended to read:

§ 653. FUNCTIONS

(a)(1) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(2) The Legislative Advisory Committee on the State House shall develop a plan for the acquisition or commission of artwork for the State House collection that represents Vermont's diverse people and history, including diversity of gender, race, ethnicity, sexuality, and disability status.

* * *

Sec. 32. STATE HOUSE ARTWORK AND PORTRAIT PROJECT;
LEGISLATIVE ADVISORY COMMITTEE ON THE STATE
HOUSE; REPORT

(a) Intent. It is the intent of the General Assembly:

(1) to expand the State House artwork and portrait collection to represent the diverse stories of those who have significantly contributed to Vermont's history;

(2) to give special consideration to the State House as a place of employment for a diverse workforce and as an institution of public education for students and members of the general public; and

(3) that the State have a policy of including diverse leadership stories that reflect all of Vermont's history when acquiring or commissioning artistic representations for the State House art collection.

(b) Policy. It is the policy of the General Assembly that the State House art collection shall reflect:

(1) those who have served as leaders and have significantly contributed to the history of Vermont;

(2) those whose service relates to the State or the Abenaki Nation, the civil rights of Vermonters, the legislative process, or the operation of the State House;

(3) stories of significance to a community, a tribe, or historical moments that demonstrate the diverse nature of Vermont's people and history; or

(4) the natural landscapes and environmental features of the State of Vermont.

(c) Plan. Pursuant to 2 V.S.A. § 653, the Legislative Advisory Committee on the State House, in consultation with the State Curator, shall develop a plan for the acquisition or commission of artwork for the State House collection that incorporates the intent and policies described in subsections (a) and (b) of this section.

(d) Recommendations. The Committee, in consultation with the public and relevant experts, including Vermont historians, artists, and diverse community leaders, shall research and recommend significant historical Vermont leadership stories that warrant artistic inclusion in the State House art collection using the intent and policies described in subsections (a) and (b) of this section.

(e) Report. On or before March 1, 2021, the Committee shall submit a written report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the plan and recommendations described in this section and any recommendations for legislative action.

Sec. 33. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, and tours; and

(3) acquisition, management, and care of State collections of art and historic furnishings, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a).

(c) Acquisition policy. In coordination with the Legislative Advisory Committee on the State House, and in accordance with the plan developed pursuant to 2 V.S.A. § 653, the State Curator shall adopt an acquisition policy that ensures that the acquisition of art for the State House reflects a diversity of artistic media and artists, the natural history of the State, and the diversity of the people and stories of Vermont throughout the history of the State.

(d) Interpretive plan. In coordination with the Friends of the Vermont State House and the Vermont Historical Society, the State Curator shall create an interpretive plan that tells the stories of the State House art collection through accessible written, multimedia, and oral means. The plan shall include appropriate and inclusive training of State House volunteers and staff.

* * * Effective Date * * *

Sec. 34. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

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

Rules Suspended; Bill Messaged

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

S. 339.

Adjournment

On motion of Senator Ashe, the Senate adjourned until Noon on Wednesday, June 24, 2020.

WEDNESDAY, JUNE 24, 2020

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District

Senator Christopher A. Bray
Senator Ruth Ellen Hardy

Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bill Referred to Committee on Appropriations

H. 960.

House 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 miscellaneous health care provisions.

House Proposal of Amendment Concurred In with Amendment**S. 301.**

House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous telecommunications changes.

Was taken up.

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

Sec. 1. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS
FACILITIES

* * *

(i) Sunset of Commission authority. Effective on July 1, ~~2020~~ 2023, no new applications for certificates of public good under this section may be considered by the Commission.

* * *

(q)(1) Emergency waiver. Notwithstanding any other provisions of this section, when the Governor has declared a state of emergency pursuant to 20 V.S.A. § 9 and for 180 days after the declared state of emergency ends, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of a temporary telecommunications facility necessary for maintaining or improving access to telecommunications services. Waivers issued under this subsection shall be valid for a period not to exceed the duration of the declared emergency plus 180 days.

(2) A person seeking a waiver under this subsection shall file a petition with the Commission and shall provide copies to the Department of Public Service and the Agency of Natural Resources. The Commission shall require that additional notice be provided to those listed in subsection (e) of this section and any affected communications union districts. Upon receipt of the petition, the Commission shall conduct an expedited preliminary hearing.

(3) An order granting a waiver may include terms, conditions, and safeguards to mitigate significant adverse impacts, including the posting of a bond or other security, as the Commission deems proper, based on the scope and duration of the requested waiver.

(4) A waiver shall be granted only when the Commission finds that:

(A) good cause exists due to an emergency situation;

(B) the waiver is necessary to maintain or provide access to wireless telecommunications services;

(C) procedures will be followed to minimize significant adverse impacts under the criteria specified in subdivision (c)(1) of this section; and

(D) taking into account any terms, conditions, and safeguards that the Commission may require, the waiver will promote the general good of the State.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the Commission shall require the removal, relocation, or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the State.

Sec. 2. REPORT ON CRITERIA

On or before February 1, 2021, the Public Utility Commission shall review the criteria used in awarding a certificate of public good under 30 V.S.A. § 248a and report to the Senate Committee on Finance and the House Committee on Energy and Technology any changes that should be made in light of the recent developments in telecommunications technology.

Sec. 3. EXTENSION OF SECTION 248a NOTICE PERIOD DURING COVID-19 STATE OF EMERGENCY

Notwithstanding any contrary provision of law, during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, when an applicant provides notice that it will be filing an application for a certificate of public good under 30 V.S.A. § 248a, a municipal legislative body or a planning commission may request, and the Public Utility Commission shall grant, a 30 day extension to the original notice period for a total 90 day notice period. This extended notice period shall be available on any notice of application for a certificate of public good pursuant to 30 V.S.A. § 248a filed during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, except those for de minimis modifications.

Sec. 4. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING; RULE; E-911 BOARD

The E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain or be apprised of, in a timely manner, system outages applicable to wireless service providers, providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911

calling capacity, ~~whether caused by lack of function of the telecommunications subscriber's backup power equipment, lack of function within a telecommunications provider's system network failure,~~ or an outage in the electric power system. The rule shall incorporate threshold criteria for outage reporting that reflect the sparsely populated rural nature of Vermont. The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before ~~February 1, 2020~~ September 30, 2020.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Brock moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By striking out Sec. 4 in its entirety and by inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING;
RULE; E-911 BOARD

(a) The Contingent upon the event described in subsection (b) of this section, the E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain information about or be apprised of, in a timely manner, system outages applicable to wireless service providers, to providers of facilities-based, fixed voice service that is not line-powered, and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911 calling capacity, ~~whether caused by lack of function of the telecommunications subscriber's backup power equipment, lack of function within a telecommunications provider's system network failure,~~ or an outage in the electric power system. ~~The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before February 1, 2020.~~

(b) When one or more states with a combined population of 20,000,000 residents adopts a rule or enacts a law that applies a lower reporting threshold than is required under 47 C.F.R. Part 4, § 4.9(e)(1)(ii) as it pertains to wireless service providers, the E-911 Board shall initiate the rulemaking required under subsection (a) of this section and shall incorporate the lowest above-referenced reporting threshold applicable to wireless service providers into its proposed rule, which shall be filed with the Secretary of State pursuant to 3 V.S.A. § 838

not more than 60 days after the rulemaking has commenced. Subsequent reporting thresholds adopted or enacted outside Vermont shall not trigger a new rulemaking under this section.

Which was agreed to.

Bills Passed

S. 119.

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

An act relating to a statewide use of deadly force policy for law enforcement.

S. 219.

Senate bill of the following title:

An act relating to addressing racial bias and excessive use of force by law enforcement.

Was read the third time and passed on a roll call, Yeas, 29, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Rodgers.

Third Reading Ordered

H. 957.

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

An act relating to extending the deadline to test for lead in the drinking water of school buildings and child care facilities.

Reported that the bill ought to pass in concurrence.

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

Proposals of Amendment; Third Reading Ordered**H. 954.**

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

An act relating to miscellaneous tax provisions.

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

First: By striking out Sec. 4, property tax collection, in its entirety and inserting in lieu thereof:

Sec. 4. [Deleted.]

Second: By striking out Sec. 8, 32 V.S.A. § 5870, in its entirety and inserting in lieu thereof:

Sec. 8. [Deleted.]

Third: By striking out Sec. 12, 32 V.S.A. § 9248, in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. 32 V.S.A. § 9248 is amended to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes ~~shall~~ may collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

Fourth: By striking out Sec. 19, 32 V.S.A. § 5825a(b), in its entirety and inserting in lieu thereof the following:

Sec. 19. 32 V.S.A. § 5825a is amended to read:

§ 5825a. CREDIT FOR VERMONT HIGHER EDUCATION
INVESTMENT PLAN CONTRIBUTIONS

(a) A taxpayer of this State, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a Vermont ~~higher~~

~~education investment plan~~ Higher Education Investment Plan account under 16 V.S.A. chapter 87, subchapter 7, provided the account is provided directly by the Vermont Student Assistance Corporation to the participant.

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, ~~which distribution is not used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6),~~ up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years except when the distribution:

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

(2) qualifies as an expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); or

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

(c) Repayments under ~~this subsection (b) of this section~~ shall be subject to assessment, notice, penalty and interest, collection, and other administration in the same manner as an income tax under this chapter.

Sec. 19a. 16 V.S.A. chapter 87, subchapter 7 is amended to read:

* * *

§ 2876. DEFINITIONS

As used in this subchapter, except where the context clearly requires another interpretation:

(1) “Beneficiary” means any individual designated by a participation agreement to benefit from payments for qualified postsecondary education costs ~~at an institution of postsecondary education.~~

(2) “Benefits” means the payment of qualified postsecondary education costs on behalf of a beneficiary ~~by the Corporation’s Investment Plan during the beneficiary’s attendance at an institution of postsecondary education from a participant’s investment plan account.~~

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Internal Revenue Code” means the federal Internal Revenue Code of 1986, as amended, together with the regulations promulgated ~~thereunder~~ pursuant to that Code.

(5) ~~“Qualified postsecondary education costs” means the qualified costs of tuition and fees and other expenses for attendance at an approved postsecondary education institution~~ costs of tuition and fees for attendance at an approved postsecondary education institution, and other qualified higher education expenses as provided under 26 U.S.C. § 529.

(6) “Approved postsecondary education institution” means a postsecondary education institution as defined in section 2822 of this title.

(7) “Vermont Higher Education Investment Plan” or “Investment Plan” means ~~the program~~ one or more plans created pursuant to this subchapter.

(8) “Participant” means a person who has entered into a participation agreement pursuant to this subchapter intended for the ~~advance~~ payment of qualified postsecondary education costs on behalf of a beneficiary.

(9) “Participation agreement” means an agreement between a participant and the Corporation, pursuant to and conforming with the requirements of this subchapter.

§ 2877. VERMONT HIGHER EDUCATION INVESTMENT PLAN
CREATED

(a) There is created a program of the State to be known as the Vermont Higher Education Investment Plan and a trust for that purpose to be administered by the Vermont Student Assistance Corporation as an instrumentality of the State. The program may consist of one or more different investment plans, including one or more plans that may be offered to a participant only with the assistance of a qualified financial advisor.

(b) In order to establish and administer the Investment Plan, the Corporation, in addition to its other powers and authority, shall have the power and authority to:

* * *

(2) Enter into agreements with any ~~institution~~ of approved postsecondary education institution, the State, or any federal or other agency or entity as required for the operation of ~~the~~ an Investment Plan pursuant to this subchapter.

(3) Accept any grants, gifts, legislative appropriations, and other ~~moneys monies~~ from the State; any unit of federal, State, or local government; or any other person, firm, partnership, or corporation for ~~deposit~~ contribution

to the account of the Investment Plan, or for the operation or other related purposes of the Corporation.

(4) Invest the funds received from participants in appropriate investment vehicles approved and held in trust for participants by the Corporation as selected by the participants, including education loans made by the Corporation.

(5) Enter into participation agreements with participants.

(6) Develop and use two or more types of participation agreements to provide a range of investment structures options for participants.

(7) Make payments to ~~institutions of postsecondary education on behalf of beneficiaries~~ as directed by the participants pursuant to participation agreements.

(8) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in this subchapter and the rules and regulations, policies, and procedures adopted by the Corporation.

(9) Make provision for the payment of costs of administration and operation of ~~the~~ an Investment Plan subject to the limitations on charges on participation agreements established in subdivision 2878(5) of this title.

(10) Adopt rules and regulations, policies, and procedures to implement this subchapter and take all necessary action to ensure an Investment Plan is in conformance with the Internal Revenue Code and other applicable law.

* * *

§ 2878. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN

The Corporation shall have the authority to enter into Investment Plan participation agreements with participants ~~on behalf of beneficiaries~~ pursuant to the provisions of this subchapter, including the following terms and agreements:

(1) A participation agreement shall stipulate the terms and conditions of the Investment Plan ~~in~~ to which the participant makes ~~deposits~~ contributions.

(2) A participation agreement shall clearly specify the method for calculating the return on the ~~deposit made by the participant, which may be a variable or adjustable rate of return~~ various investment options available and shall reference the relevant expenses and other pertinent information about the account.

* * *

(4) A participation agreement shall clearly and prominently disclose to participants the risks associated with ~~depositing monies with the Corporation~~ the various investment options available under the applicable Investment Plan.

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public. A participation agreement shall clearly and prominently disclose to participants that the Corporation, the State, and any other governmental entity are not liable for, nor guarantee the return of or on the participant's contributions to an Investment Plan. A participation agreement shall also clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration, operation, or services. No fee or similar charge may be imposed with regard to an investment managed by the Corporation. Any fee, load, or similar charge with regard to any investment not managed by the Corporation shall be no greater than the cost determined by the Corporation to be required to administer the investment. The cost of originating and servicing any education loans made or acquired pursuant to participation agreements shall not be considered as load charges or similar charges.

* * *

§ 2878a. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN;
INDIVIDUAL DEVELOPMENT INVESTMENT ACCOUNTS

The Corporation may participate in the Individual Development Investment Program established under 33 V.S.A. § 1123, in accordance with the rules of the Agency of Human Services adopted thereunder, in connection with an individual or family who, at the time of ~~depositing contributing~~ contributing funds into an account created pursuant to a Vermont Higher Education Investment Plan, receives public assistance or is otherwise an eligible saver under 33 V.S.A. § 1123.

§ 2879. INVESTMENT AND PAYMENTS

All money paid by a participant in connection with a participation agreement shall be ~~deposited~~ credited to the participant's account as received, held by the Corporation in trust for the benefit of the participant, and shall be promptly invested by the Corporation as selected by the participant from the investment options available under the participation agreement. ~~Deposits and earnings thereon accumulated on behalf of participants in the Investment Plan~~ Contributions and earnings accumulated in a participant's Investment Plan account may be used, as provided in the participation agreement, ~~for payments to any institution of postsecondary education~~ including for payments of qualified postsecondary education costs.

The trust shall continue in existence as long as it holds any funds belonging to a participant.

* * *

§ 2879c. TAX EXEMPTION

* * *

(b) Contributions to an account held under the a Vermont Higher Education Investment Plan that is provided directly by the Corporation to a participant shall be eligible for a credit against Vermont income tax as provided under 32 V.S.A. § 5825a.

§ 2879D. PROPERTY RIGHTS TO ASSETS IN THE PLAN

The assets of the Vermont Higher Education Investment Plan shall at all times be held in trust for the benefit of the participant, shall not be commingled with any other funds of the Corporation or the State, shall be preserved, invested, and expended solely and only for the purposes set forth in this chapter and in accordance with the participation agreements, and no property rights therein shall exist in favor of the Corporation or the State. Amounts held in, or withdrawn from, a participant's Investment Plan account under a participation agreement shall not be subject to liens, attachment, garnishment, levy, seizure, claim by creditors of the contributors, participants, or any beneficiary, or subject to any involuntary sale, transfer, or assignment by any execution or any other legal or equitable operation of law, including bankruptcy or insolvency laws.

* * *

Fifth: By inserting a Sec. 25a to read as follows:

Sec. 25a. 32 V.S.A. § 5933(a) is amended to read:

(a) A claimant agency may submit any debt of ~~\$50.00~~ \$45.00 or more to the Department for collection under the procedure established by this chapter. This setoff debt collection remedy is in addition to and not in substitution for any other remedy available by law.

Sixth: By striking out Sec. 27, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof Secs. 27–29 and their reader assistance headings to read as follows:

* * * Land Use Change Tax Lien Subordination * * *

Sec. 27. 2019 Acts and Resolves No. 20, Sec. 109 is amended to read:

Sec. 109. REPEALS

(a) 32 V.S.A. § ~~3757(f)~~ 3777 (land use change tax lien subordination) is repealed on July 1, 2020.

* * *

* * * Interest Rate; Overpayments and Underpayments * * *

Sec. 28. 32 V.S.A. § 3108(a) is amended to read:

(a) Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities and tax overpayments that shall be equal to the average prime rate charged by banks during the immediately preceding 12 months commencing on October 1 of the prior year, rounded upwards to the nearest quarter percent. ~~Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual rate established for tax overpayments plus 200 basis points.~~ The rate established hereunder shall be effective on January 1 of the immediately following year. As used in this section, the term “prime rate charged by banks” shall mean the average predominate prime rate quoted by commercial banks to large businesses as determined by the Board of Governors of the Federal Reserve Board.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 8, 32 V.S.A. § 5870 (use tax reporting), shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Finance?, Senators

Pearson, Balint, Brock, Campion, Cummings, MacDonald and Sirotkin moved to amend the proposal of amendment of the Committee on Finance as follows:

First: After Sec. 10, noncollecting vendor reporting, by adding a new Sec. 10a to read as follows:

Sec. 10a. 32 V.S.A. § 9741(54) is added to read:

(54) Sales of recyclable paper carryout bags to customers pursuant to 10 V.S.A. § 6693, provided that sales of recyclable paper carryout bags to stores and food service establishments as defined under 10 V.S.A. § 6691 shall not be exempt under this subdivision and shall not be considered sales for resale under 32 V.S.A. § 9701(5).

Second: By striking out Sec. 29, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Sec. 10a, 32 V.S.A. § 9741(54) (sales and use tax exemption), shall take effect on July 1, 2020, provided that if the date of passage of this act is after July 1, 2020, then notwithstanding 1 V.S.A. § 214, Sec. 10a shall take effect retroactively on July 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.

Which was agreed to.

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

Proposal of Amendment; Third Reading Ordered

H. 959.

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

An act relating to education property tax.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 3, interfund loans; borrowing; State Treasurer, in subsection (a),

after “appropriation of sufficient revenue to” by striking out the word “support” and inserting in lieu thereof the word repay

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

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

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.

Rules Suspended; Third Reading Ordered

H. 943.

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

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

Was taken up for immediate consideration.

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

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

Rules Suspended; Third Reading Ordered

H. 946.

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

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

Was taken up for immediate consideration.

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

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

Rules Suspended; Proposal of Amendment; Third Reading Ordered**H. 942.**

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

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

Was taken up for immediate consideration.

Senator Ashe, for the Committee on Transportation, to which the bill was referred, 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:

* * * Transportation Program Adopted as Amended;
Intent; Reports; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; INTENT; REPORTS;
DEFINITIONS

(a) Transportation program adopted. The Agency of Transportation's proposed fiscal year 2021 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2021 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) Intent.

(1) It is the intent of the General Assembly that the Agency's top priority should be the transportation program adopted under subsection (a) of this section, including preserving all funding to municipalities.

(2) In response to the unprecedented challenges posed by the COVID-19 pandemic, the General Assembly acknowledges that continued funding of infrastructure will help boost our local economy and support the health and welfare of Vermonters. Accordingly, it is the intent of the General Assembly that the projects funded in this act, including under Secs. 2 and 3 of this act, will serve to support and help drive growth in Vermont's economy during this uncertain time.

(3) In light of the long-term and ongoing climate change emergency, it is the intent of the General Assembly to continue to invest in and prioritize measures that will directly contribute to the reduction of greenhouse gas emissions consistent with the State's 2016 Comprehensive Energy Plan.

(c) Reports.

(1) The Agency shall, on or before September 1, 2020, file a written report with the Joint Transportation Oversight Committee and the House and Senate Committees on Appropriations and on Transportation with the following information:

(A) an update on enacted and anticipated federal COVID-19 legislation;

(B) an update on projects in the transportation program adopted under subsection (a) of this section that are not anticipated to proceed as planned in fiscal year 2021 and the reasons why;

(C) an update on projects not in the transportation program adopted under subsection (a) of this section that will proceed in fiscal year 2021 and the source of funding;

(D) the status of and funding remaining for the programs established pursuant to 2019 Acts and Resolves No. 59, Sec. 34;

(E) the balance of funding available for public transit under federal COVID-19 legislation; and

(F) any expected reduction in funding available for municipalities.

(2) The Agency shall, on or before February 15, 2021, file a written report with the House and Senate Committees on Appropriations and on Transportation with the following information:

(A) an update on enacted and anticipated federal COVID-19 legislation;

(B) an update on projects in the transportation program adopted under subsection (a) of this section that are not anticipated to proceed as planned in fiscal year 2021 and the reasons why;

(C) an update on projects not in the transportation program adopted under subsection (a) of this section that will proceed in fiscal year 2021 and the source of funding;

(D) the status of and funding remaining for the programs established pursuant to 2019 Acts and Resolves No. 59, Sec. 34;

(E) the balance of funding available for public transit under federal COVID-19 legislation; and

(F) any expected reduction in funding available for municipalities.

(d) Definitions. As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) “Electric vehicle supply equipment” has the same meaning as in 30 V.S.A. § 201 and is abbreviated “EVSE.”

(3) “Federal COVID-19 legislation” includes any federal infrastructure bills or other federal legislation that provide the State with additional federal funding for transportation-related projects in fiscal year 2021 or was enacted as a result of COVID-19.

(4) “Plug-in electric vehicle,” “plug-in hybrid electric vehicle,” and “battery electric vehicle” have the same meanings as in 23 V.S.A. § 4(85) as amended by this act and are abbreviated “PEV,” “PHEV,” and “BEV.”

(5) “Secretary” means the Secretary of Transportation.

(6) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

(7) The table heading “As Proposed” means the proposed Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the terms “change” or “changes” in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

* * * Summary of Transportation Investments * * *

Sec. 1a. FISCAL YEAR 2021 TRANSPORTATION INVESTMENTS
INTENDED TO REDUCE TRANSPORTATION-RELATED
GREENHOUSE GAS EMISSIONS, REDUCE FOSSIL FUEL
USE, AND SAVE VERMONT HOUSEHOLDS MONEY

This act includes the State’s fiscal year 2021 transportation investments intended to reduce transportation-related greenhouse gas emissions, reduce fossil fuel use, and save Vermont households money in furtherance of the policies articulated in 19 V.S.A. § 10b and the goals of the Comprehensive Energy Plan and to satisfy the Executive and Legislative Branches’ commitments to the Paris Agreement climate goals. In fiscal year 2021, these efforts will include the following:

(1) Park and Ride Program. This act provides for a fiscal year expenditure of \$5,580,568.00, which will fund five park and ride construction projects and the design of four additional facilities scheduled for construction in fiscal year 2022. This year’s park and ride program will create 330 new State-owned spaces and result in the installation of 43 level 1 EVSE charging ports. Specific additions and improvements include:

- (A) Williston—Construction of 142 new spaces;
- (B) Royalton—Construction of 91 new spaces;
- (C) Cambridge—Improvements to existing spaces;
- (D) Thetford—Construction of 42 new spaces;
- (E) Berlin (Exit 6)—Design for 65 spaces;
- (F) Berlin (Exit 7)—Design for 75 spaces;
- (G) Manchester—Design for 50 spaces; and
- (H) Williamstown—Construction of 55 new spaces.

(2) Bike and Pedestrian Facilities Program. This act, in concert with the Capital Construction Act, provides for a fiscal year expenditure of \$18,230,970.00, which will fund 39 bike and pedestrian construction projects, and 12 bike and pedestrian design, right-of-way, or design and right-of-way projects for construction in fiscal year 2021. The construction projects include the creation, improvement, or rehabilitation of walkways, sidewalks, shared use paths, bike paths, and cycling lanes. Projects are funded in Arlington, Bennington, Burlington, Chester, Colchester-Essex, Dover, East Montpelier, Enosburg Falls, Fairfield, Hardwick, Hartford, Hinesburg, Jericho, Johnson, Lake Champlain causeway, Middlebury, Milton, Montpelier-Berlin, Moretown, Pittsford, Plainfield, Proctor, Richford, Rochester, Rutland City, Shelburne, South Burlington, Springfield, St. Albans City, St. George, St. Johnsbury, Swanton, Underhill, Waitsfield, Waterbury, West Rutland, Williston, and Wilmington.

(3) Transportation Alternatives Program. This act provides for a fiscal year expenditure of \$2,763,408.00, which will fund 16 transportation alternatives construction projects and 22 design, right-of-way, or design and right-of-way projects. Of these 38 projects, 22 involve environmental mitigation related to clean water, stormwater, or both clean water and stormwater concerns, and the remaining 15 involve bicycle and pedestrian facilities. Projects are funded in Bennington, Bridgewater, Bridport, Castleton, Chester, Colchester, Derby, Duxbury, East Montpelier, Enosburg, Essex, Essex Junction, Fair Haven, Franklin, Granville, Hartford, Hyde Park, Jericho, Middletown Springs, Montgomery, Newfane, Norwich, Pittsford, Rutland City, Shelburne, South Burlington, St. Albans, St. Johnsbury, Thetford, Vergennes, Warren, Wilmington, and Winooski.

(4) Public Transit Program. This act authorizes \$37,852,845.00 in funding for public transit uses throughout the State, which is a 30.4 percent increase over fiscal year 2019 levels. An additional \$3,000,000.00 flows through the State directly to the Green Mountain Transportation Authority. Included in the authorization are:

(A) Go! Vermont with an authorization of \$858,434.00. This authorization supports the promotion and use of carpools and vanpools.

(B) Barre Transit Expansion with an authorization of \$275,000.00. This authorization increases service available through Barre Transit.

(C) Capital Commuters with an authorization of \$100,000.00. This program provides discounted bus passes to those commuting to work in Montpelier.

(D) Vermont Kidney Association Grant with an authorization of \$50,000.00. This authorization supports the transit needs of Vermonters in need of dialysis services.

(E) Transportation Demand Management and Micro-Transit Innovations Grant Program with an authorization of \$500,000.00. Sec. 16 of this act creates the Transportation Demand Management and Micro-Transit Innovations Grant Program, to be administered by the Agency of Transportation, that will provide grant funding to incentivize and continue support for the advancement of transportation demand management programs and new transit initiatives that improve mobility and access for transit-dependent Vermonters, reduce greenhouse gas emissions, or both.

(5) Rail Program. This act authorizes \$30,815,640.00 for intercity passenger rail service and rail infrastructure throughout the State, including modifications to the Burlington Vermont Rail Systems railyard to accommodate overnight servicing to facilitate New York City-Burlington rail service.

(6) Transformation of the State Vehicle Fleet. The Department of Buildings and General Services, which manages the State Vehicle Fleet, added 44 additional hybrid vehicles to the fleet in fiscal year 2020. In fiscal year 2021, the Department of Buildings and General Services expects to add 24 additional PHEVs and three additional BEVs to the fleet. The Capital Construction Act authorizes \$75,000.00 for the installation of EVSE in State-owned parking lots under the jurisdiction of the Department of Buildings and General Services. This will increase the number of charging stations by eight to 10 stations, with 16 to 20 charging ports in total and is in addition to the following EVSE that will be installed by the Department of Buildings and General Services during the first two months of fiscal year 2021:

(A) Rutland Parking Garage—four stations, with eight charging ports in total;

(B) 134–136 State Street, Montpelier—seven stations, with 12 charging ports in total;

(C) Southern State Correctional Facility—one station, with two charging ports in total; and

(D) Newport Emory Hebard Office Building—one station, with two charging ports in total.

(7) Electric vehicle supply equipment. In furtherance of the State’s goal to have a direct current (DC) fast-charging station within 30 miles of every residence in Vermont, the Capital Construction Act authorizes \$750,000.00 to the VW EVSE Grant Program.

(8) Vehicle incentive programs. Sec. 14 of this act authorizes an additional \$50,000.00 to support administrative costs associated with MileageSmart, which is the State’s used high fuel efficiency vehicle incentive program, and to ensure that the State’s emissions repair program is operational not later than July 1, 2021. Secs. 3 and 5 of this act also authorize the Secretary of Transportation to expend additional monies on the New PEV Incentive Program and MileageSmart if such funding becomes available.

* * * Federal Funding * * *

Sec. 2. FEDERAL INFRASTRUCTURE AND CAPITAL FUNDING

(a) If federal COVID-19 legislation is enacted, the Secretary is authorized to:

(1) exceed federal spending authority in the fiscal year 2020 Transportation Program and fiscal year 2021 Transportation Program and to obligate and expend the federal monies, as practicable, on the following federally eligible projects, with a priority placed on projects, such as the purchase of PEV buses for public transit and the construction of bicycle and pedestrian facilities and EVSE, that will directly contribute to the reduction of greenhouse gas emissions consistent with the State’s 2016 Comprehensive Energy Plan and projects that will keep Vermonters employed, promote economic activity, and allow the State and municipalities to catch up on deferred maintenance:

(A) projects in the fiscal year 2020 Transportation Program and fiscal year 2021 Transportation Program;

(B) additional town highway projects; and

(C) activities that meet federal eligibility and readiness criteria;

(2) notwithstanding any provision of Title 19 of the Vermont Statutes Annotated to the contrary, waive any Title 19 match requirements for projects funded under federal COVID-19 legislation; and

(3) require that municipalities meet nonfederal match requirements for projects not authorized in the fiscal year 2020 Transportation Program or fiscal year 2021 Transportation Program funded under federal COVID-19 legislation.

(b) The Agency shall promptly report the obligation or expenditure of monies under the authority of subsection (a) of this section in writing to the House and Senate Committees on Transportation and to the Joint Fiscal Office while the General Assembly is in session and to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee when the General Assembly is not in session.

(c) Nothing in this section shall be construed to authorize the Secretary to obligate or expend State Transportation Funds, General Funds, or TIB funds above amounts authorized in the fiscal year 2020 Transportation Program or fiscal year 2021 Transportation Program.

(d) Subsections (a) and (b) of this section shall continue in effect until February 1, 2021.

* * * Additional Agency Spending; Redirection * * *

Sec. 3. AGENCY SPENDING; AUTHORITY TO REDIRECT; REPORT

(a) Notwithstanding Sec. 1 of this act; 2019 Acts and Resolves No. 59, Sec. 1; 19 V.S.A. § 10g(n); and 32 V.S.A. § 706, the Secretary is authorized to utilize State and federal monies for any of the following activities that will keep Vermonters employed, promote economic activity, and allow the State and municipalities to catch up on deferred maintenance in fiscal years 2020 and 2021, provided that the Agency expects to accept and obligate federal monies pursuant to subsection 2(a) of this act in an amount sufficient to cover the additional expenditures:

- (1) bridge maintenance;
- (2) paving and surface maintenance;
- (3) clearing of trees and brush in rights-of-way;
- (4) ledge and slope remediation;
- (5) culvert repair and replacement; and

(6) any other maintenance activities that are expected to provide an economic stimulus in Vermont communities.

(b) Notwithstanding Sec. 1 of this act; 2019 Acts and Resolves No. 59, Sec. 1; 19 V.S.A. § 10g(n); and 32 V.S.A. § 706, the Secretary is authorized to utilize State and federal monies for any of the following greenhouse gas

emissions reduction efforts in fiscal years 2020 and 2021, provided that the Agency expects to accept and obligate federal monies pursuant to subsection 2(a) of this act in an amount sufficient to cover the additional expenditures:

(1) funding for a grant program for the installation of EVSE that builds upon the existing VW EVSE Grant Program that the Department of Housing and Community Development has been administering on behalf of the Department of Environmental Conservation;

(2) PEV buses for public transit;

(3) PEVs for the State motor vehicle fleet; and

(4) funding, not to exceed \$1,000,000.00, for the New PEV Incentive Program created pursuant to 2019 Acts and Resolves No. 59, Sec. 34 as amended by the act.

(c) If the expenditure of monies pursuant to subsection (a) or (b) of this section will not significantly delay the planned work schedule of a project in the fiscal year 2020 and 2021 Transportation Programs, the Secretary may enter into a contract for the activity or proceed with the expenditure and shall give prompt notice of the contract or expenditure to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and to the Joint Fiscal Office and the Joint Transportation Oversight Committee when the General Assembly is not in session.

(d) If the expenditure of monies pursuant to subsection (a) or (b) of this section will significantly delay the planned work schedule of a project, the Secretary may enter into a contract for the activity or proceed with the expenditure but shall give advance notice of at least 10 business days prior to executing the contract or making the expenditure to the House and Senate Committees on Transportation when the General Assembly is in session and to the Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee when the General Assembly is not in session.

(e) The Secretary of Administration shall, on or before July 31, 2020, file a written report listing all expenditures made during fiscal year 2020 under the authority of subsections (a) and (b) of this section to the House and Senate Committees on Transportation, Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee.

(f) The Secretary of Administration shall, on or before July 31, 2021, file a written report listing all expenditures made during fiscal year 2021 under the authority of subsections (a) and (b) of this section to the House and Senate Committees on Transportation, Joint Fiscal Office, Joint Fiscal Committee,

and Joint Transportation Oversight Committee.

(g) The reports required pursuant to subsections (e) and (f) of this section shall be in addition to the report required pursuant to 19 V.S.A. § 10g(e).

* * * Amtrak; Burlington Rail Yard Realignment * * *

Sec. 4. ADDITION OF BURLINGTON RAIL YARD REALIGNMENT FOR AMTRAK PROJECT

The following project is added to the development and evaluation list of Rail within the Agency’s Fiscal Year 2020 Transportation Program, as adopted pursuant to 2019 Acts and Resolves No. 59, Sec. 1, and the development and evaluation list of Rail within the Agency’s Proposed Fiscal Year 2021 Transportation Program: Burlington – Railyard Realignment for Amtrak.

* * * Highway Maintenance * * *

Sec. 5. HIGHWAY MAINTENANCE

(a) Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Maintenance, authorized spending is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	45,757,089	45,757,089	0
Operating Expenses	52,896,134	52,296,134	-600,000
Grants	240,200	240,200	0
Total	98,893,423	98,293,423	-600,000
<u>Sources of funds</u>			
State	96,415,636	95,815,636	-600,000
Federal	2,377,787	2,377,787	0
Interdepart. Transfer	100,000	100,000	0
Total	98,893,423	98,293,423	-600,000

(b) If, as of June 30, 2021, the Agency of Transportation has expended less on Maintenance Operating Expenses in fiscal year 2021 than it did in fiscal year 2020 then:

(1) authorized spending in the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Maintenance is further amended by decreasing Operating Expenses by the difference between the amount expended on Maintenance Operating Expenses in fiscal year 2020 and the

amount expended on Maintenance Operating Expenses in fiscal year 2021 through June 30, 2021, but not to exceed \$700,000.00, and

(2) the Secretary shall authorize the expenditure of the difference between the amount expended on Maintenance Operating Expenses in fiscal year 2020 and the amount expended on Maintenance Operating Expenses in fiscal year 2021 through June 30, 2021, but not to exceed \$700,000.00, in equal proportions, on the New PEV Incentive Program and MileageSmart established pursuant to 2019 Acts and Resolves No. 59, Sec. 34 as amended by this act.

* * * Aviation * * *

Sec. 5a. CLARENDON SRE BUILDING

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Clarendon AV-FY20-001 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	20,000	0	-20,000
Construction	575,000	0	-575,000
Total	595,000	0	-595,000
<u>Sources of funds</u>			
State	595,000	0	-595,000
Total	595,000	0	-595,000

Sec. 5b. MORRISTOWN FUEL FARM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Morristown AV-FY21-015 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	150,000	345,000	195,000
Total	150,000	345,000	195,000
<u>Sources of funds</u>			
State	150,000	345,000	195,000
Total	150,000	345,000	195,000

* * * Transportation Buildings * * *

Sec. 5c. LUNENBURG GARAGE

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Transportation Buildings, authorized spending for Transportation Buildings Lunenburg is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	25,000	25,000	0
Construction	350,000	0	-350,000
Total	375,000	25,000	-350,000
<u>Sources of funds</u>			
State	375,000	25,000	-350,000
Total	375,000	25,000	-350,000

* * * Program Development * * *

* * * Roadway * * *

Sec. 6. PROGRAM DEVELOPMENT; ROADWAY

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Roadway, authorized spending for Burlington MEGC M 5000(1) is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	8,000,000	6,420,000	-1,580,000
Total	8,000,000	6,420,000	-1,580,000
<u>Sources of funds</u>			
TIB	240,000	192,600	-47,400
Federal	7,600,000	6,099,000	-1,501,000
Local	160,000	128,400	-31,600
Total	8,000,000	6,420,000	-1,580,000

* * * Safety and Traffic Operations * * *

Sec. 7. PROGRAM DEVELOPMENT; SAFETY AND TRAFFIC OPERATIONS

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Safety and Traffic Operations, authorized spending for Colchester HES NH 5600(14) is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	7,000,000	4,900,000	-2,100,000
Total	7,000,000	4,900,000	-2,100,000
<u>Source of funds</u>			
Federal	7,000,000	4,900,000	-2,100,000
Total	7,000,000	4,900,000	-2,100,000

* * * Bicycle and Pedestrian Facilities * * *

Sec. 7a. PROGRAM DEVELOPMENT; BICYCLE AND PEDESTRIAN GRANT PROGRAM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Bicycle and Pedestrian Facilities, authorized spending for Statewide State-Aid Construction Projects is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	468,500	868,500	400,000
Total	468,500	868,500	400,000
<u>Sources of funds</u>			
State	234,250	434,250	200,000
Local	234,250	434,250	200,000
Total	468,500	868,500	400,000

* * * Public Transit * * *

Sec. 8. PUBLIC TRANSIT; FARE-FREE

It is the intent of the General Assembly that public transit operated by transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 or 5311, or both, in the State shall be operated on a fare-free basis with monies for public transit from the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (CARES Act) as practicable.

Sec. 9. PUBLIC TRANSIT; ADDITION OF INCREASED PUBLIC TRANSIT FOR FISCAL YEAR 2021

(a) The following project is added to the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Public Transit: Increased Public Transit for Fiscal Year 2021.

(b) Spending authority for Increased Public Transit for Fiscal Year 2021 is authorized as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	500,000	500,000
Total	0	500,000	500,000
<u>Sources of funds</u>			
State	0	500,000	500,000
Total	0	500,000	500,000

(c) To the extent that the Agency is able to secure additional unobligated federal funds for Increased Public Transit for Fiscal Year 2021, the spending

authority for Increased Public Transit for Fiscal Year 2021 is increased by that same amount in federal funds.

(d) The Agency shall increase public transit initiatives in fiscal year 2021 in conformance with the implementation plan in the Agency of Transportation’s 2019 Public Transit Policy Plan (PTPP) and findings of the Report on Methods to Increase the Use of Public Transit in Vermont prepared pursuant to 2019 Acts and Resolves No. 59, Sec. 20. Additional initiatives may include:

- (1) adding new local and regional service connections to improve rural ridership;
- (2) providing support for technology improvements for transit;
- (3) expanding access to available seats in transit vehicles; and
- (4) marketing and engaging with the public to increase awareness of public transit options.

* * * Lamoille Valley Rail Trail * * *

Sec. 10. LAMOILLE VALLEY RAIL TRAIL

(a) Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Program Development—Bike & Pedestrian Facilities, authorized spending for Swanton-St. Johnsbury LVRT () is amended as follows:

	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
<u>FY21</u>			
Other	2,500,000	7,030,000	4,530,000
Total	2,500,000	7,030,000	4,530,000
<u>FY22</u>			
Other	3,500,000	7,000,000	3,500,000
Total	3,500,000	7,000,000	3,500,000
<u>FY23</u>			
Other	4,500,000	0	-4,500,000
Total	4,500,000	0	-4,500,000
<u>FY24</u>			
Other	3,500,000	0	-3,500,000
Total	3,500,000	0	-3,500,000
<u>Sources of funds FY21</u>			
State	0	0	0
Other	500,000	1,430,000	930,000
Federal	2,000,000	5,600,000	3,600,000
Total	2,500,000	7,030,000	4,530,000

Sources of funds FY22

State	0	0	0
Other	0	1,400,000	1,400,000
Federal	0	5,600,000	5,600,000
Total	0	7,000,000	7,000,000

(b) In the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Program Development—Bike & Pedestrian Facilities, “Other funds of \$500,000 are General Obligation Bond proceeds appropriated in the capital bill for the Lamoille Valley Rail Trail” is struck, and “Other funds of \$2,830,000 are General Obligation Bond proceeds appropriated in the capital construction act for the Lamoille Valley Rail Trail, but if matching federal funds are not available or if federal funds do not require a state match, the funds shall be used for projects in a future capital construction act” is inserted in lieu thereof.

* * * Central Garage * * *

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c)(1), in fiscal year 2021, the amount of \$1,605,358.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

Sec. 12. CENTRAL GARAGE EQUIPMENT

In fiscal year 2021, the amount of \$8,668,094.00 is authorized for replacement equipment pursuant to 19 V.S.A. § 13(b) and, of this amount, a minimum of \$250,000.00 shall be dedicated for the replacement of Department of Motor Vehicles enforcement fleet vehicles.

* * * Plug-In Electric Vehicle Definitions * * *

Sec. 13. 23 V.S.A. § 4(85) is amended to read:

(85) “Plug-in electric vehicle” means a motor vehicle that can be powered by an electric motor drawing current from a rechargeable energy storage system, such as from storage batteries or other portable electrical energy storage devices provided that the vehicle can draw recharge energy from a source off the vehicle such as electric vehicle supply equipment. A “plug-in electric vehicle” includes both a “battery electric vehicle” and a “plug-in hybrid electric vehicle” where:

(A) “battery electric vehicle” means a motor vehicle that can only be powered by an electric motor drawing current from a rechargeable energy storage system; and

(B) “plug-in hybrid electric vehicle” means a motor vehicle that can be powered by an electric motor drawing current from a rechargeable energy storage system but also has an onboard combustion engine.

* * * Programs and Incentives to Foster Efficient Vehicle Adoption * * *

Sec. 14. 2019 Acts and Resolves No. 59, Sec. 34 is amended to read:

Sec. 34. VEHICLE INCENTIVE AND EMISSIONS REPAIR PROGRAMS

(a) Vehicle incentive and emissions repair programs administration.

(1) ~~The Agency of Transportation (Agency), in consultation with the Agency of Natural Resources, the Agency of Human Services, the Department of Environmental Conservation and of Public Service, Vermont electric distribution utilities that are offering incentives for PEVs, and the State’s network of community action agencies, shall establish and administer the programs described in subsections (b) and (c) of this section.~~

(2) ~~The Agency is authorized to spend \$2,000,000.00 as appropriated in the fiscal year 2020 budget, \$50,000.00 in Transportation Fund monies, and any additional monies as appropriated in the fiscal year 2021 budget or Transportation Fund monies authorized to be expended by the Secretary of Transportation pursuant to Secs. 3 and 5 of this act, or both, on the two programs described in subsections (b) and (c) of this section. Notwithstanding any other provision of law and subject to the approval of the Secretary of Administration, appropriations for the programs described in subsections (b) and (c) of this section remaining unexpended on June 30, 2021 shall be carried forward and designated for expenditure on these programs in the subsequent fiscal year.~~

(3) ~~Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of the two programs and up to \$150,000.00 of program funding may be set aside for this purpose. Up to \$150,000.00 of program funding may be set aside for this purpose for the programs described in subsection (c) of this section in fiscal year 2020 and \$50,000.00 of program funding shall be set aside for this purpose for the programs described in subsection (c) of this section in fiscal year 2021 and to ensure that the emissions repair program is operational not later than July 1, 2021. In fiscal year 2021, the Agency is authorized to spend up to \$200,000.00 in program funding to continue and expand the Agency’s public-private partnership with Drive Electric Vermont to support the expansion of the PEV market in the State through technical and consumer assistance; auto dealer education; outreach and incentive program management, including marketing, consumer support, record keeping and reporting, program development and~~

modification, and general program administration for the program described in subsection (b) of this section; and PEV promotional efforts. The Agency shall develop, in consultation with the Departments of Environmental Conservation and of Public Service, a scope of work for funding the Agency's grants to Drive Electric Vermont pursuant to this section.

(4) The Agency shall administer the program described in subsection (b) of this section through no-cost contracts with the State's electric distribution utilities.

(5) The Agency shall annually evaluate the two programs to gauge effectiveness and submit a written report on the effectiveness of the programs to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committee on Finance on or before the 31st day of ~~December~~ January in each year following a year that an incentive or repair voucher ~~is~~ was provided through one of the programs. Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an incentive or repair voucher is provided through one of the programs unless the General Assembly takes specific action to repeal the report requirement.

(b) Electric vehicle incentive program. A new PEV purchase and lease incentive program for Vermont residents shall structure PEV purchase and lease incentive payments by income to help all Vermonters benefit from electric driving, including Vermont's most vulnerable. The program shall be known as the New PEV Incentive Program. Specifically, the ~~program~~ New PEV Incentive Program shall:

(1) apply to both purchases and leases of new PEVs with an emphasis on creating and matching incentives for ~~exclusively electric powered vehicles that do not contain an onboard combustion engine~~ BEVs;

(2) provide ~~incentives~~ not more than one incentive of \$1,500.00 for a PHEV or \$2,500.00 for a BEV to Vermont households with low and moderate income at or below 160 percent of the State's prior five-year average Median Household Income (MHI) level:

(A) an individual domiciled in the State whose federal income tax filing status is single or head of household with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$125,000.00;

(C) a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$125,000.00; or

(D) a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(3) provide not more than one incentive of \$3,000.00 for a PHEV or \$4,000.00 for a BEV to:

(A) an individual domiciled in the State whose federal income tax filing status is single, head of household, or surviving spouse with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(B) a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States at or below \$50,000.00; or

(C) a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(4) apply to manufactured PEVs with a Base Manufacturer's Suggested Retail Price (MSRP) of \$40,000.00 or less; and

(4)(5) provide ~~no~~ not less than \$1,100,000.00, of the initial \$2,000,000.00 authorization, and up to an additional \$2,050,000.00 in fiscal year 2021 in PEV purchase and lease incentives.

(c) High fuel efficiency vehicle incentive and emissions repair ~~program~~ programs. ~~A used~~ Used high fuel efficiency vehicle purchase incentive and emissions repair ~~program~~ programs for Vermont residents shall structure high fuel efficiency purchase incentive payments and emissions repair vouchers by income to help all Vermonters benefit from more efficient driving, including Vermont's most vulnerable. Not less than \$750,000.00 shall be provided in point-of-sale and point-of repair vouchers.

(1) Specifically, the The high fuel efficiency vehicle incentive program shall be known as MileageSmart and shall:

(1)(A) apply to purchases of used high fuel-efficient motor vehicles, which for purposes of this program shall be pleasure cars with a combined city/highway fuel efficiency of at least 40 miles per gallon or miles per gallon equivalent as rated by the Environmental Protection Agency when the vehicle

was new, and repairs of certain vehicles that failed the on board diagnostic (OBD) systems inspection;

~~(2)(B) provide point-of-sale vouchers through the State's network of community action agencies and base eligibility for the point-of-sale voucher on the same criteria used for income qualification for weatherization services through the Weatherization Program and eligibility for the point-of-repair vouchers on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and~~

~~(3)(C) provide one of the following to qualifying individuals:~~

~~(A) a point-of-sale voucher of up to \$5,000.00 to assist in the purchase of a used high fuel-efficient motor vehicle that may require that a condition of the voucher be that if the individual is the owner of either a motor vehicle that failed the OBD systems inspection or a motor vehicle that is more than 15 years old and has a combined city/highway fuel efficiency of less than 25 miles per gallon as rated by the Environmental Protection Agency when the vehicle was new that the vehicle will be removed from operation and either donated to a nonprofit organization to be used for parts or destroyed; or~~

~~(B)(2) The emissions repair program, which shall be operational on or before July 1, 2021, shall:~~

~~(A) apply to repairs of certain vehicles that failed the on board diagnostic (OBD) systems inspection;~~

~~(B) provide point-of-repair vouchers through the State's network of community action agencies and base eligibility for voucher on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and~~

~~(C) provide a point-of-repair voucher to repair a motor vehicle that was ready for testing, failed the OBD systems inspection, requires repairs that are not under warranty, and will be able to pass the State's vehicle inspection once the repairs are made provided that the point-of-repair voucher is commensurate with the fair market value of the vehicle to be repaired and does not exceed \$2,500.00, with \$2,500.00 vouchers only being available to repair vehicles with a fair market value of at least \$5,000.00.~~

* * *

* * * Class 2 Town Highway Roadway Program * * *

Sec. 15. 19 V.S.A. § 306(h) is amended to read:

(h) Class 2 Town Highway Roadway Program. There shall be an annual appropriation for grants to municipalities for resurfacing, rehabilitation, or reconstruction of paved or unpaved class 2 town highways. However, municipalities that have no State highways or class 1 town highways within their borders may use the grants for such activities with respect to both class 2 and class 3 town highways. Each fiscal year, the Agency shall approve qualifying projects with a total estimated State share cost of \$7,648,750.00 at a minimum as new grants. The Agency's proposed appropriation for the Program shall take into account the estimated amount of qualifying invoices submitted to the Agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the Class 2 Town Highway Roadway Program exceed the amount appropriated, the Agency shall advise the Governor of the need to request a supplemental appropriation from the General Assembly to fund the additional project cost, provided that the Agency has previously committed to completing those projects. Funds received as grants for State aid under the Class 2 Town Highway Roadway Program may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

* * * Transportation Demand Management and
Micro-Transit Innovations Grant Program * * *

Sec. 16. TRANSPORTATION DEMAND MANAGEMENT AND MICRO-TRANSIT INNOVATIONS GRANT PROGRAM

(a) The Agency shall establish and administer a transportation demand management and micro-transit innovations grant program within the Public Transit Program to incentivize and continue support for the advancement of transportation demand management programs and new transit initiatives.

(b) The Agency shall distribute \$500,000.00 in grant awards, with each recipient only eligible to receive up to \$100,000.00 in grant awards.

(c) Grant awards may be used for one or more of the following: matching funds for other grant awards; program delivery costs; or for the extension of existing programs.

(d) Grant awards shall be distributed not later than November 30, 2020 and shall incentivize innovative strategies that improve both mobility and access for transit-dependent Vermonters, reduce the use of single occupancy vehicles for work trips, and reduce greenhouse gas emissions.

* * * All-Terrain Vehicles * * *

Sec. 17. 23 V.S.A. §§ 3501 and 3502 are amended to read:

§ 3501. DEFINITIONS

As used in this chapter:

(1) ~~“Commissioner” means the Commissioner of Motor Vehicles unless otherwise stated.~~

(2) ~~“Department” means Department of Motor Vehicles unless otherwise stated.~~

(3) ~~“Operate” includes an attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they be at motion or rest.~~

(4) ~~“Secretary” means the Secretary of Natural Resources.~~

(5) “All-terrain vehicle” or “ATV” means any nonhighway recreational vehicle, except snowmobiles, having ~~no~~ not less than two low pressure tires (10 pounds per square inch, or less), not wider than 64 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (AAA); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

(2) “Department” means the Department of Motor Vehicles unless otherwise stated.

(3) “Direct supervision” means that the supervisor shall be sufficiently close and able to control, by communicating visually or orally, the operation of an ATV by an operator under 16 years of age, taking into account the noise created by an ATV and protective headgear worn by the operator.

(4) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming.

(5) “Forestry operation” has the same meaning as in 10 V.S.A. § 2602.

(6) “Secretary” means the Secretary of Natural Resources.

(7) “State lands” means land owned, leased, or otherwise controlled by the State.

(6)(8) “Club or association” means an all-terrain vehicle club or “VASA” means the Vermont ATV Sportsman’s Association, a statewide association of ATV clubs.

§ 3502. REGISTRATION AND TRAIL ACCESS DECAL (TAD)
REQUIRED; EXCEPTIONS

(a)(1) An all-terrain vehicle may not be operated Except as otherwise provided in this section, an individual shall not operate an ATV on the VASA Trail System, on State land designated by the Secretary pursuant to subdivision 3506(b)(4) of this title, or along any highway that is not adjacent to the property of the operator unless the ATV:

(A) is registered pursuant to this chapter or any other section of this title by the State of Vermont and unless the all-terrain vehicle or in accordance with subsection (e) of this section; and

(B) displays a valid Vermont ATV Sportsman’s Association (VASA) VASA Trail Access Decal (TAD) when operating on a VASA trail, except when operated;

(1)(2) Notwithstanding subdivision (1) of this subsection, neither registration nor display of a TAD is required to operate an ATV:

(A) On on the property of the owner of the all-terrain vehicle. ATV;

(2)(B) Off the highway, In in a ski area while being used, off the highway, for the purpose of grooming snow, maintenance, or in rescue operations;

(3)(C) For for official use by a federal, State, or municipal agency and only if the all-terrain vehicle ATV is identified with the name or seal of the agency in a manner approved by the Commissioner; or

(4)(D) Solely on privately owned land when the operator is specifically invited to do so by the owner of that the property and has on his or her person carries the written consent of the owner.

(5)(3) By a person who Notwithstanding subdivision (1) of this subsection, an operator may operate an ATV without a TAD displayed if the operator possesses a completed TAD form processed electronically and within the prior 10 days that is either printed out or displayed on a portable electronic device. The printed or electronic TAD form shall be valid for 10 days after the electronic transaction. Use of a portable electronic device to display a completed TAD form does not in itself constitute consent for an enforcement

officer to access other contents of the device.

* * *

(c) ~~The possession of a valid TAD or registration of an all-terrain vehicle~~ ATV does not constitute a license to ~~cross or~~ operate an ~~all-terrain vehicle~~ ATV on public or private lands, ~~even if temporarily while crossing the public or private lands.~~

(d) An ~~all-terrain vehicle~~ ATV that does not comply with the provisions of this chapter ~~may~~ shall not be registered by the Commissioner.

(e) An ~~all-terrain vehicle~~ ATV owned by a person who is a resident of any other state or province shall be deemed to be properly registered for the purposes of this chapter if it is registered in accordance with the laws of the state or province in which its owner resides. An operator who is a resident of any other state or province shall be subject to the provisions of this chapter while operating an ATV within this State, including possessing a valid TAD in the same circumstances that a resident of this State is required to possess a valid TAD.

Sec. 18. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION; PROHIBITED ACTS; FINANCIAL RESPONSIBILITY; HEADGEAR

(a) A person shall only operate an ATV, or permit an ~~all-terrain vehicle~~ ATV owned by him or her or under his or her control to be operated, in accordance with this chapter.

(b) An ~~all-terrain vehicle~~ ATV shall not be operated:

(1) Along a public highway except if one or more of the following applies:

(A) ~~the highway is not being maintained during the snow season;~~

(B) ~~the highway has been opened to all-terrain vehicle~~ ATV travel by the ~~selectboard or trustees or local governing body~~ legislative body of the municipality where the town highway is located or, for State highways, the Secretary of Transportation and is so posted by the municipality;

(C) ~~(B)~~ the ~~all-terrain vehicle~~ ATV is being used for agricultural purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the farm; ~~or~~

(C) the ATV is being use for forestry purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the forestry operation; or

(D) the ~~all-terrain vehicle~~ ATV is being used by an employee or agent of an electric transmission or distribution company subject to the jurisdiction of the Public Utility Commission under 30 V.S.A. § 203 for utility purposes, including safely accessing utility corridors, provided that the ~~all-terrain vehicle~~ ATV shall be operated along the edge of the roadway and shall yield to other vehicles.

(2) Across a public highway ~~unless~~ except if all of the following conditions are met:

(A) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; ~~and~~

(B) the operator brings the ~~all-terrain vehicle~~ ATV to a complete stop before entering the ~~travelled~~ traveled portion of the highway; ~~and~~

(C) the operator yields the ~~right-of-way~~ right of way to motor vehicles and pedestrians using the highway; ~~and~~

(D) the operator is 12 years of age or older; ~~and that~~

(E) in the case of an operator under 16 years of age, ~~must be the operator~~ is under the direct supervision of a person an individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(3) On any privately owned land or privately owned body of ~~private~~ water unless either:

(A) the operator is the owner, or member of the immediate family of the owner of the land; ~~or~~

(B) the operator ~~has, on his or her person,~~ carries the written consent of the owner or lessee of the land or the land surrounding the privately owned body of water to operate an ~~all-terrain vehicle~~ ATV in the specific area and during specific hours ~~and/or~~ or days, or both in which the operator is operating; ~~or;~~

(C) the ~~all-terrain vehicle~~ ATV displays a valid ~~TAD decal~~ VASA Trail Access Decal (TAD) as required by subsection 3502(a) of this title that serves as proof that the ~~all-terrain vehicle~~ ATV and its operator, by virtue of the TAD, are members of a ~~VASA-affiliated club to which such~~ VASA and consent has been given orally or in writing to operate an ~~all-terrain vehicle~~ ATV in the area ~~in which~~ where the operator is operating; ~~or~~

~~(C)~~(D) the owner of the land ~~has~~ or the land surrounding the privately owned body of water designated the area for use by ~~all-terrain~~

vehicles ATVs by posting the area in a manner approved by the Secretary to give reasonable notice that use is permitted.

(4) On any ~~public land~~ municipal lands unless opened to ATV travel by the legislative body of the municipality where the land is located or on any State lands, body of public water, or natural area established under the provisions of 10 V.S.A. § 2607 unless ~~the Secretary has designated the area by the Secretary~~ for use by ~~all-terrain vehicles pursuant to ATVs in rules promulgated~~ adopted under provisions of 3 V.S.A. chapter 25.

(5) By ~~a person~~ an individual under 12 years of age unless he or she is wearing on his or her head protective headgear of a type approved by the Commissioner while operating the ATV or riding as a passenger on the ATV and either:

(A) he or she is on land owned by his or her parents, family, or guardian;

(B) he or she has written permission of the landowner or lessee; or

(C) he or she is under the direct supervision of a person at least an individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(6) In any manner ~~intended or~~ that could reasonably ~~to~~ be expected to harm, harass, drive, or pursue any wildlife.

(7) If the registration certificate or consent form ~~is~~ and proof of insurance are not available for inspection, and the registration number, or plate of a size and type approved by the Commissioner, is not displayed on the ~~all-terrain vehicle~~ ATV in a manner approved by the Commissioner.

(8) While the operator is under the influence of drugs or alcohol as defined by this title.

(9) In a careless or negligent manner ~~or in a manner~~ that is inconsistent with the duty of ordinary care, so as to endanger ~~a person~~ an individual or property.

(10) Within a cemetery, public or private, as defined in 18 V.S.A. § 5302.

(11) On limited access highways, ~~rights-of-way~~ rights-of-way, or approaches unless permitted by the Traffic Committee under section 1004 of this title. In no cases shall the use of ~~all-terrain vehicles~~ ATVs be permitted on any portion of the Dwight D. Eisenhower National System of Interstate and Defense Highways unless the Traffic Committee permits operation on these highways.

(12) On a sidewalk unless permitted by the selectboard or trustees of the local governing legislative body of the municipality where the sidewalk is located.

(13) Without liability insurance as described in this subdivision. The owner or operator of an ATV shall not operate or permit the operation of an ATV at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title without having in effect a bond or a liability policy in the amounts of at least \$25,000.00 for one individual and \$50,000.00 for two or more individuals killed or injured and \$10,000.00 for damages to property in any one accident. In lieu of a bond or liability policy, evidence of self-insurance in the amount of \$115,000.00 must be filed with the Commissioner. Financial responsibility shall be maintained and evidenced in a form prescribed by the Commissioner, and persons who self-insure shall be subject to the provisions of subsection 801(c) of this title.

(14) While the operator's license or privilege to operate a motor vehicle is suspended, unless operated at a location described in subdivision 3502(a)(2)(A) or (D) of this title.

(15) Outside the boundaries of trails established by the VASA Trail System unless such operation is specifically authorized pursuant to another provision of this chapter.

(16) Unless the operator and all passengers wear properly secured protective headgear, of a type approved by the Commissioner and as intended by the manufacturer, if the ATV is operated at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title.

(c) No public or private landowner shall be liable for any property damage or personal injury sustained by any ~~person~~ individual operating or riding as a passenger on an ~~all-terrain vehicle~~ ATV or upon a vehicle or other device drawn by an ~~all-terrain vehicle~~ ATV upon the public or private landowner's property, whether or not the public or private landowner has given permission to use the land, unless the public or private landowner charges a cash fee to the operator or owner of the ~~all-terrain vehicle~~ ATV for the use of the property or unless damage or injury is intentionally inflicted by the landowner.

(d) In addition to all other requirements, an ~~all-terrain vehicle~~ ATV may not be operated:

(1) if equipped with an exhaust system with a cut out, bypass, or similar device; or

(2) with the spark arrester removed or modified, except for use in closed course competition events.

(e) In addition to all other requirements, an ~~all-terrain vehicle~~ ATV may not be operated by an operator who is less than 18 years of age unless one of the following criteria is met:

(1) the operator is operating on property owned or leased by the operator or his or her parents or guardian; or

(2) the operator is taking a prescribed safety education training course and operating under the direct supervision of a certified ~~all-terrain vehicle~~ ATV safety instructor; or

(3) the operator holds an appropriate safety education certificate issued by this State or issued under the authority of another state or province of Canada.

(f) ~~A person~~ An individual who is required to hold an appropriate safety education certificate under the provisions of subsection (e) of this section shall exhibit the safety education certificate upon demand of a law enforcement officer having authority to enforce the provisions of this section.

(g) ~~Notwithstanding any other provision of law or rule to the contrary, the Commissioner may authorize the temporary operation of all-terrain vehicles not registered in this State on Route 253 in Beecher Falls for an annual special event, provided the all-terrain vehicle is registered in another state or province. [Repealed.]~~

* * * U.S. Postal Service; Vehicle Inspection; Sunset Repeal * * *

Sec. 19. 2017 Acts and Resolves No. 71, Sec. 31(a)(4) is amended to read:

(4) ~~23 V.S.A. § 1222(e), added in Sec. 27 (inspections; mail carrier vehicles), shall be repealed on July 1, 2020. [Repealed.]~~

* * * Permit Fees; Waiver * * *

Sec. 20. AUTHORITY TO WAIVE RIGHT-OF-WAY PERMIT FEES

(a) Notwithstanding 19 V.S.A. § 1112(b), the Secretary is authorized to waive fees associated with permits or permit amendments issued pursuant to 19 V.S.A. § 1111 for any reason associated with the response and recovery to the COVID-19 pandemic.

(b) Subsection (a) of this section shall continue in effect until six months after the conclusion of a state of emergency declared under 20 V.S.A. chapter 1 due to COVID-19.

* * * Use of Pozzolans as an Alternative to Portland Cement * * *

Sec. 21. USE OF POZZOLANS AS AN ALTERNATIVE TO PORTLAND CEMENT

(a) Findings. The General Assembly finds that:

(1) Pozzolans, such as pulverized fuel ash (commonly known as “fly ash”), ground granulated blast-furnace slag, and silica fume, can be used to partially replace a portion of the Portland Cement used in the production of concrete.

(2) Using pozzolans in the production of concrete for transportation infrastructure projects can typically reduce the use of Portland Cement by 40 to 50 percent.

(3) Using pozzolans in a concrete mix design can:

(A) reduce the carbon dioxide emissions associated with transportation infrastructure projects, such as bridges and sidewalks;

(B) increase the compressive strength and durability of concrete; and

(C) decrease construction costs.

(4) Pozzolans cannot be used as a complete substitute for Portland Cement in a concrete mix design because they enhance and do not replace the cementitious properties of Portland Cement as it hydrates as part of the overall chemical reaction that binds and strengthens the concrete.

(b) Use of Portland Cement. The Agency is encouraged to continue researching, testing, and wherever practicable, using pozzolans and alternatives to Portland Cement as part of the concrete mix designs for all transportation infrastructure projects.

* * * Study on Direct-to-Consumer Motor Vehicle Sales; Report * * *

Sec. 22. STUDY ON DIRECT-TO-CONSUMER MOTOR VEHICLE SALES; REPORT

(a) The Agency of Transportation, in consultation with the Attorney General’s Office, the Department of Financial Regulation, a manufacturer that engages in direct-to-consumer motor vehicle sales to Vermont consumers, and the Vermont Vehicle and Automotive Distributors Association, shall conduct a study and, on or before December 15, 2020, file a written report on the findings of its study, sources reviewed, and recommendations regarding the regulation of direct-to-consumer motor vehicle sales with the Senate Committees on Economic Development, Housing and General Affairs and on Transportation and the House Committees on Commerce and Economic Development and on Transportation.

(b) The report shall, at a minimum, include a review of:

(1) all Vermont consumer protection laws and regulations that currently apply when a consumer purchases a motor vehicle from a dealer registered pursuant to 23 V.S.A. chapter 7, subchapter 4, whether those consumer protections currently apply to direct-to-consumer motor vehicle sales, and, if not, whether those consumer protections should apply to direct-to-consumer motor vehicle sales;

(2) how consumers currently obtain financing in direct-to-consumer motor vehicle sales and any proposals that would better protect Vermont consumers who engage in direct-to-consumer motor vehicle sales;

(3) how consumers are currently taxed in direct-to-consumer motor vehicle sales and whether there are steps the State can take to maximize the collection of taxes owed on direct-to-consumer motor vehicle sales where the vehicles are operated in Vermont;

(4) any enforcement issues related to direct-to-consumer motor vehicle sales;

(5) what reasons, if any, exist to prohibit manufacturers engaged in direct-to-consumer motor vehicle sales from owning, operating, or controlling a motor vehicle warranty or service facility in the State and a recommendation on whether a sales center should be required if a manufacturer engaged in direct-to-consumer motor vehicle sales is permitted to own, operate, or control a motor vehicle warranty or service facility in the State;

(6) laws, rules, and best practices from other jurisdictions and any model legislation related to the regulation of direct-to-consumer motor vehicle sales; and

(7) how any proposed amendments to Vermont law regulating direct-to-consumer motor vehicle sales will affect dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; franchisors and franchisees, as defined in 9 V.S.A. § 4085; and other persons who are selling motor vehicles to Vermonters.

(c) As used in this section, “direct-to-consumer motor vehicle sales” means sales made by:

(1) motor vehicle manufacturers that sell or lease vehicles they manufacture directly to Vermont consumers and not through dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; or

(2) other persons that sell or lease new or used motor vehicles directly to Vermont consumers and not through Vermont licensed dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4 on websites such as Carvana, Vroom, and TrueCar.

* * * Effective Dates * * *

Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2 (federal funding), 3 (spending redirection), 4 (Amtrak), 19 (U.S. Postal Service vehicle inspection exemption sunset repeal; 23 V.S.A. § 1222(e)), and 20 (section 1111 permit fee waiver) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2020.

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

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

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.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 219, S. 301.

Adjournment

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

Afternoon

The Senate was called to order by the President.

Bill Amended; Bill Passed

S. 124.

Senate bill entitled:

An act relating to miscellaneous law enforcement amendments.

Was taken up.

Thereupon, pending third reading of the bill, Senators White, Bray, Clarkson, Collamore and Pollina moved to amend the bill by as follows:

First: By striking out Sec. 2, 20 V.S.A. § 2352 (Council membership) in its entirety and inserting in lieu thereof the following:

Sec. 2. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) the Executive Director of the Department of State's Attorneys and Sheriffs;

(D) the Executive Director of Racial Equity;

(E) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

~~(D)~~(F) a member of the Vermont Police Association, elected by its membership; ~~and~~

~~(E)~~(G) ~~five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;~~

(H) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(I) a law enforcement officer, appointed by the President of the Vermont State Employees Association;

(J) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(K) an individual appointed by the Executive Director of the Center for Crime Victim Services;

(L) an individual appointed by the Executive Director of the Human Rights Commission;

(M) an individual appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence; and

(N) three public members, appointed by the Governor, who shall not be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer, current legislators, or otherwise be employed in the criminal justice system.

(2) A member's term shall be three years.

* * *

(c) The public members of the Council set forth in subdivision (a)(1)(N) of this section shall be entitled to receive no per diem compensation for their services, but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be allowed their actual and necessary entitled to receive reimbursement of expenses incurred in the performance of their duties. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.

* * *

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

Sec. 6a. 20 V.S.A. § 2359 is added to read:

§ 2359. COUNCIL SERVICES CONTINGENT ON AGENCY COMPLIANCE

(a) On and after January 1, 2022, a law enforcement agency shall be prohibited from having its law enforcement applicants or officers trained by the Police Academy or from otherwise using the services of the Council if the agency is not in compliance with the requirements for collecting roadside stop data under section 2366 of this chapter or the requirement to adopt, follow, or enforce any policy required under this chapter.

(b) The Council shall adopt procedures to enforce the requirements of this section, which may allow for waivers for agencies under a plan to obtain compliance with this section.

Third: By adding a Sec. 9a to read as follows:

Sec. 9a. 20 V.S.A. § 2368 is added to read:

§ 2368. STATEWIDE POLICY; REQUIRED USE OF BODY CAMERAS

(a) On or before January 1, 2022, each law enforcement agency shall adopt, follow, and enforce the Model Body Worn Camera (BWC) Policy established by the Law Enforcement Advisory Board pursuant to 2016 Acts

and Resolves No. 163, and each law enforcement officer shall comply with the provisions of that policy.

(b) The Council shall incorporate the provisions of this section into training it provides.

Fourth: In Sec. 10, 20 V.S.A. chapter 151, subchapter 2 (Council; unprofessional conduct), by striking out section 2403 (law enforcement agencies; duty to report) in its entirety and inserting in lieu thereof the following:

§ 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) Category ~~(A)~~.

(i) There is a finding of probable cause by a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a credible complaint against the officer that, ~~if deemed credible by the executive officer of the agency as a result of a valid investigation,~~ alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

(2) As part of his or her report, the executive officer of the agency or the chair of the civilian review board shall provide to the Council a copy of any

relevant documents associated with the report, including any findings, decision, and the agency's investigative report.

(b) The Council shall provide a copy of any report and the relevant documents provided with it to the Council Advisory Committee, which shall recommend any appropriate action to take in regard to a law enforcement officer who is the subject of that report.

(c) The Executive Director of the Council shall report to the Attorney General and the State's Attorney of jurisdiction any allegations that an officer committed Category A conduct.

Fifth: By adding a Sec. 10a to read as follows:

Sec. 10a. LAW ENFORCEMENT RECOMMENDATIONS

In order to further the goal of defining law enforcement officers as community guardians, the following entities shall report to the Senate and House Committees on Government Operations on or before January 15, 2021 on their progress in regard to the following topics, including any recommendations for legislative action:

(1) Law enforcement officer qualifications.

(A) The Law Enforcement Advisory Board shall recommend universal standards for interviewing and hiring new law enforcement officers in order to recognize applicant qualities that are desirable and those that are not. The Board shall specifically recommend standards that should apply to officers in a supervisory role.

(B) The Criminal Justice Training Council (Council) shall consult with the Human Rights Commission, the American Civil Liberties Union, and other relevant organizations and individuals in reviewing law enforcement applicants' current written, oral, and psychological examinations for cultural sensitivities and overall appropriateness.

(2) Law enforcement officer training.

(A) The Council, in consultation with the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, the Human Rights Commission, the American Civil Liberties Union, and other relevant stakeholders, shall review the current requirements for basic and annual in-service training in order to determine whether appropriate training is provided in the areas of cultural awareness, implicit bias, de-escalation, and recognition of and appropriately responding to individuals with a mental condition, and whether that training is embedded into training on other policing policies such as traffic stops and searches.

(B) In consideration of its analysis in subdivision (A) of this subdivision (2), and in reviewing current training requirements and how that training is used in practice, the Council shall recommend any amendments to statutorily required training that may not be necessary for all officers.

(C) The Council, Law Enforcement Advisory Board, and Department of Public Safety shall consult with the Vermont League of Cities and Towns and other interested stakeholders to determine whether:

(i) the Council should be reestablished within a State agency or other oversight entity;

(ii) the Police Academy should be relocated to a different area of the State; and

(iii) there should be more flexibility in the residential and field training required of law enforcement applicants, including whether applicants should be able to satisfy some aspects of basic training through experiential learning.

(3) Models of civilian oversight. The Office of Attorney General shall consult with the Council, the Human Rights Commission, the Vermont League of Cities and Towns, and other interested parties to recommend one or more models of civilian oversight of law enforcement.

(4) Reporting allegations of law enforcement misconduct. The Office of Attorney General shall consult with the Council, the Human Rights Commission, the American Civil Liberties Union, and other interested parties in order to identify a central point for reporting allegations of law enforcement officer misconduct, which may be the Council or another entity, and how those allegations should be handled.

(5) Access to complaint information. The Council Advisory Committee shall consult with the Secretary of State, the Human Rights Commission, the American Civil Liberties Union, and other interested parties in reviewing public access to records related to allegations of law enforcement officer misconduct and substantiations of those allegations in order to recommend any changes to current practice.

(6) Body cameras.

(A)(i) The Law Enforcement Advisory Board shall report any changes it deems necessary to the Model Body Worn Camera (BWC) Policy that it established pursuant to 2016 Acts and Resolves No. 163.

(ii) After consulting with the Secretary of State, the Human Rights Commission, the American Civil Liberties Union, and other interested parties, the Board shall specifically recommend policies for responding to

public records requests for body camera footage, including any recommended timelines to respond, how and what footage should be redacted, length of footage retention, and storage.

(B) The Department of Public Safety shall consult with the Law Enforcement Advisory Board to investigate the possibility of a statewide group purchasing contract for law enforcement body cameras and of central storage locations. If the Department recommends such a group, it shall detail its recommended structure and operation.

(7) Military equipment. After an opportunity for community involvement and feedback, the Law Enforcement Advisory Board shall recommend a statewide policy on law enforcement officers' use of military equipment.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 28, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Rodgers, Sears.

Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment

H. 955.

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the Senate proposal of amendment as follows:

First: In Sec. 6, amending 2019 Acts and Resolves No. 42, Sec. 10, by inserting subsection (e) to read as follows:

~~(e) The sum of \$50,000.00 is appropriated in FY 2020 to the Vermont Association of Snow Travelers, Inc. for the STP LVRT(7) project for improvements to the Lamoille Valley Rail Trail. [Repealed.]~~

Second: In Sec. 7, amending 2019 Acts and Resolves No. 42, Sec. 11, by inserting subsection (e) to read as follows:

~~(e) The sum of \$13,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation for clean water implementation projects. [Repealed.]~~

Third: In Sec. 13, amending 2019 Acts and Resolves No. 42, Sec. 20, in subdivision (c)(1), by striking out “Of the amount appropriated” and inserting in lieu thereof the following: Notwithstanding 18 V.S.A. § 5212b(b), of the amount appropriated and after Total Reallocations and Transfers – Section 20, by striking out “\$2, 377,854.50” and inserting in lieu thereof \$3,753,195.56

Fourth: In Sec. 14, by striking out “\$11,634,361.55” in two places and inserting in lieu thereof \$11,634,360.00

Fifth: By striking out Sec. 34, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Department of Public Service * * *

Sec. 34. BROADBAND EXPANSION; INTENT

On or before September 1, 2020, it is the intent of the General Assembly to review the use of any unexpended funds from the \$900,000.00 appropriated to the Department of Public Service in 2017 Acts and Resolves No. 84, Sec. 16c, as amended by 2018 Acts and Resolves No. 190, Sec. 14, for broadband expansion in FY 2021.

* * * Effective Date * * *

Sec. 35. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

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

Rules Suspended; Bills Placed in All Remaining Stages of Passage

On motion of Senator Ashe, the rules were suspended, and the following bills were severally placed in all remaining stages of passage:

H. 942, H. 943, H. 946, H. 957, H. 959.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 942.

House bill entitled:

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

Was taken up.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1a, summary of transportation investments, in subdivision (2), Bike and Pedestrian Facilities Program, by striking out “\$18,230,970.00” and inserting in lieu thereof \$18,030,970.00

Second: By striking out Secs. 5a, Clarendon SRE Building, and 5b, Morristown Fuel Farm, in their entireties and inserting in lieu thereof the following:

Sec. 5a. CLARENDON SRE BUILDING

Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Clarendon AV-FY20-001 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	20,000	10,000	-10,000
Construction	575,000	55,000	-520,000
Total	595,000	65,000	-530,000
<u>Sources of funds</u>			
State	595,000	65,000	-530,000
Total	595,000	65,000	-530,000

Sec. 5b. MORRISTOWN FUEL FARM

Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Morristown AV-FY21-015 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	150,000	380,000	230,000
Total	150,000	380,000	230,000
<u>Sources of funds</u>			
State	150,000	380,000	230,000
Total	150,000	380,000	230,000

Third: By striking out Sec. 7a, Bicycle and Pedestrian Grant Program, in its entirety and inserting in lieu thereof the following:

Sec. 7a. PROGRAM DEVELOPMENT; BICYCLE AND PEDESTRIAN
GRANT PROGRAM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Bicycle and Pedestrian Facilities, authorized spending for Statewide State-Aid Construction Projects is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	468,500	668,500	200,000
Total	468,500	668,500	200,000
<u>Sources of funds</u>			
State	234,250	334,250	100,000
Local	234,250	334,250	100,000
Total	468,500	668,500	200,000

Which was agreed to.

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

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 943. An act relating to approval of amendments to the charter of the City of St. Albans.

H. 946. An act relating to approval of the adoption of the charter of the Town of Elmore.

H. 957. An act relating to extending the deadline to test for lead in the drinking water of school buildings and child care facilities.

Bill Passed in Concurrence with Proposals of Amendment

H. 959.

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

An act relating to education property tax.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 124, H. 942, H. 943, H. 946, H. 955, H. 957, H. 959.

Message from the House No. 59

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 a bill originating in the Senate of the following title:

S. 349. An act relating to emergency funding for local government.

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

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

S. 338. An act relating to justice reinvestment.

And has concurred therein.

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

H. 558. An act relating to exempting the Victims Compensation Board from the Open Meeting Law.

H. 750. An act relating to creating a National Guard provost marshal.

And has severally concurred therein.

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

H. 961. An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until Noon on Thursday, June 25, 2020.

THURSDAY, JUNE 25, 2020

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe <i>Presiding</i> Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina

Windham District

Senator Rebecca A. Balint
Senator Jeanette K. White

Windsor District

Senator Alison Clarkson
Senator Richard J. McCormack
Senator Alice W. Nitka

Bill Referred to Committee on Finance

H. 926.

House 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 changes to Act 250.

Bill Referred to Committee on Appropriations

H. 656.

House 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 miscellaneous agricultural subjects.

Rules Suspended; Third Reading Ordered

H. 552.

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

An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

Was taken up for immediate consideration.

Senator Bray, for the Committee on Natural Resources and Energy, to which the bill was referred, reported that the bill ought to pass in concurrence.

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

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

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 572.

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

An act relating to the Maternal Mortality Review Panel.

Was taken up for immediate consideration.

Senator Ingram, for the Committee on Health and Welfare, reported recommending that the Senate propose to the House to amend the bill as follows:

First: By inserting a new Sec. 2 after Sec. 1 to read as follows:

Sec. 2. 18 V.S.A. § 1554 is amended to read:

§ 1554. CONFIDENTIALITY

(a) The Panel's meetings are confidential and shall be exempt from the Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2. The Panel's proceedings, records, and opinions shall be confidential and shall not be subject to inspection or review under 1 V.S.A. chapter 5, subchapter 3 or to records produced or acquired by the Panel are exempt from public inspection and copying under the Public Records Act and shall be kept confidential. The records of the Panel are not subject to discovery, subpoena, or introduction into evidence in any civil or criminal proceeding; provided, however, that nothing in this subsection shall be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the Panel's proceedings.

(b) Members of the Panel shall not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting of the Panel; provided, however, that nothing in this subsection shall be construed to prevent a member of the Panel from testifying to information obtained independently of the Panel or ~~which~~ that is public information.

And by renumbering the remaining sections to be numerically correct

Second: By striking out the newly renumbered Sec. 3, 18 V.S.A. § 1555, in its entirety and inserting a new Sec. 3 to read as follows:

Sec. 3. 18 V.S.A. § 1555 is amended to read:

§ 1555. INFORMATION RELATED TO MATERNAL MORTALITY

(a)(1) Health care providers; health care facilities; clinics; laboratories; medical records departments; and State offices, agencies, and departments

shall report all maternal mortality deaths to the Chair of the Maternal Mortality Review Panel and to the Commissioner of Health or designee.

(2) The Commissioner and the Chair may acquire the information described in subdivision (1) of this subsection from health care facilities, maternal mortality review programs, and other sources in other states to ensure that the Panel's records of Vermont maternal mortality cases are accurate and complete.

~~(b)(1) The Commissioner shall have access to individually identifiable information relating to the occurrence of maternal deaths only on a case-by-case basis where public health is at risk. As used in this section, "individually identifiable information" includes vital records; hospital discharge data; prenatal, fetal, pediatric, or infant medical records; hospital or clinic records; laboratory reports; records of fetal deaths or induced terminations of pregnancies; and autopsy reports. In any case under review by the Panel, upon written request of the Commissioner or designee, a person who possesses information or records that are necessary and relevant to the review of a maternal mortality shall, as soon as practicable, provide the Panel with the information and records. All requests for information or records by the Commissioner or designee related to a case under review shall be provided by the person possessing the information or records to the Panel at no cost.~~

(2) The Commissioner or designee may retain identifiable information regarding facilities where maternal deaths occur and geographic information on each case solely for the purposes of trending and analysis over time. In accordance with the rules adopted pursuant to subdivision 1556(4) of this title, all individually identifiable information on individuals and identifiable information on facilities shall be removed prior to any case review by the Panel.

(3) The Chair shall not acquire or retain any individually identifiable information.

(4) As used in this subsection, "individually identifiable information" includes vital records; hospital discharge data; prenatal, fetal, pediatric, or infant medical records; hospital or clinic records; laboratory reports; records of fetal deaths or induced terminations of pregnancies; and autopsy reports.

(c) If a root cause analysis of a maternal mortality event has been completed, the findings of such analysis shall be included in the records supplied to the review Panel.

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

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

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.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 960.

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

An act relating to miscellaneous health care provisions.

Was taken up for immediate consideration.

Senator Lyons, for the Committee on Health and Welfare, 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:

* * * Mental Health * * *

Sec. 1. 18 V.S.A. § 9375 is amended to read:

§ 9375. DUTIES

(a) The Board shall execute its duties consistent with the principles expressed in section 9371 of this title.

(b) The Board shall have the following duties:

* * *

~~(15) Collect and review data from each psychiatric hospital licensed pursuant to chapter 43 of this title, which may include data regarding a psychiatric hospital's scope of services, volume, utilization, discharges, payer mix, quality, coordination with other aspects of the health care system, and financial condition. The Board's processes shall be appropriate to psychiatric hospitals' scale and their role in Vermont's health care system, and the Board shall consider ways in which psychiatric hospitals can be integrated into systemwide payment and delivery system reform.~~

Collect and review data from each community mental health and developmental disability agency designated by the Commissioner of Mental Health or of Disabilities, Aging, and Independent Living pursuant to chapter 207 of this title, which may include data regarding a designated or specialized

service agency's scope of services, volume, utilization, payer mix, quality, coordination with other aspects of the health care system, and financial condition, including solvency. The Board's processes shall be appropriate to the designated and specialized service agencies' scale and their role in Vermont's health care system, and the Board shall consider ways in which the designated and specialized service agencies can be integrated fully into systemwide payment and delivery system reform.

* * *

Sec. 2. 18 V.S.A. § 9451 is amended to read:

§ 9451. DEFINITIONS

As used in this subchapter:

(1) "Hospital" means a ~~general~~ hospital licensed under chapter 43 of this title, except a hospital that is conducted, maintained, or operated by the State of Vermont.

* * *

Sec. 3. HOSPITAL BUDGET REVIEW; TRANSITIONAL PROVISIONS

(a) For any hospital whose budget newly comes under Green Mountain Care Board review as a result of the amendments to 18 V.S.A. § 9451 made by Sec. 2 of this act, the Board may increase the scope of the budget review process set forth in 18 V.S.A. chapter 221, subchapter 7 for the hospital gradually, provided the Board conducts a full review of the hospital's proposed budget not later than the budget for hospital fiscal year 2024. In developing its process for transitioning to a full review of the hospital's budget, the Board shall collaborate with the hospital and with the Agency of Human Services to prevent duplication of efforts and of reporting requirements. The Board and the Agency shall jointly determine which documents submitted by the hospital to the Agency are appropriate for the Agency to share with the Board.

(b) In determining whether and to what extent to exercise discretion in the scope of its budget review for a hospital new to the Board's hospital budget review process, the Board shall consider:

(1) any existing fiscal oversight of the hospital by the Agency of Human Services, including any memoranda of understanding between the hospital and the Agency; and

(2) the fiscal pressures on the hospital as a result of the COVID-19 pandemic.

Sec. 4. MENTAL HEALTH INTEGRATION COUNCIL; REPORT

(a) Creation. There is created the Mental Health Integration Council for the purpose of helping to ensure that all sectors of the health care system actively participate in the State's principles for mental health integration established pursuant to 18 V.S.A. § 7251(4) and (8) and as envisioned in the Department of Mental Health's 2020 report "Vision 2030: A 10-Year Plan for an Integrated and Holistic System of Care."

(b) Membership.

(1) The Council shall be composed of the following members:

(A) the Commissioner of Mental Health or designee;

(B) the Commissioner of Health or designee;

(C) the Commissioner of Vermont Health Access or designee;

(D) the Commissioner for Children and Families or designee;

(E) the Commissioner of Corrections or designee;

(F) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(G) the Commissioner of Financial Regulation or designee;

(H) the Director of Health Care Reform or designee;

(I) the Executive Director of the Green Mountain Care Board or designee;

(J) the Secretary of Education or designee;

(K) a representative, appointed by the Vermont Medical Society;

(L) a representative, appointed by the Vermont Association for Hospitals and Health Systems;

(M) a representative, appointed by Vermont Care Partners;

(N) a representative, appointed by the Vermont Association of Mental Health and Addiction Recovery;

(O) a representative, appointed by Bi-State Primary Care;

(P) a representative, appointed by the University of Vermont Medical School;

(Q) the Chief Executive Officer of OneCare Vermont or designee;

(R) the Health Care Advocate established pursuant to 18 V.S.A. § 9602;

(S) the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259;

(T) a representative, appointed by the insurance plan with the largest number of covered lives in Vermont;

(U) two persons who have received mental health services in Vermont, appointed by Vermont Psychiatric Survivors, including one person who has delivered peer services;

(V) one family member of a person who has received mental health services, appointed by the Vermont chapter of National Alliance on Mental Illness; and

(W) one family member of a child who has received mental health services, appointed by the Vermont Federation of Families for Children's Mental Health.

(2) The Council may create subcommittees comprising the Council's members for the purpose of carrying out the Council's charge.

(c) Powers and duties. The Council shall address the integration of mental health in the health care system, including:

(1) identifying obstacles to the full integration of mental health into a holistic health care system and identifying means of overcoming those barriers;

(2) helping to ensure the implementation of existing law to establish full integration within each member of the Council's area of expertise;

(3) establishing commitments from non-state entities to adopt practices and implementation tools that further integration;

(4) proposing legislation where current statute is either inadequate to achieve full integration or where it creates barriers to achieving the principles of integration; and

(5) fulfilling any other duties the Council deems necessary to achieve its objectives.

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

(e) Report.

(1) On or before December 15, 2021, the Commissioners of Mental Health and of Health shall report on the Council's progress to the Joint Health Reform Oversight Committee.

(2) On or before January 15, 2023, the Council shall submit a final written report to the House Committee on Health Care and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action, including a recommendation as to whether the term of the Council should be extended.

(f) Meetings.

(1) The Commissioner of Mental Health shall call the first meeting of the Council.

(2) The Commissioner of Mental Health shall serve as chair. The Commissioner of Health shall serve as vice chair.

(3) The Council shall meet every other month between October 1, 2020 and January 1, 2023.

(4) The Council shall cease to exist on July 30, 2023.

(g) Compensation and reimbursement. Members of the Council shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings annually. These payments shall be made from monies appropriated to the Department of Mental Health.

Sec. 5. BRATTLEBORO RETREAT; CONDITIONS OF STATE FUNDING

(a) Findings. In recognition of the significant need within Vermont's health care system for inpatient psychiatric capacity, the General Assembly has made significant investments in capital funds and in rate adjustments to assist the Brattleboro Retreat in its financial sustainability. The General Assembly has a significant interest in the quality of care provided at the Brattleboro Retreat, which provides 100 percent of the State's inpatient psychiatric care for children and youth, and more than half of the adult inpatient care, of which approximately 50 percent is paid for with State funding.

(b) Conditions. As a condition of further State funding, the General Assembly requires that the following quality oversight measures be implemented by the Brattleboro Retreat under the oversight of the Department of Mental Health:

(1) allow the existing mental health patient representative under contract with the Department pursuant to 18 V.S.A. § 7253(1)(J) to have full access to inpatient units to ensure that the mental health patient representative is available to individuals who are not in the custody of the Commissioner;

(2) in addition to existing policies regarding the provision of certificates of need for emergency involuntary procedures, provide to the Department

deidentified certificates of need for emergency involuntary procedures used on individuals who are not in the custody of the Commissioner; and

(3) ensure that the mental health patient representative be a regular presenter at the Brattleboro Retreat's employee orientation programming.

(c)(1) Patient experience and quality of care. To support proactive, continuous quality and practice improvement and to ensure timely access to high-quality patient care, the Department and the Brattleboro Retreat shall:

(A) to the extent feasible by the Department, meet jointly each month with the mental health patient representative contracted pursuant to 18 V.S.A. § 7253(1)(J) and the mental health care ombudsman established pursuant to 18 V.S.A. § 7259 to review patient experiences of care; and

(B) identify clinical teams within the Department and the Brattleboro Retreat to meet monthly for discussions on quality issues, including service delivery, clinical practices, practice improvement and training, case review, admission and discharge coordination, and other patient care and safety topics.

(2) On or before February 1, 2021, the Department shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare regarding patient experiences and quality of care at the Brattleboro Retreat.

(d)(1) On or before October 1, 2020, as part of the reporting requirements of the Sustainability Report between the Agency of Human Services and the Brattleboro Retreat, the Agency and the Brattleboro Retreat shall submit an interim report to the Joint Fiscal Committee, and to the Chairs of the Senate Committee on Health and Welfare and the House Committee on Health Care describing the steps that the Brattleboro Retreat is taking to improve communication and relations with its employees.

(2) On or before February 1, 2021, as part of the reporting requirements of the Sustainability Report between the Agency of Human Services and the Brattleboro Retreat, the Agency and the Brattleboro Retreat shall submit a final report to the Senate Committee on Health and Welfare and to the House Committee on Health Care describing the steps that the Brattleboro Retreat is taking to improve communication and relations with its employees, the Brattleboro Retreat's assessment of the effectiveness of those efforts, and how the Brattleboro Retreat plans to manage future communications and relations with its employees.

* * * VPharm Coverage Expansion * * *

Sec. 6. 33 V.S.A. § 2073 is amended to read:

§ 2073. VPHARM ASSISTANCE PROGRAM

(a) ~~Effective January 1, 2006, the~~ The VPharm program is established as a State pharmaceutical assistance program to provide supplemental pharmaceutical coverage to Medicare beneficiaries. The supplemental coverage under subsection (c) of this section shall provide ~~only~~ the same pharmaceutical coverage as the Medicaid program to enrolled individuals whose income is not greater than ~~150~~ 225 percent of the federal poverty guidelines ~~and only coverage for maintenance drugs for enrolled individuals whose income is greater than 150 percent and no greater than 225 percent of the federal poverty guidelines.~~

(b) Any individual with income ~~no~~ not greater than 225 percent of the federal poverty guidelines participating in Medicare Part D, having secured the low income subsidy if the individual is eligible and meeting the general eligibility requirements established in section 2072 of this title, shall be eligible for VPharm.

* * *

Sec. 7. SUPPLEMENTAL VPHARM COVERAGE; GLOBAL COMMITMENT WAIVER RENEWAL; RULEMAKING

(a) When Vermont next seeks changes to its Global Commitment to Health Section 1115 Medicaid demonstration waiver, the Agency of Human Services shall request approval from the Centers for Medicare and Medicaid Services to include an expansion of the VPharm coverage for Vermont Medicare beneficiaries with income between 150 and 225 percent of the federal poverty level (FPL) to be the same as the pharmaceutical coverage under the Medicaid program.

(b) Within 30 days following approval of the VPharm coverage expansion by the Centers for Medicare and Medicaid Services, the Agency of Human Services shall commence the rulemaking process in accordance with 3 V.S.A. chapter 25 to amend its rules accordingly.

* * * Prior Authorization * * *

Sec. 8. 18 V.S.A. § 9418b is amended to read:

§ 9418b. PRIOR AUTHORIZATION

* * *

(h)(1) A health plan shall review the list of medical procedures and medical tests for which it requires prior authorization at least annually and shall eliminate the prior authorization requirements for those procedures and tests for which such a requirement is no longer justified or for which requests are routinely approved with such frequency as to demonstrate that the prior authorization requirement does not promote health care quality or reduce

health care spending to a degree sufficient to justify the administrative costs to the plan.

(2) A health plan shall attest to the Department of Financial Regulation and the Green Mountain Care Board annually on or before September 15 that it has completed the review and appropriate elimination of prior authorization requirements as required by subdivision (1) of this subsection.

Sec. 9. PRIOR AUTHORIZATION; ELECTRONIC HEALTH RECORDS;
REPORT

On or before January 15, 2022, the Department of Financial Regulation, in consultation with health insurers and health care provider associations, shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board opportunities to increase the use of real-time decision support tools embedded in electronic health records to complete prior authorization requests for imaging and pharmacy services, including options that minimize cost for both health care providers and health insurers.

Sec. 10. PRIOR AUTHORIZATION; ALL-PAYER ACO MODEL; REPORT

The Green Mountain Care Board, in consultation with the Department of Vermont Health Access, certified accountable care organizations, payers participating in the All-Payer ACO Model, health care providers, and other interested stakeholders, shall evaluate opportunities for and obstacles to aligning and reducing prior authorization requirements under the All-Payer ACO Model as an incentive to increase scale, as well as potential opportunities to waive additional Medicare administrative requirements in the future. On or before January 15, 2022, the Board shall submit the results of its evaluation to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 11. PRIOR AUTHORIZATION; GOLD CARDING; PILOT
PROGRAM; REPORTS

(a) On or before January 15, 2022, each health insurer with more than 1,000 covered lives in this State for major medical health insurance shall implement a pilot program that automatically exempts from or streamlines certain prior authorization requirements for a subset of participating health care providers, some of whom shall be primary care providers.

(b) Each insurer shall make available electronically, including on a publicly available website, details about its prior authorization exemption or streamlining program, including:

(1) the medical procedures or tests that are exempt from or have streamlined prior authorization requirements for providers who qualify for the program;

(2) the criteria for a health care provider to qualify for the program;

(3) the number of health care providers who are eligible for the program, including their specialties and the percentage who are primary care providers; and

(4) whom to contact for questions about the program or about determining a health care provider's eligibility for the program.

(c) On or before January 15, 2023, each health insurer required to implement a prior authorization pilot program under this section shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board:

(1) the results of the pilot program, including an analysis of the costs and savings;

(2) prospects for the health insurer continuing or expanding the program;

(3) feedback the health insurer received about the program from the health care provider community; and

(4) an assessment of the administrative costs to the health insurer of administering and implementing prior authorization requirements.

Sec. 12. PRIOR AUTHORIZATION; PROVIDER EXEMPTIONS; REPORT

On or before September 30, 2021, the Department of Vermont Health Access shall provide findings and recommendations to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board regarding clinical prior authorization requirements in the Vermont Medicaid program, including:

(1) a description and evaluation of the outcomes of the prior authorization waiver pilot program for Medicaid beneficiaries attributed to the Vermont Medicaid Next Generation ACO Model;

(2)(A) for each service for which Vermont Medicaid requires prior authorization:

(i) the denial rate for prior authorization requests; and

(ii) the potential for harm in the absence of a prior authorization requirement;

(B) based on the information provided pursuant to subdivision (A) of this subdivision (2), the services for which the Department would consider:

(i) waiving the prior authorization requirement; and

(ii) exempting from prior authorization requirements those health care professionals whose prior authorization requests are routinely granted;

(3) the results of the Department's current efforts to engage with health care providers and Medicaid beneficiaries to determine the burdens and consequences of the Medicaid prior authorization requirements and the providers' and beneficiaries' recommendations for modifications to those requirements;

(4) the potential to implement systems that would streamline prior authorization processes for the services for which it would be appropriate, with a focus on reducing the burdens on providers, patients, and the Department;

(5) which State and federal approvals would be needed in order to make proposed changes to the Medicaid prior authorization requirements; and

(6) the potential for aligning prior authorization requirements across payers.

* * * Extending Certain Act 91 Provisions Beyond State of Emergency * * *

Sec. 13. 2020 Acts and Resolves No. 91 is amended to read:

* * * Supporting Health Care and Human Service Provider Sustainability * * *

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND
HUMAN SERVICE PROVIDER SUSTAINABILITY

~~During a declared state of emergency in Vermont as a result of COVID-19 Through March 31, 2021,~~ the Agency of Human Services shall consider ~~waiving or~~ modifying existing rules, or adopting emergency rules, to protect access to health care services, long-term services and supports, and other human services under the Agency's jurisdiction. In ~~waiving,~~ modifying, or adopting rules, the Agency shall consider the importance of the financial viability of providers that rely on funding from the State, federal government, or Medicaid, or a combination of these, for a major portion of their revenue.

* * *

* * * Protections for Employees of Health Care Facilities and
Human Service Providers * * *

Sec. 3. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE
FACILITIES AND HUMAN SERVICE PROVIDERS

In order to protect employees of a health care facility or human service

provider who are not licensed health care professionals from the risks associated with COVID-19, through March 31, 2021, all health care facilities and human service providers in Vermont, including hospitals, federally qualified health centers, rural health clinics, residential treatment programs, homeless shelters, home- and community-based service providers, and long-term care facilities, shall follow guidance from the Vermont Department of Health regarding measures to address employee safety, to the extent feasible.

* * * Compliance Flexibility * * *

Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER
REGULATION; WAIVER OR VARIANCE PERMITTED

Notwithstanding any provision of the Agency of Human Services' administrative rules or standards to the contrary, ~~during a declared state of emergency in Vermont as a result of COVID-19~~ through March 31, 2021, the Secretary of Human Services may waive or permit variances from the following State rules and standards governing providers of health care services and human services as necessary to prioritize and maximize direct patient care, support children and families who receive benefits and services through the Department for Children and Families, and allow for continuation of operations with a reduced workforce and with flexible staffing arrangements that are responsive to evolving needs, to the extent such waivers or variances are permitted under federal law:

- (1) Hospital Licensing Rule;
- (2) Hospital Reporting Rule;
- (3) Nursing Home Licensing and Operating Rule;
- (4) Home Health Agency Designation and Operation Regulations;
- (5) Residential Care Home Licensing Regulations;
- (6) Assisted Living Residence Licensing Regulations;
- (7) Home for the Terminally Ill Licensing Regulations;
- (8) Standards for Adult Day Services;
- (9) Therapeutic Community Residences Licensing Regulations;
- (10) Choices for Care High/Highest Manual;
- (11) Designated and Specialized Service Agency designation and provider rules;
- (12) Child Care Licensing Regulations;
- (13) Public Assistance Program Regulations;

- (14) Foster Care and Residential Program Regulations; and
- (15) other rules and standards for which the Agency of Human Services is the adopting authority under 3 V.S.A. chapter 25.

* * *

Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER
ENROLLMENT AND CREDENTIALING

(a) During Until the last to terminate of a declared state of emergency in Vermont as a result of COVID-19, a declared federal public health emergency as a result of COVID-19, and a declared national emergency as a result of COVID-19, and to the extent permitted under federal law, the Department of Vermont Health Access shall relax provider enrollment requirements for the Medicaid program, and the Department of Financial Regulation shall direct health insurers to relax provider credentialing requirements for health insurance plans, in order to allow for individual health care providers to deliver and be reimbursed for services provided across health care settings as needed to respond to Vermonters' evolving health care needs.

(b) In the event that another state of emergency is declared in Vermont as a result of COVID-19 after the termination of the State and federal emergencies, the Departments shall again cause the provider enrollment and credentialing requirements to be relaxed as set forth in subsection (a) of this section.

* * *

* * * Access to Health Care Services and Human Services * * *

Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF
FINANCIAL REGULATION; EMERGENCY RULEMAKING

It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during and after a declared state of emergency in Vermont as a result of COVID-19. During such a declared state of emergency, the Until July 1, 2021, and notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following for the duration of the state of emergency through June 30, 2021:

- (1) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, COVID-19 diagnosis, treatment, and prevention;
- (2) modifying or suspending health insurance plan deductible requirements for all prescription drugs, except to the extent that such an action

would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223; and

(3) expanding patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, and brief telecommunication services.

Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;
EARLY REFILLS

(a) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

~~(b) During a declared state of emergency in Vermont as a result of COVID-19 Through June 30, 2021,~~ all health insurance plans and Vermont Medicaid shall allow their members to refill prescriptions for chronic maintenance medications early to enable the members to maintain a 30-day supply of each prescribed maintenance medication at home.

(c) As used in this section, "maintenance medication" means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 10. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF
PRESCRIPTION FOR MAINTENANCE MEDICATION

~~(a) During a declared state of emergency in Vermont as a result of COVID-19 Through June 30, 2021,~~ a pharmacist may extend a previous prescription for a maintenance medication for which the patient has no refills remaining or for which the authorization for refills has recently expired if it is not feasible to obtain a new prescription or refill authorization from the prescriber.

(b) A pharmacist who extends a prescription for a maintenance medication pursuant to this section shall take all reasonable measures to notify the prescriber of the prescription extension in a timely manner.

(c) As used in this section, "maintenance medication" means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 11. PHARMACISTS; CLINICAL PHARMACY; THERAPEUTIC
SUBSTITUTION DUE TO LACK OF AVAILABILITY

(a) ~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, a pharmacist may, with the informed consent of the patient, substitute an available drug or insulin product for an unavailable prescribed drug or insulin product in the same therapeutic class if the available drug or insulin product would, in the clinical judgment of the pharmacist, have substantially equivalent therapeutic effect even though it is not a therapeutic equivalent.

(b) As soon as reasonably possible after substituting a drug or insulin product pursuant to subsection (a) of this section, the pharmacist shall notify the prescribing clinician of the drug or insulin product, dose, and quantity actually dispensed to the patient.

Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, to the extent permitted under federal law, a health care professional authorized to prescribe buprenorphine for treatment of substance use disorder may authorize renewal of a patient's existing buprenorphine prescription without requiring an office visit.

Sec. 13. 24-HOUR FACILITIES AND PROGRAMS; BED-HOLD DAYS

~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, to the extent permitted under federal law, the Agency of Human Services may reimburse Medicaid-funded long-term care facilities and other programs providing 24-hour per day services for their bed-hold days.

* * * Regulation of Professions * * *

* * *

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, ~~during a declared state of emergency in Vermont as a result of COVID-19~~ through March 31, 2021, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in

Vermont using telehealth or as part of the staff of a licensed facility, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as part of the staff of a licensed facility shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

(1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or

(2) the Office of Professional Regulation for all other health care professions.

(c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.

(d) This section shall remain in effect ~~until the termination of the declared state of emergency in Vermont as a result of COVID-19 and through March 31, 2021~~, provided the health care professional remains licensed, certified, or registered in good standing.

Sec. 18. RETIRED HEALTH CARE PROFESSIONALS; BOARD OF
MEDICAL PRACTICE; OFFICE OF PROFESSIONAL
REGULATION

(a)(1) ~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, a former health care professional, including a mental health professional, who retired not more than three years earlier with the individual's Vermont license, certificate, or registration in good standing may provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation,

as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

~~(b) During a declared state of emergency in Vermont as a result of COVID-19 Through March 31, 2021,~~ the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, who retired more than three but less than 10 years earlier with their Vermont license, certificate, or registration in good standing to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

Sec. 19. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; IMPUTED JURISDICTION

A practitioner of a profession or professional activity regulated by Title 26 of the Vermont Statutes Annotated who provides regulated professional services to a patient in the State of Vermont without holding a Vermont license, as may be authorized ~~in~~ during or after a declared state of emergency, is deemed to consent to, and shall be subject to, the regulatory and disciplinary jurisdiction of the Vermont regulatory agency or body having jurisdiction over the regulated profession or professional activity.

Sec. 20. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; EMERGENCY AUTHORITY TO ACT
FOR REGULATORY BOARDS

~~(a)(1) During a declared state of emergency in Vermont as a result of COVID-19 Through March 31, 2021,~~ if the Director of Professional Regulation finds that a regulatory body attached to the Office of Professional Regulation by 3 V.S.A. § 122 cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Director may exercise the full powers and authorities of that regulatory body, including disciplinary authority.

~~(2) During a declared state of emergency in Vermont as a result of COVID-19 Through March 31, 2021,~~ if the Executive Director of the Board of Medical Practice finds that the Board cannot reasonably, safely, and

expeditiously convene a quorum to transact business, the Executive Director may exercise the full powers and authorities of the Board, including disciplinary authority.

(b) The signature of the Director of the Office of Professional Regulation or of the Executive Director of the Board of Medical Practice shall have the same force and effect as a voted act of their respective boards.

(c)(1) A record of the actions of the Director of the Office of Professional Regulation taken pursuant to the authority granted by this section shall be published conspicuously on the website of the regulatory body on whose behalf the Director took the action.

(2) A record of the actions of the Executive Director of the Board of Medical Practice taken pursuant to the authority granted by this section shall be published conspicuously on the website of the Board of Medical Practice.

Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; EMERGENCY REGULATORY
ORDERS

~~During a declared state of emergency in Vermont as a result of COVID-19~~
Through March 31, 2021, the Director of Professional Regulation and the Commissioner of Health may issue such orders governing regulated professional activities and practices as may be necessary to protect the public health, safety, and welfare. If the Director or Commissioner finds that a professional practice, act, offering, therapy, or procedure by persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated is exploitative, deceptive, or detrimental to the public health, safety, or welfare, or a combination of these, the Director or Commissioner may issue an order to cease and desist from the applicable activity, which, after reasonable efforts to publicize or serve the order on the affected persons, shall be binding upon all persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated, and a violation of the order shall subject the person or persons to professional discipline, may be a basis for injunction by the Superior Court, and shall be deemed a violation of 3 V.S.A. § 127.

* * *

* * * Telehealth * * *

* * *

Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS
~~DURING STATE OF EMERGENCY FOR A LIMITED TIME~~

Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, ~~during a declared state of emergency in Vermont as a result of~~

~~COVID-19~~ through March 31, 2021, the following provisions related to the delivery of health care services through telemedicine or by store-and-forward means shall not be required, to the extent their waiver is permitted by federal law:

(1) delivering health care services, including dental services, using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use such a connection under the circumstances;

(2) representing to a patient that the health care services, including dental services, will be delivered using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not practicable to use such a connection under the circumstances; and

(3) obtaining and documenting a patient's oral or written informed consent for the use of telemedicine or store-and-forward technology prior to delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if obtaining or documenting such consent, or both, is not practicable under the circumstances.

* * *

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) In Sec. 24, 8 V.S.A. § 4100k(e) (coverage of health care services delivered by store-and-forward means) shall take effect on January 1, 2021 May 1, 2020 for commercial health insurance and on July 1, 2020 for Vermont Medicaid.

* * *

Sec. 14. OFFICE OF PROFESSIONAL REGULATION; TEMPORARY LICENSURE

Notwithstanding any provision of 3 V.S.A. § 129(a)(10) to the contrary, through March 31, 2021, a board or profession attached to the Office of Professional Regulation may issue a temporary license to an individual who is a graduate of an approved education program if the licensing examination required for the individual's profession is not reasonably available.

Sec. 15. BOARD OF MEDICAL PRACTICE; TEMPORARY PROVISIONS; PHYSICIANS, PHYSICIAN ASSISTANTS, AND PODIATRISTS

(a) Notwithstanding any provision of 26 V.S.A. § 1353(11) to the contrary, the Board of Medical Practice or its Executive Director may issue a temporary license through March 31, 2021 to an individual who is licensed to practice as a physician, physician assistant, or podiatrist in another jurisdiction, whose license is in good standing, and who is not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until a date not later than April 1, 2021, provided the licensee remains in good standing.

(b) Through March 31, 2021, the Board of Medical Practice or its Executive Director may waive supervision and scope of practice requirements for physician assistants, including the requirement for documentation of the relationship between a physician assistant and a physician pursuant to 26 V.S.A. § 1735a. The Board or Executive Director may impose limitations or conditions when granting a waiver under this subsection.

* * * Delivery of Health Care Services by Telehealth and Telephone * * *

Sec. 16. COVERAGE FOR HEALTH CARE SERVICES DELIVERED BY TELEPHONE; WORKING GROUP

(a) The Department of Financial Regulation shall convene a working group to develop recommendations for health insurance and Medicaid coverage of health care services delivered by telephone after the COVID-19 state of emergency ends. The working group shall include representatives of the Department of Vermont Health Access, health insurers, the Vermont Medical Society, Bi-State Primary Care Association, the VNAs of Vermont, the Vermont Association of Hospitals and Health Systems, the Office of the Health Care Advocate, and other interested stakeholders.

(b) On or before December 1, 2020, the Department of Financial Regulation shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance the working group's recommendations for ongoing coverage of health care services delivered by telephone.

Sec. 17. TELEHEALTH; CONNECTIVITY; FUNDING OPPORTUNITIES

(a) The Vermont Program for Quality in Health Care, Inc., shall consult with its Statewide Telehealth Workgroup, the Department of Public Service, and organizations representing health care providers and health care consumers to identify:

(1) areas of the State that do not have access to broadband service and that are also medically underserved or have high concentrations of high-risk or vulnerable patients, or both, and where equitable access to telehealth services would result in improved patient outcomes or reduced health care costs, or both; and

(2) opportunities to use federal funds and funds from other sources to increase Vermonters' access to clinically appropriate telehealth services, including opportunities to maximize access to federal grants through strategic planning, coordination, and resource and information sharing.

(b) Based on the information obtained pursuant to subsection (a) of this section, the Vermont Program for Quality in Health Care, Inc., and the Department of Public Service, with input from organizations representing health care providers and health care consumers, shall support health care providers' efforts to pursue available funding opportunities in order to increase Vermonters' access to clinically appropriate telehealth services via information dissemination and technical assistance to the extent feasible under the current billback funding mechanism under 18 V.S.A. § 9416(c).

(c) In coordinating and administering the efforts described in this section, the Vermont Program for Quality in Health Care, Inc. shall use federal funds to the greatest extent possible.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Sec. 4 (Mental Health Integration Council; report) shall take effect on July 1, 2020;

(2) Sec. 6 (33 V.S.A. § 2073) shall take effect on the later of January 1, 2022 or upon approval of the VPharm coverage expansion by the Centers for Medicare and Medicaid Services;

(3) in Sec. 8, 18 V.S.A. § 9418b(h)(2) (attestation of prior authorization requirement review) shall take effect on July 1, 2021; and

(4) notwithstanding 1 V.S.A. § 214, in Sec. 14 (2020 Acts and Resolves No. 91), the amendment to Sec. 38 (effective date for store and forward) shall take effect on passage and shall apply retroactively to March 30, 2020.

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

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence

with proposal of amendment as recommended by the Committee on Health and Welfare.

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.

Rules Suspended; House Proposals of Amendment Concurred In; Rules Suspended; Bill Messaged

H. 961.

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

An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

Was taken up for immediate consideration.

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

First: In Sec. A.10 by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Creation. There is created the Select Committee on the Future of Public Higher Education in Vermont (Committee) to assist the State of Vermont in addressing the urgent needs of the Vermont State Colleges (VSC) and develop an integrated vision and plan for a high-quality, affordable, and workforce-connected future for public higher education in the State.

Second: In Sec. A.49, by striking out subdivision (15) in its entirety and inserting in lieu thereof a new subdivision (15) to read as follows:

(15) Department of Disabilities, Aging, and Independent Living (DAIL): \$2,450,000 is appropriated to DAIL to provide financial stability grant funding to the 12 adult day providers statewide to continue to support the facilities, service infrastructure, and necessary operating costs for July 2020 through September 2020 as these programs remained closed due the COVID-19 crisis and prepare to reopen safely for the vulnerable populations they serve at the end of their closure period. Funds shall be distributed on or before July 20, 2020 to each program. The first distribution of funds shall be for costs submitted by the providers, and any remaining funds shall be distributed equitably among the 12 adult day programs to assist with other COVID-19 pandemic related financial losses. Medicaid retainer payments, less any State

recoupment received by an adult day program for the month of July 2020, shall be deducted from that program's grant pursuant this section.

Third: By adding Secs. B.1 through B.5 and their accompanying reader assistance heading to read as follows:

* * * Pay Act * * *

Sec. B.1. APPROVAL OF FISCAL YEAR 2021 COMPENSATION
INCREASES; CONSIDERATION OF FISCAL YEAR 2022
COMPENSATION INCREASES AT A LATER DATE

(a) Funding of fiscal year 2021 collective bargaining agreement provisions.

(1) This act funds in fiscal year 2021 the provisions of the collective bargaining agreements between the State and the Vermont State Employees' Association for the Defender General, Non-Management, Supervisory, and Corrections bargaining units; for the State's Attorneys' offices bargaining unit; and for the Judicial bargaining unit, and between the State and the Vermont Troopers' Association, that apply during the period of July 1, 2020 through June 30, 2021.

(2) These collective bargaining agreements provide during that fiscal year 2021 period an average 1.9 percent step increase and a \$1,400.00 one-time payment to individuals employed as of July 1, 2020.

(b) Other permitted fiscal year 2021 increases. In fiscal year 2021, the Executive, Judicial, and Legislative Branches may extend the fiscal year 2021 provisions of the collective bargaining agreements that are funded by this act to employees not covered by the bargaining agreements as they determine to be appropriate and in accordance with the appropriations provided to each branch.

(c) Fiscal year 2022. The General Assembly will consider any compensation increases for fiscal year 2022 at a later date.

Sec. B.2. FISCAL YEAR 2021 PAY ACT APPROPRIATIONS

(a) Executive Branch. In fiscal year 2021, the fiscal year 2021 provisions of the collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association for the Defender General, Non-Management, Supervisory, and Corrections bargaining units, and, for the purpose of appropriation, the State's Attorneys' offices bargaining unit, for the period of July 1, 2020 through June 30, 2021; the collective bargaining agreement with the Vermont Troopers' Association, for the period of July 1, 2020 through June 30, 2021; and salary increases for employees in the Executive Branch not covered by the bargaining agreements shall be funded as follows:

(1) General Fund. The amount of \$11,553,795.00 is appropriated from the General Fund to the Secretary of Administration for distribution to departments to fund the fiscal year 2021 compensation increases permitted by this act.

(2) Transportation Fund. The amount of \$3,911,750.00 is appropriated from the Transportation Fund to the Secretary of Administration for distribution to the Agency of Transportation and the Department of Public Safety to fund the fiscal year 2021 compensation increases permitted by this act.

(3) Other funds. The Administration shall provide additional spending authority to departments through the existing process of excess receipts to fund the fiscal year 2021 compensation increases permitted by this act. The estimated amounts are \$12,809,440.00 from special fund, federal, and other sources.

(4) Transfers. With due regard to the possible availability of other funds, for fiscal year 2021, the Secretary of Administration may transfer from the various appropriations and various funds and from the receipts of the Liquor Control Board such sums as the Secretary may determine to be necessary to carry out the purposes of this act to the various agencies supported by State funds.

(b) Judicial Branch. In fiscal year 2021, the amount of \$872,330.00 is appropriated from the General Fund to the Judiciary to fund the fiscal year 2021 provisions of the collective bargaining agreement between the State of Vermont and the Vermont State Employees' Association for the Judicial bargaining unit for the period of July 1, 2020 through June 30, 2021 and salary increases for employees in the Judicial Branch not covered by the bargaining agreement.

(c) Legislative Branch. In fiscal year 2021, the amount of \$241,000.00 is appropriated from the General Fund to the Legislative Branch for the period of July 1, 2020 through June 30, 2021.

Sec. B.3. 32 V.S.A. § 1051 is amended to read:

§ 1051. SPEAKER OF THE HOUSE AND PRESIDENT PRO TEMPORE
OF THE SENATE; COMPENSATION AND EXPENSE
REIMBURSEMENT

(a) The Speaker of the House and the President Pro Tempore of the Senate shall be entitled to receive annual compensation of \$10,080.00 for the 2005 Biennial Session and thereafter, to be paid in biweekly payments, provided that, beginning on January 1, 2007, the annual compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State

employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021 and annually thereafter on January 1, the annual compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers. In addition to the annual compensation, the Speaker and President Pro Tempore shall be entitled to receive:

(1) \$652.00 a week for the 2005 Biennial Session and thereafter, to be paid in biweekly payments during the regular and adjourned sessions of the General Assembly; provided that, beginning on January 1, 2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers;

(2) an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection, rounded up to the nearest dollar, per day during a special session of the General Assembly; and

(3) mileage, meals, and lodging expenses as provided to members of the General Assembly under subsection 1052(b) of this title during the biennial, adjourned, and special sessions of the General Assembly and in addition such other actual and necessary expenses incurred while engaged in duties imposed by law.

* * *

Sec. B.4. 32 V.S.A. § 1052 is amended to read:

§ 1052. MEMBERS OF THE GENERAL ASSEMBLY; COMPENSATION
AND EXPENSE REIMBURSEMENT

(a)(1) Each member of the General Assembly, other than the Speaker of the House and the President Pro Tempore of the Senate, is entitled to a weekly salary of \$589.00 for the 2005 Biennial Session and thereafter; provided that, beginning on January 1, 2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers. The salary of members shall be paid in biweekly installments.

(2) During a special session, a member is entitled to an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection, rounded up to the nearest dollar, for each

day of a special session on which the House of which he or she is a member shall sit.

* * *

Sec. B.5. EFFECTIVE DATES

(a) This section and Secs. B.1 and B.2 (authorized increases and appropriations) shall take effect on July 1, 2020.

(b) Secs. B.3 and B.4 (legislators; compensation adjusted consistent with other constitutional officers) shall take effect on July 1, 2021.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative 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, Baruth, Benning, Bray, Brock, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe (presiding), Rodgers.

Thereupon, on motion of Senator Balint, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Adjournment

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

Called to Order

The Senate was called to order by the President *pro tempore*.

Message from the House No. 60

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. 833. An act relating to the interbasin transfer of surface waters.

H. 880. An act relating to Abenaki place names on State park signs.

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. 232. An act relating to implementing the expansion of juvenile jurisdiction.

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

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

S. 339. An act relating to miscellaneous changes to laws related to vehicles.

And has concurred therein.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 954.

House bill entitled:

An act relating to miscellaneous tax provisions.

Was taken up.

Thereupon, pending third reading of the bill, Senator Cummings moved to amend the Senate proposal of amendment by striking out the *second* proposal of amendment and inserting in lieu thereof a new *second* proposal of amendment to read as follows:

Second: By striking out Sec. 8, 32 V.S.A. § 5870, in its entirety and inserting in lieu thereof:

Sec. 8. USE TAX SAFE HARBOR; REPORT

On or before January 15, 2021, the Department of Taxes, with the assistance of the Joint Fiscal Office, shall provide the General Assembly with a report on the remittance of the Vermont use tax on taxpayers' State individual income tax returns as provided under 32 V.S.A. § 5870. The report required under this section shall:

(1) analyze the fiscal impact on the remittance of the Vermont use tax of the following:

(A) the U.S. Supreme Court decision in *South Dakota v. Wayfair*, 138 S. Ct. 2080 (2108) and the conforming Vermont remote seller collection requirements imposed under 32 V.S.A. § 9701(9)(F) and (9)(G); and

(B) the enactment of marketplace facilitator collection requirements in 2019 Acts and Resolves No. 46; and

(2) recommend options for amending the alternative reporting of use tax that a taxpayer may elect under 32 V.S.A. § 5870(a), including a reduction of the amount that is a percentage of a taxpayer's adjusted gross income, given the fiscal impact analysis required under subdivision (1) of this section.

Which was agreed to.

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

Rules Suspended; Bills Placed in All Remaining Stages of Passage

On motion of Senator Balint, the rules were suspended, and the following bills were severally placed in all remaining stages of passage:

H. 552, H. 960.

Rules Suspended; Third Reading Ordered

H. 716.

Pending entry on the Calendar for notice, on motion of Senator Bray, the rules were suspended and House bill entitled:

An act relating to Abenaki hunting and fishing licenses.

Was taken up for immediate consideration.

Senator Campion, for the Committee on Natural Resources and Energy, to which the bill was referred, reported that the bill ought to pass in concurrence.

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

Bill Passed in Concurrence

H. 552.

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

An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

Bill Passed in Concurrence with Proposal of Amendment**H. 960.**

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

An act relating to miscellaneous health care provisions.

Proposals of Amendment; Third Reading Ordered**H. 688.**

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

An act relating to addressing climate change.

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

First: In Sec. 4, in 10 V.S.A. § 591(a)(9), in subdivision (F) by striking out the word “and”; in subdivision (G) by adding the word and after “science;”; and by adding a new subdivision (H) to read as follows: (H) one member to represent Vermont manufacturers.

Second: In Sec. 4, in 10 V.S.A. § 591(f), in the last sentence, after the words “The Council”, by inserting the words shall meet at the call of the Chair or a majority of the members of the Council, and the Council

Third: In Sec. 4, in 10 V.S.A. § 590, by striking out “(5)” and inserting in lieu thereof (4)

Fourth: In Sec. 4, in 10 V.S.A. § 593(k), by striking out the word “promulgate” and inserting in lieu thereof the word adopt

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

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

By striking out Secs. 9, appropriation, and 10, positions, and their reader assistance heading in their entirety and by renumbering the remaining section to be numerically correct.

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

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

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy, as amended?, Senators Nitka, Benning and Brock moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, in Sec. 4, 10 V.S.A. § 594(c)(2) (cause of action) by inserting, after the word “costs” the words and attorney’s fees

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Natural Resources and Energy, as amended was agreed to and third reading of the bill was ordered on a roll call Yeas 22, Nays 6.

Senator Mazza Assumes the Chair

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

Roll Call

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

Those Senators who voted in the negative were: Benning, Brock, Collamore, Parent, Rodgers, Starr.

Those Senators absent or not voting were: Mazza (presiding), Sears.

Senator Ashe Resumes the Chair

Rules Suspended; Bills Messaged

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

H. 552, H. 954, H. 960.

Bill Called Up

S. 237.

Senate bill of the following title was called up by Senator Bray, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to promoting affordable housing.

Adjournment

On motion of Senator Mazza, the Senate adjourned until eight o'clock in the morning.

FRIDAY, JUNE 26, 2020

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Champion Senator Richard W. Sears, Jr.
Caledonia District	Senator Joseph C. Benning Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe <i>Presiding</i> Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey. J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil

Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

Bills Referred

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

H. 833.

An act relating to the interbasin transfer of surface waters.

To the Committee on Natural Resources and Energy.

H. 880.

An act relating to Abenaki place names on State park signs.

To the Committee on Institutions.

Rules Suspended; Third Reading Ordered

H. 963.

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

An act relating to sunsets related to judiciary procedures.

Was taken up for immediate consideration.

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

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

Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment

H. 572.

House bill entitled:

An act relating to the Maternal Mortality Review Panel.

Was taken up.

Thereupon, pending third reading of the bill, Senators Balint, Hardy and Ingram moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1, 18 V.S.A. § 1552, in subsection (a), by inserting the following sentence at the end of the subsection:

The Panel shall consider health disparities and social determinants of health, including race and ethnicity in maternal death reviews.

Second: In Sec. 1, 18 V.S.A. § 1552, in subsection (g), by inserting after “Health and Welfare” and before the period the phrase , provided that releasing the information complies with the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191

Which was agreed to.

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

Bill Passed in Concurrence with Proposal of Amendment

H. 688.

House bill of the following title:

An act relating to addressing climate change.

Was read the third time and passed in concurrence with proposal of amendment, which as agreed to on a roll call, Yeas, 23, Nays 5.

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, Baruth, Bray, Champion, Clarkson, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Pearson, Perchlik, Pollina, Sears, Sirotkin, Westman, White.

Those Senators who voted in the negative were: *Benning, Brock, Collamore, Parent, Starr.

Those Senators absent or not voting were: Ashe (presiding), Rodgers.

*Senator Benning explained her vote as follows:

Mr. President:

“I have no doubt I will be labeled a climate change denier because I am about to vote against a bill entitled “Global Warming Solutions Act.” But I am

not a climate change denier and I do believe green house gasses must be reduced. This bill does not do that.

“There are two components to this bill. The first involves development of a plan. I have no problem with that because we need one.

“The second involves enforcement of regulations yet unknown which we ourselves have failed to create. We have ceded that responsibility to the Agency of Natural Resources. The amendment to this bill yesterday strips ANR of the resources and personnel needed to do that. In short, they have been set up to fail.

“It is for those reasons I vote against this bill.”

Bill Passed in Concurrence

H. 716.

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

An act relating to Abenaki hunting and fishing licenses.

Rules Suspended; Third Reading Ordered

H. 837.

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

An act relating to enhanced life estate deeds.

Was taken up for immediate consideration.

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

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

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 656.

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

An act relating to miscellaneous agricultural subjects.

Was taken up for immediate consideration.

Senator Hardy, for the Committee on Agriculture, 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:

* * * Commercial Feed * * *

Sec. 1. 6 V.S.A. § 324 is amended to read:

§ 324. REGISTRATION AND FEES

(a) No person shall manufacture a commercial feed in this State unless that person has first filed with the Vermont Agency of Agriculture, Food and Markets, in a form and manner to be prescribed by rules by the Secretary:

- (1) the name of the manufacturer;
- (2) the manufacturer's place of business;
- (3) the location of each manufacturing facility; and

(4) any other information ~~which~~ that the Secretary considers to be necessary.

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of \$105.00 per product. The registration fees, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(c) No person shall distribute in this State any feed required to be registered under this chapter upon which the Secretary has placed a withdrawal from distribution order because of nonregistration. A surcharge of \$10.00, in addition to the registration fee required by subsection (b) of this section, shall accompany the application for registration of each product upon which a withdrawal from distribution order has been placed for reason of nonregistration, and must be received before removal of the withdrawal from distribution order.

(d) No person shall distribute a commercial feed product in the State that is labeled as bait or feed for white-tailed deer.

* * * Livestock Management * * *

Sec. 2. 6 V.S.A. § 768 is amended to read:

§ 768. DUTIES OF DEALERS, TRANSPORTERS, AND PACKERS

A livestock dealer, transporter, or packer licensed under section 762 of this title shall:

(1) Maintain in a clean and sanitary condition all premises, buildings, and conveyances used in the business of buying, selling, or transporting livestock or operating a livestock auction or sales ring.

(2) Submit premises, buildings, and conveyances to inspection and livestock to inspection and test at any and such times as the Secretary may deem it necessary and advisable.

(3) Allow no livestock on livestock dealer's premises from herds or premises quarantined by the Secretary of Agriculture, Food and Markets.

(4)(A) Maintain, subject to inspection by the Secretary of Agriculture, Food and Markets or his or her agent, a record compliant with applicable State and federal statutes, rules, and regulations specified by the Secretary, including the U.S. Department of Agriculture Animal Disease Traceability rule, 9 C.F.R. Part 86. When not required under the requirements set forth in State and federal statute, the records required under this subdivision shall include:

(i) all livestock purchased, repossessed, sold, or loaned by a livestock dealer, transporter, or packer;

(ii) the complete name and address of the person from whom livestock was obtained and to whom delivered; and

(iii) the official individual identification number that is required to be applied to each livestock under the requirements of sections 1460, 1461, and 1461a of this title.

(B) For equine livestock, the requirements for the records to be maintained and the method of individual identification are set forth under chapter 102, subchapter 2 of this title.

(5) Abide by other reasonable rules that may be adopted by the Secretary of Agriculture, Food and Markets to prevent the spread of disease. A copy of all applicable rules shall be provided to all livestock dealers, packers, and transporters licensed under the terms of section 762 of this title at the time they first obtain a license.

(6) Pay the seller within 72 hours following the sale of the animal or animals.

Sec. 3. 6 V.S.A. § 1165 is amended to read:

§ 1165. TESTING OF CAPTIVE DEER

(a) Definitions. As used in this section:

(1) “Captive deer operation” means a place where deer are privately or publicly maintained, in an artificial manner, or held for economic or other purposes within a perimeter fence or confined space.

(2) “Chronic wasting disease” or “CWD” means a transmissible spongiform encephalopathy.

(b) Testing. A person operating a captive deer operation under the jurisdiction of the Secretary of Agriculture, Food and Markets shall inform the Secretary when a captive deer in his or her control dies or is sent to slaughter. The person operating the captive deer operation shall make the carcass of a deceased or slaughtered animal available to the Secretary for testing for CWD.

(c) Cost. The cost of CWD testing required under this section shall be ~~paid by the Secretary and shall not be assessed to the person operating the captive deer operation from which a tested captive deer originated~~ assessed to the person operating the captive deer operation from which the tested captive deer originated.

Sec. 4. 6 V.S.A. § 1461a is amended to read:

§ 1461a. INTRASTATE MOVEMENT

(a) ~~The Secretary of Agriculture, Food and Markets shall require~~ Except as provided under subsection (b) of this section, all livestock being transported within the State ~~to shall~~ satisfy the requirements for official identification for interstate movement under the U.S. Department of Agriculture Animal Disease Traceability rule, 9 C.F.R. Part 86, including any future amendments to the rule, prior to leaving the premises of origin, regardless of the reason for movement or duration of absence from the premises.

(b)(1) Livestock transported from the premises of origin for purposes of receiving veterinary care at a hospital in this State are exempt from the requirements of subsection (a) of this section, provided that the livestock are returned to the premises of origin immediately following the conclusion of veterinary care.

(2) The Secretary, by procedure, may waive the requirements of subsection (a) for certain types or categories of intrastate transport of livestock.

(c) Livestock and poultry that are transported to a commercial slaughter facility within the State shall not be removed from the facility without the

facility's owner's first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property and the offloading of livestock or poultry constitutes transport to a slaughter facility, regardless of whether the animals have been presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

(d) Vermont-origin livestock and poultry that are transported to a slaughter facility outside this State shall not be removed from the facility and returned to Vermont without the facility's owner first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property constitutes transport to a slaughter facility, regardless of whether the animals have been offloaded or presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

(e) A person shall not transport out-of-state livestock or poultry into Vermont for slaughter or other purpose without written consent from the State Veterinarian if the livestock or poultry is classified as a suspect or a reactor by the U.S. Department of Agriculture or was exposed to livestock or poultry classified as a suspect or a reactor.

* * * Apiaries * * *

Sec. 5. 6 V.S.A. § 3023 is amended to read:

§ 3023. REGISTRATION; REPORT

(a) Registration. A person who is the owner of any bees, apiary, colony, or hive in the State shall register with the Secretary in writing on a form provided by the Secretary.

(b) Report. Annually the owner of any bees, apiary, colony, or hive registered under subsection (a) of this section shall submit a report to the Secretary that includes all of the following information:

(1) The location of all apiaries and number of colonies that the person owns. The location of an apiary shall become its registered location, provided that the apiary is located in accordance with the requirements of section 3034 of this title.

(2) Whether the location of any apiary will change within two weeks of the date that the report is submitted unless the change of location is to provide pollination services and the colonies will be returned to a registered apiary. Hives from a registered apiary may be moved to another registered apiary without reregistering.

(3) Whether a ~~serious~~ disease was discovered within any hive or colony in a registered apiary.

(4) Whether the owner transported into the State any colonies or used equipment, except as authorized under subsection 3032(c) of this title.

(5) Whether the owner is engaged in the rearing of queen bees or any other bees for sale, ~~if applicable~~.

(6) A current varroa mite and pest mitigation plan for each registered apiary.

(c) Notification of Secretary. The owner of any bees, apiary, colony, or hive registered under subsection (a) of this section shall notify the Secretary as soon as practicable of the detection within an apiary or hive of American foulbrood disease or other disease designated by the Secretary.

Sec. 6. 6 V.S.A. § 3025 is amended to read:

§ 3025. SECOND INSPECTION OF DISEASED COLONIES;
DESTRUCTION

The Secretary or his or her inspectors shall inspect all diseased apiaries a second time no less than 10 days after the first inspection. If the existence of disease within the apiary has been confirmed by a ~~federal~~ laboratory approved by the Secretary, the inspector may destroy any colonies of bees if he or she finds them not cured of such disease, or not treated or handled according to his or her instructions, together with honey combs, hives, or other equipment, without recompense to the owner thereof. This section shall not preclude an inspector from destroying diseased colonies at any time with the consent of the owner or his or her agent.

Sec. 7. 6 V.S.A. § 3028 is amended to read:

§ 3028. TRAFFIC IN BEES; INSPECTION; CERTIFICATION

A person engaged in the rearing of bees for sale shall have his or her apiary inspected by the Secretary prior to sale at least ~~twice during~~ once each summer season and, if any disease is found which is injurious to bees, shall at once cease to ship bees from such diseased apiary until the Secretary declares, in writing, such apiary free from all such diseases, and whenever the Secretary shall find the apiary rearing bees for sale free from disease, he or she shall furnish the owner with a certificate to that effect.

Sec. 8. 6 V.S.A. § 3032 is amended to read:

§ 3032. TRANSPORTATION OF BEES OR USED EQUIPMENT INTO THE STATE

(a) Except as provided under subsections (c) and (d) of this section, bees, used equipment, or colonies shall not be brought into the State of Vermont unless approved by the Secretary by permit. The Secretary shall not approve the import of bees, used equipment, or colonies from out of state unless accompanied by a valid certificate of inspection within the previous ~~60~~ 45 days from the state or country of origin stating that the bees, used equipment, or bee colonies are free from bee disease.

(b) Any person, other than a common carrier, who knowingly transports or causes to be transported used equipment or colonies to a point within this State shall provide the Secretary with ~~a copy of the certificate of inspection not more than 72 hours after~~ an approved import permit and certificate of inspection not less than 10 days prior to entry into this State.

(c) This section shall not apply to a shipment of bees, equipment, or colonies that originated outside the State and is destined for another point that is also located outside this State.

(d) The Secretary shall not require an import permit or a valid certificate of inspection under subsection (a) of this section for bees, used equipment, or colonies that:

(1) are registered in Vermont;

(2) were transported not more than 75 miles from the registered location of the owner of the bees or colonies; and

(3) are imported back into the State within ~~90~~ 30 days of the date of original transport.

Sec. 9. 6 V.S.A. § 3033 is amended to read:

§ 3033. SHIPPING BEES OR EQUIPMENT INTO ANOTHER STATE OR COUNTRY; APPLICATION FOR INSPECTION; EXPENSES; CERTIFICATE

(a) If an owner wishes to ship bees or equipment into another state or country he or she may apply to the Secretary for an inspection for ~~serious~~ bee diseases likely to prevent the acceptance of the bees or beekeeping equipment in the state or country.

(b) Upon receipt of the application, or as soon thereafter as may be conveniently practicable, the Secretary shall comply with the request.

Sec. 10. 6 V.S.A. § 3034 is amended to read:

§ 3034. ESTABLISHING AN APIARY LOCATION

No person shall locate an apiary within two miles of an existing apiary registered to a different person, with the following exceptions:

- (1) a person may locate an apiary anywhere on his or her own property;
- (2) beekeepers with a total ownership of ten hives or less shall be exempt from this restriction;
- (3) existing apiaries so long as they are properly registered with the State are exempt;
- (4) a person may locate an apiary within two miles of another existing apiary provided the owner of the existing apiary gives written permission or the existing apiary has less than 15 hives; or
- (5) if a registered apiary of 15 or more hives should fall below and remain below 15 hives, anyone can petition the State and establish an apiary within two miles of the existing apiary provided the number of hives in the existing apiary stays below 15 for two years from the time of the petition. An apiary that loses the protection of the two-mile limit in this manner cannot be built back above the number of hives it had at the end of the two-year period.

* * * Meat Inspection * * *

Sec. 11. 6 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

As used in this chapter, except as otherwise specified, the following terms shall have the meanings stated below:

* * *

(21) “Livestock” means any cattle, sheep, swine, goats, ~~domestic rabbits,~~ horses, mules, or other equines, whether live or dead.

* * *

(24) “Meat food product” and “meat product” mean any product capable of use as human food ~~which that~~ is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, ~~domestic rabbits,~~ or goats, excepting products ~~which that~~ are exempted from definition as a meat food product by the Secretary under conditions ~~which that~~ he or she may prescribe to assure that the meat or other portions of carcass contained in products are unadulterated and that products are not represented as meat food products. This term as applied to food products of equines shall have a

meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, ~~domestic rabbits~~, and goats.

* * *

* * * Agricultural Water Quality * * *

Sec. 12. 6 V.S.A. §§ 4831 and 4832 are added to read:

§ 4831. VERMONT SEEDING AND FILTER STRIP PROGRAM

(a) The Secretary of Agriculture, Food and Markets is authorized to develop a Vermont critical source area seeding and filter strip program in addition to the federal Conservation Reserve Enhancement Program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative grassed waterways and filter strips on agricultural cropland perpendicular and adjacent to the surface waters of the State, including ditches. Eligible acreage would include annually tilled cropland or a portion of cropland currently cropped as hay that will not be rotated into an annual crop for a 10-year period of time. Acreage that is currently managed as hay shall have a prior history of rotation as corn or other annual commodity crop.

(b) Incentive payments from the Agency of Agriculture, Food and Markets shall be made at the outset of a 10-year agreement to establish or maintain the acreage as harvestable grassed waterway or filter strip.

(c) The Secretary of Agriculture, Food and Markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont critical source area seeding and filter strip program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in "active use" as that term is defined in 32 V.S.A. § 3752(15).

§ 4832. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices may be eligible for assistance to farms under the grant program:

- (1) conservation crop rotation;
- (2) cover cropping;
- (3) strip cropping;

(4) cross-slope tillage;

(5) zone or no-tillage;

(6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;
and

(B) the federal and State requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

Sec. 13. REPEALS

The following are repealed on July 1, 2020:

(1) 6 V.S.A. chapter 215, subchapter 6 (critical source area seeding and filter strip program); and

(2) 6 V.S.A. chapter 215, subchapter 7 (farm agronomic practices program).

Sec. 14. 6 V.S.A. § 4871(d) is amended to read:

(d) Rulemaking; small farm certification. ~~On or before July 1, 2016, the~~ The Secretary of Agriculture, Food and Markets shall ~~adopt~~ maintain by rule requirements for a small farm certification of compliance with the ~~required agricultural practices~~ Required Agricultural Practices. The rules required by this subsection shall be adopted as part of the ~~required agricultural practices~~ Required Agricultural Practices under section 4810 of this title.

Sec. 15. 6 V.S.A. § 4988 is amended to read:

§ 4988. CERTIFICATION OF CUSTOM APPLICATOR

(a) On or before July 1, 2016, as part of the revision of the ~~required agricultural practices~~ Required Agricultural Practices, the Secretary of

Agriculture, Food and Markets shall adopt by rule a process by which a custom applicator shall be certified to operate within the State. The certification process shall require a custom applicator to complete eight hours of training over each five-year period regarding:

(1) application methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and

(2) identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State.

* * *

(d) The requirements of this section shall not apply to:

(1) an owner or operator of a farm applying manure or nutrients to a field that he or she owns or controls, ~~provided that the owner or operator has completed the agricultural water quality training required under section 4981 of this title; or~~

(2) application of manure or nutrients by a farm owner or operator on a field of another farm owner or operator when the total annual volume applied is less than 50 percent of the annual manure or agricultural waste by volume generated on the farm where the manure is spread, provided that the Secretary may approve the application of more than 50 percent of the annual manure generated on a farm by another farm operator when circumstances require and application of the manure would not pose a significant potential of discharge or runoff to State waters.

(e) The Secretary may require any person applying manure under subsection (d)(2) of this section to comply with the requirement for certification of a custom applicator.

Sec. 16. 6 V.S.A. § 4817 is added to read:

§ 4817. MANAGEMENT OF NON-SEWAGE WASTE

(a) As used in this section:

(1) “Non-sewage waste” means any waste other than sewage that may contain organisms pathogenic to human beings but does not mean stormwater runoff.

(2) “Sewage” means waste containing human fecal coliform and other potential pathogenic organisms from sanitary waste and used water from any building, including carriage water and shower and wash water. “Sewage” shall not mean stormwater runoff as that term is defined in 10 V.S.A. § 1264.

(b) The Secretary may require a person transporting or arranging for the transport of non-sewage waste to a farm for deposit in a manure pit or for use as an input in a methane digester to report to the Secretary one or more of the following:

(1) the composition of the material transported, including the source of the material; and

(2) the volume of the material transported.

(c) After receipt of a report required under subsection (a), the Secretary may prohibit the import of non-sewage waste onto a farm upon a determination that the import of the material would violate the nutrient management plan for the farm or otherwise present a threat to water quality.

* * * Agricultural Development * * *

Sec. 17. 9 V.S.A. § 2465a is amended to read:

§ 2465a. DEFINITION OF LOCAL, LOCAL TO VERMONT, AND
LOCALLY GROWN OR MADE IN VERMONT

(a) As used in this section:

(1) “Eggs” means eggs that are the product of laying birds, including: chickens, turkeys, ducks, geese, or quail, and that are in the shell.

(2) “Majority of ingredients” means more than 50 percent of all product ingredients by volume, excluding water.

(3) “Processed food” means any food other than a raw agricultural product and includes a raw agricultural product that has been subject to processing, such as canning, cooking, dehydrating, milling, or the addition of other ingredients. Processed food includes dairy, meat, maple products, beverages, fruit, or vegetables that have been subject to processing, baked, or modified into a value-added or unique food product.

(4) “Raw agricultural product” means any food in its raw or natural state without added ingredients, including pasteurized or homogenized milk, maple sap or syrup, honey, meat, eggs, apple cider, and fruits or vegetables that may be washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(5) “Substantial period of its life” means an animal that was harvested in Vermont and lived in Vermont for at least one third of its life or one year.

(6) “Unique food product” means food processed in Vermont from ingredients that are not regularly produced in Vermont or not available in sufficient quantities to meet production requirements.

(b) For the purposes of this chapter and rules adopted pursuant to subsection 2453(c) of this chapter, “local,” “local to Vermont,” “locally grown or made in Vermont,” and any substantially similar term shall mean that the goods being advertised originated within Vermont or 30 miles of the place where they are sold, measured directly, point to point, except that the term “local” may be used in conjunction with a specific geographic location, such as “local to New England,” or a specific mile radius, such as “local within 100 miles,” as long as the specific geographic location or mile radius appears as prominently as the term “local,” and the representation of origin is accurate have the following meaning based on the type of food or food product:

(1) For products that are raw agricultural products, “local to Vermont” means the product:

(A) was exclusively grown or tapped in Vermont;

(B) is not milk and was derived from an animal that was raised for a substantial period of its lifetime in Vermont;

(C) is milk where a majority of the milk was produced from Vermont animals; or

(D) is honey produced by Vermont colonies located exclusively in Vermont when all nectar was collected.

(2) Except as provided in subdivision (3) of this subsection, for products that are processed foods, “local to Vermont” means:

(A) the majority of the ingredients are raw agricultural products that are local to Vermont; and

(B) the product meets one or both of the following criteria:

(i) the product was processed in Vermont; or

(ii) the headquarters of the company that manufactures the product is located in Vermont.

(3) For bakery products, beverages, or unique food products, the product meets two or more of the following criteria:

(A) the majority of the ingredients are raw agricultural products that are local to Vermont;

(B) substantial transformation of the ingredients in the product occurred in Vermont; or

(C) the headquarters of the company that manufactures the product is located in Vermont.

(c) For the purposes of this chapter and rules adopted pursuant to subsection 2453(c) of this chapter, when referring to products other than food, “local” and any substantially similar term shall mean that the goods being advertised originated within Vermont.

(d) For the purposes of this chapter and rules adopted under subsection 2453(c) of this title, “local,” “locally grown or made,” and substantially similar terms may be used in conjunction with a specific geographic location provided that the specific geographic location appears as prominently as the term “local” and the representation of origin is accurate. If a local representation refers to a specific city or town, the product shall have been grown or made in that city or town. If a local representation refers to a region with precisely defined political boundaries, the product shall have been grown or made within those boundaries. If a local representation refers to a region that is not precisely defined by political boundaries, then the region shall be prominently described when the representation is made, or the product shall have been grown or made within 30 miles of the point of sale, measured directly point to point.

(e) A person or company who sells or markets food or goods impacted by a change in this section shall have until January 1, 2021 to utilize existing product labels or packaging materials and to come into compliance with the requirements of this section.

* * * Weights and Measures * * *

Sec. 18. 9 V.S.A. § 2635 is amended to read:

§ 2635. GENERAL TESTING

(a) When not otherwise provided by law, the Secretary may inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. The Secretary shall, within a 12-month period, or more or less frequently as deemed necessary, inspect and test, to ascertain if they are correct, all weights and measures commercially used (1) in determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure, or of count, or (2) in computing the basic charge or payment for services rendered on the basis of weight, measure, or of count. However, with respect to single-service devices—that is, devices designed to be used commercially only once and to be then discarded—and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, tests may be made on representative samples of those devices; and the lots of which those samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on those samples.

(b) Upon request by the Secretary, the owner or person responsible for a weighing or measuring device subject to the requirements of this chapter shall make the device available for inspection during that business's normal operating hours and shall provide reasonable assistance as determined by the Secretary to complete the inspection.

Sec. 19. 9 V.S.A. § 2770 is added to read:

§ 2770. ADMINISTRATIVE PENALTIES; LICENSE SUSPENSION

(a) In addition to other penalties provided by law, the Secretary may assess administrative penalties under 6 V.S.A. § 15 for each violation of this chapter. Each violation may be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof may be deemed a separate and distinct offense.

(b) After notice and opportunity for hearing, the Secretary may suspend or revoke a license issued under this chapter for any violation of this chapter.

* * * Vermont Agricultural Credit Program; Agritourism * * *

Sec. 20. 10 V.S.A. § 374b(8) is amended to read:

(8) "Farm operation" shall mean the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. "Farm operation" also includes means the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land. "Farm operation" also shall mean the operation of an agritourism business on a farm subject to regulation under the Required Agricultural Practices.

* * * Feral Swine * * *

Sec. 21. 10 V.S.A. § 4709 is amended to read:

§ 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING OF WILD ANIMALS; POSSESSION OF WILD BOAR OR FERAL SWINE

(a) A person shall not bring into, transport into, transport within, transport through, or possess in the State any live wild bird or animal of any kind, including any manner of feral swine, without authorization from the Commissioner or his or her designee. The importation permit may be granted under such regulations therefor as the Commissioner shall prescribe and only after the Commissioner has made such investigation and inspection of the birds or animals as she or he may deem necessary. The Department may dispose of

unlawfully possessed or imported wildlife as it may judge best, and the State may collect treble damages from the violator of this subsection for all expenses incurred.

(b) No person shall bring into the State from another country, state, or province wildlife illegally taken, transported, or possessed contrary to the laws governing the country, state, or province from which the wildlife originated.

(c) No person shall place a Vermont-issued tag on wildlife taken outside the State. No person shall report big game in Vermont when the wildlife is taken outside the State.

(d) Nothing in this section shall prohibit the Commissioner or duly authorized agents of the Department of Fish and Wildlife from bringing into the State for the purpose of planting, introducing, or stocking or from planting, introducing, or stocking in the State any wild bird or animal.

(e) Applicants shall pay a permit fee of \$100.00.

(f)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or offspring or a hybrid of a genetically engineered variant of the following species: feral swine, including wild boar, wild hog, wild swine, feral pig, feral hog, ~~feral swine~~, old world swine, razorback, Eurasian wild boar, or Russian wild boar (Sus scrofo Linnaeus). A feral swine is:

(A) a domestic pig that is outside of an enclosure for more than 96 hours and is free roaming on public or private land;

(B) an animal that exhibits at least one of the following skeletal characteristics:

(i) skull characteristics of an elongated snout or sloping appearance with little or no stop at the eye line;

(ii) a shoulder structure with a steep or predominate ridge along the back appearance, known as a razorback;

(iii) hindquarters proportionally smaller than the forequarters lacking natural muscling found in commercial species; or

(iv) visible tusks; or

(C) an animal that is genetically determined to be a Eurasian wild boar or Eurasian wild boar-domestic pig hybrid as characterized with an appropriate genome-wide molecular tool.

(2) The definition of feral swine under subdivision (1) of this subsection shall not include feral swine collared and used by State or federal wildlife damage management entities, such as the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, to determine the location of free-ranging feral swine.

(3) This subsection shall not apply to the domestic pig (*Sus domesticus*) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated. At the request of the owner of a domestic pig that is outside of its enclosure, the Secretary of Agriculture, Food and Markets may assist the owner in capturing and confining the domestic pig. In providing assistance to the owner of a domestic pig under this subdivision (f)(3), the Secretary of Agriculture, Food and Markets may request support or guidance from the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

(4) Any feral swine may be removed or destroyed by the Department; the Agency of Agriculture, Food and Markets or a designee; or the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services. The Department shall notify the Agency of Agriculture, Food and Markets prior to removal of or destruction of a feral swine as defined in subdivision (f)(1)(A) of this section.

(5) The Department shall notify the Agency of Agriculture, Food and Markets of the disposition of feral swine.

(6) Any person who kills a feral swine in Vermont shall report to a State game warden and shall present the carcass to the State game warden within 24 hours.

(7) The State or its designee shall not be liable for damages or claims associated with the removal or destruction of feral swine, provided that the actions of the State agents or designees are reasonable. The removal or destruction of feral swine shall be deemed reasonable where:

(A) the Department has acted in accordance with subdivision (4) of this subsection (f); and

(B) the Department determines that the swine:

(i) is a threat to public safety;

(ii) has harmed or posed a threat to any person or domestic animal;

(iii) has damaged private or public property; or

(iv) has damaged or is damaging natural resources, including wetlands; vernal pools; wildlife and their habitats; rare and irreplaceable natural areas; or rare, threatened, or endangered species; or

(v) the Department determines that the swine constitutes or could establish a breeding feral swine population in Vermont.

Sec. 22. 13 V.S.A. § 351b is amended to read:

§ 351b. SCOPE OF SUBCHAPTER

This subchapter shall not apply to:

(1) activities regulated by the Department of Fish and Wildlife pursuant to 10 V.S.A. Part 4, including the act of destroying feral swine in accordance with 10 V.S.A. § 4709(f);

(2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;

(3) livestock and poultry husbandry practices for raising, management, and use of animals;

(4) veterinary medical or surgical procedures; and

(5) the killing of an animal as provided by 20 V.S.A. §§ 3809 and 3545.

Sec. 23. 20 V.S.A. § 3350 is added to read:

§ 3350. THE DISPOSITION OF FERAL SWINE

(a) The General Assembly finds that feral swine, as defined in 10 V.S.A. § 4709, have the potential for spreading serious disease to domestic livestock, may cause devastating destruction to natural ecosystems, and pose a threat to human health and safety.

(b) In light of the potential impacts of feral swine, and notwithstanding the provisions of law in this chapter, the Department of Fish and Wildlife may destroy or euthanize a feral swine in accordance with the requirements of 10 V.S.A. § 4709(f).

(c) The exercise by the Department of Fish and Wildlife of the authority under 10 V.S.A. § 4709(f) shall not prevent any person from pursuing or collecting the remedies set forth in this chapter.

* * * Payment for Ecosystem Services and Soil Health Working Group * * *

Sec. 24. 2019 Act and Resolves No. 83, Sec. 3 is amended to read:

Sec. 3. ~~SOIL CONSERVATION PRACTICE AND PAYMENT FOR~~
ECOSYSTEM SERVICES AND SOIL HEALTH WORKING
GROUP

(a) ~~The Secretary of Agriculture, Food and Markets shall convene a Soil Conservation Practice and Payment for Ecosystem Services and Soil Health Working Group~~ is established to recommend financial incentives designed to encourage farmers in Vermont to implement agricultural practices that exceed the requirements of 6 V.S.A. chapter 215 and that improve soil health, enhance crop resilience, increase carbon storage and stormwater storage capacity, and reduce agricultural runoff to waters. The Working Group shall:

(1) identify agricultural standards or practices that farmers can implement that improve soil health, enhance crop resilience, increase carbon storage and stormwater storage capacity, and reduce agricultural runoff to waters;

(2) recommend existing financial incentives available to farmers that could be modified or amended to incentivize implementation of the agricultural standards identified under subdivision (1) of this subsection or incentivize the reclamation or preservation of wetlands and floodplains;

(3) propose new financial incentives, including a source of revenue, for implementation of the agricultural standards identified under subdivision (1) of this subsection if existing financial incentives are inadequate or if the goal of implementation of the agricultural standards would be better served by a new financial incentive; and

(4) recommend legislative changes that may be required to implement any financial incentive recommended or proposed in the report.

(b) ~~The Soil Conservation Practice and Payment for Ecosystem Services and Soil Health Working Group~~ shall consist of persons with knowledge or expertise in agricultural water quality, soil health, economic development, or agricultural financing. The Secretary of Agriculture, Food and Markets shall appoint the members that are not ex officio members. The Working Group shall include the following members:

(1) the Secretary of Agriculture, Food and Markets or designee;

(2) the Secretary of Natural Resources or designee;

(3) a representative of the Vermont Housing and Conservation Board;

(4) a member of the former Dairy Water Collaborative;

(5) two persons representing farmer's watershed alliances in the State;

(6) a representative of the Natural Resources Conservation Council;

(7) a representative of the Gund Institute for Environment of the University of Vermont;

-
- (8) a representative of the University of Vermont (UVM) Extension;
 - (9) two members of the Agricultural Water Quality Partnership;
 - (10) a representative of small-scale, diversified farming; ~~and~~
 - (11) a member of the Vermont Healthy Soils Coalition;
 - (12) a person engaged in farming other than dairy farming;
 - (13) a representative of an environmental organization with a statewide membership that has technical expertise or fundraising experience;
 - (14) an agricultural economist from a university or other relevant organization within the State;
 - (15) an ecosystem services specialist from UVM Extension; and
 - (16) a soil scientist.

(c)(1) The Secretary of Agriculture, Food and Markets or designee shall be the Chair of the Working Group, and the representative of the Vermont Housing and Conservation Board shall be the Vice Chair.

(2) A majority of the membership of the Working Group shall constitute a quorum.

(3) The Working Group shall have the administrative, technical, and legal assistance of the Agency of Agriculture, Food and Markets.

(4) The Working Group shall cease to exist on February 1, 2022.

(d) On or before January 15, ~~2020~~ 2022, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a report ~~including the findings and recommendations of the Soil Conservation Practice and Payment for Ecosystem Services Working Group regarding financial incentives designed to encourage farmers in Vermont to implement agricultural practices that improve soil health, enhance crop resilience, and reduce agricultural runoff to waters~~ that shall include:

(1) a recommended payment for ecosystem services approach the State should pursue that benefits water quality, flood resilience, and climate stability, including ecosystem services to prioritize and capital or funding sources available for payments;

(2) a recommended definition of healthy soils, a recommended method or systems for measuring soil health and other indicators of ecosystem health, and a recommended tool for modeling and monitoring soil health;

(3) a recommended price, supported by evidence or other justification, for a unit of soil health or other unit of ecosystem service or benefit provided;

(4) proposed eligibility criteria for persons participating in the program;

(5) proposed methods for incorporating the recommended payment for ecosystem services approach into existing research and funding programs;

(6) an estimate of the potential future benefits of the recommended payment for ecosystem services approach, including the projected duration of the program;

(7) an estimate of the cost to the State to administer the recommended payment for ecosystem services approach; and

(8) proposed funding or sources of funds to implement and operate the recommended payment for ecosystem services approach.

(e) The Working Group may seek grants or funding other than annual appropriation in order to further the work of the Working Group.

* * * Hemp 2020 Growing Season * * *

Sec. 25. 2020 HEMP GROWING SEASON

(a) The General Assembly finds that:

(1) The federal Agricultural Act of 2014, Pub. L. No. 113-79, Sec. 7606, codified at 7 U.S.C. § 5940, authorizes states subject to certain requirements to implement agricultural pilot programs for the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act.

(2) In Section 10113 of the Agricultural Improvement Act of 2018, Pub. L. No. 115-334, codified at 7 U.S.C. §§ 1639 (o)–(s), Congress authorized the growing, cultivation, and marketing of industrial hemp under U.S. Department of Agriculture-approved state programs and not as agricultural pilot programs.

(3) The Agricultural Improvement Act of 2018, however, authorized states operating an agricultural pilot program for industrial hemp to continue operating the agricultural pilot program until October 31, 2020.

(4) Vermont operates an agricultural pilot program for industrial hemp, but 2019 Acts and Resolves No. 44 amended 6 V.S.A. chapter 34 to provide that the State Hemp Program shall operate under the Agricultural Improvement Act of 2018.

(5) Vermont's State Hemp Program has not yet been federally approved for operation under the Agricultural Improvement Act of 2018.

(6) To clarify the authority and requirements for the cultivation and processing of industrial hemp during the 2020 growing season, the General Assembly should authorize hemp to be grown in the State under the terms and requirements of the State agricultural pilot program for hemp and not under the requirements of the Agricultural Improvement Act of 2018.

(b)(1) Notwithstanding the provisions of 6 V.S.A. chapter 34 that provide that Vermont shall operate the State Hemp Program under the Agricultural Improvement Act of 2018, the Secretary of Agriculture, Food and Markets may, during the 2020 growing season for hemp, continue to operate an agricultural pilot program for hemp as authorized by and in compliance with 7 U.S.C. § 5940.

(2) If the Secretary of Agriculture, Food and Markets operates an agricultural pilot program for hemp during the 2020 hemp growing season, the program shall not be subject to the terms of Section 10113 of the Agricultural Improvement Act of 2018, Pub. L. No. 115-334, and shall not be subject to any provision of 6 V.S.A. chapter 34 that requires compliance with the Agricultural Improvement Act of 2018. Under an agricultural pilot program, a grower or processor of hemp during the 2020 growing season shall comply with the federal requirements for the cultivation and processing of hemp established by the Agricultural Act of 2014 as codified at 7 U.S.C. § 5940 until the 2020 crop is sold and is no longer in the possession of a grower or processor.

(c) Notwithstanding any provision of State law to the contrary and notwithstanding the scheduled repeal of 7 U.S.C. § 5940 on October 31, 2020, a person shall not be in violation of the requirements of 6 V.S.A. chapter 34 if he or she grows or cultivates hemp during the 2020 hemp season or markets hemp grown during the 2020 hemp season in compliance with the terms established by the federal Agricultural Act of 2014.

* * * Hemp Seed Program * * *

Sec. 26. 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. 27. 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.

* * * Vermont Housing and Conservation Board * * *

Sec. 28. 10 V.S.A. § 321 is amended to read:

§ 321. GENERAL POWERS AND DUTIES

(a) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided to a business corporation by Title 11A and those

general powers provided to a nonprofit corporation by Title 11B and including, without limitation of the general powers under Titles 11A and 11B, the power to:

(1) upon application from an eligible applicant in a form prescribed by the Board, provide funding in the form of grants or loans for eligible activities;

(2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the purposes of this chapter;

(3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter; ~~and~~

(4) transfer funds to the Department of Housing and Community Development to carry out the purposes of this chapter;

(5) make and execute all legal documents necessary or convenient for the exercise of its powers and functions under this chapter, including legal documents that may be made and executed with the State or any of its agencies or instrumentalities, with the United States or any of its agencies or instrumentalities, or with private corporations or individuals;

(6) receive and accept grants from any source to be held, used, or applied or awarded to carry out the purposes of this chapter subject to the conditions upon which the grants, aid, or contributions may be made;

(7) make and publish rules and regulations respecting its housing programs and such other rules and regulations as are necessary to effectuate its corporate purposes; and

(8) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(b)(1) The Board shall seek out and fund nonprofit organizations and municipalities that can assist any region of the State that has high housing prices, high unemployment, ~~and~~ or low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing.

(2) The Board shall administer the "HOME" affordable housing program ~~which~~ that was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The State of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the Board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and

effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and results that the Board will annually report on to the Vermont Department of Housing and Community Development.

(c) On behalf of the State of Vermont, the Board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund ~~which~~ that was enacted under HR 3221, Division A, Title 1, Subtitle B, Section 1131 of the Housing and Economic Reform Act of 2008 (P.L. 110-289) to increase perpetually affordable rental housing and home ownership for low and very low income families. The Board is also authorized to receive and administer federal funds or enter into cooperative agreements for a shared appreciation and/or community land trust demonstration program that increases perpetually affordable homeownership options for lower income Vermonters and promotes such options both within and outside Vermont.

(d) On behalf of the State of Vermont, the Board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the Board shall seek to maximize State participation in the federal Wetlands Reserve Program and ~~such~~ other programs as is appropriate to allow for increased or additional implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

(e) The Board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and State bonding act of the following: “The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act.” An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

Sec. 29. 2017 Acts and Resolves No. 77, Sec. 12 is amended to read:

Sec. 12. ~~REPEALS~~ REPEAL

~~(a) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative) shall be repealed on July 1, 2021; and~~

(b) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria) shall be repealed on July 1, 2023.

Sec. 30. APPROPRIATIONS; VHCB; COVID-19 CONSULTING SERVICES FOR FARM AND FOOD BUSINESSES

In addition to funds appropriated in fiscal year 2021 to the Vermont Housing and Conservation Board (VHCB), \$192,000.00 is appropriated to VHCB from the Coronavirus Relief Fund to provide business, financial, and mental health assistance to farm and food businesses that suffered losses or expenses due to business interruptions caused by the COVID-19 public health emergency. Consulting services shall include information and assistance with accessing federal and State COVID-19 relief funds, access to additional markets, diversification of income streams, access to mental health services, and other assistance farm and food businesses may require to address or recover from business interruption caused by the COVID-19 public health emergency.

* * * DFR Report on Milk Pricing * * *

Sec. 31. DEPARTMENT OF FINANCIAL REGULATION; OVERSIGHT OF MILK PRICING IN VERMONT; REPORT; TASK FORCE

(a) Findings. The General Assembly finds that:

(1) The minimum pay price received by most dairy farmers in Vermont is regulated and established by the Federal Milk Market Order Program based on a complex formula, and under this formula, the regulated minimum price for Vermont dairy farms has been for many years set at an amount below the costs of production.

(2) Most dairy farmers in Vermont utilize the two remaining membership-based dairy cooperatives to sell their milk for market prices above the federally regulated minimum pay prices, and the cooperatives levy fees and other surcharges on their member dairy farmers to cover the marketing costs.

(3) Amidst radical market changes and an oversupply of milk, the dairy cooperatives recently have been unable to obtain pay prices for Vermont dairy farmers that are above the federally regulated minimum prices, and, as a result, the charges assessed to their members have often caused the net price that Vermont dairy farmers receive to fall below the regulated minimum prices and to amount to significantly less than the costs of production.

(4) Vermont dairy farms have suffered from combined regulatory and market failures, and 60 percent of the State's dairy farms subject to the federal regulatory program have closed since the year 2000.

(5) Before Vermont loses another substantial portion of its remaining dairy farming community, the State agency with expertise in financial regulation and rational market pricing should review the milk pricing system for dairy farmers in Vermont to collect and assess data on the long-term sustainability and fairness to the Vermont dairy farming community of the federal milk market order pricing system, current market conditions, and dairy cooperative operation.

(b) Report. On or before January 15, 2021, the Commissioner of Financial Regulation shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development an assessment of the long-term sustainability of Vermont dairy farming under the existing federal milk market order pricing system, current market conditions, and dairy cooperative operation. In developing the assessment, the Commissioner of Financial Regulation shall obtain from the Secretary of Agriculture, Food and Markets an accounting of payments made to milk producers under the federal milk market order. After consultation with the Secretary of Agriculture, Food and Markets, the Commissioner is authorized to utilize the Vermont Milk Commission's authority under 6 V.S.A. § 2936 to obtain information from milk handlers regarding the prices paid to purchase various forms of milk from Vermont producers; the costs of production, processing, transporting, distributing, and marketing milk; and any other information deemed necessary and relevant by the Commissioner. The Commissioner is also authorized to use the authority established under 6 V.S.A. § 2936, and the authority under 8 V.S.A. § 13, to assess the use and impact of payments made to milk producers. The report of the Commissioner of Financial Regulation shall include:

(1) an evaluation of the long-term sustainability of dairy farming in Vermont under the current regulatory and market conditions; and

(2) recommendations for revising regulated dairy pricing and other market regulation in the State to improve the future viability of Vermont dairy farming.

(c) Task force.

(1) After receipt of the report required under subsection (b) of this section, the Committee on Committees and the Speaker of the House shall appoint a joint committee of legislators and other experts to be known as the Task Force to Revitalize the Vermont Dairy Industry to develop legislation to implement the recommendations of the Commissioner of Financial Regulation.

(2) The Office of Legislative Council shall call the first meeting of the Task Force to occur not later than 45 days after receipt of the report required under subsection (b) of this section.

(3) The Task Force shall elect co-chairs from among its members at the first meeting.

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

(5) The Task Force shall submit draft legislation to the General Assembly on or before December 15, 2021.

(6) The Task Force shall cease to exist on March 1, 2022.

(7) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

(8) Other members of the Task Force that are not legislative members shall be entitled to both per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

* * * Forest Carbon Sequestration * * *

Sec. 32. DEPARTMENT OF FORESTS, PARKS, AND RECREATION;
TESTIMONY ON FOREST CARBON SEQUESTRATION IN
VERMONT

On or before January 15, 2021, the Commissioner of Forests, Parks, and Recreation (Commissioner), shall provide written and oral testimony to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Natural Resources, Fish, and Wildlife regarding the status of forest sequestration projects and programs in the State. The testimony shall address:

(1) a summary of the education and outreach conducted by the Commissioner and other relevant parties for the public regarding forest sequestration, including information provided or available to the public regarding requirements for selling forest carbon credits, descriptions of the different markets and registries for carbon credits, procedures for establishing a forest carbon sequestration project on private land, and information describing the compatibility between forest carbon credits and State programs;

(2) the status of action by the Commissioner or other State entity in enrolling State land in a carbon market, and if State land has been enrolled in a carbon market, the basis and terms of the enrollment agreement;

(3) a summary of the efforts by the Commissioner to establish a partnership between the Agency of Natural Resources and one or more experienced private organizations to establish a statewide team to minimize the costs and maximize the benefits of enrolling public and private land into a carbon market; and

(4) a summary of the viability and health of carbon markets nationally and in the State and the economic feasibility and benefits to private and public landowners of entering carbon markets.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

(a) This section, Sec. 17 (local food), Sec. 24 (payment for ecosystem services and Soil Health Working Group), Sec. 25 (2020 hemp growing season), Sec. 29 (repeal of REDI sunset), and Sec. 31 (DFR milk pricing report; task force) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2020.

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

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

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

By striking out Sec. 30 (VHCB appropriations) in its entirety and inserting in lieu thereof the following:

Sec. 30. [Deleted.]

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee

on Agriculture was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture, as amended?, Senator Campion moved to amend the proposal of amendment of the Committee on Agriculture, as amended, by inserting a new section to be numbered Sec. 32a to read as follows:

Sec. 32a. STUDY REGARDING HUMANE TREATMENT OF DAIRY ANIMALS

During the 2020 legislative interim, the Agency of Agriculture shall, in consultation with a range of stakeholders with expertise in the management of dairy animals, including organizations dedicated to promoting the welfare of animals, study the issue of humane treatment of dairy animals, and, on or before December 1, 2020, issue recommendations to the House and Senate Committees on Agriculture and the House and Senate Committees on Judiciary regarding appropriate requirements for the humane treatment of dairy animals, including:

(1) whether and how to restrict the use of tethers, tie-stalls, stanchion lockups, and continuous indoor confinement housing practices that limit natural activities such as lying down and standing up, fully extending limbs, moving about freely, exploratory behavior, and grooming;

(2) whether dairy animals should be provided with the opportunity for daily exercise or seasonally appropriate grazing, or both; and

(3) whether and how to impose requirements on flooring or bedding that would allow for normal lying and resting behavior and minimize detrimental effects on an animal's physical condition, such as susceptibility to disease, parasites, lameness, or mastitis.

Which was disagreed to.

Thereupon, the pending question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture, as amended?, was decided in the affirmative and third reading of the bill was ordered.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 965.

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

An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

Was taken up for immediate consideration.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, 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:

* * * Purpose * * *

Sec. 1. PURPOSE

(a) The purpose of this act is to appropriate \$334,350,000.00 from the Coronavirus Relief Fund to cover necessary health care- and human services-related expenses incurred due to, or as a result of, the COVID-19 pandemic.

(b)(1) Costs are not compensable under this act if the same costs or expenses have been or will be covered by insurance or by another State or federal funding source; provided, however, that this restriction does not include loans or advance payments for which repayment is expected.

(2) Costs that are eligible for coverage by other federal funding sources are not compensable under this act unless authorized by the Secretary of Administration.

* * * Coronavirus Relief Fund; Administrative Provisions * * *

Sec. 2. CONSISTENCY WITH CARES ACT AND GUIDANCE

(a) The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this act complies with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance because the costs to be covered:

(1) are necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19);

(2) were not accounted for in Vermont's fiscal year 2020 budget; and

(3) were, or will be, incurred during the period beginning on March 1, 2020 and ending on December 30, 2020.

(b) Additional details regarding the consistency of each appropriation with the requirements of the CARES Act and related guidance are contained in a supplemental memorandum that accompanies this act.

Sec. 3. GRANT RECIPIENT REQUIREMENTS; REVERSION AND REALLOCATION SCHEDULE

All appropriations made from the State's Coronavirus Relief Fund (CRF) in this and other bills passed after March 1, 2020 as part of the 2020 legislative session are made with the knowledge that the statutory and regulatory context is constantly changing. Additional federal legislation may further change the potential for and appropriateness of CRF usage. As a result:

(1) Appropriations from the CRF are subject to changes in source of funds that may occur as the result of subsequent legislation or through administrative actions, where permissible by law.

(2) Specific CRF uses may need to change based on changes to federal laws or on revised or updated federal guidance.

(3) It is the responsibility of all entities receiving CRF monies to ensure compliance with all federal guidelines as to CRF spending and use.

(4) Unless otherwise authorized by the Commissioner of Finance and Management, any monies appropriated from the CRF shall revert to the CRF to the extent that they have not been expended by December 20, 2020 to enable reallocation.

Sec. 4. CORONAVIRUS RELIEF FUND GRANTS; CONDITIONS

(a) Any person receiving a grant comprising monies from the Coronavirus Relief Fund shall use the monies only for purposes that comply with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance.

(b) Any person who expends monies from the Coronavirus Relief Fund for purposes not eligible under Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance shall be liable for repayment of the funds to the State of Vermont; provided, however, that a person shall not be liable for such repayment if the person expended the monies in good faith reliance on authorization of the proposed expenditure by or specific guidance from the agency or department administering the grant program.

(c) The Attorney General or a State agency or department administering a grant program established or authorized under this act may seek appropriate criminal or civil penalties as authorized by law for a violation of the terms or conditions of the applicable program, grant, or award.

Sec. 5. CORONAVIRUS RELIEF FUND; RECORD KEEPING; COMPLIANCE; REPORTS

(a) In order to ensure compliance with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136, and related guidance, and to assist the State

in demonstrating such compliance:

(1) any agency or department, and any subrecipient of a grant, that is authorized to disburse grant funds appropriated by this act shall include standard audit provisions, as required by Agency of Administration Bulletins 3.5 and 5, in all contracts, loans, and grant agreements; and

(2) each grant recipient shall report on its use of the monies received pursuant to this act to the agency or department administering the grant as required by that agency or department and shall maintain records of its expenditures of the monies for three years, or for a longer period if so required by State or federal law, to enable verification as needed.

(b) On or before August 15, 2020 and October 1, 2020, each agency or department administering a grant program pursuant to this act shall provide information to the legislative committees of jurisdiction, including the House and Senate Committees on Appropriations, regarding its distribution of grant funds to date, the amount of grant funds that remains available for distribution, and its plans for awarding the available funds by December 20, 2020.

* * * Hazard Pay for Front-Line Employees * * *

Sec. 6. FRONT-LINE EMPLOYEES HAZARD PAY GRANT PROGRAM

(a)(1) There is established in the Agency of Human Services the Front-Line Employees Hazard Pay Grant Program to administer and award grants to certain public safety, public health, health care, and human services employers whose employees were engaged in activities substantially dedicated to mitigating or responding to the COVID-19 public health emergency during the eligible period.

(2) The sum of \$31,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Human Services in fiscal year 2021 for the administration and payment of grants pursuant to the Front-Line Employees Hazard Pay Grant Program established in subdivision (1) of this subsection.

(b) As used in this section:

(1) “Agency” means the Agency of Human Services.

(2)(A) “Covered employer” means an entity that employs one or more individuals in Vermont in relation to its operation of one of the following:

(i) an assisted living residence as defined in 33 V.S.A. § 7102;

(ii) a nursing home as defined in 33 V.S.A. § 7102 and any employer that a nursing home has contracted with for the provision of physical, speech, respiratory, or occupational therapy, provided that such an employer shall only be permitted to receive a grant to provide hazard pay to its

employees for therapy services provided in the nursing home;

(iii) a residential care home as defined in 33 V.S.A. § 7102;

(iv) a therapeutic community residence as defined in 33 V.S.A. § 7102;

(v) a health care facility as defined in 18 V.S.A. § 9432 or a physician's office;

(vi) a dentist's office or a dental facility;

(vii) a homeless shelter;

(viii) a home health agency as defined in 33 V.S.A. § 6302 and any employer that a home health agency has contracted with to provide physical, speech, respiratory, or occupational therapy on its behalf, provided that such an employer shall only be permitted to receive a grant to provide hazard pay to its employees for therapy services provided on behalf of the home health agency;

(ix) a federally qualified health center, rural health clinic, or clinic for the uninsured;

(x) a program licensed by the Department for Children and Families as a residential treatment program;

(xi) an ambulance service or first responder service as defined in 24 V.S.A. § 2651;

(xii) a morgue; or

(xiii) a provider of necessities and services to vulnerable or disadvantaged populations.

(B) "Covered employer" does not include:

(i) the State;

(ii) a political subdivision of the State;

(iii) the United States;

(iv) an agency designated to provide mental health or developmental disability services, or both, pursuant to 18 V.S.A. chapter 207; or

(v) an agency with which the Commissioner of Mental Health or of Disabilities, Aging, and Independent Living, or both, has contracted to provide specialized services pursuant to 18 V.S.A. § 8912.

(3)(A) “Elevated risk of exposure to COVID-19” means the performance of a job that:

(i) has high potential for exposure to known or suspected sources of COVID-19, including through;

(I) providing in-person services or care to members of the public or clients; or

(II) cleaning or sanitizing the premises of a covered employer in a location that is used by members of the public or individuals who are known or suspected to have COVID-19;

(ii) requires frequent physical contact or close contact, or both, with people who may be infected with SARS-CoV-2, but who are not known or suspected COVID-19 patients; or

(iii) is located in an area with ongoing community transmission of SARS-CoV-2 and requires regular, close contact with members of the public.

(B) As used in this subdivision (b)(3), “close contact” means interactions with another individual that require the employee to be within six feet of that individual.

(4)(A) “Eligible employee” means an individual who:

(i) is employed by a covered employer that has applied for a grant through the Program;

(ii) performs a job that had an elevated risk of exposure to COVID-19 during the eligible period;

(iii) was unable to perform his or her job remotely or to telework, including by providing health care or other services by telephone, videoconference, or telehealth;

(iv) except in the case of employees of home health agencies and nursing homes, earns an hourly base wage of \$25.00 or less;

(v) worked at least 68 hours for a covered employer during the eligible period; and

(vi) is not eligible to receive monetary benefits for the performance of his or her job under any program authorized or implemented by the federal government.

(B) Notwithstanding subdivision (A)(i) of this subdivision (4), “eligible employee” includes an independent direct support provider who satisfies the requirements of subdivisions (A)(ii)–(vi) of this subdivision (4).

(C) “Eligible employee” does not include:

(i) an independent contractor or self-employed individual; or
(ii) an individual who has received unemployment insurance benefits for any week during the eligible period.

(5) "Eligible period" means the period from March 13, 2020 through May 15, 2020, inclusive.

(6) "Independent direct support provider" has the same meaning as in 21 V.S.A. § 1631.

(7) "Program" means the Front-Line Employees Hazard Pay Grant Program.

(8) "Secretary" means the Secretary of Human Services.

(c)(1) A covered employer may apply to the Secretary for a lump sum grant to provide hazard pay to eligible employees in the following amounts for the eligible period:

(A) \$2,000.00 for an eligible employee who worked at least 216 hours in a job with an elevated risk of exposure to COVID-19 during the eligible period; and

(B) \$1,200.00 for an eligible employee who worked at least 68 hours and less than 216 hours in a job with an elevated risk of exposure to COVID-19 during the eligible period.

(2)(A) The number of hours worked by an eligible employee during the eligible period shall include any hours of employer-provided accrued paid leave or leave provided pursuant to the Emergency Family and Medical Leave Expansion Act or the Emergency Paid Sick Leave Act that were used by the eligible employee because he or she contracted COVID-19 or was quarantined because of exposure to COVID-19.

(B) The number of hours worked by an eligible employee during the eligible period shall not include:

(i) any hours of employer-provided accrued paid leave or leave provided pursuant to the Emergency Family and Medical Leave Expansion Act or the Emergency Paid Sick Leave Act that were used by the eligible employee to care for another individual; and

(ii) any hours of remote or telework performed by the eligible employee, including the provision of healthcare or other services by telephone, videoconference, or telehealth.

(3) An eligible employee may elect not to receive hazard pay funded by a grant provided pursuant to the Program by providing notice to his or her

employer pursuant to procedures adopted by the employer.

(4) For the sole purpose of the administration of the Program and the provision of hazard pay to independent direct support providers, ARIS Solutions, as the fiscal agent for the employers of the independent direct support providers, shall have the authority to apply for a grant in the same manner as a covered employer and to disburse hazard pay funded by that grant to eligible independent direct support providers. Notwithstanding subdivision (b)(5) of this section, the Secretary may establish a different eligibility period for independent direct support providers based on the start and end dates of the pay periods used by ARIS Solutions that are closest to the dates set forth in subdivision (b)(5) of this section.

(5) To the extent permitted under federal law, hazard pay provided to an eligible employee through a grant provided pursuant to the Program shall not:

(A) be considered as earned income, unearned income, or a resource for the purpose of any public benefit program; or

(B) make the hazard pay recipient ineligible for any public benefit programs, including Vermont Medicaid.

(6) A covered employer may deduct any applicable payroll taxes related to the payment to an eligible employee of hazard pay funded by the Program from the amount set forth in subdivision (1) of this subsection.

(d) In order to qualify for a grant under the Program, the Secretary shall require a covered employer to certify that:

(1) the grant funds shall only be used to provide hazard pay to eligible employees;

(2) eligible employees receiving hazard pay funded by the grant shall not be required to pay an administrative fee or other charge in relation to the employer requesting a grant to provide the employee with hazard pay;

(3) it has established a process to permit eligible employees to elect not to receive hazard pay funded by a grant provided pursuant to the Program and record keeping procedures to track which employees have elected not to receive a grant; and

(4) the covered employer shall not reduce or otherwise recoup any compensation paid to or owed to an eligible employee for work performed during the eligible period as a result of the eligible employee receiving hazard pay funded by a grant obtained through the Program.

(e) The amount of the grant provided to a covered employer shall equal the total amount of hazard pay that its eligible employees qualify for pursuant to

subsection (c) of this section.

(f) Each covered employer that receives a grant shall, not later than 90 days after receiving the grant and in no event later than December 15, 2020, report to the Agency on a standard form provided by the Secretary the amount of grant funds used to provide hazard pay to eligible employees and the amount of any remaining grant funds that were not spent. All unspent grant funds shall be returned to the Agency pursuant to a procedure adopted by the Secretary.

(g)(1) The Secretary shall:

(A) adopt procedures for implementing the Program, which shall include a simple grant application process and a process to allow employers to report on their use of the grant funds awarded pursuant to this section;

(B) promote awareness of the Program to eligible employers;

(C) award grants to covered employers on a first-come, first-served basis, subject to available funding; and

(D) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the Program.

(2) The Secretary may enter into agreements, memoranda of understanding, or contracts with private entities as necessary to implement or administer the Program and, notwithstanding any provision of law to the contrary, shall not be required to competitively bid any contracts entered into pursuant to this subdivision. For the purposes of the Program, the public health risk posed by COVID-19 shall be deemed to be an emergency situation that justifies the execution of sole source contracts pursuant to Bulletin 3.5, the State's Procurement and Contracting Procedures.

(h) In addition to any other reports required pursuant to this act, on or before January 15, 2021, the Secretary shall submit a report to the General Assembly concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the Program;

(2) the promotion and marketing of the Program; and

(3) an analysis of the utilization and performance of the Program.

(i)(1) The definition of "covered employer" set forth in subdivision (b)(2) of this act shall be deemed to include to the types of employers listed in subdivision (2) of this subsection to the extent permitted by federal law and any applicable guidance if either of the following occurs:

(A) the permissible uses of monies in the Coronavirus Relief Fund pursuant to Sec. 5001 of the CARES Act, Pub. L. No. 116-136, as amended, and any related guidance are expanded to permit the payment of hazard pay to employees of some or all of the types of employers listed in subdivision (2) of this subsection (i); or

(B) a federal program that grants money directly to the State, which may be used to provide hazard pay to employees of some or all of the types of employers listed in subdivision (2) of this subsection (i), is enacted.

(2) The following types of employers may be deemed to be included within the definition of “covered employer” set forth in subdivision (b)(2) of this section if the requirements of subdivision (1) of this subsection are met:

(A) a grocery store;

(B) a pharmacy;

(C) a retailer identified as essential in Sec. 6, paragraphs f and h of addendum 6 to Executive Order 01-20, provided that, during the eligible period, the majority of the retail establishment was open to the general public for in-person sales rather than curbside pickup or delivery;

(D) a wholesale distributor making deliveries to a retailer described in subdivisions (A)–(C) of this subdivision (i)(2);

(E) a trash collection or waste management service;

(F) a janitorial service that provides cleaning or janitorial services to another covered employer;

(G) a child care facility as defined in 33 V.S.A. § 3511 that is providing child care services to essential service providers pursuant to Directive 2 of Executive Order 01-20;

(H) a vocational rehabilitation service provider; or

(I) a funeral establishment or crematory establishment as defined in 26 V.S.A. § 1211.

* * * Health Care Provider Stabilization Grant Program * * *

Sec. 7. AGENCY OF HUMAN SERVICES; HEALTH CARE PROVIDER
STABILIZATION GRANT PROGRAM

(a) Appropriation. The sum of \$275,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Human Services in fiscal year 2021 for purposes of establishing the Health Care Provider Stabilization Grant Program as set forth in this section. The Agency shall disburse these funds to eligible health care provider applicants as expeditiously as possible using a

needs-based application process.

(b) Eligible providers. Providers of health care services in the following categories shall be eligible to apply for grant funds pursuant to this section if the provider is located in Vermont and delivers health care services in this State:

(1) hospitals, including community hospitals and psychiatric hospitals;

(2) health care professional services, including independent medical practices, hospital-owned medical practices, designated and specialized services agencies, federally qualified health centers, rural health clinics, ambulatory surgical centers, and laboratory and imaging centers;

(3) dental services;

(4) other professional services, including mental health providers, residential and nonresidential substance use disorder treatment providers, emergency medical service and ambulance service providers, advanced practice registered nurses, physical therapists, podiatrists, optometrists, chiropractors, naturopathic physicians, and other health care providers licensed by the Board of Medical Practice or the Office of Professional Regulation;

(5) home health and hospice agencies;

(6) pharmacy services;

(7) facility- and community-based long-term care services, including skilled nursing facilities, nursing homes, residential care homes, assisted living facilities, and adult day service providers; and

(8) organizations recognized by the Agency of Human Services through their status as provider grant recipients providing health support services, including the area agencies on aging and organizations providing peer support services, organizations providing peer outreach services to individuals with intellectual disabilities, and organizations providing children's integrated services.

(c) Prioritization; grant amounts and terms. The Agency shall consider each application received and shall develop a prioritization methodology to determine grant award amounts. If deemed appropriate by the Secretary of Human Services, the Agency may set application deadlines and may establish more than one round of funding for the Grant Program.

(1) The prioritization methodology shall consider:

(A) the impact of the grant amount on the applicant's sustainability;

(B) the degree to which the grant will provide or support services that would otherwise likely become limited or unavailable as a result of business disruptions caused by the COVID-19 public health emergency, including to sustain existing population health management programs, or the grant funds would enable the applicant to withstand and recover from business disruptions caused by the COVID-19 public health emergency, or both;

(C) the degree to which the applicant maintains participation in value-based payment arrangements, if applicable;

(D) the degree to which the applicant appears capable of making appropriate and efficient use of the grant funds; and

(E) any financial assistance an applicant has received from other sources.

(2) To the greatest extent possible, the Agency shall seek to balance grant awards across provider types and across geographic regions of the State.

(3) The Agency shall provide notice and outreach regarding the availability of the grants and grant applications to health care providers and provider organizations in a timely manner.

(4) The Agency shall require applicants to provide only the information necessary for the Agency to determine their financial need and consistency with the elements of the prioritization methodology.

(d) Reports.

(1) On or before August 15, 2020 and October 1, 2020, the Agency of Human Services shall provide information to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare regarding its distribution of Health Care Provider Stabilization Program grant funds to date, including the types of providers awarded funds, the aggregate amounts awarded by provider type, and the aggregate amounts awarded by geographic region of the State.

(2) On or before January 15, 2021, the Agency of Human Services shall report to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare the specific grant amount or amounts awarded to each recipient of funds under the Health Care Provider Stabilization Program.

* * * COVID-19-Related Health Disparities * * *

Sec. 8. ADDRESSING COVID-19 RELATED HEALTH DISPARITIES

(a)(1) The Department of Health shall utilize its Epidemiology and Laboratory Capacity (ELC) Enhanced Detection Grant to the greatest extent

allowable to provide subgrants to community organizations to engage with specific populations most likely to experience adverse outcomes from COVID-19 based on factors such as race or ethnicity, immigrant status, sexual orientation, gender identity, disability, age, and geographic location. Subgrantees shall work directly with affected populations and conduct outreach to isolated individuals at high risk of adverse outcomes from COVID-19 to assess and identify their needs during the COVID-19 public health emergency in order to help them protect themselves and others from the disease, such as by providing education and resources regarding prevention of COVID-19 in languages and formats appropriate to the population, assisting with access to COVID-19 testing and treatment, and identifying and addressing difficulties in safely meeting essential needs, including food, shelter, health care, and emotional support, during the public health emergency.

(2) The sum of \$500,000.00 is appropriated from the Coronavirus Relief Fund to the Department of Health in fiscal year 2021 to provide monies to the community organizations awarded subgrants in accordance with subdivision (1) of this subsection to assist them in meeting essential needs for food, shelter, health care, and emotional support identified pursuant to subdivision (1) of this subsection that are not eligible expenses under the ELC grant.

(3) To the extent feasible, the Department shall select community organizations for subgrants based on prior demonstrated work with the affected population, membership as part of the affected population, and ability to rapidly implement programming in response to the COVID-19 public health emergency.

(b) On or before August 18, 2020, the Department shall report to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare regarding:

(1) the community subgrants awarded through the ELC grant in accordance with subsection (a) of this section;

(2) any additional resources made available for the purposes set forth in subsection (a) of this section through the Coronavirus Relief Fund allocation plan approved by the Joint Fiscal Committee on May 11, 2020; and

(3) any recommendations for using additional monies from the Coronavirus Relief Fund for the purposes set forth in subsection (a) of this section through legislative appropriation or additional Joint Fiscal Committee allocation.

(c) The Department shall seek insights and recommendations from the community organizations awarded grants pursuant to this section to inform the Department's future efforts to address health disparities in Vermont. The Department shall incorporate these insights and recommendations along with the recommendations from the Governor's Racial Equity Task Force expected on or before August 15, 2020 to enhance and expand upon the Department's previous work in addressing health disparities in Vermont and shall consider ways to continue involving members of the affected populations in the Department's health equity planning processes and action plans going forward.

* * * Mental Health Services * * *

Sec. 9. DEPARTMENT OF MENTAL HEALTH; SUICIDE PREVENTION

(a) At the time of enactment of this act, the Department of Mental Health has an application pending for a grant from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) for suicide prevention activities necessitated by the COVID-19 public health emergency. If the Department's SAMHSA grant application is successful, the Department shall utilize the funds awarded to the greatest extent possible to implement suicide prevention initiatives focused on individuals at heightened risk of death by suicide due to economic stress, social isolation, or other impacts of the COVID-19 pandemic. If the Department does not receive the SAMHSA grant, the Department shall notify the General Assembly promptly and shall inform the General Assembly of any resources that can be made available for suicide prevention initiatives through the Coronavirus Relief Fund allocation plan approved by the Joint Fiscal Committee on May 11, 2020 or of any recommendations to use additional monies from the Coronavirus Relief Fund through legislative appropriation or additional Joint Fiscal Committee allocation for these purposes, or both.

Sec. 10. PATHWAYS VERMONT; PEER WARM LINE

The sum of \$200,000.00 is appropriated from the Coronavirus Relief Fund to the Department of Mental Health in fiscal year 2021 for purposes of a grant to Pathways Vermont to operate its peer warm line 24 hours per day, seven days per week until December 30, 2020 and to conduct outreach to health care providers and others across Vermont to make them aware of the warm line and encourage them to use it.

* * * Addressing Food Insecurity * * *

Sec. 11. VERMONT FOODBANK; FOOD INSECURITY

The sum of \$4,700,000.00 is appropriated from the Coronavirus Relief Fund to the Department for Children and Families in fiscal year 2021 for distribution to the Vermont Foodbank for purpose of addressing food

insecurity throughout the State, including purchasing more food and necessities, such as diapers, toilet paper, and cleaning supplies; providing subgrants to partner food shelves and meal sites; and for additional personnel, supplies, materials, warehouse space, delivery services, and equipment to meet the increased need of Vermonters for access to food as a result of the COVID-19 public health emergency.

Sec. 12. AGENCY OF EDUCATION; SUMMER MEALS FOR CHILDREN

Up to \$12,000,000.00 of monies previously appropriated in fiscal year 2020 to the Agency of Education from the Coronavirus Relief Fund for the purpose of reimbursing COVID-19 costs incurred by school districts may be distributed to Summer Meal Sponsors for purposes of continuing meal delivery services to children during the months of June, July, and August. Funds used for the provision of summer meals shall not be subtracted from a district's first and second fiscal year 2021 education fund payments.

(1) The Agency shall continue to seek waivers from the U.S. Department of Agriculture for the Summer Food Service Program to enable the State to draw down federal funds for the delivery of meals in accordance with this section.

(2) On or before August 18, 2020, the Agency shall report to the General Assembly regarding the status, cost, and funding sources available for summer meal delivery and shall make any recommendation for additional Coronavirus Relief Fund monies for this purpose from a subsequent Joint Fiscal Committee allocation or legislation.

Sec. 13. MEALS TO OLDER VERMONTERS AND OTHER
VULNERABLE POPULATIONS

On or before August 18, 2020, the Department for Disabilities, Aging, and Independent Living shall report to the Joint Fiscal Committee on:

(1) the adequacy of Title III funding for older Vermonters and other vulnerable populations, including:

(A) specific federal COVID-19 funding provided to date for the provision of meals to the elderly and vulnerable populations; and

(B) funds distributed to the Area Agencies on Aging for the purpose of providing nutrition services to older Vermonters and other vulnerable populations;

(2) any funds made available for older Vermonters and other vulnerable populations from the Coronavirus Relief Fund pursuant to the Joint Fiscal Committee's May 11, 2020 approved plan; and

(3) any recommendation for additional Coronavirus Relief Fund monies for older Vermonters and other vulnerable populations from a subsequent Joint Fiscal Committee allocation or legislation.

* * * Child Care, Family Supports, and Vulnerable Populations * * *

Sec. 14. CHILD CARE PROVIDERS, SUMMER CAMPS,
AFTERSCHOOL PROGRAMS; PARENT CHILD CENTERS;
CHILDREN'S INTEGRATED SERVICES

(a)(1) The sum of \$12,000,000.00 is appropriated from the Coronavirus Relief Fund to the Department for Children and Families in fiscal year 2021 for the purposes of providing:

(A) additional restart grants to summer camps, afterschool programs, and child care providers;

(B) the cost incurred by Parent Child Centers in responding to the COVID-19 public health emergency, including the increased demand for services by impacted families; and

(C) funds to address the immediate needs related to providing Children's Integrated Services, including information technology training and the provision of equipment necessary for telehealth services.

(2) The Department shall determine the allocation of funding for this subsection and develop an application process to distribute funds to providers.

(b) Once the Department has determined how the appropriation set forth in this section shall be distributed, but not later than August 18, 2020, it shall report to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare regarding how the funds are to be distributed across programs.

Sec. 15. GRANTS TO VULNERABLE POPULATIONS

The sum of \$2,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Human Services in fiscal year 2021 for the purposes of distributing the monies among populations made vulnerable by the COVID-19 public health emergency as determined by a needs-based assessment. The populations served by this section shall include older Vermonters; individuals with a disability, including advocacy organizations such as the Green Mountain Self-Advocates; and households living below 300 percent of the Federal Poverty Level. Monies distributed pursuant to this section shall assist the designated populations in addressing permissible household needs under Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance, such as:

(1) cleaning supplies and personal protective equipment to prevent infection by transmission of COVID-19;

(2) cash assistance to families with children under six years of age;

(3) expenses related to remote learning or employment, including access to the Internet; and

(4) transportation-related expenses to offset limited public transportation options during the COVID-19 public health emergency.

* * * Supports for New Americans, Refugees, and Immigrants * * *

Sec. 16. SUPPORTS FOR NEW AMERICANS, REFUGEES, AND IMMIGRANTS

The sum of \$700,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Human Services in fiscal year 2021 for distribution in equal amounts to the Association of Africans Living in Vermont and the U.S. Committee for Refugees and Immigrants' Vermont Refugee Resettlement Program for various purposes related to COVID-19, including:

(1) hiring outreach staff to communicate health and hygiene information related to COVID-19 in many languages, including the symptoms of COVID-19, how to access health care, and the importance of social distancing;

(2) preparing and delivering care packages of food, clothing, and cleaning and hygiene products to persons experiencing economic hardship as a result of high unemployment rates, business closure, or significant business interruption during the COVID-19 pandemic;

(3) providing navigation of case management services to clients in need of unemployment insurance, Reach Up, the Supplemental Nutrition Assistance Program, and other benefits as a result of high unemployment rates, business closure, or significant business interruption during the COVID-19 pandemic; and

(4) hiring outreach staff to collaborate with the Department for Children and Families' Child Development Division to assist New Americans interested in becoming registered family child care providers, including gaining a better understanding of the challenges facing New Americans in accessing child care as a result of the COVID-19 public health emergency and providing a career path for New Americans who have lost employment as a result of COVID-19.

* * * COVID-19 Public Health Precautions on State Lands * * *

Sec. 17. AGENCY OF NATURAL RESOURCES; COVID-19 PUBLIC HEALTH EXPENSES ON STATE LANDS

(a) In addition to any other funds appropriated to the Agency of Natural Resources in fiscal year 2021, the amount of \$2,500,000.00 is appropriated from the Coronavirus Relief Fund in fiscal year 2021 for necessary expenditures incurred by the Agency for the purpose of implementing COVID-19 public health precautions on lands owned or controlled by the Agency of Natural Resources. Eligible projects to implement COVID-19 public health precautions include:

(1) updating of signage or information provided at entry to or access to trails, access areas, forests, parks, or other areas where information regarding COVID-19 public health precautions would be available to the users;

(2) temporary campsites or structures to allow for proper social distancing of users and staff;

(3) the cost or expense of services or equipment required to clean or sanitize public spaces; and

(4) expanding, improving, or adding public access to State lands and public waters to allow greater social distancing among users, including purchasing, building, repairing, or expanding parking areas, boat ramps, restrooms, trail heads, visitor centers, and other amenities.

(b) Of the funds appropriated in subsection (a) of this section, \$120,000.00 shall be allocated to the Vermont Youth Conservation Corps to provide youth with employment opportunities by working on the eligible projects undertaken pursuant to this section.

* * * Legislative Branch; Health and Safety * * *

Sec. 18. LEGISLATIVE BRANCH; HEALTH AND SAFETY; COVID-19 MITIGATION

(a) The sum of \$750,000.00 is appropriated from the Coronavirus Relief Fund to the Legislature for use by the Legislature, Sergeant at Arms, and the Office of Legislative Information Technology in fiscal year 2021 for the following purposes:

(1) contracting with an independent third party for an assessment of the space and health and safety needs of the Legislative Branch for COVID-19 mitigation and meeting social distancing requirements.

(2) COVID-mitigation equipment or upgrades to the State House, including personal protective equipment (PPE) and other health and safety equipment or infrastructure;

(3) to purchase any equipment or implement upgrades or space transfers recommended in the assessment described in subdivision (1) of this subsection; and

(4) to purchase legislative information technology equipment, including any networking set-up required for the State House or new legislative space, camera and video set-up, and purchasing hardware, such as laptops and tablets.

(b) Authorization. On or before July 10, 2020, the Sergeant at Arms, in consultation with the Department of Buildings and General Services, shall contract with an independent third party for a short-term and long-term space and health and safety needs assessment for the Legislative Branch for COVID-19 mitigation. The assessment shall include:

(1) recommendations for health and safety infrastructure measures needed to protect staff, legislators, and the public; mitigate COVID-19; and meet social distancing requirements in the State House and any other Legislative Branch space;

(2) short and long-term options for use of space or development of additional space in the Capitol Complex for legislators, committee meetings, and legislative staff offices, including 133 State Street; and

(3) short and long-term options for use of space for legislators, committee meetings, and legislative staff offices statewide.

(c) Report. On or before August 19, 2020, the Sergeant at Arms shall submit the assessment described in subsection (a) of this section to the House Committee on Corrections and Institutions and the Senate Committee on Institutions. The assessment shall include cost estimates for the recommendations and options described in subdivisions (a)(1)–(3) of this section.

(d) Contracting procedures. Notwithstanding any provision of law to the contrary, the Sergeant at Arms may enter into a contract with an independent third party for the assessment described in this section without the need to competitively bid such contracts. For the purposes of the assessment, the public health risk posed by COVID-19 shall be deemed to be an emergency situation that justifies the execution of sole source contracts pursuant to Bulletin 3.5, the State's Procurement and Contracting Procedures.

* * * Public Health; Independent Colleges * * *

Sec. 19. DEPARTMENT OF HEALTH; INDEPENDENT COLLEGES;
COVID-19 TESTING

(a) The Department of Health shall provide technical and planning assistance to Vermont's independent colleges regarding the reopening of their campuses and the return of students for the fall 2020 semester in a manner that is consistent with public health by making preparations for COVID-19 screening and testing for students, faculty, and staff.

(b) The Department shall collaborate with Vermont's independent colleges to determine the expenditures to conduct the COVID-19 screening and testing and to identify available sources to cover these costs, such as health insurance coverage and federal funds, including those allocated to the Governor's Emergency Education Relief Fund. If available funds are not sufficient to cover the colleges' COVID-19 screening and tests, the Department shall submit a request to the Joint Fiscal Committee for allocation of monies from the Coronavirus Relief Fund to the colleges for the costs not covered by other sources.

* * * Effective Date * * *

Sec. 20. EFFECTIVE DATE

This act shall take effect on passage.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Appropriations?, Senator Kitchel moved to amend the proposal of amendment of the Committee on Appropriations, as follows:

In Sec. 1, purpose, in subsection (a), by striking out “\$334,350,000.00” following “appropriate” and inserting in lieu thereof \$329,350,000.00

Which was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Appropriations, as amended?, was agreed to and third reading of the bill was ordered, on a roll call, Yeas 27, Nay 0.

Senator Starr 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, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe (presiding), Baruth, Rodgers.

Rules Suspended; Bills Messaged

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

H. 572, H. 688, H. 716.

Recess

On motion of Senator Mazza the Senate recessed until Noon.

Called to Order

The Senate was called to order by the President *pro tempore*.

Joint Senate Resolution Adopted on the Part of the Senate**J.R.S. 59.**

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. 59. Joint resolution relating to an Interim Adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, June 26, 2020, or Saturday, June 27, 2020, it be to meet again no later than Tuesday, August 25, 2020.

Rules Suspended; Third Reading Ordered**H. 754.**

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

An act relating to restructuring and reorganizing General Assembly staff offices.

Was taken up for immediate consideration.

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

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

Rules Suspended; Bills Placed in All Remaining Stages of Passage

On motion of Senator Balint, the rules were suspended, and the following bills were severally placed in all remaining stages of passage:

H. 656, H. 837, H. 963.

Bill Passed in Concurrence with Proposal of Amendment

H. 656.

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

An act relating to miscellaneous agricultural subjects.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 837. An act relating to enhanced life estate deeds.

H. 963. An act relating to sunsets related to judiciary procedures.

Recess

On motion of Senator Ashe the Senate recessed until 2:00 P.M..

Called to Order

The Senate was called to order by the President.

Rules Suspended; Bills Placed in All Remaining Stages of Passage

On motion of Senator Ashe, the rules were suspended, and the following bills were severally placed in all remaining stages of passage:

H. 754, H. 965.

Bill Passed in Concurrence

H. 754.

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

An act relating to restructuring and reorganizing General Assembly staff offices.

**Rules Suspended; Proposals of Amendment; Third Reading Ordered;
Rules Suspended; Bill Passed in Concurrence with Proposals of
Amendment**

H. 683.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to the protection of migratory birds.

Was taken up for immediate consideration.

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

First: By striking out Sec. 2, 10 V.S.A. § 4902, in its entirety and inserting in lieu thereof the following:

§ 4902. WILD BIRDS GENERALLY; NO OPEN SEASON; EXCEPTION

(a) Wild birds, other than pigeons, shall not be taken, possessed, bought, or sold, at any time, except as provided by this part, rules of the Board or orders of the Commissioner. ~~Birds coming from without the State belonging to the same family as those protected by this subchapter shall not be bought or sold.~~

(b) Harm or death of a migratory bird listed as protected in the Migratory Bird Treaty Act, 16 U.S.C. §§ 703–712 as of July 1, 2020, that results from human activity where the intent was not to harm or kill the bird, but where bird harm or death was a direct and foreseeable result of the activity, is prohibited. Nothing in this section shall require the Department to implement a new permitting program.

Second: In Sec. 3, 10 V.S.A. § 4910, by striking out the following:

“Enforcement of this provision, shall be in accordance with 10 V.S.A. Section 4520.”

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

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposals of amendment.

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

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

H. 956.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to miscellaneous amendments to alcoholic beverage laws.

Was taken up for immediate consideration.

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred, 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. 7 V.S.A. § 221 is amended to read:

§ 221. FIRST-CLASS LICENSES

(a)(1) With the approval of the Board of Liquor and Lottery, the control commissioners may grant a first-class license to a retail dealer for the premises where the dealer carries on business if the retail dealer submits an application and pays the fee provided in section 204 of this title and satisfies the Board that the premises:

(A) are leased, rented, or owned by the retail dealer; and

(B) are devoted primarily to dispensing meals to the public and have adequate and sanitary space and equipment for preparing and serving meals, except in the case of clubs or holders of a manufacturer's or rectifier's license; ~~and~~

~~(C) have adequate and sanitary space and equipment for preparing and serving meals.~~

* * *

Sec. 2. 7 V.S.A. § 223 is amended to read:

§ 223. THIRD-CLASS LICENSES

(a) The Board of Liquor and Lottery may grant to a person who operates a hotel, restaurant, club, boat, or railroad dining car, or who holds a manufacturer's or rectifier's license, a third-class license if:

* * *

(3) the applicant satisfies the Board that:

(A) the applicant is the bona fide owner or lessee of the premises, boat, or railroad dining car;

(B) except in the case of clubs or holders of a manufacturer's or rectifier's license, the premises, boat, or railroad dining car has adequate and sanitary space and equipment for preparing and serving meals to the public; and

(C) the premises, boat, or railroad dining car is operated for the purpose covered by the license.

* * *

Sec. 3. 2019 Acts and Resolves No. 73, Sec. 51 is amended to read:

Sec. 51. EFFECTIVE DATES

(a) Sec. 47 (special event permits) and Sec. 50 (repeal of manufacturer grandfather provision) shall take effect on July 1, 2020 July 1, 2021.

(b) All remaining sections shall take effect on July 1, 2019.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

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

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

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

Rules Suspended; House Proposal of Amendment Concurred In

S. 232.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to implementing the expansion of juvenile jurisdiction.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the bill by striking out Secs. 12-16 and inserting in lieu thereof the following:

Sec. 12. EFFECTIVE DATES

(a) Secs. 3 (33 V.S.A. § 510(c)) and 7 (33 V.S.A. § 5206) shall take effect on July 1, 2022.

(b) The rest of this act shall take effect on July 1, 2020.

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

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 965.

House bill entitled:

An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

Was taken up.

Thereupon, pending third reading of the bill, Senator Kitchel moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1, purpose, in subsection (a), by striking out “\$329,350,000.00” following “appropriate” and inserting in lieu thereof \$326,850,000.00

Second: In Sec. 6, Front-Line Employees Hazard Pay Grant Program, in subdivision (a)(2), by striking out “\$31,000,000.00” following “The sum of” and inserting in lieu thereof \$28,000,000.00

Third: In Sec. 7, Agency of Human Services; Health Care Provider Stabilization Grant Program, by striking out subdivision (c)(1) in its entirety and inserting in lieu thereof a new subdivision (c)(1) to read as follows:

(1) The prioritization methodology shall consider:

(A) the impact of the grant amount on the applicant’s sustainability, not the applicant’s size or its proportion of health care spending in this State;

(B) the degree to which the grant will provide or support services that would otherwise likely become limited or unavailable as a result of business disruptions caused by the COVID-19 public health emergency, including to sustain existing population health management programs, or the grant funds would enable the applicant to withstand and recover from business disruptions caused by the COVID-19 public health emergency, or both;

(C) the degree to which the applicant would use the grant funds to support existing patient financial assistance programs or to enable the applicant to continue providing services to Medicaid beneficiaries, or both;

(D) the degree to which the applicant maintains participation in value-based payment arrangements, if applicable;

(E) the degree to which the applicant appears capable of making appropriate and efficient use of the grant funds; and

(F) any financial assistance an applicant has received from other sources.

Fourth: By striking out Sec. 13, Meals to Older Vermonters and Other Vulnerable Populations, in its entirety and by inserting a new Sec. 13 to read as follows:

**Sec. 13. MEALS TO OLDER VERMONTERS AND OTHER
VULNERABLE POPULATIONS**

On or before August 18, 2020, the Department for Disabilities, Aging, and Independent Living shall report to the Joint Fiscal Committee on:

(1) the adequacy of funding for the provision of nutrition services to older Vermonters and other vulnerable populations served by the Department, including:

(A) specific federal COVID-19 funding provided to date for the provision of nutrition services to the elderly and vulnerable populations served by the Department; and

(B) Older Americans Act funds distributed to the Area Agencies on Aging for the purpose of providing nutrition services to older Vermonters;

(2) any funds made available for nutrition services for older Vermonters and other vulnerable populations from the Coronavirus Relief Fund pursuant to the Joint Fiscal Committee's May 11, 2020 approved plan; and

(3) any recommendation for additional Coronavirus Relief Fund monies for nutrition services for older Vermonters and other vulnerable populations from a subsequent Joint Fiscal Committee allocation or legislation.

Fifth: By striking out Sec. 15, Grants to Vulnerable Populations, in its entirety, and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. GRANTS TO VULNERABLE POPULATIONS

The sum of \$2,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Human Services in fiscal year 2021 for the purposes of distributing the monies among populations made vulnerable by the COVID-19

public health emergency as determined by a needs-based assessment. The populations served by this section shall be households living below 300 percent of the Federal Poverty Level, including families receiving Reach Up, older Vermonters, and individuals with a disability. Monies distributed pursuant to this section shall assist the designated populations in addressing permissible household needs under Sec. 5001 of the CARES Act, Pub. L. No. 116–136 and related guidance.

Sixth: In Sec. 17, Agency of Natural Resources; COVID-19 public health expenses on State lands, in subsection (a), by striking out “\$2,500,000.00” following “the amount of” and inserting in lieu thereof \$3,000,000.00

Which was agreed to.

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

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 656, H. 683, H. 754, H. 837, H. 956, H. 963, H. 965.

Rules Suspended; Bill Delivered

On motion of Senator Ashe, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 232.

Bill Recommended

Senator Ashe moved that Senate bill entitled:

S. 349. An act relating to emergency funding for local government.

be recommitted to the Committee on Appropriations,

Which was agreed to.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 966.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to COVID-19 funding and assistance for broadband connectivity, housing, and economic relief .

Was taken up for immediate consideration.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, 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:

* * * Purpose * * *

Sec. 1. PURPOSE

(a) The purpose of this act is to appropriate \$209,500,000.00 from the Coronavirus Relief Fund to cover necessary broadband connectivity, information technology, housing, and economic relief expenses incurred due to, or as a result of, the COVID-19 public health emergency.

(b)(1) Costs are not compensable under this act if the same costs or expenses have been or will be covered by insurance or by another State or federal funding source; provided, however, that this restriction does not include loans or advance payments for which repayment is expected.

(2) Costs that are eligible for coverage by other federal funding sources are not compensable under this act unless authorized by the Secretary of Administration.

* * * Coronavirus Relief Fund; Administrative Provisions * * *

Sec. 2. CONSISTENCY WITH CARES ACT AND GUIDANCE

(a) The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this act complies with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance because the costs to be covered:

(1) are necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19);

(2) were not accounted for in Vermont's fiscal year 2020 budget; and

(3) were, or will be, incurred during the period beginning on March 1, 2020 and ending on December 30, 2020.

(b) Additional details regarding the consistency of each appropriation with the requirements of the CARES Act and related guidance are contained in a supplemental memorandum that accompanies this act.

Sec. 3. GRANT RECIPIENT REQUIREMENTS; REVERSION AND REALLOCATION SCHEDULE

All appropriations made from the State's Coronavirus Relief Fund (CRF) in this and other bills passed after March 1, 2020 as part of the 2020 legislative session are made with the knowledge that the statutory and

regulatory context is constantly changing. Additional federal legislation may further change the potential for and appropriateness of CRF usage. As a result:

(1) Appropriations from the CRF are subject to changes in source of funds that may occur as the result of subsequent legislation or through administrative actions, where permissible by law.

(2) Specific CRF uses may need to change based on changes to federal laws or on revised or updated federal guidance.

(3) It is the responsibility of all entities receiving CRF monies to ensure compliance with all federal guidelines as to CRF spending and use.

(4) Unless otherwise authorized by the Commissioner of Finance and Management, any monies appropriated from the CRF shall revert to the CRF to the extent that they have not been expended by December 20, 2020 to enable reallocation.

Sec. 4. CORONAVIRUS RELIEF FUND GRANTS; CONDITIONS

(a) Any person receiving a grant comprising monies from the Coronavirus Relief Fund shall use the monies only for purposes that comply with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance.

(b) Any person who expends monies from the Coronavirus Relief Fund for purposes not eligible under Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance shall be liable for repayment of the funds to the State of Vermont; provided, however, that a person shall not be liable for such repayment if the person expended the monies in good faith reliance on authorization of the proposed expenditure by or specific guidance from the agency or department administering the grant program.

(c) The Attorney General or a State agency or department administering a grant program established or authorized under this act may seek appropriate criminal or civil penalties as authorized by law for a violation of the terms or conditions of the applicable program, grant, or award.

Sec. 5. CORONAVIRUS RELIEF FUND; RECORD KEEPING; COMPLIANCE; REPORTS

(a) In order to ensure compliance with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136, and related guidance, and to assist the State in demonstrating such compliance:

(1) any agency or department, and any subrecipient of a grant, that is authorized to disburse grant funds appropriated by this act shall include standard audit provisions, as required by Agency of Administration Bulletins 3.5 and 5, in all contracts, loans, and grant agreements; and

(2) each grant recipient shall report on its use of the monies received pursuant to this act to the agency or department administering the grant as required by that agency or department and shall maintain records of its expenditures of the monies for three years, or for a longer period if so required by State or federal law, to enable verification as needed.

(b) On or before August 15, 2020 and October 1, 2020, each agency or department administering a grant program pursuant to this act shall provide information to the legislative committees of jurisdiction, including the House and Senate Committees on Appropriations, regarding its distribution of grant funds to date, the amount of grant funds that remains available for distribution, and its plans for awarding the available funds by December 20, 2020.

* * * Financial Assistance * * *

Sec. 6. COVID-19; ECONOMIC SUPPORT FOR BUSINESSES AND INDIVIDUALS

(a) Appropriations; grants. The following amounts are appropriated from the Coronavirus Relief Fund to the named recipients to provide grants to businesses that have suffered economic harm due to the COVID-19 public health emergency and economic crisis.

(1) \$82,000,000.00 for additional emergency economic recovery grants pursuant to 2020 Acts and Resolves No. 115 (S.350), Secs. 2–3, as follows:

(A) \$56,000,000.00 to the Agency of Commerce and Community Development.

(B) \$26,000,000.00 to the Department of Taxes.

(2) \$2,000,000.00 to the Agency of Commerce and Community Development to grant to the Working Lands Enterprise Fund for grants to businesses within the agricultural, food and forest, and wood products industries:

(A) for economic loss; or

(B) to assist a business in adapting its products to changes in available markets or supply chains that are caused by the COVID-19 public health emergency and economic crisis, provided that such assistance is clearly necessary to ensure the continued viability of the business due to COVID-19.

(3)(A) \$5,000,000.00 to the Agency of Commerce and Community Development to grant to the Vermont Community Loan Fund, working in collaboration with the Vermont Commission on Women and other appropriate partners, for grants to businesses that have from zero to five employees and are at least 51 percent woman-owned or at least 51-percent minority-owned;

(B) The Fund shall reserve an allocation of \$2,500,000 for awards to businesses in each of the two groups until September 1, 2020, after which the Fund may re-allocate the funds if applications from either group are less than half.

(4) \$1,500,000.00 to the Agency of Natural Resources for grants to outdoor recreation businesses for costs or expenses necessary to comply with or implement COVID-19 public health precautions, including:

(A) cleaning, disinfection, and personal protection services and equipment;

(B) symptom monitoring or diagnosis for customers or participants;

(C) signage or informational material concerning public health precautions;

(D) temporary staff housing necessary to maintain public health precautions; and

(E) maintenance or repair of trails where damage is caused by increased usage during the declared COVID-19 public health emergency.

(5) \$5,000,000.00 to the Agency of Commerce and Community Development to grant to the Vermont Arts Council for grants to nonprofit arts and cultural organizations. For purposes of calculating reduction in revenue under this subdivision, "revenue" does not include tax-deductible charitable contributions.

(b) Appropriations; other assistance. The following amounts are appropriated from the Coronavirus Relief Fund to the named recipients to provide assistance to businesses and individuals that have suffered economic harm due to the COVID-19 public health emergency and economic crisis.

(1) \$2,500,000.00 to the Department of Tourism and Marketing to create a Restart Vermont marketing program to encourage visitation and consumer spending in Vermont to support businesses that have suffered economic harm due to the COVID-19 public health emergency. Eligible uses include:

(A) marketing activities to promote travel to and within Vermont to increase consumer spending at tourism, hospitality, retail, and related businesses; and

(B) statewide or regional consumer stimulus programs or consumer purchasing incentives that maximize the effect of local consumer spending, including at restaurants, lodging establishments, retail stores, and tourism attractions.

(2) \$2,500,000.00 to the Agency of Commerce and Community Development to create a Restart Vermont business assistance program, through which the Agency shall make available to businesses professional and technical assistance through qualified Recovery Navigators, including:

(A) business operations, financial management, and grant writing;

(B) digital strategies;

(C) architecture and physical space design;

(D) reconfiguring manufacturing equipment and processes and incorporating safety measures;

(E) technology and software consulting; and

(F) legal and other professional services.

(3) \$5,000,000.00 to the Agency of Commerce and Community Development to grant to Southeastern Vermont Community Action to act as fiscal agent for a statewide program, Restaurants and Farmers Feeding the Hungry, the purpose of which is to provide assistance to Vermonters who are food insecure due to the COVID-19 public health emergency by engaging Vermont restaurants that have suffered economic harm due to the COVID-19 public health emergency to prepare meals using foodstuffs purchased from Vermont farms and food producers.

(A) SEVCA shall collaborate with State and nonprofit partners throughout Vermont, including the Agency of Commerce and Community Development; the Agency of Agriculture, Food and Markets; the Agency of Human Services; the Department of Public Safety; the Community Action Agencies; the Vermont Food Bank; Hunger Free Vermont; the Vermont Hunger Council; the Sustainable Jobs Fund/Farm to Plate; the Vermont Community Foundation; the Downtown Brattleboro Alliance; Shiftmeals; Mama Sezz; the Vermont Hospitality Coalition; and others.

(B) Under the Program, SEVCA and partners shall:

(i) establish multiple community-scale hubs across Vermont to coordinate restaurant engagement and distribution of not fewer than 15,000 meals per week;

(ii) engage a broad range of restaurants of various sizes to produce meals;

(iii) on average, purchase not less than 10 percent of ingredients from local farms and producers; and

(iv) augment the existing food distribution network to meet the increased food insecurity of residents.

(c) Eligibility. To be eligible for a grant under subsection (a) or (b) of this section, a business must meet the eligibility criteria and comply with the guidelines adopted pursuant to 2020 Acts and Resolves No. 115 (S.350) unless otherwise provided in this section, except that a business must demonstrate that it suffered a 50 percent or greater reduction in revenue due to the COVID-19 public health emergency and economic crisis in a monthly or quarterly period from March 1, 2020 to September 1, 2020 as compared to the same period in 2019.

(d) Administration of funds. A recipient or subrecipient authorized to administer funds appropriated in this section to provide grants or assistance to eligible businesses:

(1) shall coordinate directly with, and is subject to the guidelines and procedures adopted by, the Agency of Commerce and Community Development to ensure consistency and to avoid duplication of efforts and awards among Coronavirus Relief Fund-related programs;

(2) may use funds for administrative expenses, provided that the expenses represent an increase over previously budgeted amounts and are limited to what is necessary; and

(3) shall transfer funds that are both unencumbered and unspent as of September 15, 2020 to the Agency of Commerce and Community Development, which the Agency shall use to make additional emergency economic recovery grants pursuant to this section.

(e) Prohibition on multiple sources of funding.

(1) A business may not receive a grant of Coronavirus Relief Fund monies from more than one source, except that a business in the dairy sector may apply for a grant under subdivision (a)(2)(B) of this section, provided that the award is not for the same purpose covered under other assistance from the Fund.

(2) The Agency of Commerce and Community Development, the Department of Taxes, and entities that administer funds appropriated pursuant to this section shall provide businesses with guidance and support to help identify the appropriate programs for which the business may be eligible for a grant and other assistance.

(f) Public records; confidentiality.

(1) The name of a business that receives an award under this section and the amount of the award are public records subject to inspection and copying

under the Public Records Act.

(2) Any application documents of a business containing federal identification numbers and sales amounts are subject to the confidentiality provisions of 32 V.S.A. § 3102 and are return information under that section.

(3) Data submitted by a business under this section to demonstrate costs or expenses shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that submitted information may be used and disclosed in summary or aggregated form that does not directly or indirectly identify a business.

(g) Emergency economic recovery grant funds; transfer. If any funds appropriated to Agency of Commerce and Community Development and the Department of Taxes in 2020 Acts and Resolves No. 115 (S.350) remain both unencumbered and unspent as of August 1, 2020, the Agency and Department shall combine and administer those funds with the amounts made available to them in this section, subject to the standards and criteria established in this section.

* * * Local Government Expense Reimbursement * * *

Sec. 7. COVID-19 EXPENSE REIMBURSEMENT; LOCAL GOVERNMENT

(a) The amount of \$13,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Administration for the purpose of issuing grants to units of local government to reimburse eligible COVID-19 expenses incurred on or before December 30, 2020, including hazard pay, supplies and equipment, sanitation, facility alterations, overtime compensation, redirection of staff for first-response needs, and any other eligible COVID-19 expenses not covered by other funding sources, including funding provided by the Federal Emergency Management Agency.

(b) The Secretary of Administration or designee shall develop grant guidelines for determining eligibility of COVID-19 expenses and requirements for reimbursement for units of local government. In determining the allocation of reimbursements under this section, the Secretary may prioritize need, including the local unemployment rate and the percent of eligible COVID-19 expenses relative to the total budget.

(c) From the amount appropriated to the Agency of Administration under this section, the Secretary or designee shall allocate:

(1) \$12,650,000.00 in grants for reimbursement of eligible COVID-19 expenses to the following:

(A) Vermont counties in amounts that shall not exceed \$1.00 per person as determined from the 2019 town census data published by the U.S. Census Bureau; and

(B) Vermont cities, towns, unorganized towns or gores, and any of the unified towns and gores of Essex County, including those incurred by incorporated villages, fire districts, consolidated water districts created under 24 V.S.A. chapter 91, and consolidated sewer districts created under 24 V.S.A. chapter 105 therein. Grants allocated under this subdivision (c)(1)(B) shall not exceed \$25.00 per person as determined from the 2019 town census data published by the U.S. Census Bureau, provided that any recipient under this subdivision with expenses that exceed \$25.00 per person and \$25,000.00 in total shall receive a minimum payment of \$25,000.00.

(2) \$200,000.00 to solid waste management districts organized under 24 V.S.A. chapter 121 in grants for reimbursement of eligible COVID-19 expenses. The Secretary or designee may determine any limitations to the amount of the grants allocated under this subdivision.

(3) An amount not to exceed \$150,000.00 may be used to contract with one or more regional planning commissions for technical assistance to be provided to units of local government in identifying and documenting eligible COVID-19 expenses. Notwithstanding any other contrary provision of law, the contract may be a sole source contract.

(4) In the event that applications for reimbursements exceed the amounts allocated, grants may be prorated.

(d) On or before September 15, 2020, the Secretary of Administration shall report to the Joint Fiscal Committee on program development and eligible COVID-19 expenses reimbursed pursuant to this section. The Secretary shall provide recommendations for any legislative action, including reallocation of funds for reimbursement of eligible local government COVID-19 expenses.

Sec. 8. DIGITIZATION GRANT PROGRAM; DEFINITIONS

(1) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No.116-136, as amended, and any guidance and regulations issued under that act.

(2) "Municipality" means a city, town, or incorporated village.

(3) "Eligible use" means a use of grant funds permitted under the CARES Act to assist a municipality in digitizing land records for online public access during municipal office closures due to the COVID-19 public health emergency.

Sec. 9. CORONAVIRUS MUNICIPAL RECORDS DIGITIZATION
GRANTS; AGENCY OF ADMINISTRATION

(a) Authorization; appropriation. Of the funds available in the Coronavirus Relief Fund, the amount of \$2,000,000.00 is appropriated to the Agency of Administration to provide grants to eligible municipalities pursuant to this section.

(b) Requirements for grant applicants. A municipality may apply for a grant for an eligible use, provided that:

(1) The municipality was compelled to close its municipal offices or limit access to land records due to the COVID-19 public health emergency response.

(2) The municipality has established and maintained a Restoration and Preservation Reserve Fund pursuant to 32 V.S.A. § 1671.

(c) Grant amount; terms.

(1) The Agency shall establish a formula for determining the amount of grant awards, which shall include a maximum grant amount.

(2) The Agency shall consider whether and by how much grant awards should be adjusted based on:

(A) whether a municipality has received financial assistance from other sources;

(B) the funds available for digitization in a municipality's Restoration and Preservation Reserve Fund;

(C) the number of property transactions within a municipality based on property transfer tax data reported by the Department of Taxes; and

(D) whether a municipality closed or limited access to the municipal clerk's offices during the COVID-19 public health emergency.

Sec. 10. DIGITIZATION GRANT PROGRAM; GUIDELINES;
REPORTING

(a) Guidelines. Not later than 10 days after the effective date of this act, the Agency of Administration shall publish guidelines governing the implementation of the grant program, which at minimum shall establish:

(1) application and award procedures;

(2) standards for eligible uses of grant funds;

(3) standards governing the amount of grant awards to ensure:

(A) the equitable distribution of funds among regions of the State;

and

(B) that grants are based on need and will have a meaningful impact on the ability of the public to access digitized land records online;

(4) procedures to ensure that grant awards comply with the requirements of the CARES Act and that the State maintains adequate records to demonstrate compliance with the Act; and

(5) procedures to prevent, detect, and mitigate fraud, waste, error, and abuse.

(b) Consultation. Before publishing guidelines pursuant to subsection (a) of this section, the Agency shall consult with representatives of the Vermont League of Cities and Towns, the Vermont Municipal Clerks and Treasurers Association, and the Vermont Bar Association.

(c) Reporting. The Agency shall:

(1) provide monthly updates and information concerning grant guidelines, awards, and implementation to the committees of jurisdiction of the General Assembly; and

(2) submit a report to the General Assembly on or before August 15, 2020 detailing the implementation of this section, including specific information concerning the amount and identity of grant recipients, the amount of grant funds expended for eligible uses, and the progress made to expend the grant program funds by December 20, 2020, which shall be publicly available.

* * * Housing Assistance * * *

Sec. 11. COVID-19 RESPONSE; HOUSING

(a) Appropriations. The following amounts are appropriated from the Coronavirus Relief Fund to the named recipients to provide grants and other assistance to individuals and businesses that have suffered economic harm due to the COVID-19 public health emergency and economic crisis.

(1) Legal and counseling services.

(A) \$550,000.00 to the Agency of Human Services for a grant to Vermont Legal Aid to provide legal and counseling services to persons who are, or are at risk of, experiencing homelessness, or who have suffered economic harm due to the COVID-19 crisis.

(B) \$250,000.00 to the Department of Housing and Community Development for grants to organizations that provide counseling and assistance to landlords concerning tenancy, rental assistance, and related issues arising due to the COVID-19 crisis.

(2) Housing and facilities. \$9,000,000.00 to the Vermont Housing and Conservation Board, which the Board shall use, in part through grants to nonprofit housing partners and service organizations, for housing and facilities necessary to provide safe shelter and assistance for persons who are, or are at risk of, experiencing homelessness, or who have suffered economic harm due to the COVID-19 crisis, in order to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.

(3) Foreclosure protection. \$5,000,000.00 to the Department of Housing and Community Development for a grant to the Vermont Housing Finance Agency to provide financial and technical assistance to stabilize low- and moderate-income homeowners and prevent home foreclosures for Vermont families.

(A)(i) The Agency shall develop a standard application form for homeowners that describes the application process and includes clear instructions and examples to help homeowners apply.

(ii) The Agency shall implement a selection process that ensures equitable approval of applications and a distribution system that ensures accountability for homeowners receiving the funds.

(B) The Agency shall develop eligibility requirements to ensure the funds are applied towards homeowners equitably, including:

(i) limitations for eligibility regarding the earned income of the homeowners in comparison to the area median income;

(ii) forms and guidelines for homeowners to certify or otherwise prove a demonstrable need for assistance;

(iii) limitations on actual cash benefits, which shall not exceed the actual mortgage liability or six times the monthly mortgage liability, whichever is less; and

(iv) a reapplication process that provides that if program funds remain at the end of the six-month period, the homeowner may apply for additional assistance.

(4) Rental assistance; eviction protection. \$25,000,000.00 to the Department of Housing and Community Development for a grant to the Vermont State Housing Authority, which shall administer the distribution of funds to landlords on behalf of tenants in need of rental arrearage assistance.

(A) In developing the program, the Authority shall coordinate with the Agency of Human Services and statewide and regional housing and homelessness authorities to provide additional support services and better promote upstream homelessness prevention and housing stability.

(B) The Authority shall develop a standard application form for landlords and tenants, including mobile home lot tenants and homeless households, that describes the application process and includes clear instructions and examples to help tenants or landlords apply.

(C)(i) The Authority shall implement a selection process that ensures equitable approval of applications, notice of grant decisions within 10 days, and decisions on appeals within in 10 days, and a distribution system that ensures accountability for the tenants and landlords that receive funds.

(ii) The Authority shall ensure decisions are made according to the rules of the program and without regard to any previous information or decisions known concerning tenants, and no tenant or landlord may benefit or suffer harm due to previous knowledge or decisions.

(D)(i) Eligibility. The Authority shall develop eligibility requirements to ensure that funds are applied equitably towards tenants, currently homeless households, and landlords and to those in the most need, including:

(I) certification of rent arrears;

(II) waiver of termination of tenancy or eviction for a period of time;

(III) waiver of late fees and rent in excess of Authority payment standards;

(IV) compliance with Rental Housing Health Code within 30 days; and

(V) agreement not to increase rent for a period of time.

(ii) Other requirements.

(I) The Authority shall ensure that assistance is provided directly to the landlords on the tenants' behalf.

(II) The Authority shall ensure a streamlined application process limited to a tenant certification of household members and a landlord certification of past due rent to show that tenants have missed rental payments and are at risk of eviction, or otherwise show proof of a demonstrable need for rental assistance.

(III) The Authority shall require that landlords delay or cease eviction proceedings, or both, for a period of time as a condition of receiving assistance, provided that an exception may be made if a landlord applies and the tenant has not paid rent nor certified need, in which case the landlord may receive partial payment of arrears and retain right to evict.

(IV) The Authority shall adopt limitations on assistance granted that shall not exceed the actual liability or those number of months due calculated at Vermont State Housing Payment level, whichever is less. This restriction shall include a reapplication process that provides that if there are remaining program funds if the tenant is in arrears at a later date, the tenant may reapply for assistance.

(V) For tenants in unsustainable tenancies and households that received emergency housing benefits from Department for Children and Families' General Assistance Program since March 1, 2020, funds may be used for first and last months' rent and security deposit, and, where necessary, rent payments through December 30, 2020. To obtain these benefits, a landlord must certify that the individual or family will be accepted as a tenant; that the landlord will not evict the tenant for nonpayment of rent before January 1, 2021; and, if the tenant leaves the unit prior to January 1, 2021, the landlord will refund to the Authority the rental amount previously received for any rental period after which the tenant left and for the security deposit if reimbursement is appropriate.

(E) Not later than August 10, 2020 and thereafter upon request from a legislative committee, the Authority shall issue a report to the General Assembly detailing the number and amount of grants awarded in each category by county.

(5) Rehousing investments.

(A) Creation of Program. The amount of \$6,200,000.00 is appropriated to the Department of Housing and Community Development to design and implement a Re-housing Recovery Program to provide funding to statewide and regional housing partner organizations for grants to eligible applicants.

(B) Administration. The Department shall require any statewide or regional housing partner organization that receives funding under the Program to develop:

(i) a standard application form that describes the application process and includes clear instructions and examples to help property owners apply;

(ii) a selection process that ensures equitable selection of property owners; and

(iii) a grants management system that ensures accountability for funds awarded to property owners.

(C) Grant requirements.

(i) The Department shall ensure each grant complies with the following requirements:

(I) A property owner may apply for a grant of up to \$30,000.00 per unit.

(II) To be eligible, a unit must be blighted, vacant, or otherwise not comply with applicable rental housing health and safety laws.

(ii) A property owner shall:

(I) match at least 10 percent of the value of the grant; and

(II) comply with applicable permit requirements and rental housing health and safety laws.

(iii) The Department shall use one or more legally binding mechanisms to ensure that:

(I) renovated units are made available to persons who require economic assistance due to the COVID-19 crisis;

(II) the rent charged remains at or below annually published HUD Fair Market Rent for the County or Metropolitan Statistical Area for at least five years; and

(III) if a property owner sells or transfers a property improved with grant funds within five years of receiving the funds, the property continues to remain affordable for the remainder of the five-year period.

(D) The Department shall develop requirements regarding the following:

(i) encouraging and incentivizing statewide and regional housing partner organizations and property owners to work with local continua of care organizations; and

(ii) limitations on the number of units for which an individual owner may receive grant funds.

(E) Definitions. As used in this section:

(i) "Blighted" means that a rental unit is not fit for human habitation and does not comply with the requirements of applicable building, housing, and health regulations.

(ii) "Vacant" means that a rental unit has not been leased or occupied for at least 90 days prior to the date on which a property owner submits an application and the unit remains unoccupied at the time of the award.

(b) On or after September 15, 2020, the Department of Housing and Community Development, in consultation with the funding recipients named in this section, shall assess the allocation and expenditure of funds made in this section and may re-allocate funds as the Department determines is necessary to most effectively provide necessary housing-related assistance to Vermonters affected by the COVID-19 crisis.

Sec. 12. DEPARTMENT FOR CHILDREN AND FAMILIES; HOUSING
FOR HOUSEHOLDS EXPERIENCING HOMELESSNESS

(a) The sum of \$16,000,000.00 is appropriated from the Coronavirus Relief Fund to the Department for Children and Families in fiscal year 2021 to fund programs and services that support safe, stable housing opportunities for Vermont households experiencing homelessness as a result of the COVID-19 public health emergency and related administrative costs. The programs and services funded by this appropriation may include:

(1) expanding the Vermont Rental Subsidy program to provide homeless households with temporary rental assistance through December 30, 2020 as a bridge to public housing vouchers;

(2) providing or arranging for housing navigation and case management services, such as identifying housing barriers, needs, and preferences; developing and implementing plans to find and secure housing; conducting outreach to potential landlords; assisting with relocation logistics; developing permanent housing support crisis plans; and identifying other services necessary for households to maintain permanent housing;

(3) providing financial assistance to Vermont households who are living in motels to help them rapidly resolve their homelessness and enter into safe housing arrangements;

(4) supplementing the General Assistance motel voucher program to address the immediate housing needs of households who are currently living in motels or hotels around the State and whose motel or hotel lodging is related to a disruption to their previous housing situation as a result of the COVID-19 public health emergency; and

(5) capitalizing a housing risk pool for landlords to encourage rentals to individuals experiencing homelessness or housing insecurity, which would help landlords lessen their risk of exposure to financial loss through December 20, 2020, while renting to households that have poor or no rental housing history as result of financial hardship due to the COVID-19 public health emergency.

(b) The provision of housing programs and services is not compensable under this section to the extent that the same costs or expenses have been or

will be covered by other federal funds.

* * * Broadband Connectivity Grants and Planning * * *

Sec. 13. COVID-RESPONSE ACCELERATED BRODBAND
CONNECTIVITY PROGRAM

(a) The sum of \$17,433,500.00 is appropriated to the COVID-Response Accelerated Broadband Connectivity Program, a newly established program administered by the Commissioner of Public Service, consistent with the requirements of this section. The purpose of the Program is to rapidly and significantly increase broadband connectivity consistent with the federal parameters applicable to expenditures under the Coronavirus Relief Fund in a manner that best serves the State's goal of achieving universal 100 Mbps symmetrical service by 2024 as specified in 30 V.S.A. § 202c. To achieve this purpose, the Commissioner is given broad discretion to allocate funding, as he or she deems appropriate, subject to legislative oversight as required under subsection (m) of this section, to support the following programs and initiatives:

(1) Up to \$2,000,000.00 for the COVID-Response Line Extension Customer Assistance Program established in subsection (b) of this section.

(2) The Get Vermonters Connected Now Initiative established in subsection (c) of this section.

(3) The COVID-Response Temporary Broadband Lifeline Program established in subsection (d) of this section.

(4) The Connectivity Initiative established under 30 V.S.A. § 7515b for projects that can be completed consistent with the parameters of Coronavirus Relief Fund eligible expenditures, including fixed wireless projects.

(5) Wi-Fi deployment as specified in subsection (g) of this section.

(b) There is established the COVID-Response Line Extension Customer Assistance Program, the purpose of which is to provide financial assistance for the customer costs associated with line extensions to unserved locations. The Commissioner shall develop guidelines and procedures to implement this Program and may incorporate relevant provisions of PUC Cable Rule 8.313, including the formula for assessing contributions in aid of construction. Conditions of the Program shall include the following:

(1) An unserved location means an area without access to 25/3 Mbps.

(2) Per customer financial assistance may not exceed \$3,000.00.

(3) Locations eligible for financial assistance shall provide to the Department data related to connectivity needs as they pertain to remote

learning, telehealth, and telework needs.

(4) A health care provider may apply for assistance on behalf of a patient residing in Vermont for a line extension so that the patient can receive telehealth or telemedicine services from the health care provider. Any K–12 educational institution, including a public or private school or school district, may apply for a line extension on behalf of a student, provided the student’s service location is in Vermont and the student needs the broadband service to receive remote instruction from the educational institution.

(5) Funds under this Program shall be available for the most cost-effective and site- appropriate line extension. Funds shall be disbursed on a rolling basis until funds in the Program are expended or December 20, 2020, whichever occurs first.

(c) There is established the Get Vermonters Connected Now Initiative. Notwithstanding any provision of law to the contrary, funds shall be distributed through the Connectivity Initiative established under 30 V.S.A. § 7515b, and are available for projects in areas otherwise considered served under the Connectivity Initiative. The purpose of the Program is to provide financial assistance to Internet service providers to offset the customer costs of fiber-to-the-premises installations, which include underground conduit installations, where required, and service drops. The Commissioner shall prioritize projects involving installation of underground conduit, where required, that would result in broadband access to low-income households with remote learning, telehealth, and telework needs.

(d) To the extent it is administratively feasible within the time constraints of section 601(d) of the Social Security Act, the Department may establish a COVID-Response Temporary Broadband Lifeline Program to provide subsidies for customer broadband monthly subscriptions to increase broadband adoption rates in response to the COVID-19 public health emergency.

(e) Up to \$50,000.00 of funds appropriated under this section may be used to reimburse the Department of Public Service and the Agency of Digital Services for any costs associated with the deployment of Wi-Fi hotspots not covered by the Federal Emergency Management Agency.

(f) The Commissioner shall establish guidelines and procedures consistent with Section 601(d) of the Social Security Act and shall incorporate provisions for ensuring, to the greatest extent possible and based on the best available data, that the Program will significantly increase broadband capacity for distance learning, telehealth, and telework during the public health emergency. To that end, projects funded under this Program shall reflect the Department’s ongoing efforts with both the Agency of Education and the Vermont Program

for Quality in Health Care, Inc. to identify addresses and clusters of students or vulnerable or high-risk Vermonters, or both, who do not have access to broadband connectivity. In addition, the guidelines shall attempt to direct funds under the Program to projects designed to serve economically-challenged households or communities.

(g) Any new services funded in whole or in part by monies from this Program shall be capable of speeds of at least 25 Mbps download and 3 Mbps upload; however, when the technology is feasible, priority shall be given to services that are capable of 100 Mbps symmetrical service.

(h) The location and capacity of infrastructure funded through this Program shall be part of a permanent, public database maintained by the Department.

(i) If a proposed project under the Program is in the service territory of a communications union district, immediately upon receipt of the application for the proposed project, the Commissioner shall notify the affected communications union district of the proposed project and provide seven business days for the district to raise an objection to the proposed project. The Commissioner may award funding to the proposed project over the objection of a communications union district, provided he or she documents in writing the reasons for overriding the objection.

(j) The Commissioner may disburse an award for advance payment of capital costs provided the Commissioner determines such funding is necessary for project commencement. The Commissioner may retain an award of financial assistance, or a portion thereof, under this section until he or she determines that eligible expenses have been incurred and properly documented by the intended recipient in a form and manner prescribed by the Commissioner.

(k) Funds under the Program shall not be used to support a provider's costs associated with line extensions otherwise required to be constructed pursuant to a certificate of public good granted under 30 V.S.A. chapter 13.

(l) The Commissioner shall consider and coordinate with existing stakeholders and initiatives, including VELCO and FirstNet, to leverage private and public assets to the greatest extent possible in furtherance of the objectives of this Program.

(m) On or before July 31, 2020 and every month thereafter until December 1, 2020, the Commissioner shall provide to the Joint Information Technology Oversight Committee, the Senate Committee on Finance, and the House Committee on Energy and Technology a status report on the Program that identifies funding distributions to date, the amount of funds that remain

available for distribution, and plans for awarding available funds on or before December 20, 2020.

(n) Any unexpended funds under the Program as of December 20, 2020 shall be returned to the State Coronavirus Relief Fund.

(o) Personal information submitted under the Program is confidential and exempt from disclosure under the Public Records Act. Such information may only be disclosed publicly in an anonymized and aggregated format.

(p) The Program shall sunset on January 1, 2021. The Department shall be the successor in interest to any remaining rights, liabilities, and obligations.

(q) The Commissioner shall notify the Telecommunications and Connectivity Advisory Board of pending grant awards.

Sec. 14. COVID-RESPONSE CONNECTED COMMUNITY RESILIENCE PROGRAM

(a) The sum of \$800,000.00 is appropriated to the COVID-Response Connected Community Resilience Program, a grant program to be administered by the Commissioner of Public Service. The purpose of the Program is to fund recovery planning efforts of communications union districts, particularly with regard to accelerating their deployment schedules. Accelerated deployment is necessary in direct response to the COVID-19 public health emergency, which has caused communications union districts to rapidly reassess the connectivity needs in their respective service areas and to reevaluate their deployment objectives going forward, either independently or collaboratively. Conditions of the Program shall include the following:

(1) Costs eligible for funding under this Program include consultant fees, administrative expenses, and any other recovery planning costs deemed appropriate by the Commissioner.

(2) A grant award may not exceed \$100,000.00.

(b) The Commissioner shall develop policies and practices for Program implementation consistent with the purposes of this section and also with Section 601(d) of the Social Security Act, including standards for expense verification and records retention.

Sec. 15. COVID-RESPONSE TELECOMMUNICATIONS RECOVERY PLAN

The sum of \$500,000.00 is appropriated to the Commissioner of Public Service to retain a consultant to assist with preparation of a COVID-Response Telecommunications Recovery Plan. The purpose of the Recovery Plan is to reassess the State's critical connectivity needs in light of the COVID-19 public

health emergency and to reevaluate broadband deployment objectives going forward. On or before December 20, 2020, the Recovery Plan shall be submitted to the House Committee on Energy and Technology and the Senate Committee on Finance.

Sec. 16. 2019 Acts and Resolves No. 79, Sec. 23, subsection (a) is amended to read:

(a) It is the intent of the General Assembly that, regardless of when the 2017 Telecommunications Plan is adopted, a new Plan shall be adopted on or before ~~December 1, 2020~~ June 30, 2021 in accordance with the procedures established in 30 V.S.A. § 202d(e). The next Plan after that shall be adopted on or before ~~December 1, 2023, and so on~~ June 30, 2024 and every three years thereafter.

Sec. 17. COVID-RESPONSE TELEHEALTH CONNECTIVITY PROGRAM

(a) The sum of \$800,000.00 is appropriated to the Department of Health for the COVID-Response Telehealth Connectivity Program to be administered by the Vermont Program for Quality in Health Care, Inc. (VPQHC) consistent with its mission under 18 V.S.A. § 9416 and with its Connectivity Care Packages pilot proposal. The purpose of the Program is to support equitable access to telehealth services by providing outreach and educational opportunities that improve digital literacy skills of patients and providers and also by providing the equipment needed to support telehealth needs during the COVID-19 public health emergency, particularly in areas that are digitally and medically underserved and distributed geographically across the State. Conditions of the Program shall include:

(1) To the extent feasible under the timing and funding constraints of this Program, VPQHC shall make every effort to identify and prioritize assistance to vulnerable and high-risk patients in all regions of the State.

(2) VPQHC shall ensure that all expenditures made pursuant to this Program are properly documented and retained, consistent with the requirements of Section 601(d) of the Social Security Act.

(b) Funds shall be disbursed on a rolling basis until all funds are fully expended or on December 20, 2020, whichever occurs first. Any unexpended funds shall be transferred to the State on or before December 20, 2020. This Program shall sunset on December 31, 2020.

(c) On or before January 15, 2021, VPQHC shall report to the House Committees on Health Care and on Energy and Technology and the Senate Committees on Health and Welfare and on Finance an evaluation of the Program's effectiveness to date.

* * * PEG Access Funding and Study * * *

Sec. 18. PEG ACCESS FUNDING

The sum of \$466,500.00 is appropriated to the Department of Public Service to be disbursed by the Commissioner, in consultation with the Vermont Access Network, among the State's access media organizations for staffing and operational costs incurred due to unbudgeted and unplanned coverage of public meetings and events in response to the COVID-19 public health emergency, as well as for unplanned and unbudgeted expenditures related to increased production and technical support for live-streaming government and community-based organizations.

Sec. 19. STUDY; PUBLIC, EDUCATIONAL, AND GOVERNMENTAL
ACCESS TELEVISION

(a) The Agency of Commerce and Community Development shall retain a consultant to review the current business model for Vermont Public, Educational, and Governmental Access (PEG) television channels and provide recommendations concerning how to ensure the future financial stability and viability of PEG channels.

(b) The consultant shall prepare a written report that:

(1) provides a range of estimates of the projected decline in revenues from cable franchise fees;

(2) reviews the budgets of entities that provide PEG services, including salaries, operations, and equipment, and other substantial categories of outlays and expenditures;

(3) sets forth and analyzes alternative sources of revenue, including fees levied against voice and broadband providers;

(4) sets forth and analyzes ways to contain costs without losing effectiveness, including encouraging or requiring entities that provide PEG services to consolidate administrative functions or share resources and exploring partnership opportunities with other public entities, such as schools;

(5) reviews PEG television channel business models from other states;
and

(6) provides recommendations concerning how to ensure the future financial stability and viability of Vermont PEG television channels.

(c) On or before January 15, 2021, the consultant shall submit the written report prepared pursuant to subsection (b) of this section to the House Committees on Appropriations and on Energy and Technology and to the Senate Committees on Appropriations and on Finance.

(d) The Agency is directed to identify available funding sources to support the study required by this section, including Coronavirus Relief Fund monies for distance learning, public health and safety communications, and online State and local governmental activities during the COVID-19 public health emergency.

* * * Utility Ratepayer Arrearages * * *

Sec. 20. DEPARTMENT OF PUBLIC SERVICE; UTILITY RATEPAYER
ARREARAGES

The sum of \$5,000,000.00 is appropriated to the Department of Public Service for the purpose of simultaneously minimizing financial hardship caused by the COVID-19 public health emergency and also mitigating utility rate increases ultimately shared by all ratepayers, the Commissioner of Public Service shall develop policies and practices for providing financial support to utility ratepayers to cover account arrearages of ratepayers likely to face disconnection when the moratorium ends. As used in this section, a “utility” means a utility affected by the Public Utility Commission’s moratorium on utility disconnections issued on March 18, 2020, as further amended and revised by the Commission. Funds shall be disbursed on a rolling basis until all funds are fully expended or December 20, 2020, whichever occurs first. The Commissioner may contract with an independent third party to assist with program administration. Customer information submitted pursuant to this program shall be exempt from disclosure under the Vermont Public Records Act; such data may only be disclosed on an anonymized and aggregated basis.

* * * Information Technology * * *

Sec. 21. AGENCY OF DIGITAL SERVICES; CYBERSECURITY

The sum of \$2,000,000.00 is appropriated to the Agency of Digital Services to fund efforts to mitigate cybersecurity risks posed by State employees working from home as a result of the COVID-19 pandemic.

Sec. 22. EFFECTIVE DATE

This act shall take effect on passage.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Baruth, Rodgers.

Recess

On motion of Senator Ashe the Senate recessed until 4:30 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 61

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 a bill originating in the Senate of the following title:

S. 351. An act relating to providing financial relief assistance to the agricultural community due to the COVID-19 public health emergency.

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

Rules Suspended; House Proposal of Amendment Concurred In**S. 351.**

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to providing financial relief assistance to the agricultural community due to the COVID-19 public health emergency.

Was taken up for immediate consideration.

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

* * * Purpose * * *

Sec. 1. PURPOSE

The purpose of this act is to appropriate the following amounts to farming and forest businesses for losses, or expenses, or both, incurred as a result of the COVID-19 public health emergency:

(1) \$25,000,000.00 for the Dairy Assistance Program established under this act, provided that from the appropriated funds, \$21,200,000.00 shall be available for grant awards to milk producers, and \$3,800,000 shall be available for awards to dairy processors;

(2) \$5,000,000.00 for the Non-dairy Agricultural Producer and Processor Assistance Program established under this act;

(3) \$5,000,000.00 for the Forest Economy Stabilization Grant Program established under this act; and

(4) \$192,000.00 to the Vermont Housing and Conservation Board to provide business, financial, and mental health assistance to farm and food businesses.

* * * Coronavirus Relief Fund; Administrative Provisions * * *

Sec. 2. CONSISTENCY WITH CARES ACT AND GUIDANCE

The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this act complies with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance because the economic harm to be covered:

(1) is necessary expenditures incurred due to the public health emergency with respect to Coronavirus Disease 2019 (COVID-19);

(2) was not accounted for in Vermont's fiscal year 2020 budget; and

(3) was, or will be, incurred during the period beginning on March 1, 2020 and ending on December 30, 2020.

Sec. 3. GRANT RECIPIENT REQUIREMENTS; REVERSION AND REALLOCATION SCHEDULE

All appropriations made from the State's Coronavirus Relief Fund (CRF) in this and other bills passed after March 1, 2020 as part of the 2020 legislative session are made with the knowledge that the statutory and regulatory context is constantly changing. Additional federal legislation may further change the potential for and appropriateness of CRF usage. As a result:

(1) Appropriations from the CRF are subject to changes in source of

funds that may occur as the result of subsequent legislation or through administrative actions, where permissible by law.

(2) Specific CRF uses may need to change based on changes to federal laws or on revised or updated federal guidance.

(3) It is the responsibility of all entities receiving CRF monies to ensure compliance with all federal guidelines as to CRF spending and use.

(4) Unless otherwise authorized by the Commissioner of Finance and Management, any monies appropriated from the CRF shall revert to the CRF to the extent that they have not been expended on or before December 20, 2020 to enable reallocation.

Sec. 4. CORONAVIRUS RELIEF FUND GRANTS; CONDITIONS

(a) Any person receiving a grant comprising monies from the Coronavirus Relief Fund shall use the monies only for purposes that comply with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance.

(b) Any person who expends monies from the Coronavirus Relief Fund for purposes not eligible under Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance shall be liable for repayment of the funds to the State of Vermont; provided, however, that a person shall not be liable for such repayment if the person expended the monies in good faith reliance on authorization of the proposed expenditure or specific guidance from the agency or department administering the grant program.

(c) The Attorney General or a State agency or department administering a grant program established or authorized under this act may seek appropriate criminal or civil penalties as authorized by law for a violation of the terms or conditions of the applicable program, grant, or award.

Sec. 5. CORONAVIRUS RELIEF FUND; RECORD KEEPING; COMPLIANCE; REPORTS

(a) In order to ensure compliance with the requirements of Sec. 5001 of the CARES Act, Pub. L. No. 116-136 and related guidance, and to assist the State in demonstrating such compliance:

(1) any agency or department, and any subrecipient of a grant, that is authorized to disburse grant funds appropriated by this act shall include standard audit provisions, as required by Agency of Administration Bulletins 3.5 and 5, in all contracts, loans, and grant agreements; and

(2) each grant recipient shall report on its use of the monies received pursuant to this act to the agency or department administering the grant as

required by that agency or department and shall maintain records of its expenditures of the monies for three years, or for a longer period if so required by State or federal law, to enable verification as needed.

(b) Unless otherwise provided under this act, on or before July 31, 2020 and September 1, 2020, each agency or department administering a grant program pursuant to this act shall provide information to the legislative committees of jurisdiction, including the House and Senate Committees on Appropriations, regarding its distribution of grant funds to date, the amount of grant funds that remains available for distribution, and its plans for awarding the available funds on or before December 20, 2020.

* * * Dairy Assistance Program * * *

Sec. 6. DAIRY ASSISTANCE PROGRAM; COVID-19 PUBLIC HEALTH EMERGENCY; APPROPRIATION

(a) Appropriation. The sum of \$25,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Agriculture, Food and Markets in fiscal year 2021 for the purpose of establishing the Dairy Assistance Program as set forth in this section. Of the funds appropriated under this section, \$21,200,000.00 shall be available for grant awards to milk producers, and \$3,800,000 shall be available for awards to dairy processors.

(b) Necessity. The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to stabilize milk producers and dairy processors based on their lost revenues related to business interruption caused by the COVID-19 public health emergency.

(c) Definitions. As used in this section:

(1) "Animal feeding operation" (AFO) means a lot or facility where livestock have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, or forage growth are not sustained in the normal growing season over any portion of the lot or facility. Two or more individual farms qualifying as an AFO that are under common ownership and that adjoin each other or use a common area or system for the disposal of waste shall be considered to be a single AFO if the combined number of livestock resulting qualifies as a medium farm as that term is defined under this subsection.

(2) "Certified small farm" means a small farm with at least 50 mature dairy cows required to certify compliance with the Required Agricultural Practices under 6 V.S.A. § 4871 and so certified as of March 1, 2020.

(3) "Dairy processor" means a person, partnership, unincorporated

association, or corporation who owns or controls any place, premises, or establishment where butter, cheese, cream, buttermilk, infant formula, ice cream, yogurt, or other dairy products identified by rule by the Secretary are processed for sale.

(4) “Economic harm” means a milk producer’s or dairy processor’s expenses or lost revenues, or both related to the 2020 COVID-19 public health emergency.

(5) “Goat or sheep dairy farm” means any place or premises where one or more dairy goats or dairy sheep, or both, are kept and where a part or all of the milk from the animals is sold or offered for sale.

(6) “Good standing” means a participant in the Program administered under this section:

(A) that does not have an active enforcement violation that has reached a final order with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources; and

(B) that is in compliance with all terms of a current grant agreement or contract with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources.

(7) “Large farm” means an AFO that houses 700 or more mature dairy animals and where a part or all of the milk from the dairy animals is sold or offered for sale.

(8) “Medium farm” means an AFO that houses 200 to 699 mature dairy animals and where a part or all of the milk from the dairy animals is sold or offered for sale.

(9) “Milk producer” or “producer” means a person, partnership, unincorporated association, or corporation who owns or controls one or more dairy cows, dairy goats, or dairy sheep and sells or offers for sale a part or all of the milk produced by the animals.

(10) “Secretary” means the Secretary of Agriculture, Food and Markets or designee.

(11) “Small farm” means:

(A) an AFO that houses not more than 199 mature dairy cows; or

(B) a goat or sheep dairy farm where a part or all of the milk from the animals is sold or offered for sale.

(d) Program establishment; eligibility.

(1) There is established within the Agency of Agriculture, Food and Markets a Dairy Assistance Program (Program) to provide financial assistance

to milk producers and dairy processors that have suffered economic harm in Vermont caused by the COVID-19 public health emergency.

(2) A milk producer or dairy processor shall be eligible to qualify for assistance under this section if:

(A)(i) the milk producer or dairy processor is currently producing milk or dairy products; or

(ii) the milk producer was producing milk on March 1, 2020, and subsequently ceased production, but submits to the Secretary a good faith plan to restart production of milk or a plan to restart operation through production of another commodity;

(B) the milk producer or dairy processor is in good standing; and

(C) the milk producer or dairy processor accurately demonstrates to the Secretary economic harm that occurred or accrued on or after March 1, 2020 and before December 1, 2020 by providing evidence of lost revenues or expenses related to business interruption caused by the COVID-19 public health emergency.

(3) A milk producer may elect to have its economic harm determined by calculating the difference between what the producer was paid for milk produced between March 1, 2020 and December 1, 2020 and the price that the producer would have been paid if the price for milk remained at the statistical uniform price of \$18.13 hundredweight for the Middlebury location in January of 2020, or the milk producer may enter its own verifiable average price for March through December 2020 and calculate the difference to its own verifiable average price for January 2020 as well as added costs or expenses related to the COVID-19 public health emergency.

(4) Economic harm is not compensable under this section if the same economic harm is covered by insurance or if the economic harm was compensated under another State or federal grant; provided, however, that this restriction does not apply to loans or advance payments for which repayment is expected.

(e) Administration; implementation.

(1) The Program shall be administered by the Agency of Agriculture, Food and Markets, which shall award available funds to milk producers or dairy processors that demonstrate economic harm.

(2) The Secretary shall create an application form that milk producers and dairy processors shall utilize when applying for assistance. Applicants shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief.

(3) The Secretary shall, based on the amount of economic harm incurred by the milk producer or dairy processor on the date the application is received, provide up to the maximum award permitted for each type of qualified farm or processor tier. Applications shall be processed in the order received, but an application shall not be ready for evaluation until the Secretary determines that the application is administratively complete and includes all required proof of economic harm.

(f) Payment; maximum award.

(1) Until all funds appropriated to the Program for milk producers are awarded, the Secretary shall award assistance as grants to reimburse qualified milk producers for demonstrated economic harm up to the following maximum amounts:

(A) Small farms shall receive up to \$18,300.00.

(B) Certified small farms shall receive up to \$34,300.00.

(C) Medium farms shall receive up to \$56,000.00.

(D) Large farms shall receive up to \$100,000.00.

(2) Until all funds appropriated to the Program for dairy processors are awarded, the Secretary shall award payments as grants to reimburse qualified dairy processors for demonstrated economic harm up to the following maximum amounts:

(A) Dairy processors that process less than 500 pounds of milk per day shall receive up to \$31,000.00.

(B) Dairy processors that process from 500 to 9,999 pounds of milk per day shall receive up to \$40,000.00.

(C) Dairy processors that process from 10,000 to 49,999 pounds of milk per day shall receive up to \$50,000.00.

(D) Dairy processors that process 50,000 pounds or more of milk per day shall receive up to \$60,000.00.

(3) To determine maximum grant eligibility, each milk producer shall be evaluated within the farm type known to the Secretary as of March 1, 2020, and each dairy processor shall be evaluated within the milk processing size known to the Secretary as of March 1, 2020.

(g) Application; processing.

(1) Once a milk producer or dairy processor submits a complete application and demonstrates economic harm, the Secretary shall promptly issue a grant payment, provided that the appropriated funds have not been

expended. Initial applications shall be submitted not later than October 1, 2020, and the last grant payment may be a partial payment consisting of the remaining available funds.

(2) Whenever a milk producer or dairy processor has not demonstrated economic harm equal to or greater than the maximum allowed disbursement for its category, the application shall remain pending for a potential future showing of additional economic harm. Qualified milk producers or dairy processors that incur additional economic harm after the date of their initial application may file with the Secretary an addendum to demonstrate subsequent economic harm. The Secretary shall create an addendum form that milk producers and dairy processors shall utilize when applying for additional relief. Milk producers and dairy processors shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief. Eligible milk producers or dairy processors may submit an addendum to their initial application on or before October 1, 2020 to show any additional economic harm eligible for compensatory payment. No milk producer or dairy processor shall receive total grant payments that exceed the maximum allowed grant payment.

(3) All submitted initial applications shall be processed before considering addenda demonstrating additional economic harm, and each addendum shall be processed in the order received. An addendum shall not be ready for evaluation until the Secretary receives all required proof of economic harm and deems the application administratively complete. Once an eligible milk producer or dairy processor submits a complete addendum and demonstrates additional economic harm, the Secretary shall promptly issue a payment, provided that the appropriated funds have not been expended. The last payment may be a partial payment consisting of the remaining available funds.

(4) Each grant award shall be a direct payment from the State of Vermont to a milk producer or dairy processor. Except as provided under this section, a dairy processor shall not submit more than one application, and a milk producer shall not submit more than one application per each separate farm owned or controlled by the producer. A person who is both a milk producer and a dairy processor may submit one application as a milk producer and one as a dairy processor when each business is organized as a separate business entity. A person that is both a milk producer and a dairy processor but is not organized as separate business entities shall submit one application for assistance under this section, but will be eligible for assistance as a milk producer and a dairy processor, provided that the total assistance awarded under this section shall not exceed the total economic harm incurred by the applicant. The Secretary may ask an applicant that is both a milk producer and

a dairy processor but is not organized as separate business entities to submit separate applications as a milk producer and a dairy processor if separate applications are more administratively efficient. A milk producer or dairy processor that does not initially qualify for the maximum allowed payment may submit an addendum to demonstrate additional economic harm not later than October 1, 2020.

(h) Program terms and limitations.

(1) The Secretary of Agriculture, Food and Markets shall issue grant payments under this section on a first-come, first-served basis until all funds are expended or December 20, 2020, whichever is sooner.

(2) The name of a milk producer or dairy processor that receives an award under this section and the amount of the award are public records subject to inspection and copying under the Public Records Act.

(3) Any application documents of a milk producer or dairy processor containing federal identification numbers and sales amounts are subject to the confidentiality provisions of 32 V.S.A. § 3102 and are return information under that section.

(4) Data or information submitted to the Secretary by a milk producer or dairy processor under this section to demonstrate economic harm shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Secretary may use and disclose submitted information in summary or aggregated form that does not directly or indirectly identify an individual milk producer or dairy processor.

(5) Notwithstanding any law or State grant requirement to the contrary, a milk producer or dairy processor shall not be denied participation in the Program or have a payment withheld, set off, or reduced for failure to be in full compliance with any obligation to pay any or all taxes due to the State of Vermont.

*** Non-dairy Agricultural Producer and Processor Assistance Program ***

Sec. 7. NON-DAIRY AGRICULTURAL PRODUCER AND PROCESSOR ASSISTANCE PROGRAM

(a) Appropriations. The sum of \$5,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Agriculture, Food and Markets in fiscal year 2021 for the purpose of establishing the Non-dairy Agricultural Producer and Processor Assistance Program as set forth in this section. The Agency of Agriculture, Food and Markets shall enter into a memorandum of understanding with the Vermont Economic Development Authority for the implementation and administration of the Non-dairy Agricultural Producer and

Processor Assistance Program.

(b) Necessity. The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to stabilize agricultural producers, commercial processors, commercial slaughterhouses, and farmers' markets based on their lost revenues and expenses related to business interruption caused by the COVID-19 public health emergency.

(c) Definitions. As used in this section:

(1) "Agricultural producer" means a farmer who is not eligible for assistance under the Dairy Assistance Program established under this act and who has produced a gross annual income of \$10,000.00 from the sale of agricultural products, livestock, livestock products, or poultry products in one of the two, or three of the five, calendar years preceding submission of an application under this section.

(2) "Agricultural product" means any raw agricultural commodity, as defined in 6 V.S.A. § 21(6), that is principally produced on a farm and includes products prepared from the raw agricultural commodities principally produced on the farm.

(3) "Commercial processor" means any person who maintains an establishment regulated under 6 V.S.A. chapter 204 for the purpose of processing livestock, meat, meat food product, poultry, or poultry product other than for the exclusive use in the household of the owner of the commodity, by him or her and members of his or her household and his or her nonpaying guests and employees.

(4) "Commercial slaughterhouse" means any person engaged in the business of slaughtering livestock or poultry other than as a custom slaughterer or a person conducting slaughter under 6 V.S.A. § 3312(b), (c), or (d).

(5) "Economic harm" means an eligible applicant's expenses or lost revenue, or both, related to the 2020 COVID-19 public health emergency.

(6) "Eligible applicant" means any agricultural producer, commercial processor, commercial slaughterhouse, or farmers' market that suffered qualifying economic harm under this section.

(7) "Farmer" means a person who is engaged in farming and subject to the Required Agricultural Practices Rule.

(8) "Farmers' market" means an event or series of events at which two or more vendors of agricultural products, as defined in 11 V.S.A. § 991, gather for purposes of offering for sale to the public their agricultural products.

(9) “Farming” has the same meaning as in 10 V.S.A. § 6001.

(10) “Good standing” means a participant in the Program administered under this section:

(A) that does not have an active enforcement violation that has reached a final order with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources; and

(B) that is in compliance with all terms of a current grant agreement or contract with the Agency of Agriculture, Food and Markets or the Agency of Natural Resources.

(11) “Livestock” means cattle, cow/calf pairs, youngstock, heifers, bulls, American bison, swine, sheep, goats, horses, cervids, camelids, ratites, rabbits, pheasants, chukar partridge, coturnix quail, laying hens, broilers, ducks, turkeys, or any other type of fowl as designated by the Secretary.

(12) “Livestock product” means any carcass, or part of a carcass, meat, or meat food product of any livestock.

(13) “Poultry product” means any poultry carcass or part of a carcass; or any product that is made wholly or in part from any poultry carcass or part of a carcass.

(14) “Secretary” means the Secretary of Agriculture, Food and Markets.

(d) Administration of Program; eligibility.

(1) The Vermont Economic Development Authority shall administer a Program according to the terms of a memorandum of understanding with the Agency of Agriculture, Food, and Markets and shall approve applications for assistance under this section to offset the economic harm incurred due to the COVID-19 public health emergency.

(2) In order to qualify for assistance under this section, an eligible applicant shall:

(A) be currently operating a farm, a commercial processing facility, a commercial slaughterhouse, or a farmers’ market;

(B) be in good standing; and

(C) accurately demonstrate to the Vermont Economic Development Authority the economic harm that occurred or accrued on or after March 1, 2020 and before December 1, 2020 by providing evidence of losses or expenses related to business interruption caused by the COVID-19 public health emergency.

(3) Based on federal law and guidance, the Vermont Economic

Development Authority, in consultation with the Agency of Agriculture, Food and Markets, shall establish guidelines identifying the specific types of costs for which grant recipients may use grant funds, provided that essential operating expenses to respond to the COVID-19 public health emergency and maintain operation of an eligible applicant shall be eligible uses of grants under this section.

(4) Economic harm is not compensable under this section if the same economic harm is covered by insurance or if the economic harm was compensated under another State or federal grant; provided, however, that this restriction does not apply to loans or advance payments for which repayment is expected.

(5) An eligible applicant shall not receive an award under this section if the applicant had a net business profit between March 1, 2020 and August 1, 2020.

(e) Implementation.

(1) The Vermont Economic Development Authority shall create an application form that eligible applicants shall utilize when applying for relief. Eligible applicants shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief.

(3) The Vermont Economic Development Authority shall, based on the amount of economic harm incurred by the eligible applicant on the date the application is received, provide up to the maximum award. Applications shall be processed in the order received, but an application shall not be ready for evaluation until the Vermont Economic Development Authority determines that the application is administratively complete and includes all required proof of economic harm.

(4) The Vermont Economic Development Authority may use not less than five percent and up to 8 percent of the appropriation for this Program for administrative costs of implementing and administering the Program provided that the expenses represent an increase over previously budgeted amounts and are limited to what is necessary.

(f) Payment; maximum award.

(1) Until all funds appropriated to the Program are awarded, the Vermont Economic Development Authority shall award grant payments to reimburse eligible applicants for demonstrated economic harm as follows based on annual gross sales:

(A) Eligible applicants with annual gross sales of \$10,000.00 to \$24,999.00 shall receive up to \$2,500.00.

(B) Eligible applicants with annual gross sales of \$25,000.00 to \$49,999.00 shall receive up to \$5,000.00.

(C) Eligible applicants with annual gross sales of \$50,000.00 to \$99,999.00 shall receive up to \$10,000.00.

(D) Eligible applicants with annual gross sales of \$100,000.00 or more shall receive up to \$20,000.00.

(2) An eligible applicant shall be evaluated according to the information regarding the applicant known to the Secretary or the Vermont Economic Development Authority as of March 1, 2020 or according to information required to be submitted as part of the application.

(g) Application; processing.

(1) Once an eligible applicant submits a complete application and demonstrates economic harm, the Vermont Economic Development Authority shall promptly approve a grant payment, provided that the appropriated funds have not been expended. Applications shall be submitted not later than October 1, 2020, and the last payment may be a partial payment consisting of the remaining available funds.

(2) Each assistance payment shall be a direct grant payment from the State Treasurer to an eligible applicant. Eligible applicants shall not submit more than one application per each separate farm or business owned or controlled by the producer or processor.

(h) Program terms and limitations.

(1) The Vermont Economic Development Authority shall approve grant payments under this section on a first-come, first-served basis until funds are expended or December 20, 2020, whichever is sooner.

(2) The name of an eligible applicant that receives an award under this section and the amount of the award are public records subject to inspection and copying under the Public Records Act.

(3) Any application documents of an eligible applicant containing federal identification numbers and sales amounts are subject to the confidentiality provisions of 32 V.S.A. § 3102 and are return information under that section.

(4) Data and information submitted to the Secretary or to the Vermont Economic Development Authority by an eligible applicant under this section to demonstrate economic harm shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that:

(A) the Secretary or the Vermont Economic Development Authority

may use and disclose such information in summary or aggregated form that does not directly or indirectly identify an individual eligible applicant; and

(B) the Vermont Economic Development Authority shall provide to the Secretary the name and contact information of any eligible applicant that receives an award under this section so that the Secretary may begin to establish a database or record of the non-dairy agricultural producers, commercial processors, commercial slaughterhouses, and farmers' markets in the State.

(5) Notwithstanding any law or State grant requirement to the contrary, an eligible applicant shall not be denied participation in the Program or have a payment withheld, set off, or reduced for failure to be in full compliance with any obligation to pay any or all taxes due to the State of Vermont.

* * * Assistance Outreach * * *

Sec. 8. EDUCATION AND OUTREACH; AGRICULTURAL ASSISTANCE PROGRAMS; REPORTING; REVERSION

(a) The Secretary of Agriculture, Food and Markets, in consultation with interested parties and partner organizations, shall conduct outreach and education regarding the availability of financial assistance to farmers and agricultural processors under the Dairy Assistance Program and the Non-dairy Agricultural Producer and Processor Assistance Program established under this act.

(b) The Secretary of Agriculture, Food and Markets shall prepare a short survey that applicants under the Dairy Assistance Program and the Non-dairy Agricultural Producer and Processor Assistance Program established under this act shall complete to help identify farmers and agricultural processors that are interested in technical assistance, succession planning, or similar services provided by the State and its agricultural partners.

(c) The Secretary of Agriculture, Food and Markets, beginning on July 1, 2020 and ending on January 1, 2021, shall report to the Senate Committees on Agriculture and on Appropriations and the House Committees on Agriculture and Forestry and on Appropriations on the first day of each month regarding the status of the Dairy Assistance Program and the Non-dairy Agricultural Producer and Processor Assistance Program established by this act. The report shall include:

(1) the number of applicants for assistance in each month and overall; and

(2) the amount of grant funds awarded under each program.

(d) In the September 1, 2020 report required under subsection (c) of this

section, the Secretary of Agriculture, Food and Markets shall provide an accounting of the funds remaining to be appropriated under the Non-dairy Agricultural Producer and Processor Assistance Program. If Non-dairy Agricultural Producer and Processor Assistance Program funds remain unappropriated on September 15, 2020, the Secretary of Agriculture, Food and Markets may reallocate funds from the Non-dairy Agricultural Producer and Processor Assistance Program for award under the Dairy Assistance Program.

* * * Forest Economy Stabilization Grants * * *

Sec. 9. FOREST ECONOMY STABILIZATION GRANT PROGRAM;
CORONAVIRUS RELIEF FUND; APPROPRIATION

(a) The sum of \$5,000,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Natural Resources in fiscal year 2021 for the purpose of establishing the Forest Economy Stabilization Grant Program as set forth in this section. The Agency of Natural Resources shall enter into memorandum of understanding with the Vermont Economic Development Authority for the implementation and administration of the Forest Economy Stabilization Grant Program.

(b) The General Assembly determines that the expenditure of monies from the Coronavirus Relief Fund as set forth in this section is necessary to stabilize forest products businesses due to lost revenues and expenses related to the business interruptions caused by the COVID-19 public health emergency. Low-grade wood constitutes nearly three-quarters of the annual timber harvest in Vermont, and low-grade wood is a key component to paper making. However, the COVID-19 public health emergency has reduced market demand for paper in offices, schools, institutions, advertising, and many other outlets. As a result, millions of tons of unsold paper are stockpiled in warehouses at paper mills, thereby freezing the supply chain for paper making and other associated products harvested and processed from Vermont forests. In addition, low-grade pulpwood chips that would have been used to make paper are being diverted to wood-fired electric plants, thereby displacing the use of whole-tree chips normally supplied by logging contractors delivering whole-tree chips. As a result of these market and supply chain disruptions caused by the COVID-19 public health emergency, forest products businesses are suffering significant business interruptions that restrict the ability of logging contractors to harvest, limit timber sales, diminish landowner return, reduce the supply of forest products to processors that have viable markets, and significantly reduce the need for services from haulers, foresters, and other forest products businesses.

(c) As used in this section:

(1) “Economic harm” means a forest products business’s expenses or lost revenues, or both, related to the 2020 COVID-19 public health emergency.

(2) “Forest products business” means a Vermont enterprise that is primarily engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing forest or wood products derived from Vermont forests. “Forest products business” includes consulting forestry services and secondary manufacturers of wood products.

(d)(1) The Vermont Economic Development Authority shall administer the Forest Economy Stabilization Grant Program according to the terms of the memorandum of understanding with the Agency of Natural Resources and shall approve application for assistance under this section for eligible forest products businesses that have suffered economic harm.

(2) A forest products business shall qualify for assistance under the Program if the business:

(A) was operating in the State on or before February 1, 2020; and

(B) accurately demonstrates to the Vermont Economic Development Authority economic harm that occurred or accrued on or after March 1, 2020 and before December 1, 2020 by providing evidence of lost revenues or expenses related to business interruption caused by the COVID-19 public health emergency.

(3) Based on federal law and guidance, the Vermont Economic Development Authority, in consultation with the Department of Forests, Parks, and Recreation, shall establish guidelines identifying the specific types of costs for which grant recipients may use grant funds, provided that essential operating expenses to respond to the COVID-19 public health emergency and maintain operation of a forest products business shall be eligible uses of grants under this section.

(4) Economic harm is not compensable under this section if the same economic harm is covered by insurance or if the economic harm was compensated under another State or federal grant; provided, however, that this restriction does not apply to loans or advance payments for which repayment is expected.

(e)(1) The Vermont Economic Development Authority, in consultation with the Department of Forests, Parks, and Recreation, shall create an application form that forest products businesses shall utilize when applying for assistance. Applicants shall certify that all information they provide is truthful and accurate to the best of their knowledge, information, and belief.

(2) The Vermont Economic Development Authority shall, based on the

amount of economic harm incurred by the forest products business on the date the application is received, provide up to the maximum award permitted under this section. Applications shall be processed in the order received, but an application shall not be ready for evaluation until the Vermont Economic Development Authority determines that the application is administratively complete and includes all required proof of economic harm.

(3) Until all funds appropriated to the Forest Economy Stabilization Grant Program are awarded, the Vermont Economic Development Authority shall approve applications for grants to reimburse qualified forest products businesses for demonstrated economic harm up to the maximum amount of \$100,000.00 for each eligible forest products business.

(4) Grants to be awarded pursuant to this section shall be disbursed as a single payment. All funds shall be disbursed, and cover economic harm incurred, on or before December 30, 2020 as required by the CARES Act.

(5) The Vermont Economic Development Authority may use not less than five percent and up to 8 percent of the appropriation for this Program for administrative costs of implementing and administering the Program provided that the expenses represent an increase over previously budgeted amounts and are limited to what is necessary.

(f)(1) The Vermont Economic Development Authority shall approve applications for grant payments under this section on a first-come, first-served basis until all funds are expended or December 20, 2020, whichever is sooner. Each grant payment shall be a direct grant payment from the State Treasurer to an eligible applicant.

(2) Any application documents of a forest products business containing federal identification numbers and sales amounts are subject to the confidentiality provisions of 32 V.S.A. § 3102 and are return information under that section.

(3) Data submitted to the Secretary by a forest products business under this section to demonstrate economic harm shall be a trade secret exempt from public inspection and copying under 1 V.S.A. § 317(c)(9), provided that the Secretary may use and disclose submitted information in summary or aggregated form that does not directly or indirectly identify an individual forest products business.

(g) On or before July 31, 2020, the Agency of Natural Resources shall provide information to the House Committees on Appropriations, on Agriculture and Forestry, and on Natural Resources, Fish and Wildlife and the Senate Committees on Appropriations, on Agriculture, and on Natural Resources and Energy regarding the Vermont Economic Development

Authority's distribution of Forest Economy Stabilization Grant Program grant funds to date, including the types of enterprises awarded funds, the aggregate amounts awarded by enterprise, and the aggregate amounts awarded by geographic region of the State. The Vermont Economic Development Authority shall provide an updated version of the report required under this section to the General Assembly on or before September 1, 2020 and on or before January 1, 2021.

(h) The Agency of Natural Resources shall transfer any amounts appropriated for the purposes of this section that remain both unencumbered and unspent as of September 15, 2020 to the Agency of Commerce and Community Development for additional emergency economic recovery grants pursuant to 2020 Acts and Resolves No. 115.

* * * Agricultural Fairs * * *

Sec. 9a. AGRICULTURAL FAIRS; RELIEF ASSISTANCE

(a) The sum of \$500,000.00 is appropriated from the Coronavirus Relief Fund to the Agency of Agriculture, Food and Markets in fiscal year 2021 for the purpose of awarding grants to agricultural fairs in the State that have suffered verifiable lost revenues or expenses caused by the COVID-19 public health emergency.

(b) To be eligible for an award under this section, an agricultural fair shall be registered with the Agency of Agriculture, Food and Markets. An agricultural fair shall demonstrate to the Agency lost revenues or expenses that occurred or accrued on or after March 1, 2020 and before September 1, 2020 due to the COVID-19 public health emergency. The Agency of Agriculture, Food and Markets shall award grants under this section equitably to all eligible agricultural fairs in the State.

(c) The Agency of Agriculture, Food and Markets shall transfer any amounts appropriated for the purposes of this section that remain both unencumbered and unspent as of September 15, 2020 to the Agency of Commerce and Community Development for additional emergency economic recovery grants pursuant to 2020 Acts and Resolves No. 115.

* * * Farm Worker Safety * * *

Sec. 10. FARM WORKER HEALTH AND SAFETY; CORONAVIRUS; AVAILABILITY

The Secretary of Agriculture, Food and Markets, after consultation with the Department of Labor and the Vermont Occupational Safety and Health Administration (VOSHA), shall post on the Agency of Agriculture, Food and Markets' website educational material available from VOSHA related to farm

worker health and safety, including VOSHA's recommended best practices or preventative measures farm workers should implement to address the threat to health and safety posed by the COVID-19 coronavirus and other similar threats to health and safety. The Secretary of Agriculture, Food and Markets shall post the English and Spanish language versions of the VOSHA educational material required under this section and shall provide links or references on how to obtain the material from VOSHA in other languages.

* * * VHCB; COVID-19 Business Consulting for Farms * * *

Sec. 11. APPROPRIATIONS; VHCB; COVID-19 CONSULTING SERVICES FOR FARM AND FOOD BUSINESSES

In addition to funds appropriated in fiscal year 2021 to the Vermont Housing and Conservation Board (VHCB), \$192,000.00 is appropriated to VHCB from the Coronavirus Relief Fund to provide business, financial, and mental health assistance to farm and food businesses that suffered losses or expenses due to business interruptions caused by the COVID-19 public health emergency. Consulting services shall include information and assistance with accessing federal and State COVID-19 relief funds, access to additional markets, diversification of income streams, access to mental health services, and other assistance farm and food businesses may require to address or recover from business interruption caused by the COVID-19 public health emergency.

* * * VHCB; Authority * * *

Sec. 12. 10 V.S.A. § 321 is amended to read:

§ 321. GENERAL POWERS AND DUTIES

(a) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided to a business corporation by Title 11A and those general powers provided to a nonprofit corporation by Title 11B and including, without limitation of the general powers under Titles 11A and 11B, the power to:

- (1) upon application from an eligible applicant in a form prescribed by the Board, provide funding in the form of grants or loans for eligible activities;
- (2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the purposes of this chapter;
- (3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter; ~~and~~

(4) transfer funds to the Department of Housing and Community Development to carry out the purposes of this chapter;

(5) make and execute all legal documents necessary or convenient for the exercise of its powers and functions under this chapter, including legal documents that may be made and executed with the State or any of its agencies or instrumentalities, with the United States or any of its agencies or instrumentalities or with private corporations or individuals;

(6) receive and accept grants from any source to be held, used, or applied or awarded to carry out the purposes of this chapter subject to the conditions upon which the grants, aid, or contributions may be made;

(7) make and publish rules and regulations respecting its housing programs and such other rules and regulations as are necessary to effectuate its corporate purposes; and

(8) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(b)(1) The Board shall seek out and fund nonprofit organizations and municipalities that can assist any region of the State that has high housing prices, high unemployment, ~~and~~ or low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing.

(2) The Board shall administer the “HOME” affordable housing program ~~which~~ that was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The State of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the Board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and results that the Board will annually report on to the Vermont Department of Housing and Community Development.

(c) On behalf of the State of Vermont, the Board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund ~~which~~ that was enacted under HR 3221, Division A, Title 1, Subtitle B, Section 1131 of the Housing and Economic Reform Act of 2008 (P.L. 110-289) to increase perpetually affordable rental housing and home ownership for low and very low income families. The

Board is also authorized to receive and administer federal funds or enter into cooperative agreements for a shared appreciation and/or community land trust demonstration program that increases perpetually affordable homeownership options for lower income Vermonters and promotes such options both within and outside Vermont.

(d) On behalf of the State of Vermont, the Board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the Board shall seek to maximize State participation in the federal Wetlands Reserve Program and such other programs as is appropriate to allow for increased or additional implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

(e) The Board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and State bonding act of the following: "The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act." An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

Sec. 13. 2017 Acts and Resolves No. 77, Sec. 12 is amended to read:

Sec. 12. REPEALS REPEAL

~~(a) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative) shall be repealed on July 1, 2021; and~~

~~(b) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria) shall be repealed on July 1, 2023.~~

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on passage.

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

Bill Amended; Bill Passed

S. 237.

Senate bill entitled:

An act relating to promoting affordable housing.

Having been called up was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill by striking out in their entireties Secs. 5 (10 V.S.A. § 6001), 6 (10 V.S.A. § 6081), 7 (repeals), 8 (10 V.S.A. § 6090), 9 (24 V.S.A. § 2792(a)), 10 (24 V.S.A. § 2793), 12 (24 V.S.A. § 2793e), 14 (10 V.S.A. § 1972), 15 (10 V.S.A. § 1974(9)), 16 (10 V.S.A. § 1983), and 16a (study of subdivision regulations in authorized municipalities) and inserting in lieu thereof the following:

[Deleted.]

Which was agreed to on a roll call, Yeas 28, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Baruth, Rodgers.

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

Rules Suspended; Bill Placed in All Remaining Stages of Passage

On motion of Senator Ashe, the rules were suspended, and the following bill was placed in all remaining stages of passage:

H. 966.

Senator Ashe Assumes the Chair

Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged

H. 966.

House bill entitled:

An act relating to COVID-19 funding and assistance for broadband connectivity, housing, and economic relief .

Was taken up.

Thereupon, pending third reading of the bill, Senator Kitchel moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1, by striking out “\$209,500,000.00” in its entirety and by inserting in lieu thereof \$214,200,000.00

Second: In Sec. 6, in subdivision (a)(2), by striking out “\$2,000,000.00” and inserting in lieu thereof \$2,500,000.00

Third: In Sec. 6, by striking out subdivision (d)(3) in its entirety and inserting in lieu thereof a new subdivision (d)(3) to read:

(3) shall transfer any grant funds appropriated under subsection (a) of this section that remain unencumbered as of November 15, 2020 to the Agency of Commerce and Community Development, which the Agency shall use to make additional emergency economic recovery grants pursuant to this section.

Fourth: In Sec. 7, COVID-19 expense reimbursement; local government, by striking out subdivision (c)(1) in its entirety and inserting in lieu thereof:

(1) \$12,650,000.00 in grants that shall not exceed \$750,000.00 per recipient for reimbursement of eligible COVID-19 expenses to the following:

Fifth: In Sec. 7, COVID-19 expense reimbursement; local government, by striking out subdivision (c)(4) in its entirety and inserting in lieu thereof:

(4) In the event that applications for reimbursements exceed the amounts allocated, grants may be prorated. If funds are available after November 15, 2020, the Secretary may award grants to towns on a prorated basis above the level capped under subdivision (1) of this subsection.

Sixth: In Sec. 13, concerning the COVID-Response Accelerated Broadband Connectivity Program, subsection (q), after the first sentence, by adding a sentence to read: The Telecommunications and Connectivity Advisory Board is authorized to meet up to 12 times in calendar year 2020.

Seventh: In Sec. 20, concerning utility ratepayer arrearages, by striking out “5,000,000.00” and inserting in lieu thereof \$8,000,000.00

Eighth: By adding a new Sec. 21a to read as follows:

Sec. 21a. E-911 FUNDING

The sum of \$200,000.00 is appropriated to the Enhanced 911 Fund for necessary expenses incurred due to unbudgeted and unplanned critical public health and safety activities and services directly caused by or provided in response to the COVID-19 public health emergency.

Which was agreed to.

Thereupon, Senators Sirotkin, Balint, Brock, Clarkson and Hooker moved that the Senate proposal of amendment be amended in Sec. 6, COVID-19; economic support for businesses and individuals, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof a new subdivision (b)(1) to read as follows:

(1)(A) \$2,500,000.00 to the Department of Tourism and Marketing to create a Restart Vermont marketing program to encourage visitation and consumer spending in Vermont to support businesses that have suffered economic harm due to the COVID-19 public health emergency.

(B) Eligible uses for the funds appropriated in subdivision (A) of this subdivision (1) include:

(i) marketing activities to promote travel to and within Vermont to increase consumer spending at tourism, hospitality, retail, and related businesses; and

(ii) statewide or regional consumer stimulus programs or consumer purchasing incentives that maximize the effect of local consumer spending, including at restaurants, lodging establishments, retail stores, and tourism attractions.

(C)(i) The Department shall investigate:

(I) the feasibility of establishing a consumer incentive program to provide to front-line workers who receive hazard pay through the Front-Line Employees Hazard Pay Grant Program with meaningful discounts or other incentives by and at participating Vermont restaurants and to promote restaurants participating in the program through distinctive signage and other means;

(II) the potential of:

(aa) issuing a simple identification card for use at participating restaurants; or

(bb) working with a third-party vendor to offer employers the option to allow eligible employees to elect to receive hazard pay on a distinctive payroll card that will entitle the employees to a discount with participating restaurants.

(ii) If the Agency determines that such a program is feasible, it is authorized, in its discretion, to implement the program in conjunction with the Front-Line Employees Hazard Pay Grant Program, provided that:

(I) participation in the program by employers, eligible employees, and restaurants shall be voluntary; and

(II) administrative costs associated with the program shall be paid by any combination of the following:

(aa) participating restaurants;

(bb) participating employees; or

(cc) to the extent permitted pursuant to Sec. 5001 of the CARES Act, as may be amended, and any guidance issued pursuant to that section, from the amount allocated in subdivision (A) of this subdivision (b)(1).

Which was agreed to.

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

Rules Suspended; Bills Messaged

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

S. 237, H. 966.

Rules Suspended; Bill Delivered

On motion of Senator Balint, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

S. 351.

Message from the House No. 62

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 a bill originating in the Senate of the following title:

S. 342. An act relating to temporary workers' compensation amendments related to COVID-19.

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

Recess

On motion of Senator Mazza the Senate recessed until 6:00 P.M..

Called to Order

The Senate was called to order by the President.

Rules Suspended; House Proposal of Amendment Concurred In**S. 342.**

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to temporary workers' compensation amendments related to COVID-19.

Was taken up for immediate consideration.

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

* * * Workers' Compensation * * *

Sec. 1. WORKERS' COMPENSATION; ADMINISTRATIVE
FLEXIBILITY; TEMPORARY AUTHORITY

(a) In order to effectuate the remedial purpose of Vermont's Workers' Compensation law and to ensure that injured workers are able to obtain the workers' compensation benefits they are entitled to, the Commissioner shall, during a declared state of emergency related to COVID-19, have authority to issue guidance and adopt procedures to extend deadlines or temporarily amend or waive specific requirements of 21 V.S.A. chapter 9 and the rules adopted pursuant to that chapter.

(b) Any guidance or procedures that are issued or adopted by the Commissioner pursuant to this section shall be effective during the state of emergency in which they are adopted, and the Commissioner shall establish a procedure to transition those claims impacted by the emergency to preexisting rules within 45 days after the termination of the state of emergency.

(c) The Commissioner shall post any guidance issued or procedure adopted pursuant to this section on the Department's website and shall make reasonable efforts to provide prompt notice of the guidance or procedure to employers, attorneys, and employee organizations.

(d) The Commissioner shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any guidance issued or procedure adopted pursuant to this section.

Sec. 2. COVID-19; PRESUMPTION OF COMPENSABILITY

(a)(1) In the case of a front-line worker, disability or death resulting from COVID-19 shall be presumed to be compensable pursuant to 21 V.S.A. chapter 9, provided that the front-line worker receives a positive laboratory test for COVID-19 or a diagnosis of COVID-19 from a licensed healthcare provider between March 1, 2020 and January 15, 2021.

(2) As used in this subsection:

(A)(i) “Elevated risk of exposure to COVID-19” means the performance of a job that requires the worker to have regular physical contact with known sources of COVID-19 or regular physical or close contact with patients, inmates in a correctional facility, residents of a residential care or long-term care facility, or members of the public in the course of his or her employment.

(ii) As used in this subdivision (2)(A), “close contact” means interactions with another individual that require the employee to be within six feet of that individual.

(B) “Front-line worker” means an individual with an elevated risk of exposure to COVID-19 who is employed as:

(i) a firefighter as defined in 20 V.S.A. § 3151(3) and (4);

(ii) a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151;

(iii) emergency medical personnel and volunteer personnel as defined in 24 V.S.A. § 2651;

(iv) a worker in a health care facility or in an institution or office where health care services are provided by licensed healthcare professionals;

(v) a correctional officer;

(vi) a worker in a long-term care facility or residential care facility;

(vii) a childcare provider who is permitted to provide childcare to the children of other front-line workers pursuant to Executive Order 01-20;

(viii) a home health care worker or personal care attendant;

(ix) a worker in a morgue, funeral establishment, or crematory facility; and

(x) a worker performing services that the Commissioner determines place the worker at a similarly elevated risk of being exposed to or contracting COVID-19 as the other occupations listed in this subsection (a).

(b) For an employee who is not a front-line worker as defined in subdivision (a)(2)(B) of this section, disability or death resulting from COVID-19 shall be presumed to be compensable pursuant to 21 V.S.A. chapter 9 if the employee receives a positive laboratory test for COVID-19 or a diagnosis of COVID-19 from a licensed healthcare provider between April 1, 2020 and January 15, 2021 and, not more than 14 days prior to the date on which the employee is tested or examined, either:

(1) had documented occupational exposure in the course of employment to an individual with COVID-19; or

(2) performed services at a residence or facility with one or more residents or employees who:

(A) were present at the time the services were performed; and either

(B)(i) had COVID-19 at that time; or

(ii) tested positive for COVID-19 within 14 days after the services were performed.

(c)(1) The presumption of compensability in subsection (a) of this section shall not apply if it is shown by a preponderance of the evidence that the disease was caused by non-employment-connected risk factors or non-employment-connected exposure.

(2) The presumption of compensability in subsection (b) of this section shall not apply if the employer can show by a preponderance of the evidence that:

(A) the disease was caused by non-employment-connected risk factors or non-employment-connected exposure; or

(B) at the time the employee was potentially exposed to COVID-19, the employee's place of employment was in compliance with:

(i) between April 1, 2020 and April 20, 2020, the relevant COVID-19 related guidance for businesses and workplaces issued by the U.S. Centers for Disease Control and the Vermont Department of Health and any similar guidance issued by local or municipal authorities; and

(ii) between April 20, 2020 and January 15, 2021, the Restart Vermont Worksafe Guidance issued by the Agency of Commerce and Community Development, and any similar guidance issued by local or municipal authorities.

(d) The Commissioner shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any guidance issued or procedure adopted in relation to this section.

Sec. 3. PROSPECTIVE REPEAL

In the absence of legislative action to the contrary, Secs. 1 and 2 of this act are repealed on January 15, 2021.

Sec. 4. WORKERS' COMPENSATION COVID-19 REIMBURSEMENT;
STUDY; REPORT

(a) The Commissioner of Financial Regulation shall examine the potential for creating a special fund that can be used to reimburse workers' compensation insurers, intermunicipal insurance associations, and self-insured employers for COVID-19 related workers' compensation costs related to COVID-19. In particular, the Commissioner shall examine the following issues:

(1) the average cost of paying a COVID-19 related workers' compensation claim in Vermont;

(2) factors that can influence the cost of a COVID-19 related workers' compensation claim, including medical costs, the average amount of time that a worker must be out of work, applicable deductibles, and any other factors that the Commissioner determines are appropriate;

(3) potential COVID-19 related impacts on workers' compensation costs and experience modifiers based on the experience of Vermont and other states with respect to COVID-19 infection rates and COVID-19 related workers' compensation claims, as well as projections for future rates of COVID-19 infections and COVID-19 related workers' claims in Vermont;

(4) the amount of funding and any legislative action that would be necessary to substantially mitigate or eliminate the impact of COVID-19 related workers' compensation claims on workers' compensation costs; and

(5) requirements for structuring such a fund so that monies from the Coronavirus Relief Fund can be used in compliance with the requirements of section 5001 of Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (the CARES Act), as may be amended, and any guidance issued pursuant to that section.

(b) The Commissioner shall consult with interested parties including relevant trade groups and advocates for employers, workers' compensation insurers, and employees.

(c) On or before August 15, 2020, the Commissioner shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with his or her findings and any recommendations for legislative action.

Sec. 5. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2021, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly determines that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

* * * Sales and Use Tax; Paper Bags * * *

Sec. 6. 32 V.S.A. § 9741(54) is added to read:

(54) Sales of recyclable paper carryout bags to customers pursuant to 10 V.S.A. § 6693, provided that sales of recyclable paper carryout bags to stores and food service establishments as defined under 10 V.S.A. § 6691 shall not be exempt under this subdivision and shall not be considered sales for resale under subdivision 9701(5) of this title.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) Notwithstanding 1 V.S.A. § 214, the section and Sec. 1 and 2 of this act shall take effect on passage and shall apply retroactively to March 1, 2020.

(b) Secs. 5 and 6 shall take effect on July 1, 2020, provided that if the date of passage of this act is after July 1, 2020, then notwithstanding 1 V.S.A. § 214, Secs. 5 and 6 shall take effect on passage and shall apply retroactively to July 1, 2020.

(c) The remaining sections of this act shall take effect on passage.

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

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Recess

On motion of Senator Ashe the Senate recessed until 7:15 P.M.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Ashe the Senate recessed until 8:40 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 63

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 Senate proposals of amendment to the following House bills:

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

H. 656. An act relating to miscellaneous agricultural subjects.

H. 956. An act relating to miscellaneous amendments to alcoholic beverage laws.

H. 960. An act relating to miscellaneous health care provisions.

H. 965. An act relating to health care- and human services-related appropriations from the Coronavirus Relief Fund.

And has severally concurred therein.

Message from the House No. 64

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 a bill originating in the Senate of the following title:

S. 219. An act relating to addressing racial bias and excessive use of force by law enforcement.

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

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

H. 966. An act relating to COVID-19 funding and assistance for broadband connectivity, housing, and economic relief .

And has severally concurred therein.

Rules Suspended; House Proposal of Amendment Concurred In**S. 219.**

Pending entry the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to addressing racial bias and excessive use of force by law enforcement.

Was taken up for immediate consideration.

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

Sec. 1. LEGISLATIVE INTENT

(a) This act is a continuation of the General Assembly's work over the past several years to create meaningful reforms to address any systemic racism and disproportionate use of force by law enforcement. Such reforms include 2017 Acts and Resolves No. 54, an act relating to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel; 2018 Acts and Resolves No. 9, an act relating to racial equity in State government; 2013 Acts and Resolves No. 180, an act relating to a statewide policy on the use of and training requirements for electronic control devices; and 2017 Acts and Resolves No. 56, an act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council. The ongoing effort includes the work on S.338 (2020), an act relating to justice reinvestment, a data-driven approach to improve public safety, reduce criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism. Additionally, the legislative committees of jurisdiction continue to study law enforcement policies, training standards, and discipline, including accreditation through the Commission on Accreditation for Law Enforcement Agencies within the next five years, and work on updating a model policy for the use of body cameras. Therefore, this act represents one step in the General Assembly's ongoing effort to combat racial bias and increase transparency and accountability in policing. The General Assembly is committed to continually assessing the progress made by the State towards developing a system of public safety that is effective, equitable, and maintains the public trust and continuing its work to achieve that goal.

(b) It is the intent of the General Assembly that law enforcement agencies in Vermont use community policing strategies that develop collaborative partnerships between law enforcement and communities consistent with the pillars of 21st Century Policing as developed by President Obama's Task Force on 21st Century Policing, adopt policies and practices that reflect a guardian mindset towards the citizens they serve, and establish a culture of

transparency and accountability to promote public safety and foster public trust. To this end, it is the intent of the General Assembly that law enforcement use de-escalation strategies first and foremost before using force in every community-police interaction.

(c) It is the intent of the General Assembly that it continue to work on the issues addressed in this bill, including when the 2020 legislative session reconvenes in August. Specifically, the General Assembly commits to working on:

(1) increasing the resources to and authority of the Executive Director of Racial Equity;

(2) whether or not to resituate the Criminal Justice Training Council to the jurisdiction of the Department of Public Safety;

(3) evaluating the provisions of Sec. 6 of this act (law enforcement use of prohibited restraint), 13 V.S.A. § 2305, and 24 V.S.A. § 299 in consultation with interested stakeholders, including the Attorney General, the Executive Director of States Attorneys and Sheriffs, the Defender General, and the Executive Director of the Human Rights Commission, or their designees, and revising those provisions as appropriate;

(4) evaluating whether and how to gather data regarding the interactions between law enforcement and people with mental health issues;

(5) reviewing the Law Enforcement Advisory Board and ACLU model policies governing law enforcement use of body cameras in consultation with interested stakeholders, including the Vermont chapter of the American Civil Liberties Union, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel, and the Secretary of State, and developing a statewide policy for adoption prior to the effective date of Sec. 7 of this act; and

(6) considering recommendations that come forward through a process of meaningful community engagement, particularly with impacted, marginalized, and vulnerable communities.

* * * Law Enforcement Race Data Collection * * *

Sec. 2. 3 V.S.A. § 2222 is amended to read:

§ 2222. POWERS AND DUTIES; BUDGET AND REPORT

* * *

(k) The Secretary of Administration or designee shall review all grants from an agency of the State to a local law enforcement agency or constable, and all such grants shall be subject to the approval of the Secretary or designee. The Secretary or designee shall approve the grant only if the law

enforcement agency or constable has complied with the race data reporting requirements set forth in 20 V.S.A. § 2366(e) within six months prior to the Secretary's or designee's review.

Sec. 3. SECRETARY OF ADMINISTRATION; NOTICE TO LAW ENFORCEMENT AGENCIES

On or before August 1, 2020, the Secretary of Administration shall issue a notice to all Vermont law enforcement agencies and constables that the provisions of 3 V.S.A. § 2222(k) become effective on January 1, 2021, and that, beginning on that date, State grant funding for law enforcement shall be contingent on the agency or constable complying with the requirements of 20 V.S.A. § 2366(e).

Sec. 4. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION

* * *

(e)(1) On or before September 1, 2014, every State, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

- (A) the age, gender, and race of the driver;
- (B) the ~~reason~~ grounds for the stop;
- (C) the grounds for the search and the type of search conducted, if any;
- (D) the evidence located, if any; ~~and~~
- (E) the outcome of the stop, including whether physical force was employed or threatened during the stop, and if so, the type of force employed and whether the force resulted in bodily injury or death, and whether:
 - (i) a written warning was issued;
 - (ii) a citation for a civil violation was issued;
 - (iii) a citation or arrest for a misdemeanor or a felony occurred; or
 - (iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Executive Director of Racial Equity, the Criminal Justice Training Council, and a vendor chosen by the Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall

be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the Executive Director of Racial Equity and the vendor chosen by the Criminal Justice Training Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website and clear and understandable. The receiving agency shall also report the data annually to the General Assembly.

(5) As used in this subsection, "physical force" shall refer to the force employed by a law enforcement officer to compel a person's compliance with the officer's instructions that constitutes a greater amount of force than handcuffing a compliant person.

(f) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that policy or practice is, to the extent of the conflict, abolished.

*** Prohibited Restraints; Unprofessional Conduct ***

Sec. 5. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

§ 2401. DEFINITIONS

As used in this subchapter:

(1) "Category A conduct" means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

(i) simple assault, second offense;

(ii) domestic assault;

-
- (iii) false reports and statements;
 - (iv) driving under the influence, second offense;
 - (v) violation of a relief from abuse order or of a condition of release;
 - (vi) stalking;
 - (vii) false pretenses;
 - (viii) voyeurism;
 - (ix) prostitution or soliciting prostitution;
 - (x) distribution of a regulated substance;
 - (xi) simple assault on a law enforcement officer; or
 - (xii) possession of a regulated substance, second offense.

(2) “Category B conduct” means gross professional misconduct amounting to actions on duty or under ~~color of~~ authority of the State, or both, that involve willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy, ~~such as~~ and shall include:

- (A) sexual harassment involving physical contact or misuse of position;
- (B) misuse of official position for personal or economic gain;
- (C) excessive use of force under ~~color of~~ authority of the State, ~~second~~ first offense;
- (D) biased enforcement; ~~or~~
- (E) use of electronic criminal records database for personal, political, or economic gain;
- (F) placing a person in a prohibited restraint;
- (G) failing to intervene and report to a supervisor when the officer observes another officer placing a person in a prohibited restraint or using excessive force.

* * *

(5) “Unprofessional conduct” means Category A, B, or C conduct.

* * *

(7) “Prohibited restraint” means the use of any maneuver on a person

that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

* * *

§ 2407. LIMITATION ON COUNCIL SANCTIONS; FIRST OFFENSE OF CATEGORY B CONDUCT

(a) Category B conduct; first offense. If a law enforcement agency conducts a valid investigation of a complaint alleging that a law enforcement officer committed a first offense of Category B conduct, the Council shall take no action, except that the Council may take action for a first offense under subdivision 2401(2)(C) (excessive use of force under authority of the State), 2401(2)(F) (placing a person in a prohibited restraint), or 2401(2)(G) (failing to intervene and report to a supervisor when an officer observes another officer placing a person in a prohibited restraint or using excessive force) of this chapter.

* * *

Sec. 6. 13 V.S.A. § 1032 is added to read:

§ 1032. LAW ENFORCEMENT USE OF PROHIBITED RESTRAINT

(a) As used in this section:

(1) “Law enforcement officer” shall have the same meaning as in 20 V.S.A. § 2351a.

(2) “Prohibited restraint” means the use of any maneuver on a person that applies pressure to the neck, throat, windpipe, or carotid artery that may prevent or hinder breathing, reduce intake of air, or impede the flow of blood or oxygen to the brain.

(3) “Serious bodily injury” shall have the same meaning as in section 1021 of this title.

(b) A law enforcement officer acting in the officer’s capacity as law enforcement who employs a prohibited restraint on a person that causes serious bodily injury to or death of the person shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

* * * Body Cameras * * *

Sec. 7. 20 V.S.A. § 1818 is added to read:

§ 1818. EQUIPMENT OF OFFICERS WITH VIDEO RECORDING DEVICES

The Department shall ensure that every Department law enforcement

officer who exercises law enforcement powers is equipped with a body camera or other video recording device on his or her person.

Sec. 8. DEPARTMENT OF PUBLIC SAFETY; VIDEO RECORDING DEVICES; ONGOING COSTS

The Department of Public Safety shall immediately initiate the acquisition and deployment of video recording devices to comply with the requirements of 20 V.S.A. § 1818. The ongoing costs of the devices that cannot be accommodated within the Department's budget shall be included in the Department's FY21 budget proposal to the General Assembly in August of 2020.

* * * Repeals and Effective Dates * * *

Sec. 9. REPEALS

(a) 13 V.S.A. § 1032 (law enforcement use of prohibited restraint) is repealed on July 1, 2021.

(b) 13 V.S.A. § 2305(3) (justifiable homicide) is repealed on July 1, 2021.

Sec. 10. EFFECTIVE DATES

(a) Sec. 2 (powers and duties; budget and report) of this act shall take effect on January 1, 2021.

(b) Sec. 5 (20 V.S.A. chapter 151) takes effect on September 1, 2020.

(c) Secs. 6 (law enforcement use of prohibited restraint) and 7 (equipment of officers with video recording devices) shall take effect on October 1, 2020.

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

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

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: McNeil, Rodgers, White.

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was ordered delivered to the Governor forthwith.

Message from the House No. 65

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. 59. Joint resolution relating to Interim Adjournment.

And has adopted the same in concurrence.

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

S. 301. An act relating to miscellaneous telecommunications changes.

And has concurred therein.

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

H. 942. An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

H. 955. An act relating to capital construction and State bonding budget adjustment.

H. 959. An act relating to education property tax.

And has severally concurred therein.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, August 25, 2020, at ten o'clock in the forenoon pursuant to J.R.S. 59.

Messages Received After Interim Adjournment

After Interim adjournment, the following messages were received by the Secretary:

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 first day of July, 2020 he approved and signed bills originating in the Senate of the following titles:

S. 128. An act relating to physician assistant licensure.

S. 232. An act relating to implementing the expansion of juvenile jurisdiction.

S. 301. An act relating to miscellaneous telecommunications changes.

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 second day of July, 2020 he approved and signed a bill originating in the Senate of the following title:

S. 351. An act relating to providing financial relief assistance to the agricultural community due to the COVID-19 public health emergency.

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 second day of July, 2020 he did not approve and *allowed to become law without his signature* a bill originating in the Senate of the following title:

S. 348. An act relating to temporary elections procedures in the year 2020.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, setting for his reasons for refusing to sign and *allowing to become law without his signature*, **Senate Bill No. S. 348**, is as follows:

“July 2, 2020

Vermont General Assembly
115 State Street
Montpelier, Vermont 05633

Dear Legislators:

Today, S. 348, *an act relating to temporary elections procedures in the year 2020* will go into law without my signature due to a technical flaw.

There appears to be a cross-reference to a section of the bill that does not exist, leaving the authority of the Secretary of State ambiguous as it relates to ballot returns.

It is my understanding that Legislative Council explained this mistake to the House Government Operations Committee and recommended clean-up, but there was a decision made to enact this legislation rather than taking the time to rectify.

This is particularly concerning in light of the concerns expressed by many regarding the return process for ballots mailed to all Vermonters.

I have said publicly if the General Assembly decided to remove me from this process, I would not stand in the way. For these reasons, I am letting S. 348 become law without my signature and I hope the General Assembly will correct the bill's flaws and ensure full and adequate oversight of the mail-in ballot program it has created upon return in August.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp

c: The Honorable Mitzi Johnson, Speaker of the House
The Honorable Tim Ashe, President Pro Tempore
The Honorable William MaGill, Clerk of the Vermont House of Representatives
The Honorable John Bloomer, Secretary of the Vermont Senate”

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 thirteenth day of July, 2020 he approved and signed bills originating in the Senate of the following titles:

S. 219. An act relating to addressing racial bias and excessive use of force by law enforcement.

S. 338. An act relating to justice reinvestment.

S. 339. An act relating to miscellaneous changes to laws related to vehicles.

S. 342. An act relating to temporary workers' compensation amendments related to COVID-19.

Message from the House No. 66

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 Governor has informed the House that on June 23, 2020, he approved and signed bills originating in the House of the following titles:

H. 254. An act relating to adequate shelter for livestock.

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

H. 635. An act relating to regulation of long-term care facilities.

H. 958. An act relating to communications union districts.

The Governor has informed the House that on June 30, 2020, he approved and signed bills originating in the House of the following titles:

H. 942. An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

H. 959. An act relating to education property tax.

H. 961. An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year.

The Governor has informed the House that on July 1, 2020, he approved and signed bills originating in the House of the following titles:

H. 438. An act relating to the Board of Medical Practice and the licensure of physicians and podiatrists.

H. 558. An act relating to exempting the Victims Compensation Board from the Open Meeting Law.

H. 650. An act relating to boards and commissions.

H. 656. An act relating to miscellaneous agricultural subjects.

H. 750. An act relating to creating a National Guard provost marshal.