

**H.C.R. 280.** House concurrent resolution honoring Frank Snow of Bennington.

**H.C.R. 281.** House concurrent resolution congratulating Elinor Purrier of Montgomery on her record-setting pace at the 2020 Wanamaker Mile in New York City.

**H.C.R. 282.** House concurrent resolution remembering former Rutland City Board of Aldermen President David Sagi on Disability Awareness Day.

**H.C.R. 283.** House concurrent resolution congratulating Weidmann Electrical Technology Inc. on the 50th anniversary of its St. Johnsbury plant.

**H.C.R. 284.** House concurrent resolution honoring Euclid Farnham for his extraordinary legacy in the Town of Tunbridge.

**H.C.R. 285.** House concurrent resolution honoring John McCullough and Donna Fitch for their leadership in the renovation of the Calais Town Hall.

**H.C.R. 286.** House concurrent resolution honoring former Representative Linda J. Martin for her service as Wolcott Town Clerk and Treasurer.

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

#### **Message from the Secretary of the Senate**

Pursuant to Chapter II, § 11 of the Vermont Constitution, the Senate, by a vote of 24 Yeas, 6 Nays, and the House of Representatives, by a vote of 100 Yeas, 49 Nays, voted to override the veto of the Governor to a bill originating in the Senate of the following title:

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

Accordingly, the bill was delivered on February 28, 2020, to the Secretary of State pursuant to the provisions of Title 3, chapter 5 of the Vermont Statutes Annotated.

#### **Adjournment**

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, March 10, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 31.

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**TUESDAY, MARCH 10, 2020**

The Senate was called to order by the President.

#### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

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**Pledge of Allegiance**

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

**Message from the House No. 27**

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. 54.** An act relating to the regulation of cannabis.

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

**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 fifth day of March, 2020 he approved and signed a bill originating in the Senate of the following title:

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

**Joint Senate Resolution Adopted on the Part of the Senate****J.R.S. 44.**

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. 44.** Joint resolution relating to weekend adjournment.

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

That when the two Houses adjourn on Friday, March 13, 2020, it be to meet again no later than Tuesday, March 17, 2020.

**Bills Referred**

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

**H. 254.**

An act relating to adequate shelter for livestock.

To the Committee on Agriculture.

**H. 555.**

An act relating to the authority of nonprofits to sell food concessions on State-owned lands within the jurisdiction of the Department of Buildings and General Services.

To the Committee on Institutions.

**Bill Amended; Bill Passed****S. 183.**

Senate bill entitled:

An act relating to competency to stand trial and insanity as a defense.

Was taken up.

Thereupon, pending third reading of the bill, Senator Nitka moved to amend the bill in Sec. 4, Rule 16.1 (a)(1), by striking out subparagraphs (H) and (I) in their entirety and inserting in lieu thereof new subparagraphs (H) and (I) to read as follows:

(H) provide specimens of ~~his~~ the defendant's handwriting; ~~and~~

(I) submit to a reasonable physical or medical inspection of ~~his~~ the defendant's body or, if notice is given by the defendant that sanity is in issue or that expert testimony will be offered as provided in Rule 12.1, to a reasonable mental examination by a psychiatrist or other expert; and

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Pearson and Ingram moved to amend the bill in Sec. 2, 13 V.S.A. § 4820, in subsection (b), by striking out the following: "the court shall appoint counsel from Vermont Legal Aid to represent the person who is the subject of the proceedings" and inserting in lieu thereof the following: the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person

Which was agreed to.

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

**Bills Passed**

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

**S. 205.** An act relating to criminal and civil surcharges.

**S. 281.** An act relating to the Working Group on the Status of Libraries in Vermont.

**Bill Amended; Bill Passed**

**S. 307.**

Senate bill entitled:

An act relating to binding interest arbitration for employees of the Vermont Judiciary and the Vermont State Colleges.

Was taken up.

Thereupon, pending third reading of the bill, Senator Pollina moved to amend the bill in Sec. 4, effective date, by striking out the following: “2020” and inserting in lieu thereof the following: 2021

Which was agreed to.

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

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o’clock in the afternoon on Wednesday, March 11, 2020.

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**WEDNESDAY, MARCH 11, 2020**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Kenzan of East Calais.

**Message from the House No. 28**

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. 580.** An act relating to establishing a classification system for criminal offenses.

**H. 740.** An act relating to changes to the Nuclear Decommissioning Citizens Advisory Panel.

**H. 926.** An act relating to changes to Act 250.

**H. 933.** An act relating to technical corrections to municipal charters.

**H. 934.** An act relating to renter rebate reform.

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

The Governor has informed the House that on March 4, 2020, he approved and signed a bill originating in the House of the following title:

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

**Bill Referred to Committee on Appropriations**

**S. 285.**

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

An act relating to the State House Artwork and Portrait Project Committee.

**Bills Referred**

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

**H. 580.**

An act relating to establishing a classification system for criminal offenses.

To the Committee on Judiciary.

**H. 740.**

An act relating to changes to the Nuclear Decommissioning Citizens Advisory Panel.

To the Committee on Finance.

**H. 926.**

An act relating to changes to Act 250.

To the Committee on Natural Resources and Energy.

**H. 933.**

An act relating to technical corrections to municipal charters.

To the Committee on Government Operations.

**H. 934.**

An act relating to renter rebate reform.

To the Committee on Finance.

**Bill Amended; Third Reading Ordered****S. 261.**

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

An act relating to eliminating life without parole.

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. § 2303 is amended to read:

**§ 2303. PENALTIES FOR FIRST AND SECOND DEGREE MURDER**

(a) Except as provided in subsection (g) of this section:

(1) The punishment for murder in the first degree shall be imprisonment for:

~~(A) a minimum term of not less than 35 years and a maximum term of life; or~~

~~(B) life without the possibility of parole.~~

(2) The punishment for murder in the second degree shall be imprisonment for:

~~(A) a minimum term of not less than 20 years and a maximum term of life; or~~

~~(B) life without the possibility of parole.~~

~~(3) Notwithstanding any other provision of law, this subsection shall apply only if the murder was committed on or after the effective date of this act.~~

(b) The punishment for murder in the first degree shall be imprisonment for life and for a minimum term of 35 years unless a jury finds that there are aggravating or mitigating factors which justify a different minimum term. If the jury finds that the aggravating factors outweigh any mitigating factors, the court may set a minimum term longer than 35 years, up to and including life imprisonment ~~without parole~~. If the jury finds that the mitigating factors outweigh any aggravating factors, the court may set a minimum term at less than 35 years but not less than 15 years.

(c) The punishment for murder in the second degree shall be imprisonment for life and for a minimum term of 20 years unless a jury finds that there are aggravating or mitigating factors which justify a different minimum term. If the jury finds that the aggravating factors outweigh any mitigating factors, the court may set a minimum term longer than 20 years, up to and including life imprisonment without parole. If the jury finds that the mitigating factors outweigh any aggravating factors, the court may set a minimum term at less than 20 years but not less than 10 years.

\* \* \*

(g) Subsections (b)-(f) of this section shall apply only if the murder was committed before ~~the effective date of this act~~ May 1, 2006, and:

(1) the defendant was not sentenced before ~~the effective date of this act~~ May 1, 2006; or

(2) the defendant's sentence was stricken and remanded for resentencing pursuant to the Vermont Supreme Court's decision in State v. Provost, 2005 VT 134 (2005).

Sec. 2. 13 V.S.A. § 7045 is amended to read:

§ 7045. LIFE WITHOUT PAROLE SENTENCE ~~PROHIBITED FOR PERSONS UNDER 18 YEARS OF AGE~~

A court shall not sentence a person to life imprisonment without the possibility of parole if:

(1) the person was under 18 years of age at the time of the commission of ~~the~~ any offense; or

(2) the person committed any offense other than aggravated murder.

Sec. 3. 28 V.S.A. § 501 is amended to read:

§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION

(a) An inmate serving any sentence other than life without the possibility of parole shall be eligible for parole consideration upon serving 35 years.

(b) An inmate who is serving a sentence of imprisonment 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 or after the inmate has served 35 years, whichever occurs first.

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**Sec. 4. EFFECTIVE DATE**

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 limiting the sentence of life without the possibility of parole.

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 21, Nays 9.

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:** Ashe, Balint, Baruth, Bray, Champion, Clarkson, Cummings, Hardy, Hooker, Ingram, Lyons, MacDonald, Mazza, McCormack, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, White.

**Those Senators who voted in the negative were:** Benning, Brock, Collamore, Kitchel, McNeil, Nitka, Parent, Rodgers, Westman.

**Bill Passed****S. 296.**

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

An act relating to limiting out-of-pocket expenses for prescription insulin drugs.

**Consideration Postponed****S. 287.**

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

An act relating to the contractual rights of members of the Vermont State Employees' Retirement System.

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 pending the question, Shall the bill be read the third time?, Senator Kitchel moved that consideration of the bill be postponed until the next legislative day.



Which was agreed to.

**Consideration Postponed**

Senate bill entitled:

**S. 265.**

An act relating to the use of food residuals for farming.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Agriculture, Senator Starr moved that consideration of the bill be postponed until Tuesday, March 17, 2020, which was agreed to.

**House Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed**

**S. 54.**

House proposal of amendment to Senate bill entitled:

An act relating to the regulation of cannabis.

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:

\* \* \* Title Redesignation \* \* \*

Sec. 1. Title 7 of the V.S.A. is redesignated to read:

**7. ALCOHOLIC BEVERAGES, CANNABIS, AND TOBACCO**

\* \* \* Cannabis Generally; Cannabis Control Board \* \* \*

Sec. 2. 7 V.S.A. chapter 31 is added to read:

**CHAPTER 31. CANNABIS**

**Subchapter 1. General Provisions**

**§ 831. DEFINITIONS**

As used in this chapter:

(1) “Board” means the Cannabis Control Board.

(2)(A) “Cannabis” means all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (2), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Cannabis” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

(iv) the sterilized seed of the plant that is incapable of germination; or

(v) hemp or hemp products, as defined in 6 V.S.A. § 562.

(3) “Cannabis product” means concentrated cannabis and a product that is composed of cannabis and other ingredients and is intended for use or consumption, including an edible product, ointment, and tincture. Cannabis product shall include a vaporizer cartridge containing cannabis oil that is intended for use with a battery-powered device.

(4) “Chair” means the chair of the Cannabis Control Board.

(5) “Criminal history record” shall have the same meaning as in 20 V.S.A. § 2056a(a).

(6) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute is prohibited by law pursuant to 18 V.S.A. chapter 37.

#### § 832. CANNABIS POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Cannabis possessed unlawfully in violation of this title may be seized by law enforcement and is subject to forfeiture.

#### § 833. CONSUMPTION OF CANNABIS IN A PUBLIC PLACE

No person shall consume cannabis in a public place unless specifically authorized by law. Violations shall be punished in accordance with 18 V.S.A. § 4230a.

Subchapter 2. Cannabis Control Board§ 841. CANNABIS CONTROL BOARD; APPOINTMENT

(a) When a vacancy occurs on the Cannabis Control Board, the Governor shall make a public announcement about the vacancy. The Governor shall submit at least five names of potential candidates per vacancy to the Cannabis Control Board Nominating Committee for review.

(b) The Committee shall review the candidates to determine which candidates are well-qualified for appointment to the Board and shall recommend those candidates to the Governor.

(c) The Governor shall appoint a chair and four members of the Board from the list of well-qualified candidates sent to the Governor by the Committee.

(d) The names of candidates shall be confidential.

§ 842. CANNABIS CONTROL BOARD NOMINATING COMMITTEE

(a) Creation. The Cannabis Control Board Nominating Committee is created for the purpose of assessing the qualifications of applicants for appointment to the Cannabis Control Board in accordance with section 841 of this title.

(b) Members. The Committee shall consist of seven members who shall be selected as follows:

(1) The Governor shall appoint three members from the Executive Branch.

(2) The Speaker of the House of Representatives shall appoint two members from the House of Representatives.

(3) The Senate Committee on Committees shall appoint two members from the Senate.

(c) Duties. When the Governor submits the names of candidates for appointment to the Cannabis Control Board in accordance with section 841 of this title, the Committee shall review candidates to determine which candidates are well-qualified for the Board and submit those names to the Governor.

(d) Terms. The members of the Committee shall serve for terms of two years. The appointments shall be between June 1 and July 1 of each even-numbered year, except to fill a vacancy. Members shall serve until their successors are appointed. Members shall serve not more than three consecutive terms in any capacity. A legislative member who is appointed as a member of the Committee shall retain the position for the term for which he or she was appointed to the Committee even if the member is subsequently not

reelected to the General Assembly during the member's term on the Committee.

(e) Chair. The members shall elect their own chair.

(f) Quorum. A quorum of the Committee shall consist of four members.

(g) Staff and services. The Committee is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants.

(h) Confidentiality. Except as provided in subsection (i) of this section, proceedings of the Committee, including the names of candidates considered by the Committee and information about any candidate submitted by the Governor, shall be confidential. The provisions of 1 V.S.A. 317(e) (expiration of Public Records Act exemptions) shall not apply to the exemptions or confidentiality provisions in this subsection.

(i) Public information. The following shall be public:

(1) operating procedures of the Committee;

(2) standard application forms and any other forms used by the Committee, provided they do not contain personal information about a candidate or confidential proceedings;

(3) all proceedings of the Committee prior to the Board's receipt of the first candidate's completed application; and

(4) at the time the Committee sends the names of the candidates to the Governor, the total number of applicants for the vacancies and the total number of candidates sent to the Governor.

(j) Reimbursement. Legislative members of the Committee shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Compensation and reimbursement shall be paid from the legislative appropriation.

#### § 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

(a) Creation. There is created within the Executive Branch an independent commission named the Cannabis Control Board for the purpose of safely, equitably, and effectively implementing and administering the laws enabling access to adult-use cannabis in Vermont.

(b) Duties. The duties of the Board shall be:

(1) rulemaking in accordance with this chapter, chapter 33 of this title, and 3 V.S.A. chapter 25;

(2) administration of a program for licensed cannabis establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(c) Membership.

(1) The Board shall be composed of a chair and two members appointed by the Governor in accordance with sections 841 and 842 of this title.

(2) All Board members shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment, provided that no member may serve more than three terms.

(3) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term. A member appointed to fill a vacancy created before the expiration of a term shall not be deemed to have served a term for the purpose of subdivision (2) of this subsection.

(4) A member may be removed only for cause by the remaining members of the Commission in accordance with the Vermont Administrative Procedure Act.

(d)(1) Conflicts of interest. No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to regulation by the Board.

(2) No Board member shall participate in creating or applying any law, rule, or policy or in making any other determination if the Board member, individually or as a fiduciary, or the Board member's spouse, parent, or child wherever residing or any other member of the Board member's family residing in his or her household has an economic interest in the matter before the Board or has any more than a de minimus interest that could be substantially affected by the proceeding.

(3) No Board member shall, during his or her term or terms on the Board, solicit, engage in negotiations for, or otherwise discuss future employment or a future business relationship of any kind with any person subject to supervision or regulation by the Board.

(4) No Board member may appear before the Board or any other State agency on behalf of a person subject to supervision or regulation by the Board for a period of one year following his or her last day as a member of the Cannabis Control Board.

(e) Salaries. The Chair and all members of the Board shall be full-time State employees and shall be exempt from the State classified system. The

Chair shall receive compensation equal to two-thirds that of a Superior Court Judge and other members shall receive compensation equal to one-half that of a Superior Court Judge.

(f) Executive Director. The Board shall appoint an Executive Director who shall be an attorney with experience in legislative or regulatory matters. The Director shall be a full-time State employee, shall be exempt from the State classified system, and shall serve at the pleasure of the Board. The Director shall be responsible for:

(1) supervising and administering the operation and implementation of this chapter and the rules adopted by the Board as directed by the Board;

(2) assisting the Board in its duties and administering the licensing requirements of this chapter;

(3) acting as Secretary to the Board, but as a nonvoting member of the Board;

(4) employing such staff as may be required to carry out the functions of the Board; and

(5) preparing an annual budget for submission to the Board.

(g) Consultant. The Board is authorized to hire a consultant as needed to assist with its duties under this section.

(h) Advisory committee.

(1) There is an advisory committee established within the Board that shall be comprised of members with expertise and knowledge relevant to the Board's mission. The advisory committee shall be composed of the following 12 members:

(A) one member with an expertise in public health appointed by the Governor;

(B) the Secretary of Agriculture, Food and Markets or designee;

(C) one member with an expertise in laboratory science or toxicology appointed by the Governor;

(D) one member with an expertise in systemic social justice and equity issues appointed by the Speaker of the House;

(E) one member with an expertise in women and minority-owned business ownership appointed by the Speaker of the House;

(F) one member with an expertise in substance misuse prevention appointed by the Senate Committee on Committees;

(G) one member with an expertise in the cannabis industry appointed by the Senate Committee on Committees;

(H) one member with an expertise in business management or regulatory compliance appointed by the Treasurer;

(I) one member with an expertise in municipal issues appointed by the Treasurer;

(J) one member with an expertise in public safety appointed by the Attorney General;

(K) one member with an expertise in criminal justice reform appointed by the Attorney General; and

(L) the Secretary of Natural Resources or designee.

(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before December 1, 2020.

(3) The Board may establish subcommittees within the advisory committee to accomplish its work.

(4) Members of the Advisory Committee who are not otherwise compensated by the member's employer for attendance at meetings 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 the Cannabis Regulation Fund.

#### § 844. AUTHORITY FOR CRIMINAL BACKGROUND CHECKS

The Board shall establish a user agreement with the Vermont Crime Information Center in accordance with 20 V.S.A. chapter 117 for the purpose of obtaining Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation as required by chapter 33 of this title.

#### § 845. CANNABIS REGULATION FUND

(a) There is established the Cannabis Regulation Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. The Fund shall be maintained by the Cannabis Control Board.

(b) The Fund shall be composed of all State application fees, annual license fees, renewal fees, identification card fees, and civil penalties collected by the Board pursuant to this chapter and chapter 33 of this title.

(c) Monies from the fund shall only be appropriated for the purposes of implementation, administration, and enforcement of this chapter and chapter 33 of this title.

§ 846. FEES

(a) The Board shall have the authority to charge and collect State and local fees as provided under this chapter and chapter 33 of this title. State and local fees shall be due and payable at the time of application or renewal.

(b) The Board shall deposit State fees into the Cannabis Regulation Fund.

(c) After reduction for costs of administration and collection, the Board shall pay local fees on a quarterly basis to the municipality in which the fees were collected.

§ 847. APPEALS

(a)(1) A party aggrieved by a final decision of the Board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Executive Director who shall assign the case to an appellate officer.

(2)(A) The review shall be conducted on the basis of the record created before the Board.

(B) In cases of alleged irregularities in procedure before the Board, not shown in the record, proof on that issue may be taken by the appellate officer.

(b) The appellate officer shall not substitute his or her judgment for that of the Board as to the weight of the evidence on questions of fact. The appellate officer may affirm the decision, or may reverse and remand the matter with recommendations if substantial rights of the appellant have been prejudiced because the Board's finding, inferences, conclusions, or decisions are:

(1) in violation of constitutional or statutory provisions;

(2) in excess of the statutory authority of the Board;

(3) made upon unlawful procedure;

(4) affected by other error of law;

(5) clearly erroneous in view of the evidence on the record as a whole;

(6) arbitrary or capricious; or

(7) characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(c) A party aggrieved by a decision of the appellate officer may appeal to the Supreme Court, which shall review the matter on the basis of the records created before the Board.

(d) The Board shall have the authority to contract for the services of an appellate officer.



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**Sec. 3. IMPLEMENTATION OF THE CANNABIS CONTROL BOARD**

(a) The Cannabis Control Board, created in Sec. 2 of this act, is established on June 1, 2020.

(b) Members of the Board shall be appointed on or before September 1, 2020 and terms of members shall officially begin on such date.

(c)(1) In order to stagger the terms of the members of the Board, the initial terms of those members shall be as follows:

(A) the Chair shall serve for a three-year term;

(B) one members shall serve for a two-year term; and

(C) one members shall serve for a one-year term.

(2) After the expiration of the initial terms set forth in subdivision (1) of this subsection, Board member terms shall be as set forth in 7 V.S.A. § 843.

**Sec. 4. IMPLEMENTATION OF RULEMAKING BY THE CANNABIS CONTROL BOARD**

On or before March 1, 2021 the Cannabis Control Board shall initiate rulemaking for cannabis establishments pursuant to chapter 33 of this title as provided in Sec. 7 of this act.

**Sec. 5. CANNABIS CONTROL BOARD REPORT TO THE GENERAL ASSEMBLY; PROPOSAL FOR POSITIONS, FEES, AND APPROPRIATIONS FOR FISCAL YEARS 2022 AND 2023; LAND USE, ENVIRONMENTAL, ENERGY, AND EFFICIENCY REQUIREMENTS OR STANDARDS; OUTREACH, TRAINING, AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND DELIVERY; ADDITIONAL TYPES OF LICENSES**

(a) On or before January 15, 2021, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the following:

(1) Resources necessary for implementation of this act for fiscal years 2022 and 2023, including positions and funding. The Board shall consider utilization of current expertise and resources within State government and cooperation with other State departments and agencies where there may be an overlap in duties.

(2) State fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 846. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The State fees submitted in accordance with this subdivision shall be projected to be sufficient to fund the duties of the

Cannabis Control Board as provided in 7 V.S.A. § 843. To the extent possible, the recommend fees shall include an amount to repay over a period, not greater than 10 years, to the General Fund any application of excise taxes to the Cannabis Regulation Fund made pursuant to Sec. 6c of this act.

(A) Application fees, initial annual license fees, and annual license renewal fees for each type of cannabis establishment license as provided in 7 V.S.A. § 846: cultivator, product manufacturer, wholesaler, retailer, testing laboratory, and integrated. If the Board establishes tiers within a licensing category, it shall provide a fee recommendation for each tier.

(B) Fee for a cannabis establishment identification card as provided in 7 V.S.A. § 884.

(3) Whether monies expected to be generated by State fees identified in subdivision (2) of this subsection are sufficient to support the statutory duties of the Board and whether any portion of the tax established pursuant to 32 V.S.A. § 7902 should be allocated to the Cannabis Regulation Fund to ensure these duties are met.

(4) Local fees to be charged and collected in accordance with the Board's authority pursuant to 7 V.S.A. § 846. The recommendations shall be accompanied by information justifying the recommended rate as required by 32 V.S.A. § 605(d). The Board shall recommend local fees that are designed to help defray the costs incurred by municipalities in which cannabis establishments are located.

(b) On or before January 15, 2021, the Executive Director of the Cannabis Control Board, after consultation with the Secretary of Natural Resources, the Chair of the Natural Resources Board, and the Secretary of Agriculture, Food and Markets, shall recommend to the General Assembly exemptions, specific criteria, or additional requirements under applicable State or local environmental or land use law for cannabis establishments in the State. The recommendations shall address whether additional groundwater quality requirements are required for the cultivation of cannabis in order to protect the groundwater resources of the State from overuse. The Executive Director may provide the recommendations based on a tier, type, or category of cannabis cultivation or cannabis establishment.

(c) On or before January 15, 2021, the Executive Director of the Cannabis Control Board, after consultation with the Commissioner of Public Service and the Chair of the Public Utility Commission, shall recommend to the General Assembly energy or efficiency requirements or standards for the operation of cannabis establishments in the State. The recommendations shall include:

(1) recommended building energy standards for cannabis establishments if different from existing commercial building standards;

(2) recommended energy audits for cannabis establishments, including the recommended frequency of audits and who should perform the audits; and

(3) energy efficiency and conservation measures applicable to cannabis establishments.

(d) In making the recommendations required under subsections (b) and (c) of this section, the Executive Director of the Cannabis Control Board shall recommend the permits, licenses, or standards that a licensed cannabis cultivator or cannabis product manufacturer shall demonstrate, as a condition of licensure, or as a condition for licensure renewal if such standards are not established prior to initial licensure.

(e) On or before March 1, 2021, the Executive Director of the Cannabis Control Board shall submit to the General Assembly the Board's recommendation whether licensed cannabis product manufacturers should be considered a food manufacturing establishment or food processor pursuant to 18 V.S.A. § 4301(7) for the purpose of licensing and regulation by the Department of Health.

(f) On or before November 15, 2021, the Executive Director of the Cannabis Control Board shall submit to the General Assembly:

(1) a proposal to work with the Department of Labor, Agency of Commerce and Community Development, the Department of Corrections, and the Director of Racial Equity to develop outreach, training, and employment programs focused on providing economic opportunities to individuals who historically have been disproportionately impacted by cannabis prohibition;

(2) a summary of the experience of other jurisdictions with regulated cannabis markets that allow licensed retail cannabis establishments to accept online ordering for in-store pick-up of items and to deliver to customers and the advantages and disadvantages of allowing such services in Vermont;

(3) recommendations as to whether the General Assembly should consider adding additional types of cannabis licenses, including a craft cooperative license, delivery license, or special event license;

(4) recommendations as to whether cannabis and cannabis products should have a minimum amount of cannabidiol to aid in the prevention of the cannabis-induced psychosis that occurs in some users of cannabis and cannabis products; and

(5) recommendations regarding the display and sale of cannabis-related paraphernalia that is sold by persons who are not licensed as a cannabis establishment or a dispensary.

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Sec. 6. CANNABIS CONTROL BOARD; POSITIONS

The following new permanent positions are created in the Cannabis Control Board:

- (1) three full-time, exempt members of the Board;
- (2) one full-time, exempt Executive Director of the Board; and
- (3) one full-time, classified Administrative Assistant.

Sec. 6a. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the Cannabis Control Board established in Sec. 2 of this act. This space shall be allocated on or before September 1, 2020.

Sec. 6b. APPROPRIATION

In fiscal year 2021, \$860,000.00 is appropriated from the Cannabis Regulation Fund to the Cannabis Control Board. This appropriation is made in anticipation of receipts in the Fund.

Sec. 6c. CONTINGENT CANNABIS REGULATION FUND DEFICIT  
OFFSET; REPAYMENT

(a) To the extent that the Cannabis Regulation Fund has a negative balance at the close of the fiscal year 2022, proceeds in that amount from the tax established in 32 V.S.A. § 7901 in fiscal year 2023 shall be deposited into the Cannabis Regulation Fund.

(b) To the extent that a positive balance exists in the Cannabis Regulation Fund at the close of any fiscal year and any application of excise taxes to the Cannabis Regulation Fund made pursuant to subsection (a) of this section has not been fully repaid to the General Fund, the positive Cannabis Regulation Fund balance shall be transferred to the General Fund.

(c) Thirty percent of any transfers made to the General Fund pursuant to subsection (b) of this section or subdivision 5(a)(2) of Sec. 5 of this act shall be allocated to substance misuse prevention activities consistent with Sec. 18a of this act.

Sec. 6d. AUDITOR OF ACCOUNTS REPORT

On or before November 15, 2023, the Auditor of Accounts shall report to the General Assembly regarding the organizational structure and membership of the Cannabis Control Board and whether the structure continues to be the most efficient for carrying out the statutory duties of the Board.

## Sec. 6e. REPEAL OF CANNABIS CONTROL BOARD

The following are repealed on July 1, 2024:

(1) 7 V.S.A. § 841 (Cannabis Control Board; appointment);

(2) 7 V.S.A. § 842 (Cannabis Control Board Nominating Committee);

and

(3) 7 V.S.A. § 843 (Cannabis Control Board; members; duties).

\* \* \* Cannabis Establishments \* \* \*

Sec. 7. 7 V.S.A. chapter 33 is added to read:

CHAPTER 33. CANNABIS ESTABLISHMENTS

Subchapter 1. General Provisions

§ 861. DEFINITIONS

As used in this chapter:

(1) “Advertise” means the publication or dissemination of an advertisement.

(2) “Advertisement” means any written or verbal statement, illustration, or depiction that is calculated to induce sales of cannabis or cannabis products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, other periodical literature, publication, or in a radio or television broadcast, the Internet, or in any other media. The term does not include:

(A) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(B) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(C) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(D) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

(3) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with another person.

(4) “Applicant” means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

(5) “Board” means the Cannabis Control Board.

(6) “Cannabis” shall have the same meaning as provided in section 831 of this title.

(7) “Cannabis cultivator” or “cultivator” means a person licensed by the Board to engage in the cultivation of cannabis in accordance with this chapter.

(8) “Cannabis establishment” means a cannabis cultivator, wholesaler, product manufacturer, retailer, or testing laboratory licensed by the Board to engage in commercial cannabis activity in accordance with this chapter.

(9) “Cannabis product” shall have the same meaning as provided in section 831 of this title.

(10) “Cannabis product manufacturer” or “product manufacturer” means a person licensed by the Board to manufacture cannabis products in accordance with this chapter.

(11) “Cannabis retailer” or “retailer” means a person licensed by the Board to sell cannabis and cannabis products to adults 21 years of age and older for off-site consumption in accordance with this chapter.

(12) “Cannabis testing laboratory” or “testing laboratory” means a person licensed by the Board to test cannabis and cannabis products in accordance with this chapter.

(13) “Cannabis wholesaler” or “wholesaler” means a person licensed by the Board to purchase, process, transport, and sell cannabis and cannabis products in accordance with this chapter.

(14) “Chair” means the Chair of the Cannabis Control Board.

(15) “Characterizing flavor” means a taste or aroma, other than the taste or aroma of cannabis, imparted either prior to or during consumption of a cannabis product. The term includes tastes or aromas relating to any fruit, chocolate, vanilla, honey, maple, candy, cocoa, dessert, alcoholic beverage, mint, menthol, wintergreen, herb or spice, or other food or drink, or to any conceptual flavor that imparts a taste or aroma that is distinguishable from cannabis flavor but may not relate to any particular known flavor.

(16) “Child-resistant packaging” means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance in the container within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging that all children under five years of age cannot open or obtain a toxic or harmful amount of the substance in the container within a reasonable time.

(17) “Controls,” “is controlled by,” and “under common control” mean the power to direct, or cause the direction or management and policies of a person, whether through the direct or beneficial ownership of voting securities, by contract, or otherwise. A person who directly or beneficially owns 10 percent or more equity interest, or the equivalent thereof, of another person shall be deemed to control the person.

(18) “Dispensary” means a business organization licensed pursuant to 18 V.S.A. chapter 86.

(19) “Enclosed, locked facility” means a building, room, greenhouse, outdoor fenced-in area, or other location that is enclosed on all sides and prevents cannabis from easily being viewed by the public. The facility shall be equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include cannabis cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where cannabis is being grown, processed, packaged, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(20) “Flavored oil cannabis product” means any oil cannabis product that contains an additive to give it a characterizing flavor.

(21) “Integrated licensee” means a person licensed by the Board to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory in accordance with this chapter.

(22) “Municipality” means a town, city, or incorporated village.

(23) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency, or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(24) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(25) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(26) “Small cultivator” means a cultivator with a plant canopy or space for cultivating plants for breeding stock of not more than 1000 square feet.

#### § 862. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter applies to the regulation of cannabis establishments by the Board and shall not apply to activities regulated by 6 V.S.A. chapter 34 (hemp) or 18 V.S.A. chapter 86 (therapeutic use of cannabis).

#### § 863. REGULATION BY LOCAL GOVERNMENT

(a)(1) Prior to a cannabis retailer operating within a municipality, the municipality shall affirmatively permit the operation of such retailers by majority vote of those present and voting by Australian ballot at an annual or special meeting warned for that purpose.

(2) A vote to permit the operation of a licensed cannabis retailer within the municipality shall remain in effect until rescinded by majority vote of those present and voting by Australian ballot at a subsequent annual or special meeting warned for that purpose. A rescission of the permission to operate a licensed cannabis retailer within the municipality under this subdivision shall not apply to a licensed cannabis retailer that is operating within the municipality at the time of the vote.

(b) A municipality that hosts a cannabis establishment may establish a cannabis control commission composed of commissioners who may be members of the municipal legislative body. The local cannabis control commission may issue and administer local control licenses under this subsection for cannabis establishments within the municipality. The



commissioners may condition the issuance of a local control license upon compliance with any bylaw adopted pursuant to 24 V.S.A. § 4414 or ordinances regulating signs or public nuisances adopted pursuant to 24 V.S.A. § 2291. The commission may suspend or revoke a local control license for a violation of any condition placed upon the license. The Board shall adopt rules relating to a municipality's issuance of a local control license in accordance with this subsection and the local commissioners shall administer the rules furnished to them by the Board as necessary to carry out the purposes of this section.

(c) Prior to issuing a license to a cannabis establishment under this chapter, the Board shall ensure that the applicant has obtained a local control license from the municipality, if required.

(d) A municipality shall not:

(1) prohibit the operation of a cannabis establishment within the municipality through an ordinance adopted pursuant to 24 V.S.A. § 2291 or a bylaw adopted pursuant to 24 V.S.A. § 4414;

(2) condition the operation of a cannabis establishment, or the issuance or renewal of a municipal permit to operate a cannabis establishment, on any basis other than the conditions in subsection (b) of this section; and

(3) exceed the authority granted to it by law to regulate a cannabis establishment.

#### § 864. ADVERTISING; PROHIBITION

(a) Purpose. Although the intent of this chapter is to create under State law a legal market for the sale of cannabis that is safer than the existing illegal market for the sale of cannabis, the purpose of this section is to ban the advertising of the sale of cannabis in order to address the multiple public health and safety concerns that legalization alone does not sufficiently address or mitigate, including:

(1) limiting exposure of children to cannabis advertising;

(2) preventing expansion of the cannabis market to new users, whether children or adult, who may be influenced by advertising;

(3) preventing an increase in the number of persons who because of State legalization do not understand that the sale, cultivation, and use of cannabis remains illegal under federal law; and

(4) preventing an increase in the market and amount of cannabis sold in the State.

(b) Prohibition on advertising. To achieve the purposes of subsection (a) of this section, a licensed cannabis establishment is prohibited from advertising.

(c) For purposes of this section, advertising shall not include:

(1) any label affixed to any cannabis or cannabis product, or any individual covering, carton, or other wrapper of that container that constitutes a part of the labeling under provisions of these standards;

(2) any editorial or other reading material, such as a news release, in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any cannabis establishment, and that is not written by or at the direction of the licensee;

(3) any educational, instructional, or otherwise noncommercial material that is not intended to induce sales and that does not propose an economic transaction, but that merely provides information to the public in an unbiased manner; or

(4) a sign attached to the premises of a cannabis establishment that merely identifies the location of the cannabis establishment.

#### § 865. EDUCATION

(a) A licensee shall complete an enforcement seminar every three years conducted by the Board. A license shall not be renewed unless the records of the Board show that the licensee has complied with the terms of this subsection.

(b) A licensee shall ensure that each employee involved in the sale of cannabis or cannabis products to the public completes a training program approved by the Board prior to selling cannabis or cannabis products and at least once every 24 months thereafter. The training shall include information about the health effects of the use of cannabis and cannabis products. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Board. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of not less than one day of the license issued under this chapter.

#### § 866. YOUTH

(a) A cannabis establishment licensed pursuant to this chapter shall not dispense or sell cannabis to a person under 21 years of age or employ a person under 21 years of age. The Board may assess civil penalties against or suspend

or revoke the license of a cannabis establishment that dispenses or sells cannabis or cannabis products to a person under 21 years of age.

(b) A cannabis establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where cannabis is located. This subsection shall not apply to a registered patient visiting a dispensary even if that dispensary is located in a building that is located on the same premises of a cannabis establishment.

(c) The Board, in consultation with the Department of Health, shall adopt rules in accordance with section 881 of this title to:

(1) prohibit cannabis products or the packaging of such products that are designed to make the product more appealing to persons under 21 years of age;

(2) prohibit the packaging of cannabis that is designed to make the product more appealing to persons under 21 years of age;

(3) require that cannabis products sold by licensed retailers and integrated licensees are contained in child-resistant packaging; and

(4) require that cannabis and cannabis products sold by licensed retailers and integrated licensees are packaged with labels that clearly indicate that the contents of the package contain cannabis and should be kept away from persons under 21 years of age.

#### § 867. STANDARD SYMBOL FOR CANNABIS

The Board shall create a standard symbol that shall be used on all cannabis and cannabis products sold by a licensed cannabis retailer to indicate that the contents of a package contain cannabis.

#### § 868. PROHIBITED PRODUCTS

(a) The following are prohibited products and may not be cultivated, produced or sold pursuant to a license issued under this chapter:

(1) cannabis flower with greater than 30 percent tetrahydrocannabinol;

(2) solid concentrate cannabis products with greater than 60 percent tetrahydrocannabinol;

(3) oil cannabis products except for those that are sold prepackaged for use with battery-powered devices;

(4) flavored oil cannabis products sold prepackaged for use with battery-powered devices and any cannabis flower that contains characterizing flavor that is not naturally occurring in the cannabis;

(5) cannabis products that contain delta-9 tetrahydrocannabinol and nicotine or alcoholic beverages; and

(6) any cannabis or cannabis products that are designed to make the product more appealing to persons under 21 years of age.

§ 869. CULTIVATION OF CANNABIS; ENVIRONMENTAL AND LAND USE STANDARDS

(a) A cannabis establishment shall not be regulated as “farming” under the Required Agricultural Practices, 6 V.S.A. chapter 215, or other State law, and cannabis produced from cultivation shall not be considered an agricultural product or agricultural crop for the purposes of 32 V.S.A. chapter 124, 32 V.S.A. § 9741, or other relevant State law.

(b) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with all applicable State, federal, and local environmental, energy, or public health law, unless otherwise provided under this chapter.

(c) A cannabis establishment regulated under this chapter shall be subject to regulation under 24 V.S.A. chapter 117 as authorized by this chapter.

(d)(1) The cultivation, processing, and manufacturing of cannabis regulated under this chapter shall comply with the following sections of the Required Agricultural Practices:

(A) section 6, regarding conditions, restriction, and operating standards;

(B) section 8, regarding groundwater quality and groundwater quality investigations; and

(C) section 12, regarding subsurface tile drainage.

(2) Application of or compliance with the Required Agricultural Practices under subdivision (1) of this subsection shall not be construed to provide a presumption of compliance with or exemption to any applicable State, federal, and local environmental, energy, public health, or land use law required under subsections (b) and (c) of this section.

(e) Persons cultivating cannabis or handling pesticides for the purposes of the manufacture of cannabis products shall comply with the worker protection standard of 40 C.F.R. part 170.

Subchapter 2. Administration

§ 881. RULEMAKING; CANNABIS ESTABLISHMENTS

(a) The Board shall adopt rules to implement and administer this chapter in accordance with subdivisions (1)–(7) of this subsection.

(1) Rules concerning any cannabis establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment, including:

(i) a requirement to submit an operating plan, which shall include information concerning:

(I) the type of business organization; the identity of its controlling owners and principals; and the identity of the controlling owners and principals of its affiliates; and

(II) the sources, amount, and nature of its capital, assets, and financing; the identity of its financiers; and the identity of the controlling owners and principals of its financiers;

(ii) a requirement to file an amendment to its operating plan in the event of a significant change in organization, operation, or financing; and

(iii) the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to section 883 of this title;

(C) oversight requirements, including provisions to ensure that a licensed establishment complies with State and federal regulatory requirements governing insurance, securities, workers' compensation, unemployment insurance, and occupational health and safety;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements;

(G) security requirements, including any appropriate lighting, physical security, video, and alarm requirements;

(H) health and safety requirements;

(I) regulation of additives to cannabis and cannabis products, including those that are toxic or designed to make the product more addictive, more appealing to persons under 21 years of age, or to mislead consumers;

(J) procedures for seed-to-sale traceability of cannabis, including any requirements for tracking software;

(K) regulation of the storage and transportation of cannabis;

(L) sanitary requirements;

(M) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the cannabis establishment's license;

(N) procedures for suspension and revocation of a license;

(O) requirements for banking and financial transactions, including provisions to ensure that the Board, the Department of Financial Regulation, and financial institutions have access to relevant information concerning licensed establishments to comply with State and federal regulatory requirements;

(P) disclosure or eligibility requirements for a financier, its owners and principals, and its affiliates, which may include:

(i) requirements to disclose information to a licensed establishment, the Board, or the Department of Financial Regulation;

(ii) a minimum age requirement and a requirement to conduct a background check for natural persons;

(iii) requirements to ensure that a financier complies with applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers; and

(iv) any other requirements, conditions, or limitations on the type or amount of loans or capital investments made by a financier or its affiliates, which the Board, in consultation with the Department of Financial Regulation, determines is necessary to protect the public health, safety, and general welfare; and

(Q) policies and procedures for conducting outreach and promoting participation in the regulated cannabis market by diverse groups of individuals, including those who have been disproportionately harmed by cannabis prohibition.

(2)(A) Rules concerning cultivators shall include:

(i) creation of a tiered system of licensing based on the plant canopy size of the cultivation operation or plant count for breeding stock;

(ii) pesticides or classes of pesticides that may be used by cultivators, provided that any rules adopted under this subdivision shall comply with and shall be at least as stringent as the Agency of Agriculture, Food and Markets' Vermont Pesticide Control Regulations;

(iii) standards for indoor cultivation of cannabis;

(iv) procedures and standards for testing cannabis for contaminants, potency, and quality assurance and control;

(v) labeling requirements for cannabis sold to retailers and integrated licensees, including health warnings developed by the Department of Health;

(vi) regulation of visits to the establishments, including the number of visitors allowed at any one time and record keeping concerning visitors; and

(vii) facility inspection requirements and procedures.

(B) The Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate.

(3) Rules concerning product manufacturers shall include:

(A) requirements that a single package of a cannabis product shall not contain more than 50 milligrams of THC, except in the case of:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(B) requirements that cannabis products are labeled in a manner that states the number of servings of tetrahydrocannabinol in the product, measured in servings of a maximum of five milligrams per serving, except:

(i) cannabis products that are not consumable, including topical preparations; and

(ii) cannabis products sold to a dispensary pursuant to 18 V.S.A. chapter 86 and regulations issued pursuant to that chapter;

(C) requirements that cannabis products are labeled with the date the product was manufactured, the date the product is best used by, the ingredients contained in the product, information on the length of time it typically takes for products to take effect, and appropriate warnings developed by the Department of Health;

(D) requirements that a cannabis product is clearly identifiable with a standard symbol adopted by the Board indicating that it contains cannabis;

(E) procedures and standards for testing cannabis products for contaminants, potency, and quality assurance and control;

(F) requirements for opaque, child-resistant packaging; and

(G) a prohibition on:

(i) products or packaging that are designed to make the product more appealing to persons under 21 years of age; and

(ii) the inclusion of nicotine or alcoholic beverages in a cannabis product.

(4) Rules concerning wholesalers shall include any provisions the Board has not addressed in subdivision (a)(1) of this section that are appropriate for safe regulation of wholesalers in accordance with this chapter.

(5) Rules concerning retailers shall include:

(A) requirements for proper verification of age of customers;

(B) restrictions that cannabis shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the cannabis;

(C) requirements that if the retailer sells hemp or hemp products, the hemp and hemp products are clearly labeled as such and displayed separately from cannabis and cannabis products;

(D) requirements for opaque, child-resistant packaging of cannabis and cannabis products at point of sale to customer; and

(E) facility inspection requirements and procedures.

(6) Rules concerning testing laboratories shall include:

(A) procedures and standards for testing cannabis and cannabis products for contaminants, potency, and quality assurance and control;

(B) reporting requirements, including requirements for chain-of-custody record keeping; and

(C) procedures for destruction of all cannabis and cannabis products samples.

(7) Rules concerning integrated licensees shall include the provisions provided in subdivisions (a)(1)–(6) of this section and any additional provisions the Board deems appropriate for safe regulation of integrated licensees in accordance with this chapter.

(b) The Board shall consult with other State agencies and departments as necessary in the development and adoption of rules where there is shared expertise and duties.

#### § 882. SUSPENSION AND REVOCATION OF LICENSES; CIVIL PENALTIES

(a) The Board shall have the authority to suspend or revoke a cannabis establishment license for violations of this chapter in accordance with rules adopted pursuant to this chapter.



(b) The Board shall have authority to issue civil citations for violations of this chapter in accordance with rules adopted pursuant to this chapter. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

§ 883. CRIMINAL BACKGROUND RECORD CHECKS; APPLICANTS

(a) The Board shall obtain from the Vermont Crime Information Center a copy of a license applicant's fingerprint-based Vermont criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(b) The Board shall adopt rules that set forth standards for determining whether an applicant should be denied a cannabis establishment license because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

§ 884. CANNABIS ESTABLISHMENT IDENTIFICATION CARD

(a) Every owner, principal, and employee of a cannabis establishment shall obtain an identification card issued by the Board.

(b)(1) Prior to issuing the identification card, the Board shall obtain from the Vermont Crime Information Center a copy of the person's Vermont fingerprint-based criminal history records, out-of-state criminal history records, and criminal history records from the Federal Bureau of Investigation.

(2) The Board shall adopt rules that set forth standards for determining whether a person should be denied a cannabis establishment identification card because of his or her criminal history record based on factors that demonstrate whether the applicant presently poses a threat to public safety or the proper functioning of the regulated market. Nonviolent drug offenses shall not automatically disqualify an applicant.

(c) Once an identification card application has been submitted, a person may serve as an employee of a cannabis establishment pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Board shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the identification card or disqualification of the person in accordance with this section.

(d) An identification card shall expire one year after its issuance or upon the expiration of the cannabis establishment's license, whichever occurs first.

Subchapter 3. Licenses§ 901. GENERAL PROVISIONS

(a) Except as otherwise permitted by law, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of cannabis or cannabis products without obtaining a license from the Board.

(b) All licenses shall be valid for one year and expire at midnight on the eve of the anniversary of the date the license was issued. A licensee may apply to renew the license annually.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Board and shall be accompanied by the fees provided for in section 909 of this title.

(d)(1) There shall be six types of licenses available:

- (A) a cultivator license;
- (B) a wholesaler license;
- (C) a product manufacturer license;
- (D) a retailer license;
- (E) a testing laboratory license; and
- (F) an integrated license.

(2)(A) The Board shall develop tiers for:

(i) cultivator licenses based on the plant canopy size of the cultivation operation or plant count for breeding stock.

(ii) retailer licenses.

(B) The Board may develop tiers for other types of licenses.

(3)(A) Except as provided in subdivision (3)(B) of this subsection (d), an applicant and its affiliates may obtain a maximum of one type of each type of license as provided in subdivision (d)(1)(A)–(E) of this title. Each license shall permit only one location of the establishment.

(B) An applicant and its affiliates that are a dispensary registered pursuant to 18 V.S.A. chapter 86 may obtain one integrated license provided in subdivision (d)(1)(F) of this title or a maximum of one of each type of license provided in subdivision (d)(1)(A)–(E) of this title. An integrated licensee may not hold a separate cultivator, wholesaler, product manufacturer, retailer, or testing laboratory license. An integrated license shall permit only one location for each of the types of activities permitted by the license: cultivation, wholesale operations, product manufacturing, retail sales, and testing.

(e) A dispensary that obtains a retailer license or an integrated license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Board.

(f) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Board. Failure to provide proof of insurance to the Board, as required, may result in revocation of the license.

(g) All licenses may be renewed according to procedures adopted through rulemaking by the Board.

(h)(1) The following records shall be exempt from public inspection and copying under the Public Records Act and shall be confidential:

(A) any record in an application for a license relating to security, public safety, transportation, or trade secrets, including information provided in an operating plan pursuant to subdivision 881(a)(1)(B) of this title; and

(B) any licensee record relating to security, public safety, transportation, trade secrets, or employees.

(2) Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption created in this subsection shall continue in effect and shall not be repealed through operation of 1 V.S.A. § 317(e).

#### § 902. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) An applicant, principal of an applicant, and person who owns or controls an applicant, who is a natural person:

(1) shall be 21 years of age or older; and

(2) shall consent to the release of his or her criminal and administrative history records.

(b) As part of the application process, each applicant shall submit, in a format prescribed by the Board, an operating plan. The Board shall adopt rules regarding the required components of an application for each type of license.

(c) The Board shall obtain a fingerprint-based Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) the applicant;

(2) each proposed principal; and

(3) each individual who would control the business.

(d) An applicant who is denied a license may appeal the Board's determination in accordance with section 847 of this title.

#### § 903. PRIORITIES; BUSINESS AND TECHNICAL ASSISTANCE

(a) The Board shall issue licenses pursuant to this chapter as determined according to a system of priorities adopted by rule by the Board. The system of priorities shall require consideration of criteria, including:

(1) whether the applicants have an existing medical cannabis dispensary license in good standing;

(2) whether the applicants would foster social justice and equity in the cannabis industry by being a minority or women-owned business;

(3) whether the applicants propose specific plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition;

(4) whether applicants propose specific plans to pay employees a living wage and offer benefits;

(5) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency; and

(6) the geographic distribution of cannabis establishments based on population and market needs.

(b) The Agency of Commerce and Community Development, in collaboration with the Agency of Agriculture, Food and Markets, shall provide business and technical assistance to Vermont applicants with priority for services based on criteria adopted by the Board in accordance with subsection (a) of this section.

#### § 904. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, process, package, label, transport, test, and sell cannabis to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

(b) Cultivation of cannabis shall occur only in an enclosed, locked facility.

(c) Representative samples of each lot or batch of cannabis intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Board.

(d) Each cultivator shall create packaging for its cannabis.

(1) Packaging shall include:

- (A) The name and registration number of the cultivator.
  - (B) The strain and variety of cannabis contained.
  - (C) The potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving.
  - (D) A “produced on” date reflecting the date that the cultivator finished producing the cannabis.
  - (E) Appropriate warnings as prescribed by the Board in rule.
  - (F) Any additional requirements contained in rules adopted by the Board in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the cannabis is sold to a wholesaler, product manufacturer, or retailer.
- (2) Packaging shall not be designed to appeal to persons under 21 years of age.
- (e)(1) Only unadulterated cannabis shall be offered for sale. If, upon inspection, the Board finds any violative pesticide residue or other contaminants of concern, the Board shall order the cannabis, either individually or in blocks, to be:
- (A) put on stop-sale;
  - (B) treated in a particular manner; or
  - (C) destroyed according to the Board’s instructions.
- (2) Cannabis ordered destroyed or placed on stop-sale shall be clearly separable from salable cannabis. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the cannabis affected, and any recommended treatment.
- (3) A person may appeal an order issued pursuant to this section within 15 days after receiving the order. The appeal shall be made in writing and in accordance with section 847 of this title and shall clearly identify the cannabis affected and the basis for the appeal.

#### § 904a. SMALL CULTIVATORS

- (a) It is the intent of the General Assembly to move as much of the illegal cannabis market as possible into the regulated market for the purposes of consumer protection and public safety. It is also the intent of the General Assembly to encourage participation in the regulated cannabis market by small, local farmers. In furtherance of these goals, the Board shall consider policies to promote small cultivators as defined in section 861 of this title.

(b) The application for small cultivator licenses shall be prioritized over larger cultivation licenses during the initial application period.

(c) In accordance with subdivision 881(a)(2)(B) of this chapter, the Board shall consider the different needs and risks of small cultivators when adopting rules and shall make an exception or accommodation to such rules for cultivators of this size where appropriate, provided that the rules shall not provide for an exception or accommodation to the requirements of section 869 of this title.

(d) Upon licensing, a small cultivator may sell cannabis to a licensed dispensary at any time, for sale to patients and caregivers pursuant to the dispensary license or to the public pursuant to an integrated license, including the time period before retail sales are permitted for licensed cannabis retailers.

#### § 905. WHOLESALER LICENSE

A wholesaler licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator and integrated licensee, and cannabis products from a licensed product manufacturer, integrated licensee, and dispensary; and

(2) transport, process, package, and sell cannabis and cannabis products to a licensed product manufacturer, retailer, integrated licensee, and dispensary.

#### § 906. PRODUCT MANUFACTURER LICENSE

A product manufacturer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesalers, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary;

(2) use cannabis and cannabis products to produce cannabis products; and

(3) transport, process, package, and sell cannabis products to a licensed wholesaler, product manufacturer, retailer, integrated licensee, and dispensary.

#### § 907. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) purchase cannabis from a licensed cultivator, wholesaler, or integrated licensee, and cannabis products from a licensed wholesaler, product manufacturer, integrated licensee, and dispensary; and

(2) transport, possess, and sell cannabis and cannabis products to the public for consumption off the registered premises.

(b) In a single transaction, a retailer may provide one ounce of cannabis or the equivalent in cannabis products, or a combination thereof, to a person 21 years of age or older upon verification of a valid government-issued photograph identification card.

(c)(1) Packaging shall include:

(A) the strain and variety of cannabis contained;

(B) the potency of the cannabis represented by the amount of tetrahydrocannabinol and cannabidiol in milligrams total and per serving;

(C) a “produced on” date reflecting the date that the cultivator finished producing the cannabis;

(D) appropriate warnings as prescribed by the Board in rule; and

(E) any additional requirements contained in rules adopted by the Board in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(d) A retailer shall display a safety information flyer at the point of purchase and offer a customer a copy of the flyer with each purchase. A retailer shall inform the customer that if the customer elects not to receive the flyer, the information contained in the flyer is available on the website for the Board. The flyer shall be developed by the Board in consultation with the Department of Health, posted on the Board’s website, and supplied to the retailer free of charge. At a minimum, the flyer or flyers shall contain information concerning the methods for administering cannabis, the amount of time it may take for cannabis products to take effect, the risks of driving under the influence of cannabis, the potential health risks of cannabis use, the symptoms of problematic usage, how to receive help for cannabis abuse, and a warning that cannabis possession is illegal under federal law.

(e) Internet ordering and delivery of cannabis to customers are prohibited.

#### § 908. TESTING LABORATORY LICENSE

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport cannabis and cannabis products obtained from a licensed cannabis establishment, dispensary, or a member of the public.

(b) Testing may address the following:

(1) residual solvents;

(2) poisons or toxins;

(3) harmful chemicals;

- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E. coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all cannabis samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

(f) A cannabis establishment that is subject to testing requirements under this chapter or rules adopted pursuant to this chapter shall have its cannabis or cannabis products tested by an independent licensed testing laboratory and not a licensed testing laboratory owned or controlled by the license holder of the cannabis establishment.

#### § 909. INTEGRATED LICENSE

(a) An integrated license shall allow the licensee to engage in the activities of a cultivator, wholesaler, product manufacturer, retailer, and testing laboratory as provided in sections 904–908 of this title.

(b) An integrated license is only available to an applicant and its affiliates that hold a dispensary registration pursuant 18 V.S.A. chapter 86 on July 1, 2021. There shall be no more than five total integrated licenses, one for each registered dispensary. Upon compliance with all application procedures and requirements, the Board shall issue an integrated license to the applicant. The licensee shall have the right to renew the license in accordance with rules adopted by the Board.

#### Sec. 8. IMPLEMENTATION OF LICENSING CANNABIS ESTABLISHMENTS

(a)(1) The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after September 1, 2021. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling such products to an integrated licensee on or



after January 15, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

(2) On or before January 15, 2022, the Board shall begin accepting applications for integrated licenses.

(3) On or before February 15, 2022, the Board shall begin issuing integrated licenses to qualified applicants. An integrated licensee may begin selling cannabis and cannabis products transferred or purchased from a dispensary immediately.

(b)(1) On or before January 15, 2022, the Board shall begin accepting applications for small cultivator licenses and testing laboratories. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before February 15, 2022, the Board shall begin issuing small cultivator and testing laboratories licenses to qualified applicants. Upon licensing, small cultivators shall be permitted to sell cannabis to an integrated licensee and a dispensary licensed pursuant to 18 V.S.A. chapter 86 prior to other types of cannabis establishment licensees beginning operations.

(c)(1) On or before February 15, 2022, the Board shall begin accepting applications for all cultivator licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before April 1, 2022, the Board shall begin issuing all cultivator licenses to qualified applicants.

(d)(1) On or before April 1, 2022, the Board shall begin accepting applications for product manufacturer licenses and wholesaler licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before May 15, 2022, the Board shall begin issuing product manufacturer and wholesaler licenses to qualified applicants.

(e)(1) On or before June 1, 2022, the Board shall begin accepting applications for retailer licenses. The initial application period shall remain open for 30 days. The Board may reopen the application process for any period of time at its discretion.

(2) On or before July 15, 2022, the Board shall begin issuing retailer licenses to qualified applicants and sales of cannabis and cannabis products by licensed retailers to the public shall be allowed immediately.

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\* \* \* Medical Cannabis Registry \* \* \*

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Sec. 11. [Deleted.]

\* \* \* Medical Cannabis Dispensaries \* \* \*

Sec. 12. [Deleted.]

Sec. 13. [Deleted.]

\* \* \* Creation of Excise and Local Option Tax \* \* \*

\* \* \* Substance Misuse Prevention Fund \* \* \*

Sec. 14. 7 V.S.A. chapter 207 is added to read:

CHAPTER 207. CANNABIS TAXES

§ 7901. DEFINITIONS

As used in this chapter:

(1) “Cannabis” has the same meaning as in 7 V.S.A. § 831.

(2) “Cannabis cultivator” has the same meaning as in 7 V.S.A. § 861.

(3) “Cannabis product” has the same meaning as in 7 V.S.A. § 831.

(4) “Cannabis product manufacturer” has the same meaning as in 7 V.S.A. § 861.

(5) “Cannabis retailer” has the same meaning as in 7 V.S.A. § 861.

(6) “Cannabis wholesaler” has the same meaning as in 7 V.S.A. § 861.

(7) “Integrated licensee” has the same meaning as in 7 V.S.A. § 861.

(8) “Retail sale” or “sold at retail” means any sale for any purpose other than for resale by a cannabis retailer or integrated licensee.

(9) “Sales price” has the same meaning as in section 9701 of this title.

§ 7902. CANNABIS EXCISE TAX

(a) There is imposed a cannabis excise tax equal to 14 percent of the sales price of each retail sale in this State of cannabis and cannabis products, including food or beverages.

(b) The tax imposed by this section shall be paid by the purchaser to the retailer or integrated licensee. Each retailer or integrated licensee shall collect from the purchaser the full amount of the tax payable on each taxable sale.

(c) The tax imposed by this section is separate from and in addition to the general sales and use tax imposed by chapter 233 of this title. The tax imposed by this section shall not be part of the sales price to which the general sales and use tax applies. The cannabis excise tax shall be separately itemized from the general sales and use tax on the receipt provided to the purchaser.

(d) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers.

#### § 7903. LIABILITY FOR TAX

(a) Any tax collected in accordance with this chapter shall be deemed to be held by the retailer or integrated licensee in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as clearly to indicate the amount of tax collected and that the same are the property of the State of Vermont.

(b) Every retailer or integrated licensee required to collect and remit the tax under this chapter to the Commissioner shall be personally and individually liable for the amount of such tax together with such interest and penalty as has accrued under the provisions of section 3202 of this title. If the retailer or integrated licensee is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect and remit tax to the Commissioner of Taxes as required in this chapter.

(c) A retailer or integrated licensee shall have the same rights in collecting tax from his or her purchaser or regarding nonpayment of tax by the purchaser as if the tax were a part of the purchase price of cannabis or cannabis products and payable at the same time; provided, however, if the retailer or integrated licensee required to collect tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer or integrated licensee to collect tax and shall have the right to intervene in such action or proceeding.

(d) A retailer or integrated licensee required to collect tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer or integrated licensee for tax collected unless the purchaser has provided written notice to a retailer or integrated licensee and the retailer

or integrated licensee has had 60 days to respond.

§ 7904. RETURNS; RECORDS

(a) Any retailer or integrated licensee required to collect the tax imposed by this chapter shall, on or before the 25th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer or integrated licensee, a statement containing its name and place of business, the total amount of sales subject to the cannabis excise tax made in the preceding month, and any information required by the Department of Taxes, along with the total tax due. Retailers and integrated licensees shall not remit the tax collected to the Department of Taxes in cash absent the issuance of a waiver by the Commissioner of Taxes and the Commissioner may require that returns be submitted electronically.

(b) Every retailer and integrated licensee shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. The records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes cannabis or a cannabis product is subject to the cannabis excise tax imposed by this chapter on the entire sales price of the bundled transaction. If there is a conflict with the bundling transaction provisions applicable to another tax type, this section shall apply.

(b) If the sales price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the products that are nontaxable are subject to the tax imposed by this chapter unless the retailer or integrated licensee can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business, and any discounts applied to the bundle must be attributed to the products that are nontaxable under this chapter.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products is or contains cannabis; or

(2) cannabis or a cannabis product that is provided free of charge with the required purchase of another product.

§ 7906. LICENSE

(a) Any retailer or integrated licensee required to collect tax imposed by this chapter must apply for and receive a cannabis retail tax license from the Commissioner for each place of business within the State where he or she sells cannabis or cannabis products prior to commencing business. The Commissioner shall issue without charge a license, or licenses, empowering the retailer or integrated licensee to collect the cannabis excise tax, provided that a retailer or integrated licensee's application is properly submitted and the retailer or integrated licensee is otherwise in compliance with applicable laws, rules, and provisions.

(b) Each cannabis retail tax license shall state the place of business to which it is applicable and be prominently displayed in the place of business. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant ceasing to do business in the place named. A cannabis retail tax license shall be separate from and in addition to any licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title.

(c) The Cannabis Control Board may require the Commissioner of Taxes to suspend or revoke the tax licenses issued under this section for any retailer or integrated licensee that fails to comply with 7 V.S.A. chapter 33 or any rules adopted by the Board.

§ 7907. ADMINISTRATION OF THE CANNABIS EXCISE TAX

(a) The Commissioner of Taxes shall administer and enforce this chapter. The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use tax in chapter 233 of this title shall apply to the cannabis excise tax imposed by this chapter.

§ 7908. STATUTORY PURPOSE

The statutory purpose of the exemption for cannabis and cannabis products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in subdivision 7902(d)(2) of this title is to lower the cost of medical products in order to support the health and welfare of Vermont residents.

Sec. 14a. 32 V.S.A. § 3102(d)(3) is amended to read:

(3) to any person who inquires, provided that the information is limited to whether a person is registered to collect Vermont income withholding, sales and use, ~~or meals and rooms~~, or cannabis excise tax; whether a person is in

good standing with respect to the payment of these taxes; whether a person is authorized to buy or sell property free of tax; or whether a person holds a valid license under chapter 205 or 239 of this title or 10 V.S.A. § 1942;

\* \* \* Sales Tax Exemption \* \* \*

Sec. 15. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages, tobacco, cannabis and cannabis products as defined under 7 V.S.A. § 831, or soft drinks.

Sec. 16. 32 V.S.A. § 9741(53) is added to read:

(53) Cannabis and cannabis products as defined under 7 V.S.A. § 831 sold by any dispensary as authorized under 18 V.S.A. chapter 86, provided that the cannabis or cannabis product is sold only to registered qualifying patients directly or through their registered caregivers.

\* \* \* Tax Expenditure; Statutory Purpose \* \* \*

Sec. 17. 32 V.S.A. § 9706(mm) is added to read:

(mm) The statutory purpose of the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9741(53) of this title is to lower the cost of medical products sold by any dispensary as authorized under 18 V.S.A. chapter 86 in order to support the health and welfare of Vermont residents.

\* \* \* Meals and Rooms Tax \* \* \*

Sec. 17a. 32 V.S.A. § 9202(10) is amended to read:

(10) “Taxable meal” means:

\* \* \*

(D) “Taxable meal” shall not include:

(i) Food or beverage, other than that taxable under subdivision (10)(C) of this section, that is a grocery-type item furnished for take-out: whole pies or cakes, loaves of bread; single-serving bakery items sold in quantities of three or more; delicatessen and nonprepackaged candy sales by weight or measure, except party platters; whole uncooked pizzas; pint or larger closed containers of ice cream or frozen confection; eight ounce or larger containers of salad dressings or sauces; maple syrup; quart or larger containers of cider or milk.

\* \* \*

(iii) Cannabis or cannabis products as defined under 7 V.S.A. § 831.

Sec. 17b. 32 V.S.A. § 9201(n) is added to read:

(n) The statutory purpose for the exemption for cannabis and cannabis products as defined under 7 V.S.A. § 831 in subdivision 9202(10)(D)(iii) of this title is to avoid having both the meals and rooms tax and the cannabis excise tax apply to edible cannabis products.

\* \* \* Use of Sales and Use Tax Revenue \* \* \*

Sec. 17c. DEDICATED USE OF SALES AND USE TAX ON CANNABIS

Notwithstanding 16 V.S.A. § 4025(b), revenue from the sales and use tax imposed by 32 V.S.A. chapter 233 on retail sales of cannabis or cannabis products in this State shall be used to fund a grant program to start or expand afterschool and summer learning programs, with a focus on increasing access in underserved areas of the State.

Sec. 17d. ANNUAL BUDGETING OF SALES AND USE TAX REVENUE

On or before November 15, 2021 and on or before each subsequent November 15, the Agency of Education shall submit to the General Assembly a plan to fund grants in furtherance of the purposes of Sec. 17c of this act. The grants shall be in an amount equal to the official forecasted revenues to be raised from the sales and use tax imposed by 32 V.S.A. chapter 233 on cannabis or cannabis products in this State. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the plan to be made under this subsection.

\* \* \* Income Tax Deduction \* \* \*

Sec. 18. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

\* \* \*

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

\* \* \*

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income ~~which~~ that results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E.

\* \* \*

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

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

\* \* \*

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

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

(v) the amount of any federal deduction or credit that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of cannabis or cannabis products as authorized under 7 V.S.A. chapter 33 or 18 V.S.A. chapter 86, but for 26 U.S.C. § 280E; and

\*\*

#### Sec. 18a. SUBSTANCE MISUSE PREVENTION FUNDING

Thirty percent of the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901 shall be used for the purpose of funding substance misuse prevention programming as recommended by the Substance Misuse Prevention Oversight and Advisory Council.



## Sec. 18b. ANNUAL PREVENTION FUNDING RECOMMENDATION

On or before November 1, 2021, and annually thereafter, the Substance Misuse Prevention Oversight and Advisory Council shall make recommendations to the General Assembly for the use of monies in the amount consistent with the official State estimate as required under 32 V.S.A. § 305a for the revenues raised by the cannabis excise tax imposed by 32 V.S.A. § 7901 and dedicated to funding substance misuse prevention programming as provided in Sec. 18a of this act.

\* \* \* Impaired Driving \* \* \*

Sec. 18c. 20 V.S.A. § 2358(f) is added to read:

(f) The criteria for all minimum training standards under this section shall include Advanced Roadside Impaired Driving Enforcement training as approved by the Vermont Criminal Justice Training Council. On or before December 31, 2021, law enforcement officers shall receive a minimum of 16 hours of training as required by this subsection.

Sec. 18d. 23 V.S.A. § 1200 is amended to read:

## § 1200. DEFINITIONS

As used in this subchapter:

\* \* \*

(3) “Evidentiary test” means a breath, saliva, or blood test ~~which~~ that indicates the person’s alcohol concentration or the presence of other drug and ~~which~~ that is intended to be introduced as evidence.

\* \* \*

Sec. 18e. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF  
ALCOHOL OR OTHER SUBSTANCE; CRIMINAL REFUSAL;  
ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person’s alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial vehicle as defined in subdivision 4103(4) of this title; or

(2) when the person is under the influence of alcohol; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; or

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in the his or her system.

\* \* \*

(i) Evidence of the results of a standardized field sobriety test conducted by a law enforcement officer trained in Advanced Roadside Impaired Driving Enforcement or a certified Drug Recognition Expert's systematic evaluation of observable signs and symptoms of a person charged with a violation of this section shall be presumptively admissible at trial to demonstrate whether or not the person was operating under the influence in violation of this section.

Sec. 18f. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD  
ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than

alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, or under the combined influence of alcohol and a drug, the person is deemed to have given consent to providing of an evidentiary sample of saliva. A saliva test sought pursuant to this subdivision (3) shall be obtained pursuant to subsection (f) of this section. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body and shall not be used to extract DNA information.

(4) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

~~(4)~~(5) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

(b) A refusal to take a breath test may be introduced as evidence in a criminal proceeding.

(c) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has a right as limited in this subsection to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and not later than 30 minutes after the time of the initial attempt to contact the attorney. The person must make a decision about whether to submit to the test or tests at the expiration of the 30 minutes, regardless of whether a consultation took place.

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least six months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least 90 days.

(4) A person who is requested by a law enforcement officer to submit to an evidentiary test or tests has the limited right to consult an attorney before deciding whether or not to submit to such a test or tests. The person must decide whether or not to submit to the evidentiary test or tests within a reasonable time and no later than 30 minutes from the time of the initial attempt to contact the attorney, regardless of whether a consultation took place. The person also has the right to have additional tests made by someone of the person's own choosing at the person's own expense. The person shall also be informed of the location of one or more facilities available for drawing blood.

(5) A person who is requested by a law enforcement officer to submit to an evidentiary test administered with an infrared breath-testing instrument may elect to have a second infrared test administered immediately after receiving the results of the first test.

(6) If the person refuses to take an evidentiary test, the refusal may be offered into evidence against the person at trial, whether or not a search warrant is sought. The person may be charged with the crime of criminal refusal if the person:

(A) has previously been convicted of a violation of section 1201 of this title; or

(B) is involved in an accident or collision resulting in serious bodily injury or death to another, in which case the court may issue a search warrant and order the person to submit to a blood test, the results of which may be offered into evidence against the person at trial.

\* \* \*

(f)(1) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If Pursuant to subdivision (d)(6) of this section, if a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary ~~breath~~ sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

(2) If an evidentiary saliva test is sought from a person pursuant to subdivision (a)(3) of this section, a law enforcement officer may apply for a search warrant pursuant Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of saliva for the evidentiary test. Pursuant to subdivision (d)(6) of this section, if a saliva sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test.

(g) The Defender General shall provide statewide 24-hour coverage seven days a week to ~~assure~~ ensure that adequate legal services are available to persons entitled to consult an attorney under this section.

Sec. 18g. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND  
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b)(1) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, ~~or~~ laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or ~~other~~ another drug. ~~This limitation does~~ Any withdrawal of blood shall not be taken at roadside. These limitations do not apply to the taking of a breath sample. A medical facility or business may not charge more than \$75.00 for services rendered when an individual is brought to a facility for the sole purpose of an evidentiary blood sample or when an emergency medical technician or paramedic draws an evidentiary blood sample.

(2) A saliva sample may be obtained by a person authorized by the Vermont Criminal Justice Training Council to collect a saliva sample for the purpose of evidentiary testing to determine the presence of a drug. Any saliva sample obtained pursuant to this section shall not be taken at roadside.

(c) ~~When a breath test which is intended to be introduced in evidence is taken with a crimper device or when~~ breath saliva or blood is withdrawn at an officer's request, a sufficient amount of breath saliva or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath, saliva, or blood test ~~administered using an infrared breath testing instrument~~, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared breath testing instrument analyzes the sample and does not indicate the sample is deficient. ~~Analysis~~ An analysis of the person's breath saliva or blood ~~which that~~ is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use rule making procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary breath alcohol screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the screening, test additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of such accident within five days of such death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The ~~commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

\* \* \*

Sec. 18h. 23 V.S.A. § 1203a(b) is amended to read:

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall make arrangements for administration of the blood test upon demand but at the person's own expense.

Sec. 18i. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

\* \* \*

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcohol or under the combined influence of alcohol and another drug, nor shall they be construed as requiring that evidence of the amount of alcohol or drug in the person's blood, breath, urine, or saliva must be presented.

Sec. 18j. DEPARTMENT OF PUBLIC SAFETY; DRUG RECOGNITION EXPERTS; REPORT

On or before January 15, 2021, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations on how to:

(1) achieve geographic equity in Drug Recognition Expert availability to conduct roadside evaluations of drivers suspected of violating 23 V.S.A. § 1201 across Vermont; and

(2) whether to expand the availability of the Drug Recognition Expert program beyond law enforcement officers to other public safety officials to the extent authorized by the national qualification standards of the International Association of Chiefs of Police and the National Highway Traffic Safety Administration.

Sec. 18k. DEPARTMENT OF PUBLIC SAFETY; SALIVA TESTING DEVICE; REPORT

Upon the identifying a threshold level of concentration of a psychoactive metabolite of cannabis in a person's bloodstream to establish impairment and approving a chemical testing device for roadside use capable of demonstrating such a threshold level of concentration of such psychoactive metabolite of cannabis in a person's system, the Department of Public Safety shall report to the House and Senate Committees on Judiciary and on Government Operations on a proposal to implement the use of such a device to evaluate individuals suspected of operating under the influence of marijuana in violation of 23 V.S.A. § 1201.

\* \* \* Safety Belts \* \* \*

Sec. 18l. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS ~~AGE~~ 18 YEARS OF AGE OR OVER

\* \* \*

~~(e) This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation. [Repealed.]~~

(f) The penalty for violation of this section shall be as follows:

- (1) ~~\$25.00~~ \$0.00 for a first violation;
- (2) ~~\$50.00~~ \$25.00 for a second violation;
- (3) \$50.00 for a third violation; and



(4) \$100.00 for ~~third~~ fourth and subsequent violations.

Sec. 18m. REPORTING BY THE VERMONT CRIMINAL JUSTICE  
TRAINING COUNCIL

The Vermont Criminal Justice Training Council, in consultation with law enforcement agencies, shall submit a written report to the House and Senate Committees on Transportation and on Judiciary on or before the 15th day of January in 2022, 2023, and 2024 containing, for the prior State fiscal year:

(1) the total number of traffic stops broken out by race of the driver involved in the traffic stop; and

(2) the following information for all traffic stops involving safety belts not worn by persons 18 years of age or over:

(A) the age, gender, and race of the driver involved in the traffic stop;

(B) the reason for the traffic stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any;

(E) the outcome of the traffic stop, including whether:

(i) a written warning was issued,

(ii) a citation for a civil ticket was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken;

(F) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was the primary enforcement of a person 18 years of age or over not wearing a safety belt; and

(G) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was for any reason other than the primary enforcement of a person 18 years of age or over not wearing a safety belt.

\* \* \* Miscellaneous Cannabis Provisions \* \* \*

Sec. 18n. 6 V.S.A. § 567 is amended to read:

§ 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

(a) The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for ~~hemp<sub>2</sub> and hemp-infused products,~~ cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(2) to verify cannabinoid label guarantees of ~~hemp<sub>2</sub> and hemp-infused products,~~ cannabis, and cannabis products as defined in 7 V.S.A. § 831;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in ~~hemp<sub>2</sub> and hemp-infused products,~~ cannabis, and cannabis products as defined in 7 V.S.A. § 831; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this section.

(b) For purposes of this section, a laboratory operating under a dispensary registration pursuant to 18 V.S.A. chapter 86 that offers the services in subdivisions (2) and (3) of subsection (a) of this section on July 1, 2020 shall be deemed certified by the Agency.

(c) The cost of a test of a product produced at a registered dispensary and submitted to the Agency for the purpose of compliance testing to enforce the provisions of 18 V.S.A. chapter 86 shall be paid by the Department of Public Safety from the registration fee fund provided in 18 V.S.A. § 4474a.

Sec. 19. 18 V.S.A. § 4230a(a)(2)(A) is amended to read:

(2)(A) A person shall not consume ~~marijuana~~ cannabis in a public place. “Public place” ~~means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the use or possession of a lighted tobacco product, tobacco product, or tobacco substitute as defined in 7 V.S.A. § 1001 is prohibited by law~~ has the same meaning as provided by 7 V.S.A. § 831.

Sec. 20. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA CANNABIS

\* \* \*

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling ~~marijuana~~ cannabis or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing more than one ounce of ~~marijuana~~ cannabis or five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of ~~marijuana~~ cannabis or 2.8 ounces or more of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(4) A person 21 years of age or older may dispense one ounce or less of cannabis or five grams or less of hashish to another person who is 21 years of age or older provided that the dispensing is not advertised or promoted to the public.

#### Sec. 21. STATUTORY REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace “marijuana” with “cannabis” throughout the statutes as needed for consistency with this act, provided the revisions have no other effect on the meaning of the affected statutes.

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

#### Sec. 22. EFFECTIVE DATES

(a) This section and Secs. 2 (cannabis chapter), 3 (implementation of the Cannabis Control Board), 17d (annual budgeting of sales and use tax revenue), 18c (Advanced Roadside Impaired Driving Enforcement training), 18j (drug recognition experts report), 18n (Agency of Agriculture, Food and Markets; testing), 20 (cannabis dispensing), and 21 (statutory revision authority) shall take effect on passage.

(b) Secs. 1 (Title 7 redesignation), 4 (implementation of rulemaking by the Cannabis Control Board, 5 (Cannabis Control Board; fees), 6 (creation of Board positions), 6a (space allocation), 6b (appropriation), 7 (cannabis establishments chapter), 8 (implementation of licensing of cannabis establishments), 18a (Substance Misuse Prevention Fund), 18i (permissive inference), 18k (National Highway Traffic safety Administration-approved saliva testing device), 18l (seat belts) and 19 (public place definition) shall take effect July 1, 2020.

(c) Secs. 14 (creation of excise tax), 14a (tax license disclosure), 15 (sales tax exemption), 16 (tax exemption), 17 (tax expenditure), 17a (meals and rooms tax), 17b (meals and rooms tax expenditure), 17c (dedicated use of sales and use tax revenue), 18 (income tax deduction), 18b (Substance Misuse Prevention Fund), 18d (definition of evidentiary test), 18e (operating vehicle under the influence of alcohol or other substance), 18f (consent to taking of tests to determine blood alcohol content or presence of other drug), 18g (administration of tests), 18h (independent testing of evidentiary sample) and 18m (reporting by the Vermont Criminal Justice Training Council) shall take effect January 1, 2022.

(d) Secs.6d shall take effect on July 1, 2022.

(e) Sec. 6e (repeal of Cannabis Control Board) shall take effect on January 1, 2024.

(f) Sec. 6c (contingent Cannabis Regulation Fund deficit offset) shall take effect on July 1, 2024.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Sears  
Senator White  
Senator Benning

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

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

#### **S. 240.**

House proposal of amendment to Senate bill entitled:

An act relating to recruiting new remote workers and new relocating workers.

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. 2019 Acts and Resolves No. 80, Sec. 20 is amended to read:

#### **Sec. 20. ECONOMIC DEVELOPMENT FUNDING ALLOCATIONS**

The \$2,000,000.00 appropriated from the General Fund for economic development initiatives in Sec. C.100(30) of H.542 (2019) shall be allocated pursuant to this section.

(1) \$1,725,000.00 is allocated to the Agency of Commerce and Community Development as follows:

(A)(i) \$450,000.00 for economic development marketing:

(I) \$225,000 for economic development marketing pursuant to its authority in 3 V.S.A. § 2476(c) to execute the State's core Economic

Development Marketing Plan through paid, owned, and earned media, utilizing technology, data, and analysis tools; and

(II) \$225,000.00 to identify, recruit, and provide relocation assistance to workers, including:

(aa) identifying target audiences;

(bb) targeting through digital and social media; and

(cc) implementing strategies that convert visitors to residents and awarding grants for regional partnerships to help recruitment efforts at the local and regional levels.

(ii) Notwithstanding any provision of law to the contrary, the Agency shall have the discretion to reallocate not more than \$225,000.00 of the funding allocated in this subdivision (1)(A) to provide additional incentives under the New Worker Relocation Incentive Program created in this act, the New Remote Worker Grant Program created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15, or both.

\* \* \*

## Sec. 2. 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.

### **Rules Suspended; Bill Committed**

#### **S. 267.**

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

An act relating to the Renewable Energy Standard.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Finance, Senator Cummings moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources and Energy with the report of the Committee on Finance *intact*,

Which was agreed to.

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**Rules Suspended; Bill Committed****S. 297.**

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

An act relating to the Agency of Health Care Administration.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Health and Welfare, Senator Lyons moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Government Operations with the report of the Committee on Health and Welfare *intact*,

Which was agreed to.

**Message from the House No. 29**

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

**H. 741.** An act relating to criminal record checks on contractors working in State-owned or -leased facilities.

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

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

**J.R.S. 43.** Joint resolution providing for a Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judges.

And has adopted the same in concurrence.

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

**H. 550.** An act relating to unclaimed property.

And has severally concurred therein.

**Rules Suspended; Bill Delivered**

On motion of Senator Sirotkin, the rules were suspended, and the following bill was ordered delivered to the Governor forthwith:

**S. 240.**

**Bill Withdrawn****S. 321.**

On request of Senator Nitka, pursuant to Rule 50, Senate bill entitled:  
An act relating to miscellaneous fish and wildlife issues  
Was withdrawn.

**Adjournment**

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

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**THURSDAY, MARCH 12, 2020**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

**Bills Referred to Committee on Appropriations**

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

**S. 218.** An act relating to the Department of Mental Health's Ten-Year Plan.

**S. 273.** An act relating to creating incentives for schools and establishing a goal for correctional facilities to purchase locally produced foods.

**Bill Referred to Committee on Finance****S. 237.**

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

An act relating to promoting affordable housing.

**Bills Referred**

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

**H. 635.**

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

To the Committee on Health and Welfare.

**H. 741.**

An act relating to criminal record checks on contractors working in State-owned or -leased facilities.

To the Committee on Institutions.

**Third Reading Ordered****S. 339.**

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

An act relating to miscellaneous changes to laws related to vehicles.

Reported that the bill ought to pass.

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

**Bill Amended; Bill Passed****S. 261.**

Senate bill entitled:

An act relating to eliminating life without parole.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 28 V.S.A. § 501 is amended to read:

**§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION**

(a) An inmate serving any sentence other than life without the possibility of parole shall be eligible for parole consideration no later than upon serving 35 years.

(b) An inmate who is serving a sentence of imprisonment 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 or upon the inmate serving 35 years, whichever occurs first.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a division of the Senate, Yeas 18, Nays 8.

### **Bills Amended; Third Readings Ordered**

#### **S. 180.**

Senator Collamore, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to prohibiting the use and application of the pesticide chlorpyrifos.

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

Sec. 1. 6 V.S.A. § 1114 is added to read:

#### § 1114. USE OF CHLORPYRIFOS

(a) Definition. As used in this section, "chlorpyrifos" means a pesticide with the chemical name O,O-diethyl O-(3,5,6-trichloro-2-pyridinyl)-phosphorothioate.

(b) Prohibition. No person shall use or apply chlorpyrifos in the State.

Sec. 2. 6 V.S.A. § 1101 is amended to read:

#### § 1101. DEFINITIONS

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

(1) "Secretary" ~~shall have~~ has the same meaning stated as in subdivision 911(4) of this title.

\* \* \*

(4) "Economic poison" ~~shall have~~ has the same meaning stated as in subdivision 911(5) of this title.

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

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

\* \* \*

(8) "Integrated pest management" means an ecosystem-based strategy that focuses on long-term prevention of pests or their damage through a combination of techniques such as biological control, habitat manipulation, modification of cultural practices, and use of resistant varieties. Under integrated pest management, pesticides are used only after monitoring indicates they are needed according to established guidelines, and pesticide treatments are made with the goal of removing only the target organism. Pest control materials are selected and applied in a manner that minimizes risks to human health, beneficial and nontarget organisms, and the environment.

Sec. 3. 6 V.S.A. § 1102 is amended to read:

§ 1102. PESTICIDE ADVISORY COUNCIL ESTABLISHED

(a) The Pesticide Advisory Council is established and attached to the Agency of Agriculture, Food and Markets. ~~Members of the Council, except those public members appointed by the Governor,~~ shall be qualified individuals who, by experience and training, are knowledgeable in ~~one or more~~ areas associated with pest control or in the goals or functions of the Council. ~~The Secretary, or Commissioner as the case may be, shall represent each Department or Agency on the Council~~ Council shall comprise the following members:

~~(1) The Department of Fish and Wildlife.~~

~~(2) The Department~~ Commissioner of Environmental Conservation. or designee;

~~(3)(2) The Agency~~ Secretary of Agriculture, Food and Markets. or designee;

~~(4) The Department of Forests, Parks and Recreation.~~

~~(5)(3) The Department~~ Commissioner of Health. or a designee with expertise in public health;

~~(6) The Agency of Transportation.~~

~~(7) One physician from the College of Medicine of the University of Vermont nominated by its dean.~~

~~(8)(4) One representative in the area of~~ with expertise in agronomy, entomology, or plant pathology, or weed control from the University of Vermont Extension to be named by the Director, appointed by the Secretary.

~~(9)~~(5) One representative in the area of pesticide research from the Vermont Agricultural Experiment Station named by the Dean of the College of Agriculture and Life Sciences of the University of Vermont.

~~(10)~~(6) Two members appointed by the Governor. In choosing these members, the Governor shall consider people who have knowledge and qualities that could be useful in pursuing the goals and functions of the Council. One of these members shall have practical experience in commercial agricultural production and shall be appointed in consultation with the Secretary. One of these members shall have practical knowledge or experience in environmental or public health issues in Vermont.

(7) One representative with expertise in farming in Vermont to be appointed by the Secretary.

(8) One representative with expertise in the area of environmental consequences of pesticide and other contaminants in the environment named by the Dean of the Rubenstein School of Environment and Natural Resources.

(9) One representative with expertise in Integrated Pest Management (IPM) and managing land while minimizing or avoiding the use of pesticides in Vermont to be appointed by the Secretary.

~~(b) Each State or university member of the Council shall serve until his or her resignation or until his or her successor is appointed or otherwise designated in accordance with this chapter. Public members~~ member of the Pesticide Advisory Council, ~~except those members serving ex officio,~~ shall be appointed for terms of three years, except initially, appointments shall be made such that one member shall serve for a term of one year and one for a term of two years.

~~(c) The Chair of the Council shall be designated by the Governor and serve as his or her personal representative and~~ The Council shall select a chair from among its members, and the chair shall coordinate activities on the Council.

~~(d) The functions of the Council are~~ shall:

(1) ~~To review~~ Review insect, plant disease, weed, nematode, rodent, noxious wildlife, and other pest control programs within the State and to assess the effect of such programs on human health and comfort, natural resources, water, wildlife, and food and fiber production and, where necessary, make recommendations for greater safety and efficiency.

(2) ~~To serve~~ Serve as the advisory group to State agencies having responsibilities for the use of pesticides as well as to other State agencies and departments.

(3) ~~To advise~~ Advise the Executive Branch of State government with respect to legislation concerning the use of various pest control measures.

(4) ~~To suggest~~ Recommend programs, policies, and legislation for wise and effective pesticide use that lead to an overall reduction in the use of pesticides in Vermont consistent with sound pest or vegetative management practices.

(5) ~~To recommend~~ Recommend studies necessary for the performance of its functions as established under this section.

(6) ~~To recommend~~ Recommend targets to the General Assembly with respect to the State statutory goal of achieving an overall reduction in the use of pesticides ~~consistent with sound pest or vegetative management practices and to measure the State's progress in reaching those targets and attaining that goal~~. The targets should be designed to enable evaluation of multiple measures of pesticide usage, use patterns, and associated risks. Targets should take into consideration at a minimum the following:

(A) reducing the amount of acreage where pesticides are used;

(B) reducing the risks associated with the use of pesticides;

(C) increasing the acreage managed by means of integrated pest management techniques;

(D) decreasing, within each level of comparable risk, the quantity of pesticides applied per acre; and

(E) making recommendations regarding the implementation of other management practices that result in decreased pesticide use.

(7) ~~To recommend~~ Recommend to the Secretary and the General Assembly policies, proposed rules, or legislation for the regulation of the use of a treated article when the Council determines that use of the treated article will have a hazardous or long-term deleterious effect on the environment in Vermont, presents a likely risk to human health, or is dangerous. In developing recommendations under this subdivision, the Council shall review:

(A) alternatives available to a user of a treated article; and

(B) the potential effects on the environment or risks to human health from use of the available alternatives to a treated article.

(e) The Council shall meet ~~semiannually, once in the fall and once in the spring~~ at least quarterly. Meetings at other times may be called by the Governor, by the Chair, or by a member of the Council. Attendance at Council meetings shall not be required of the commissioners of departments within the Agency of Natural Resources or their designees; however, at least one of these commissioners or the commissioner's designee shall attend each

meeting of the Council. The Council's proceedings shall be open to the public and its deliberations shall be recorded and made available to the public, along with its work product.

(f) On or before February 1, 2021 and annually thereafter, the Council shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a report regarding the specific actions and activities accomplished by the Council in the previous calendar year to reduce risk to humans and the environment from pesticide use and to reduce the amount of pesticides used within each category of pesticide use in Vermont. The report also shall include all recommendations by the Council to the General Assembly under subdivisions (d)(6) and (7) of this section regarding targets for achieving an overall reduction in the use of pesticides. All recommendations to the General Assembly under subdivisions (d)(6) and (7) of this section shall be publicly posted, noticed for public comment, and posted to and regularly updated on the website of the Agency of Agriculture, Food and Markets.

#### Sec. 4. TRANSITIONAL PROVISION; REVISION OF MEMBERSHIP OF PESTICIDE ADVISORY COUNCIL

(a) The terms of the members of the Pesticide Advisory Council established under 6 V.S.A. § 1102 in effect immediately prior to the effective date of Sec. 3 of this act shall expire on July 1, 2020.

(b) On or before July 1, 2020, the appointing authorities of the Pesticide Advisory Council set forth in 6 V.S.A. § 1102 as amended in Sec. 3 of this act shall appoint the members of the Pesticide Advisory Council as amended in Sec. 3 of this act, and the terms of those new members shall begin on July 1, 2020.

#### Sec. 5. HERBICIDE USE ON FIELD CORN; BEST PRACTICES

On or before May 1, 2021, the Secretary of Agriculture, Food and Markets shall develop by procedure best practices in addition to the Vermont Regulations for the Control of Pesticides that farmers using herbicides on field corn should implement to reduce the amount of herbicides used on corn fields and to avoid or mitigate potential harms to public health or the environment.

#### Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (chlorpyrifos prohibition) and 4 (transitional provision; Pesticide Advisory Council) shall take effect on passage.

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

And that after passage the bill be amended to read:

An act relating to the use and application of pesticides.

And that when so amended the bill ought to pass.

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

### S. 187.

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

An act relating to transient occupancy for health care treatment and recovery.

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

Sec. 1. 9 V.S.A. § 4452 is amended to read:

§ 4452. EXCLUSIONS

Unless created to avoid the application of this chapter, this chapter does not apply to any of the following:

\* \* \*

(8) transient occupancy in a hotel, motel, or lodgings during the time the occupant is a recipient of General Assistance or Emergency Assistance temporary housing assistance, regardless of whether the occupancy is subject to a tax levied under 32 V.S.A. chapter 225; or

(9) occupancy of a dwelling unit without right or permission by a person who is not a tenant; or

(10) transient occupancy by an occupant placed in a hotel, motel, or lodgings in connection with health care treatment or recovery, where the occupancy is paid for by a hospital as licensed in 18 V.S.A. chapter 43, an agency designated pursuant to 18 V.S.A. § 8907, or a specialized service agency operating under an agreement entered into pursuant to 18 V.S.A. § 8912, regardless of whether the occupant is subject to a tax levied under 32 V.S.A. chapter 225.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that when so amended the bill ought to pass.

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

### **Appointments Confirmed**

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Schirling, Michael of Burlington - Commissioner Department of Public Safety - September 3, 2019 to February 28, 2023.

Was confirmed by the Senate.

The nomination of

Smith, Michael K. of Westford - Secretary Agency of Human Services - October 28, 2019 to February 28, 2021.

Was confirmed by the Senate on a roll call Yeas 29, Nays 0.

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

### **Roll Call**

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

**Those Senators who voted in the negative were:** None.

**The Senator absent and not voting was:** MacDonald.

### **Message from the House No. 30**

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. 215.** An act relating to the Office of the Child Advocate.

**H. 438.** An act relating to the Board of Medical Practice and the licensure of physicians and podiatrists.

**H. 552.** An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

**H. 650.** An act relating to boards and commissions.

**H. 723.** An act relating to telehealth.

**H. 728.** An act relating to the miscellaneous changes affecting the duties of the Department of Vermont Health Access.

**H. 754.** An act relating to restructuring and reorganizing General Assembly staff offices.

**H. 794.** An act relating to limiting liability for agritourism.

**H. 936.** An act relating to sexual exploitation of children.

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

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

**J.R.S. 44.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

### **Adjournment**

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

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### **FRIDAY, MARCH 13, 2020**

The Senate was called to order by the President.

### **Devotional Exercises**

Devotional exercises were conducted by the Reverend Diane Nancekivell of Middlebury.

### **Bills Referred to Committee on Finance**

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

**S. 220.** An act relating to educating specified professionals on the State's energy goals.

**S. 233.** An act relating to uniform licensing standards.



**Joint Resolution Placed on Calendar****J.R.S. 45.**

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

By Committee of Agriculture,

**J.R.S. 45.** Joint resolution urging Congress to reassess the federal definition of hemp in order to allow the product to contain up to one percent delta-9 tetrahydrocannabinol (THC).

*Whereas*, under the Agriculture Improvement Act of 2018, also known as the 2018 Farm Bill, hemp was removed from the list of controlled substances and production was therefore legalized throughout the United States, and

*Whereas*, a variety of products can be made from hemp through the use of its fiber, seed, seed oil, or floral extracts. Hemp can be found in products such as paper, fabric, auto parts, animal bedding, body care products, and essential oils, and

*Whereas*, cannabidiol (CBD) is a chemical compound of Cannabis sativa, bearing little to no psychoactive effects, and is being evaluated for its role as a food additive or health supplement, and

*Whereas*, economic forecasts predict that the total collective market in CBD sales in the United States will be between \$15 billion to \$20 billion annually by 2025, and

*Whereas*, in 2019, the Vermont Agency of Agriculture, Food and Markets approved 983 permits to grow or process hemp on 8,880 acres in Vermont, and

*Whereas*, hemp was grown in every county of the State in 2019, and

*Whereas*, cultivators and processors of hemp in Vermont have invested millions of dollars to purchase the equipment and resources necessary to successfully produce hemp and hemp products, and

*Whereas*, the development and growth of the hemp industry in Vermont is critical to improving the health and vitality of the rural economy of the State; and

*Whereas*, the federal government defines hemp in the 2018 Farm Bill as “the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol level of not more than 0.3 percent on a dry weight basis,” and

*Whereas*, hemp farmers and processors encourage Congress to reassess the definition of hemp as referenced in the 2018 Farm Bill and increase the farm production values to one percent tetrahydrocannabinol (THC) in order to allow hemp farmers to increase yield potential per acre and profitability for all hemp grown in the State, and

*Whereas*, increasing yield potential per acre equates to increased profit potential for Vermont's farm families and hemp processors, *now therefore be it*

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

That the General Assembly urges Congress to revise the current definition of hemp found in the Agriculture Improvement Act of 2018, increasing the THC threshold from 0.3 percent to 1.0 percent, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation, the President Pro Tempore and Secretary of the U.S. Senate, and the Speaker of the U.S. House of Representatives.

Thereupon, under the rules, the joint resolution was placed on the Calendar for notice the next legislative day.

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

**J.R.S. 46.**

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. 46.** Joint resolution relating to interim adjournment.

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

That when the two Houses adjourn on Friday, March 13, 2020, it be to meet again no later than Tuesday, March 24, 2020.

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. 47.** Joint resolution to postpone the Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judge.

*Whereas*, the Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judge pursuant to J.R.S. 43 is scheduled for Thursday, March 19, 2020; and

*Whereas*, the General Assembly has adopted J.R.S. 46 relating to Interim Adjournment until March 24, 2020; and

*Whereas*, Interim Adjournment requires the General Assembly defer action on the retention of judges to a subsequent Joint Assembly, *now therefore be it*

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

That the two Houses postpone the Joint Assembly scheduled for Thursday, March 19, 2020 and that the two Houses meet in Joint Assembly on Thursday, March 26, 2020, at ten o'clock and thirty minutes in the forenoon to vote on the retention of five Superior Judges and one Environmental Judge. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

**Bills Referred**

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

**H. 215.**

An act relating to the Office of the Child Advocate.

To the Committee on Health and Welfare.

**H. 438.**

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

To the Committee on Government Operations.

**H. 552.**

An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

To the Committee on Natural Resources and Energy.

**H. 650.**

An act relating to boards and commissions.

To the Committee on Government Operations.

**H. 723.**

An act relating to telehealth.

To the Committee on Health and Welfare.

**H. 728.**

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

To the Committee on Health and Welfare.

**H. 754.**

An act relating to restructuring and reorganizing General Assembly staff offices.

To the Committee on Rules.

**H. 794.**

An act relating to limiting liability for agritourism.

To the Committee on Judiciary.

**H. 936.**

An act relating to sexual exploitation of children.

To the Committee on Judiciary.

**Bills Passed**

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

**S. 180.** An act relating to prohibiting the use and application of the pesticide chlorpyrifos.

**S. 187.** An act relating to transient occupancy for health care treatment and recovery.

**Bill Amended; Third Reading Ordered****S. 191.**

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

An act relating to tax increment financing districts.

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

Sec. 1. TAX INCREMENT FINANCING; RESOLUTION ON THE USE OF DEBT PROCEEDS TO PAY FOR DEBT SERVICE

In 2019, the State Auditor of Accounts performed and reported on required reviews and audits of tax increment financing districts. One of the issues raised in the reporting was whether it is permissible for a tax increment

financing district to use debt proceeds to meet debt service obligations. The General Assembly seeks to address this issue and clarify tax increment financing laws for the future. Accordingly, the General Assembly shall not assess penalties on any tax increment financing district that used debt proceeds to pay for debt service during the period from January 1, 2006 to June 30, 2020 and considers this a final resolution of the issue.

Sec. 2. 24 V.S.A. § 1891 is amended to read:

§ 1891. DEFINITIONS

When used in this subchapter:

\* \* \*

(4) “Improvements” means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose and fulfill the purpose of tax increment financing districts as stated in section 1893 of this subchapter, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation. “Improvements” also means the funding of debt service interest payments for a period of up to five years, beginning on the date in which the first debt is incurred.

\* \* \*

(7) “Financing” means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements in a tax increment financing district, only if authorized by the legal voters of the municipality in accordance with section 1894 of this subchapter. Payment for the cost of district improvements and related costs may also include direct payment by the municipality using the district increment. However, such payment is also subject to a vote by the legal voters of the municipality in accordance with section 1894 of this subchapter and, if not included in the tax increment financing plan approved under subsection 1894(d) of this subchapter, is also considered a substantial change and subject to the review process provided by subdivision 1901(2)(B) of this subchapter. If interfund loans within the municipality are used as the method of financing, no interest shall be charged. Bond anticipation notes may be used as a method of financing and may qualify as a district’s first incurrence of debt. A municipality that uses a bond anticipation note during the fourth year or tenth year that a district may incur debt pursuant to section 1894 of this title shall incur all permanent financing not more than one year after issuing the bond anticipation note.

Sec. 3. 24 V.S.A. § 1895 is amended to read:

§ 1895. ORIGINAL TAXABLE VALUE

(a) Certification. As of the date the district is created, the lister or assessor for the municipality shall certify the original taxable value and shall certify to the legislative body in each year thereafter during the life of the district the amount by which the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district has increased or decreased relative to the original taxable value.

(b) Boundary of the district. Any parcel within a district shall be located wholly within the boundaries of a district. No adjustments to the boundary of a district are permitted after the approval of a tax increment financing district plan as described in section 1894 of this title.

Sec. 4. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

(a) A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

\* \* \*

(b)(1) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under this chapter for the duration of the agreement or exemption without extension or renewal, and for a maximum of 10 years. A municipality's property tax liability under this chapter shall be reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonhomestead rate for the tax year.

(2) Notwithstanding any other provision of law, if a municipality has entered into an agreement that reduces the municipality's education property tax liability under this chapter and the municipality establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5, the municipality's municipal and education tax increment shall be calculated based on the assessed value of the properties in the municipality's grand list and not on the stabilized value.

\* \* \*

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply not more than 70 percent of the State education property tax increment, and not less than 85 percent of the municipal property tax increment, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

\* \* \*

(4) In any year that the assessed valuation of real property in a district decreases in comparison to the original taxable value of the real property in a district, a municipality shall pay the amount equal to the tax calculated based on the original taxable value to the Education Fund.

\* \* \*

Sec. 5. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

\* \* \*

(h) To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

\* \* \*

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least three of the following five criteria:

(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

(B) The development includes new or rehabilitated affordable housing, as defined in 24 V.S.A. § 4303.

(C) The project will affect the remediation and redevelopment of a brownfield located within the district. In the case of a brownfield, the Vermont Economic Progress Council is authorized to adopt rules pursuant to subsection (j) of this section to clarify what is a reasonable improvement, as defined in 24 V.S.A. § 1891, to remediate and stimulate the development or redevelopment in the district. As used in this section, “brownfield” means an area in which a hazardous substance, pollutant, or contaminant is or may be

present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

\* \* \*

#### Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 3 shall take effect on July 1, 2021.

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.

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

#### **S. 226.**

Senator Perchlik, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to statewide public school employee health benefits.

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

Sec. 1. 16 V.S.A. § 2101 is amended to read:

#### § 2101. DEFINITIONS

As used in this chapter:

(1) "Participating employee" means a school employee who is eligible for and has elected to receive health benefit coverage through a school employer.

(2) "School employee" means:

(A) includes the following individuals:

(i) an individual employed by a ~~supervisory union or school district~~ employer as a teacher or administrator as defined in section 1981 of this title; ~~or~~

(ii) a municipal school employee as defined in 21 V.S.A. § 1722;

(iii) an individual employed as a supervisor as defined in 21 V.S.A. § 1502;

(iv) a confidential employee as defined in 21 V.S.A. § 1722;

(v) a certified employee of a school employer; and



(vi) any other permanent employee of a school employer not covered by subdivisions (i)-(v) of this subdivision (2); and

(B) notwithstanding subdivision (A) of this subdivision (2), excludes individuals who serve in the role of superintendent.

(3) "School employer" means a supervisory union or school district as those terms are defined in section 11 of this title.

Sec. 2. 16 V.S.A. § 2102 is amended to read:

§ 2102. COMMISSION ON PUBLIC SCHOOL EMPLOYEE HEALTH  
BENEFITS CREATED

(a) Commission created. There is created an independent commission to be called the Commission on Public School Employee Health Benefits (Commission) to determine, in accordance with section 2103 of this chapter, the amounts of the premiums and out-of-pocket expenses for school employee health benefits that shall be borne by school employers and by participating employees.

(b) Composition and appointment.

(1) The Commission shall have 10 members, of whom five shall be representatives of school employees and five shall be representatives of school employers.

(2)(A) The representatives of school employees shall be appointed as follows:

(i) four members appointed by the labor organization representing the greatest number of ~~teachers, administrators, and municipal~~ school employees in this State; and

(ii) one member appointed by the labor organization representing the second-greatest number of ~~teachers, administrators, and municipal~~ school employees in this State.

(B) The five representatives of school employers shall be appointed by the organization representing the majority of ~~the~~ public school boards in this State.

(C) The appointing authorities shall select appointees who have an understanding of health care and employer-employee relations and who demonstrate a willingness to work collaboratively.

(D) The term of each member of the Commission shall be six years, provided that of the members first appointed by the labor organization described in subdivision (A)(i) of this subdivision (2), one appointee shall

serve a term of two years and one appointee shall serve a term of four years, and of the members first appointed by the organization representing the majority of the public school boards in this State, one appointee shall serve a term of two years and one appointee shall serve a term of four years.

(3) In the event of a vacancy, the appointing authority of the member whose seat becomes vacant shall appoint a successor to serve out the remainder of the member's term.

(c) Chairs. The Commission shall be chaired jointly by one member selected biennially by the representatives of school employees and one member selected biennially by the representatives of school employers.

(d) Removal of Commission members. Members of the Commission may be removed by the Commission only for cause and may be removed by the appointing authority of the member without cause. The Commission shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for removal.

(e) Decisions. All decisions of the Commission shall require the votes of a majority of the representatives of school employees and a majority of the representatives of school employers.

(f) Compensation. Commission members shall be entitled to receive per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 for not more than 10 meetings per year.

(g) Release time. A school district that employs a member of the Commission, or an alternate member of the Commission under subsection (j) of this section, who represents school employees or school employers shall grant the Commission member time off as necessary for the member to attend meetings of the Commission.

(h) Staffing and expenses. The Commission may hire staff as it deems necessary to carry out its duties under this chapter. Compensation for Commission staff and administrative expenses of the Commission shall be shared equally by school employers and school employees. The representatives of school employers and the representatives of school employees shall equitably apportion their share of the costs of compensation and administrative expenses among their members.

~~(h)~~(i) Rulemaking. The Commission may adopt rules or procedures, or both, pursuant to 3 V.S.A. chapter 25 as needed to carry out its duties under this chapter.

(j) Alternate members. Four alternate members may be appointed to the Commission who, if appointed, shall be entitled to attend all negotiating

sessions of the Commission. Up to two alternate members may be appointed by representatives of school employees and up to two alternate members may be appointed by representatives of school employers. The term of each alternate member, if appointed, shall be six years. In the event of a vacancy, the appointing authority of the alternate member whose seat becomes vacant shall appoint a successor to serve out the remainder of the alternate member's term. Alternate members may be removed by the Commission only for cause and may be removed by the appointing authority of the alternate member without cause.

(k) Appropriations. The sum of \$17,500.00 is appropriated to the Commission from the General Fund for fiscal year 2021 for per diem compensation and reimbursement of expenses for members of the Commission. The Commission shall request the Governor to include in the Governor's annual budget request the same amount for the same purpose. Any unused appropriation in any year shall revert to the General Fund.

Sec. 3. 16 V.S.A. § 2103 is amended to read:

§ 2103. DUTIES OF THE COMMISSION

(a) The Commission shall determine the percentage of the premium for individual, two-person, parent-child, and family coverage under a health benefit plan that shall be borne by each school employer and the percentage that shall be borne by participating employees.

(1) The premium responsibility percentages shall remain in effect for the entire plan year.

(2) Each school employer shall be responsible for paying, on behalf of all of its participating school employees, the applicable percentages of premium costs as determined by the Commission.

~~(3) The premium responsibility percentages for each plan tier shall be the same for all participating employees.~~

(b)(1) The Commission shall determine the amount of ~~school participating~~ employees' out-of-pocket expenses for which the school employer and the ~~school participating~~ employees shall be responsible, and whether school employers shall establish a health reimbursement arrangement, a health savings account, both, or neither, for their participating employees.

(2) The Commission also shall determine the extent to which the employer or employee shall bear first dollar responsibility for out-of-pocket expenses if using a health reimbursement arrangement and whether the balance in a participating employee's health reimbursement arrangement shall roll over from year to year.

~~(3) The school employers' and school participating employees' responsibilities for out-of-pocket expenses for each plan tier shall be the same for all participating employees.~~

(c) The Commission may make recommendations regarding health benefit plan design to any intermunicipal insurance association that offers health benefit plans to entities providing educational services pursuant to 24 V.S.A. chapter 121, subchapter 6.

(d) The Commission shall not make any determinations regarding school employer or ~~school participating~~ employee responsibilities with respect to stand-alone vision or dental benefits.

(e) The Commission may negotiate a State-wide grievance procedure for disputes concerning public school employee health benefits.

Sec. 4. 16 V.S.A. § 2104 is amended to read:

§ 2104. NEGOTIATION; TIME TO BEGIN; GOOD FAITH; WRITTEN AGREEMENT

(a)(1) The Commission shall commence negotiation of the matters set forth in subsections 2103(a) and (b) of this chapter not later than April 1 of the year before the existing agreement pursuant to this section is set to expire. On or before October 1 of the year prior to commencement of bargaining, the Commission shall request from the parties any data and information that it anticipates needing for the negotiation, in a common format, and, on or before February 1 of the year of bargaining, the parties shall submit to the Commission the information requested.

(2) The Commission shall meet together at reasonable times at the call of the Chairs and shall negotiate in good faith on all matters set forth in subsections 2103(a) and (b) of this chapter.

(3)(A) The Commission shall select a person to serve as a fact finder to assist it in resolving any matters remaining in dispute in the event that the Commission is unable to reach an agreement by August 1. The fact finder shall be selected by a vote of a majority of the representatives of school employees and of a majority of the representatives of school employers. If the Commission cannot agree on a fact finder by April 5, the American Arbitration Association shall be asked to appoint the fact finder.

(B)(i) The Commission shall mutually agree on an arbitrator by April 5 to decide all matters remaining in dispute if it is unable to reach an agreement within 30 days after receiving the fact finder's report.

(ii) If the Commission is unable to mutually agree on an arbitrator, it shall form a three-member panel of arbitrators to be selected as follows:

(I) One arbitrator shall be selected by the representatives of school employees from a list prepared by the American Arbitration Association.

(II) One arbitrator shall be selected by the representatives of school employers from a list prepared by the American Arbitration Association.

(III) The Commission shall request the services of the American Arbitration Association for the appointment of the third arbitrator.

(b)(1) The Commission shall enter into a written agreement incorporating all matters agreed to in negotiation.

(2) The terms of the agreement shall be incorporated by reference into all collective bargaining agreements for school employees.

(c) The term of each agreement shall be negotiated by the Commission but shall not be less than two years.

Sec. 5. 16 V.S.A. § 2105 is amended to read:

§ 2105. DISPUTE RESOLUTION

(a)(1) If the Commission is unable to reach agreement by August 1, the Commission shall meet with the fact finder selected pursuant to section 2104 of this chapter not later than August 15.

(2) The fact finder may schedule and hold additional meetings with the Commission as necessary. The Commission shall furnish the fact finder with all records, papers, and information in its possession pertaining to any matter remaining in dispute.

(3) The fact finder shall, before issuing his or her decision, attempt to mediate the matters remaining in dispute.

(4) If the mediation fails to produce an agreement, the fact finder shall, on or before September 15, submit a written report to the Commission recommending a reasonable basis for the settlement of the matters remaining in dispute.

(b)(1) If the Commission is unable to resolve all matters remaining in dispute within 30 days after receiving the fact finder's report, the Commission shall submit the matters remaining in dispute to the arbitrator or arbitrators selected pursuant to section 2104 of this chapter for resolution.

(2) The representatives of school employees and the representatives of school employers shall submit to the arbitrator or arbitrators their last best offer on all issues remaining in dispute prior to the arbitration hearing. The

arbitrator or arbitrators shall select one of the last best offers without amendment, submitted by the parties prior to the arbitration hearing in its entirety without amendment. The parties shall not be permitted to modify their last best offers post-hearing. Prior to the issuance of the arbitrator's decision, nothing shall prohibit the parties from settling the matters in dispute.

(3)(A) The arbitrator or arbitrators shall hold a hearing on or before November 15 at which the Commission members shall submit all relevant evidence, documents, and written material, including a cost estimate for the term of the proposal with a breakdown of costs borne by employers and costs borne by employees, and each member may submit oral or written testimony in support of his or her position on any undecided issue that is subject to arbitration.

(B) In reaching a decision, the arbitrator or arbitrators shall give weight to the evidence, documents, written material, and arguments presented, as well as the following factors:

- (i) the interests and welfare of the public;
- (ii) the financial ability of the Education Fund and school districts across the State to pay for the costs of health care benefits and coverage;
- (iii) comparisons of the health care benefits of school employees with the health care benefits of similar employees in the public and private sectors in Vermont;
- (iv) the average consumer prices for goods and services commonly known as the cost of living; and
- (v) prior and existing health care benefits and coverage for school employees.

(4) The arbitrator or arbitrators shall issue their written decision within 30 days after the hearing, explaining in appropriate detail the rationale for selecting the last best offer. The decision of the arbitrator or arbitrators shall be final and binding upon the Commission and all school employees and school employers. The decision shall not be subject to ratification.

(5) Upon the petition of a Commission member within not more than 15 days following the arbitration decision, a Superior Court shall vacate the decision if:

- (A) it was procured by corruption, fraud, or other undue means;
- (B) there was evident partiality or prejudicial misconduct by the arbitrator or arbitrators;

(C) the arbitrator or arbitrators exceeded their power or rendered a decision requiring a person to commit an act or engage in conduct prohibited by law; or

(D) there is an absence of substantial evidence on the record as a whole to support the decision.

(6) At any time prior to the issuance of a decision by the arbitrator or arbitrators, the Commission may notify the arbitrator or arbitrators of any additional issues on which a majority of the representatives of school employees and of the representatives of school employers have reached agreement.

(7) If any provision of this subsection is inconsistent with any other provision of law governing arbitration, this subsection shall govern.

(c) The arbitrator or arbitrators shall have the authority to address complaints that either party has engaged in or is engaging in unfair bargaining practices, including a refusal to bargain in good faith. If the arbitrator or arbitrators find upon a preponderance of the evidence that a party has engaged in or is engaging in any unfair bargaining practice, the arbitrator or arbitrators may include in the decision a remedy for the unfair bargaining practice that is consistent with the provisions of 21 V.S.A. § 1727(d).

Sec. 6. 16 V.S.A. § 2106 is amended to read:

§ 2106. STRIKES AND CONTRACT IMPOSITION PROHIBITED

(a) School employees and the representatives of school employees shall be prohibited from engaging in a strike, as defined by 21 V.S.A. § 1722(16), in relation to the negotiation of an agreement pursuant to this chapter.

(b) The representatives of school employers shall be prohibited from imposing the terms of the agreement that is subject to this chapter.

Sec. 7. 16 V.S.A. § 2107 is amended to read:

§ 2107. RATIFICATION OF AGREEMENT

(a) The representatives of school employers and the representatives of school employees shall each develop procedures by which their members shall ratify the agreement entered into by the Commission pursuant to this chapter within 30 days after the date of the agreement; provided, however, that if the agreement is determined by arbitration pursuant to subsection 2105(b) of this chapter, the agreement shall not be subject to ratification.

(b) In the event that either the school employers or school employees, or both, fail to ratify the agreement, the following provisions shall apply:

(1) If the Commission has not engaged in mediated fact-finding pursuant to subsection 2105(a) of this chapter during the current negotiation cycle, the Commission shall meet with the fact finder pursuant to the provisions of that subsection to settle all matters remaining in dispute. If the Commission is able to reach a new agreement, that agreement shall be submitted to the bargaining units for ratification. If, after mediated fact-finding, the Commission is unable to reach a new agreement, the Commission shall proceed to arbitration pursuant to subsection 2105(b) of this chapter.

(2) If the Commission has already engaged in mediated fact-finding pursuant to subsection 2105(a) of this chapter during the current negotiation cycle, the Commission shall proceed to arbitration pursuant to subsection 2105(b) of this chapter.

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

First: In Sec. 2, 16 V.S.A. § 2102 (Commission on Public School Employee Health Benefits Created), by striking out subsection (k) in its entirety and inserting in lieu thereof a new subsection (k) to read as follows:

(k) Funding. The Commission shall request the Governor to include in the Governor's annual budget a minimum of \$17,500.00 appropriated to the Agency of Education for per diem compensation and reimbursement of expenses for members of the Commission. Any unencumbered appropriation shall revert to the General Fund in the year following the conclusion of an agreement under subdivision 2104(b)(1) of this title.

Second: By adding a new section to be numbered Sec. 2a to read as follows:

#### Sec. 2a. APPROPRIATION

The sum of \$17,500.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2021 for per diem compensation and reimbursement of expenses for members of the Commission.

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 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 Baruth moved to amend the report of the Committee Education, as amended, by striking out Secs. 6 and 7 in their entireties and renumbering the remaining section to be numerically correct.

Which was agreed to.

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

Thereupon, third reading of the bill was ordered.

#### **Senate Concurrent Resolution**

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

By Senators Campion and Sears,

By Reps. Morrissey and others,

#### **S.C.R. 19.**

Senate concurrent resolution honoring Susan Andrews for her leadership of Greater Bennington Interfaith Community Services.

#### **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. Cina and others,

#### **H.C.R. 287.**

House concurrent resolution designating Thursday, March 19, 2020 as Social Work Advocacy Day at the State House.

By Reps. Wood and Noyes,

#### **H.C.R. 288.**

House concurrent resolution congratulating the Central Vermont Council on Aging on its 40th anniversary.

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By Reps. Burditt and others,

By Senators Collamore, Hooker and McNeil,

**H.C.R. 289.**

House concurrent resolution in memory of Anthony Ernest Morgan of West Rutland.

By the House Committee on General, Housing, and Military Affairs,

**H.C.R. 290.**

House concurrent resolution recognizing April as the Month of the Military Child in Vermont.

By Rep. O'Brien,

By Senators Clarkson, MacDonald, McCormack and Nitka,

**H.C.R. 291.**

House concurrent resolution in memory of former Representative and Royalton Town Moderator David M. Ainsworth.

By Reps. Smith and others,

**H.C.R. 292.**

House concurrent resolution congratulating the University of Vermont Extension and WCAX-TV on the 65th anniversary of the Across the Fence television program.

By Reps. Potter and others,

By Senators Ashe, Brock and MacDonald,

**H.C.R. 293.**

House concurrent resolution honoring the U.S. Navy submarine Vermont (SSN 792), its Pre-Commissioning Unit, and its Commissioning Committee.

By Reps. Morrissey and others,

By Senators Campion and Sears,

**H.C.R. 294.**

House concurrent resolution honoring Don Myers on his half-century membership in the Bennington Fire Department.

By Rep. Noyes,

**H.C.R. 295.**

House concurrent resolution designating Wednesday, March 18, 2020 as Alzheimer's Awareness Day at the State House.

By Reps. Durfee and James,

**H.C.R. 296.**

House concurrent resolution honoring former Representative Alice Miller of Shaftsbury on her receipt of the 2020 Vermont Higher Education Excellence Award.

**Message from the House No. 31**

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. 424.** An act relating to the Interstate Compact on the Placement of Children.

**H. 562.** An act relating to the definition of agricultural land for the purposes of use value appraisals.

**H. 643.** An act relating to banking and insurance.

**H. 663.** An act relating to expanding access to contraceptives.

**H. 683.** An act relating to prohibiting incidental take of migratory birds.

**H. 734.** An act relating to prohibiting certain provisions in dental insurance contracts with dentists.

**H. 788.** An act relating to technical corrections for the 2020 legislative session.

**H. 795.** An act relating to increasing hospital price transparency.

**H. 837.** An act relating to enhanced life estate deeds.

**H. 901.** An act relating to expanding access to adult technical education equipment funding.

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. 326.** An act relating to the State Advisory Panel on Special Education.  
And has passed the same in concurrence.

**Message from the House No. 32**

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. 109.** An act relating to designating October 12 as Dewey Day.

**H. 558.** An act relating to exempting the Victims Compensation Board from the Open Meeting Law.

**H. 578.** An act relating to operator's license and privilege to operate suspensions and proof of financial responsibility.

**H. 750.** An act relating to creating a National Guard provost marshal.

**H. 769.** An act relating to veteran status inquiries on program and service intake forms.

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

**Message from the House No. 33**

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. 681.** An act relating to employer registration for unemployment insurance and amendments to the unemployment laws to address the COVID-19 outbreak.

In the passage 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. 46.** Joint resolution relating to interim adjournment.

**J.R.S. 47.** Joint resolution to postpone the Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judge.

And has adopted the same in concurrence.

### **Adjournment**

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, March 24, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 46.

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### **TUESDAY, MARCH 24, 2020**

The Senate was called to order by the President.

### **Devotional Exercises**

Devotional exercises were conducted by the Reverend and Senator Deborah J. Ingram of Chittenden District.

### **Message from the House No. 34**

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. 742.** An act relating to grants for emergency medical personnel training.

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

The House has adopted joint resolution of the following title:

**J.R.H. 9.** Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

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

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

**H.C.R. 287.** House concurrent resolution designating Thursday, March 19, 2020 as Social Work Advocacy Day at the State House.

**H.C.R. 288.** House concurrent resolution congratulating the Central Vermont Council on Aging on its 40th anniversary.

**H.C.R. 289.** House concurrent resolution in memory of Anthony Ernest Morgan of West Rutland.

**H.C.R. 290.** House concurrent resolution recognizing April as the Month of the Military Child in Vermont.

**H.C.R. 291.** House concurrent resolution in memory of former Representative and Royalton Town Moderator David M. Ainsworth.

**H.C.R. 292.** House concurrent resolution congratulating the University of Vermont Extension and WCAX-TV on the 65th anniversary of the Across the Fence television program.

**H.C.R. 293.** House concurrent resolution honoring the U.S. Navy submarine Vermont (SSN 792), its Pre-Commissioning Unit, and its Commissioning Committee.

**H.C.R. 294.** House concurrent resolution honoring Don Myers on his half-century membership in the Bennington Fire Department.

**H.C.R. 295.** House concurrent resolution designating Wednesday, March 18, 2020 as Alzheimer's Awareness Day at the State House.

**H.C.R. 296.** House concurrent resolution honoring former Representative Alice Miller of Shaftsbury on her receipt of the 2020 Vermont Higher Education Excellence Award.

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

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

**S.C.R. 19.** Senate concurrent resolution honoring Susan Andrews for her leadership of Greater Bennington Interfaith Community Services.

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 eighteenth day of March, 2020 he approved and signed a bill originating in the Senate of the following title:

**S. 240.** An act relating to recruiting new remote workers and new relocating workers.

### **Bills Referred to Committee on Finance**

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

**S. 227.** An act relating to the provision of personal care products by lodging establishments.

**S. 256.** An act relating to creating the New Vermont Employee Incentive Program.

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

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

**S. 46.** An act relating to ethnic and social equity studies standards for public schools.

**S. 59.** An act relating to the creation of the Sports Betting Study Committee.

**S. 124.** An act relating to miscellaneous law enforcement amendments.

**S. 224.** An act relating to evidence-based structured literacy instruction for students in kindergarten–grade 3 and students with dyslexia and to teacher preparation programs.

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

**S. 242.** An act relating to funding to support a dental therapy laboratory at Vermont Technical College.

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

#### **Senate Resolution Adopted**

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

By the Committee on Rules,

**S.R. 10.** Senate resolution relating to the adoption of an emergency temporary Rule 29A.

*Whereas*, it is critical to take steps to control outbreaks of COVID-19 to minimize the risk to the public, maintain the health and safety of Vermonters and limit the spread of infection in our community;

*Whereas*, the Governor of the State of Vermont issued a Declaration of State of Emergency in Response to COVID-19 until April 15, 2020;

*Whereas*, to reduce the possible spread of COVID-19, on Friday, March 13, 2020, the Legislature adopted J.R.S. 46 relating to an interim adjournment until March 24, 2020;

*Whereas*, to confront and address the threat of COVID-19, committees of the Senate must continue to meet;

*Whereas*, the rules, tradition and custom of the Senate require that for a Senate committee to formally meet a committee quorum must be physically present in a single location and only those physically present at the meeting location are permitted to vote;

*Whereas*, to appropriately address the needs of the State of Vermont, while limiting the threat of infection, the committees of the Senate may need to meet and vote electronically; *now therefore be it:*

***Resolved by the Senate:***

That an emergency temporary rule, to be designated Rule 29A, be adopted by the Senate to read as follows:

**Rule 29A Emergency Rule Regarding Committee Meetings**

(a) The Rules Committee is vested with the authority to permit Senate committees (including itself) to meet and vote electronically as the Rules Committee determines appropriate; and,

(b) This Temporary Rule 29A shall expire on the convening of the 2021 biennial session.

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

**J.R.S. 48.**

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. 48.** Joint resolution relating to the adoption of an emergency temporary Joint Rule 22A.

*Whereas*, it is critical to take steps to control outbreaks of COVID-19 to minimize the risk to the public, maintain the health and safety of Vermonters and limit the spread of infection in our community;

*Whereas*, the Governor of the State of Vermont issued a Declaration of State of Emergency in Response to COVID-19 until April 15, 2020;



*Whereas*, to reduce the possible spread of COVID-19, on Friday, March 13, 2020, the Legislature adopted J.R.S. 46 relating to an interim adjournment until March 24, 2020;

*Whereas*, to confront and address the threat of COVID-19, joint committees of the Legislature must continue to meet;

*Whereas*, the rules, tradition and custom require that for a joint committee to formally meet a committee quorum must be physically present in a single location and only those physically present at the meeting location are permitted to vote;

*Whereas*, to appropriately address the needs of the State of Vermont, while limiting the threat of infection, the joint committees may need to meet and vote electronically; *now therefore be it:*

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

That an emergency temporary joint rule, to be designated Rule 22A, be adopted by the Senate and House of Representatives to read as follows:

**Rule 22A Emergency Rule Regarding Joint Committee Meetings**

(a) The Joint Rules Committee is vested with the authority to permit any joint committees of the Vermont Legislature (including itself and Conference Committees) to meet and vote electronically as the Joint Rules Committee determines appropriate;

(b) This Temporary Rule 22A shall expire on the convening of the 2021 biennial session.

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

**J.R.S. 49.**

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

By Senator Nitka

**J.R.S. 49.** Joint resolution to postpone the Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judge.

*Whereas*, the Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judge pursuant to J.R.S. 47 is scheduled for Thursday, March 26, 2020; and

*Whereas*, it is critical to take steps to control outbreaks of COVID-19 to minimize the risk to the public, maintain the health and safety of Vermonters and limit the spread of infection in our community; and

*Whereas*, the COVID-19 pandemic requires the General Assembly, defer action on the retention of judges to a subsequent Joint Assembly, *now therefore be it*

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

That the two Houses postpone the Joint Assembly scheduled for Thursday, March 26, 2020 and that the two Houses meet in Joint Assembly on Thursday, April 24, 2020, at ten o'clock and thirty minutes in the forenoon to vote on the retention of five Superior Judges and one Environmental Judge. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

**Bills Referred**

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

**H. 109.**

An act relating to designating October 12 as Dewey Day.

To the Committee on Government Operations.

**H. 424.**

An act relating to the Interstate Compact on the Placement of Children.

To the Committee on Health and Welfare.

**H. 558.**

An act relating to exempting the Victims Compensation Board from the Open Meeting Law.

To the Committee on Government Operations.

**H. 562.**

An act relating to the definition of agricultural land for the purposes of use value appraisals.

To the Committee on Finance.

**H. 578.**

An act relating to operator's license and privilege to operate suspensions and proof of financial responsibility.

To the Committee on Judiciary.

**H. 643.**

An act relating to banking and insurance.

To the Committee on Finance.

**H. 663.**

An act relating to expanding access to contraceptives.

To the Committee on Health and Welfare.

**H. 683.**

An act relating to the protection of migratory birds.

To the Committee on Natural Resources and Energy.

**H. 734.**

An act relating to prohibiting certain provisions in dental insurance contracts with dentists.

To the Committee on Finance.

**H. 750.**

An act relating to creating a National Guard provost marshal.

To the Committee on Government Operations.

**H. 769.**

An act relating to veteran status inquiries on program and service intake forms.

To the Committee on Government Operations.

**H. 788.**

An act relating to technical corrections for the 2020 legislative session.

To the Committee on Government Operations.

**H. 795.**

An act relating to increasing hospital price transparency.

To the Committee on Government Operations.

**H. 837.**

An act relating to enhanced life estate deeds.

To the Committee on Judiciary.

**H. 901.**

An act relating to expanding access to adult technical education equipment funding.

To the Committee on Education.

**Read First Time; Rules Suspended; Bill Not Referred and Taken Up for Immediate Action; Proposal of Amendment; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment**

**H. 681.**

House bill of the following title:

An act relating to employer registration for unemployment insurance and amendments to the unemployment laws to address the COVID-19 outbreak.

Was read the first time.

On motion of Senator Ashe the rules were suspended and the bill was not referred to Committee and was taken up for immediate consideration.

Thereupon, the bill was read the second time.

Senators Bray, White, Clarkson, Collamore and Pollina moved 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:

\* \* \* Elections \* \* \*

Sec. 1. LEGISLATIVE INTENT; PROTECTION OF CITIZENS AND OF ELECTIONS

It is the intent of the General Assembly that, if the coronavirus disease 2019 (COVID-19) pandemic continues its expected spread in the State of Vermont, the citizens of Vermont should be able to protect their health, safety, and welfare while also continuing to exercise their right to participate in elections in order to maintain our democratic institutions. Accordingly, this act sets forth temporary elections provisions in response to COVID-19.

Sec. 2. ELECTIONS IN THE YEAR 2020; SUSPENSION OF PRIMARY PETITION, STATEMENT OF NOMINATION, AND LOCAL ELECTION VOTER SIGNATURE REQUIREMENTS

(a) Notwithstanding 17 V.S.A. § 2354, 2355, 2402(b), 2681(b), or any other provision of law to the contrary, a person shall not be required to collect voter signatures in order to have the person's name placed on any ballot in the year 2020, including on any local election ballot. Accordingly, a person shall not be required to file a primary petition as a major party candidate for the primary, a statement of nomination as an independent candidate for the general

election, or a petition as a candidate for a local election, as those contain the voter signatures.

(b) In the year 2020:

(1) Notwithstanding the start date for filing primary petitions for major party candidates set forth in 17 V.S.A. § 2356(a), consent of candidate forms for those candidates shall be filed not earlier than the second Thursday after the first Monday in May.

(2) Notwithstanding the start date for filing statements of nomination for independent candidates for President or Vice President of the United States set forth in 17 V.S.A. § 2402(d)(1)(A), consent of candidate forms for those candidates shall be filed not earlier than Saturday, July 18, 2020.

(3) Notwithstanding the start date for filing statements of nomination for any other independent candidates except for justice of the peace set forth in 17 V.S.A. § 2402(d)(1)(C), consent of candidate forms for those candidates shall be filed not earlier than Thursday, July 23, 2020.

(c) All other requirements relating to nominations and candidate qualifications shall continue to apply.

Sec. 3. ELECTIONS IN THE YEAR 2020; SECRETARY OF STATE;  
GOVERNOR; TEMPORARY ELECTIONS PROCEDURES

(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:

(1) requiring mail balloting by requiring town clerks to send ballots by mail to all registered voters;

(2) creating early or mail ballot collection stations;

(3) permitting municipal clerks to process and begin counting ballots in a 30-day window preceding the day of an election;

(4) permitting drive-up, car window collection of ballots by election officials;

(5) extending the time for municipal clerks to process and count ballots;  
and

(6) extending voting hours on the day of an election.

(b) For any temporary elections procedure the Secretary of State orders or permits under this section, the Secretary shall adopt any necessary

corresponding procedures that ensure the public can monitor polling places and the counting of votes.

Sec. 4. 2020 LOCAL ELECTIONS BY AUSTRALIAN BALLOT

(a) Notwithstanding the provisions of 17 V.S.A. § 2680(a) that require the voters of a municipality to vote to apply the provisions of the Australian ballot system to the annual or special meeting of the municipality, in the year 2020, any municipality may apply the Australian ballot system to any or all of its municipal elections held in the year 2020 by vote of its legislative body.

(b) The Secretary of State may waive statutory deadlines or other statutory provisions, or provisions set forth in a school district's articles of agreement, related to a municipal election as necessary in order for a municipality to apply the Australian ballot system to its meeting in the year 2020. This waiver authority applies to statutory provisions set forth in a municipal charter or provisions set forth in a school district's articles of agreement if the waiver is requested by that municipality.

\* \* \* Open Meeting Law \* \* \*

Sec. 5. LEGISLATIVE INTENT; COVID-19 RESPONSE AND OPEN MEETINGS

(a) It is the intent of the General Assembly that during the continued spread of coronavirus disease 2019 (COVID-19) in the State of Vermont public bodies should organize and hold open meetings in a manner that will protect the health and welfare of the public while providing access to the operations of government. Public bodies should meet electronically and provide the public with electronic access to meetings in lieu of a designated physical location. Accordingly, this act sets forth temporary Open Meeting Law procedures in response to COVID-19.

Sec. 6. OPEN MEETING LAW; TEMPORARY SUSPENSION OF DESIGNATED PHYSICAL MEETING LOCATION REQUIREMENTS

(a) Notwithstanding 1 V.S.A. § 312(a), during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19:

(1) a quorum or more of the members of a public body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location;

(2) the public body shall not be required to designate a physical meeting location where the public may attend; and

(3) the members and staff of the public body shall not be required to be physically present at a designated meeting location.

(b) When the public body meets electronically under subsection (a) of this section, the public body shall use technology that permits the attendance of the public through electronic or other means. The public body shall allow the public to access the meeting by telephone whenever feasible. The public body shall post information on how the public may access meetings electronically and shall include this information in the published agenda for each meeting. Unless unusual circumstances make it impossible for them to do so, the legislative body of each municipality and each school board shall record its meetings held pursuant to this section.

(c) In the event of a staffing shortage during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, a public body may extend the time limit for the posting of minutes prescribed in 1 V.S.A. § 312(b)(2) to not more than 10 days from the date of the meeting.

Sec. 7. DEPARTMENT OF FISH AND WILDLIFE; FISH AND WILDLIFE BOARD; MEETING REQUIREMENTS IN THE YEAR 2020

In the year 2020, the Department of Fish and Wildlife and the Fish and Wildlife Board shall not be required to hold the number of regional meetings as required by 10 V.S.A. §§ 4081(f) (deer) and 4082(b) and (c) (migratory bird and moose), but shall be required to hold not less than five meetings by electronic means to ensure adequate public involvement.

\* \* \* Deadlines for Municipal Corporations and  
Other Political Subdivisions \* \* \*

Sec. 8. EXTENSION OF DEADLINES APPLICABLE TO MUNICIPAL CORPORATIONS AND REGIONAL PLANNING COMMISSIONS; CONTINUED VALIDITY OF LICENSES AND PLANS

(a) During a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, the Governor may authorize State agencies to extend any deadline applicable to municipal corporations or regional planning commissions. A deadline established by statute shall not be extended to more than 90 days after the date that the declared state of emergency ends. Any expiring license, permit, program, or plan issued to a municipal corporation or regional planning commission that is due to a State agency for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.

(b) During a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, a municipal corporation shall be permitted to extend any deadline applicable to municipal corporations, provided that the deadline does not relate

to a State license, permit, program, or plan subject to subsection (a) of this section. A municipal corporation may extend or waive deadlines applicable to licenses, permits, programs, or plans issued by a municipal corporation. Any expiring license, permit, program, or plan issued by a municipal corporation that is due to the municipal corporation for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.

Sec. 9. TEMPORARY MORATORIUM ON DISCONNECTIONS FROM  
PUBLIC DRINKING WATER AND WASTEWATER SYSTEMS

(a) Notwithstanding 24 V.S.A. chapter 129, a municipality shall be prohibited from disconnecting a person from water or sewer services during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19.

(b) Notwithstanding any provision of law to the contrary, a person who is permitted as a public water system pursuant to 10 V.S.A. chapter 56 and who provides another person water as a part of the operation of that public water system shall be prohibited from disconnecting any person from the public water system during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19.

(c) Notwithstanding any provision of law to the contrary, a company engaged in the collecting, sale, and distribution of water for domestic, industrial, business, or fire protection purposes that is regulated by the Public Utility Commission under 30 V.S.A. § 203(3) shall be prohibited from disconnecting any person from services during a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19.

(d) A violation of subsection (a) or (b) of this section may be enforced by the Agency of Natural Resources pursuant to 10 V.S.A. chapter 201. A violation of subsection (c) of this section may be enforced by the Public Utility Commission under 30 V.S.A. § 30.

Sec. 10. EFFECTIVE DATE

The act shall take effect on passage.

Thereupon, 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.



**Read First Time; Rules Suspended; Bill Not Referred and Taken Up for Immediate Action; Proposals of Amendment; Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment**

**H. 742.**

House bill of the following title:

An act relating to grants for emergency medical personnel training.

Was read the first time.

On motion of Senator Ashe the rules were suspended and the bill was not referred to Committee and was taken up for immediate consideration.

Thereupon, the bill was read the second time.

Senator Westman, Cummings, Ingram, Lyons and McCormack moved 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:

\* \* \* 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, 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.

**Sec. 2. AGENCY OF HUMAN SERVICES; TEMPORARY PROVIDER TAX MODIFICATION AUTHORITY**

(a) During a declared state of emergency in Vermont as a result of COVID-19 and for a period of six months following the termination of the state of emergency, the Secretary of Human Services may modify payment of all or a prorated portion of the assessment imposed on hospitals by 33 V.S.A. § 1953, and may waive or modify payment of all or a prorated portion of the assessment imposed by 33 V.S.A. chapter 19, subchapter 2 for one or more other classes of health care providers, if the following two conditions are met:

(1) the action is necessary to preserve the ability of the providers to continue offering necessary health care services; and

(2) the Secretary has obtained the approval of the Joint Fiscal Committee and the Emergency Board as set forth in subsections (b) and (c) of this section.

(b)(1) If the Secretary proposes to waive or modify payment of an assessment in accordance with the authority set forth in subsection (a) of this section, the Secretary shall first provide to the Joint Fiscal Committee:

(A) the Secretary's rationale for exercising the authority, including the balance between the fiscal impact of the proposed action on the State budget and the needs of the specific class or classes of providers; and

(B) a plan for mitigating the fiscal impact to the State.

(2) Upon the Joint Fiscal Committee's approval of the plan for mitigating the fiscal impact to the State, the Secretary may waive or modify payment of the assessment as proposed unless the mitigation plan includes one or more actions requiring the approval of the Emergency Board.

(c)(1) If the mitigation plan includes one or more actions requiring the approval of the Emergency Board, the Secretary shall obtain the Emergency Board's approval for the action or actions prior to waiving or modifying payment of the assessment.

(2) Upon the Emergency Board's approval of the action or actions, the Secretary may waive or modify payment of the assessment as proposed.

\* \* \* 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, 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, 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. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR  
VARIANCE PERMITTED

Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8 V.S.A. § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain Care Board's administrative rules, guidance, or standards to the contrary, during a declared state of emergency in Vermont as a result of COVID-19 and for a period of six months following the termination of the state of emergency, the Green Mountain Care Board may waive or permit variances from State laws, guidance, and standards with respect to the following regulatory activities, to

the extent permitted under federal law, as necessary to prioritize and maximize direct patient care, safeguard the stability of health care providers, and allow for orderly regulatory processes that are responsive to evolving needs related to the COVID-19 pandemic:

- (1) hospital budget review;
- (2) certificates of need;
- (3) health insurance rate review; and
- (4) accountable care organization certification and budget review.

Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER  
ENROLLMENT AND CREDENTIALING

During a declared state of emergency in Vermont as a result of COVID-19, 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.

Sec. 7. INVOLUNTARY TREATMENT; DOCUMENTATION AND  
REPORTING REQUIREMENTS; WAIVER PERMITTED

(a) Notwithstanding any provision of statute or rule to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, the court or the Department of Mental Health may waive any financial penalties associated with a treating health care provider's failure to comply with one or more of the documentation and reporting requirements related to involuntary treatment pursuant to 18 V.S.A. chapter 181, to the extent permitted under federal law.

(b) Nothing in this section shall be construed to suspend or waive any of the requirements in 18 V.S.A. chapter 181 relating to judicial proceedings for involuntary treatment and medication.

\* \* \* 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 a declared state of emergency in Vermont as a result of COVID-19. During such a declared state of emergency, 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:

(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, 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, 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, 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, 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, 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. 14. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board may exercise the following powers:

\* \* \*

(10)(A) Issue temporary licenses during a declared state of emergency. The person to be issued a temporary license must be:

(i) currently licensed, in good standing, and not subject to disciplinary proceedings in any other jurisdiction; or

(ii) a graduate of an approved education program during a period when licensing examinations are not reasonably available.

(B) The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, as long as provided the licensee remains in good standing, and may be reissued by the board if the declared state of emergency continues longer than 90 days.

(C) Fees shall be waived when a license is required to provide services under this subdivision.

\* \* \*

Sec. 15. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

\* \* \*

(11) During a declared state of emergency:

(A) The Board or the Executive Director of the Board may issue a temporary license to an individual who is currently 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 the termination of the declared state of emergency or 90 days, whichever occurs first, provided the licensee remains in good standing, and may be reissued by the Board if the declared state of emergency continues longer than 90 days. Fees shall be waived when a license is required to provide services under this subdivision (A).

(B) The Board or the Executive Director of the Board 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 section 1735a of this title. The Board or Executive Director may impose limitations or conditions when granting a waiver under this subdivision (B).

Sec. 16. 26 V.S.A. § 1613 is amended to read:

§ 1613. TRANSITION TO PRACTICE

\* \* \*

(c) The Board may waive or modify the collaborative provider agreement requirement as necessary to allow an APRN to practice independently during a declared state of emergency.

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, 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 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, 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, 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 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, 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, 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, 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.

\* \* \* Quarantine and Isolation for COVID-19 as Exception to Seclusion \* \* \*

Sec. 22. ISOLATION OR QUARANTINE FOR COVID-19 NOT  
SECLUSION

(a) Notwithstanding any provision of statute or rule to the contrary, it shall not be considered the emergency involuntary procedure of seclusion for a voluntary patient, or for an involuntary patient in the care and custody of the Commissioner of Mental Health, to be placed in quarantine if the patient has been exposed to COVID-19 or in isolation if the patient has tested positive for COVID-19.

(b) Notwithstanding any provision of statute or rule to the contrary, it shall not be considered seclusion, as defined in the Department for Children and Families' Licensing Regulations for Residential Treatment Programs in Vermont, for a child in a residential treatment facility to be placed in quarantine if the child has been exposed to COVID-19 or in isolation if the child has tested positive for COVID-19.

\* \* \* Telehealth \* \* \*

Sec. 23. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

It is the intent of the General Assembly to increase Vermonters' access to health care services through an expansion of telehealth services without increasing social isolation or supplanting the role of local, community-based health care providers throughout rural Vermont.

Sec. 24. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED  
THROUGH TELEMEDICINE AND BY STORE-AND-  
FORWARD MEANS

(a)(1) All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation.

(2)(A) A health insurance plan shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telemedicine.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply to services provided pursuant to the health insurance plan's contract with a third-party telemedicine vendor to provide health care or dental services.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service or dental service provided through telemedicine ~~so~~ as long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network. A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

~~(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.~~

(1) A health insurance plan shall reimburse for health care services and dental services delivered by store-and-forward means.

(2) A health insurance plan shall not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means. If the services would require cost-sharing under the terms of the patient's health insurance plan, the plan may impose the cost-sharing requirement on the services of the originating site health care provider or of the distant site health care provider, but not both.

(f) A health insurer shall not construe a patient's receipt of services delivered through telemedicine or by store-and-forward means as limiting in any way the patient's ability to receive additional covered in-person services from the same or a different health care provider for diagnosis or treatment of the same condition.

(g) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

~~(g)~~(h) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and

the Department of Vermont Health Access shall ensure that the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the distant and originating sites are employed by the same entity.

(h)(i) As used in this subchapter:

\* \* \*

(2) “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, as well as; a stand-alone dental plan or policy or other dental insurance plan offered by a dental insurer; and Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

\* \* \*

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

\* \* \*

(6) “Store and forward” means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which. In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(7) “Telemedicine” means the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law Pub. L. No. 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 25. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY STORE-AND-FORWARD ~~STORE-AND-FORWARD~~ MEANS

\* \* \*

(c)(1) A health care provider delivering health care services or dental services through telemedicine shall obtain and document a patient's oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telemedicine within the provider's profession and shall include, in language that patients can easily understand:

(i) an explanation of the opportunities and limitations of delivering health care services or dental services through telemedicine;

(ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the provider at the distant site and obtaining the patient's permission for the participation or observation; and

(iii) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

\* \* \*

~~(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means.~~

(1) A patient receiving health care services or dental services by store-and-forward means shall be informed of the patient's right to refuse to receive services in this manner and to request services in an alternative format, such as through real-time telemedicine services or an in-person visit.

(2) Receipt of services by store-and-forward means shall not preclude a patient from receiving real-time real-time telemedicine or face-to-face services or an in-person visit with the distant site health care provider at a future date.

(3) Originating site health care providers involved in the store-and-forward store-and-forward process shall obtain informed consent from the patient as described in subsection (c) of this section.

Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS  
DURING STATE OF EMERGENCY

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, 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.

Sec. 27. TELEMEDICINE REIMBURSEMENT; SUNSET

8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on January 1, 2026.

\* \* \* Child Care Programs; Extraordinary Financial Relief \* \* \*

Sec. 28. SUPPLEMENTAL CHILD CARE GRANTS; TEMPORARY  
SUSPENSION OF CAP

Notwithstanding the provision in 33 V.S.A. § 3505(a) that enables the Commissioner for Children and Families to reserve not more than one-half of one percent of the Child Care Financial Assistance Program (CCFAP)

appropriation for extraordinary financial relief to assist child care programs that are at risk of closing due to financial hardship, the Commissioner may direct a greater percentage of the fiscal year 2020 CCFAP appropriation for this purpose while the state of emergency related to COVID-19 is in effect.

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

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage, except that 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.

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

An act relating to Vermont's response to COVID-19.

Which was agreed to.

Thereupon, Senators Clarkson, Sirotkin, Balint, Brock and Hooker moved that the Senate propose to the House to amend the bill by adding six new sections to be number to read as follows:

\* \* \* Unemployment Insurance \* \* \*

Sec. 1. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION;  
PENALTIES

~~(a)(1) Effective with the calendar quarter ending September 30, 1986 and all subsequent calendar quarters, each~~ Each employing unit which that is an employer as defined in subdivision 1301(5) of this chapter, having that has individuals in employment as defined in subdivision 1301(6) of this chapter, shall file with the Commissioner on forms to be supplied by the Commissioner to each such employer a detailed wage report containing for each calendar quarter that contains each individual worker's name, Social Security number, gross wages paid during each such calendar quarter, and any other information the Commissioner deems reasonably necessary in the administration of this chapter.

~~(2) Effective with the calendar quarter ending March 31, 2001, and all subsequent calendar quarters, in~~ In addition to other information required by this section, the wage reports required by this subsection shall include for each worker paid by the hour, the worker's gender, and the worker's hourly wage. The wage reports may be filed electronically.

\* \* \*



(c) An employing unit, ~~as defined in subdivision 1301(4) of this chapter which~~ that is not an employer, ~~as defined in subdivision 1301(5), shall,~~ upon request of the Commissioner, ~~file~~ submit reports on forms furnished by the Commissioner ~~reports respecting~~ regarding employment, wages, hours of employment, and unemployment, and related matters ~~as that~~ that the Commissioner deems ~~reasonably~~ necessary in the administration of this chapter.

(d) Reports required by subsection (c) of this section shall be ~~returned so as to be received by~~ submitted to the Commissioner not later than 10 calendar days after the date ~~of the mailing of the Commissioner's request~~ was mailed to the employing unit.

(e) On ~~the~~ request of the Commissioner, any employing unit or employer shall report, within 10 days of the mailing or personal delivery of the request, separation information ~~with respect to~~ for a claimant, any disqualifying income the claimant may have received, and any other information that the Commissioner may ~~reasonably~~ require to determine ~~a~~ the claimant's eligibility for unemployment compensation. The Commissioner shall make ~~such~~ a request ~~whenever~~ when:

(1) the claimant's eligibility is dependent ~~either~~ upon:

(A) wages paid during an incomplete calendar quarter in which the claimant was separated; or

(B) ~~upon~~ the last completed quarter; and

(2) ~~when to do so would~~ obtaining the information will result in more timely benefit payments.

(f)(1) Any employing unit or employer that fails to:

(A) File ~~any~~ a report required by this section shall be subject to ~~a~~ an administrative penalty of \$100.00 for each report not received by the prescribed due dates.

(B) Properly classify an individual regarding the status of employment is ~~shall be~~ subject to ~~a~~ an administrative penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the Secretary or the Commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the State or its subdivisions.

(2)(A) Penalties under this subsection shall be collected in the same manner provided for the collection of as contributions in under section 1329 of this title and shall be paid into the Contingent Fund ~~provided~~ established in section 1365 of this title.

(B) If the employing unit demonstrates that its failure was due to a reasonable cause, the Commissioner may waive or reduce the penalty.

(g)(1) Notwithstanding any other provisions of this section, the Commissioner may where practicable require ~~of any employing unit that to file the reports required to be filed pursuant to subsections (a) through (d) of this section be filed, or any departmental registration required prior to submitting the reports required by this section,~~ in an electronic media form.

(2) The Commissioner may waive the requirement that an employing unit submit a report in an electronic media form if the employing unit attests that it is unable to file the required report in that form.

\* \* \* Unemployment Insurance Related to COVID-19 Outbreak \* \* \*

Sec. 2. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;  
DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

\* \* \*

(G) The individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

(i) To self-isolate or quarantine at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the individual has been diagnosed with COVID-19;

(II) the individual is experiencing the symptoms of COVID-19;

(III) the individual has been exposed to COVID-19; or

(IV) the individual belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(ii) Because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment.

(iii) To care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the family member has been diagnosed with COVID-19;

(II) the family member is experiencing the symptoms of COVID-19;

(III) the family member has been exposed to COVID-19; or

(IV) the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(iv) To care for or assist a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or

(v) To care for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.

(H) As used in this subdivision (a)(1):

(i) "Family member" means an individual's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(1)(H)(i), "spouse" includes a domestic partner or civil union partner.

(ii) "An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment" shall include the individual's place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.

(2) If an individual's unemployment is directly caused by a major disaster declared by the President of the United States pursuant to 42 U.S.C. § 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the natural disaster up to a maximum amount of four weeks.

(3)(A) Subject to the provisions of subdivision (B) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual for a period of up to eight weeks with respect to benefits paid because:

(i) the employer temporarily ceased operation, either partially or completely, at the individual's place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(ii) the individual becomes unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19; or

(iii) the individual has been recommended or requested by a medical professional or a public health authority with jurisdiction to be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

(B) An employer shall only be eligible for relief of charges for benefits paid under the provisions of this subdivision (a)(3) if the employer rehires or offers to rehire the individual within a reasonable period of time after the employer resumes operations at the individual's place of employment, as determined by the Commissioner, or upon the completion of the individual's period of isolation or quarantine.

(C) The Commissioner may extend the period for which an employer shall be relieved of charges for benefits paid to employees pursuant to subdivision (A)(i) of this subdivision (a)(3) by an amount that the Commissioner determines to be appropriate in light of the terms of any applicable request from a local health official or the Commissioner of Health or any applicable emergency order or directive issued by the Governor or the President and any other relevant conditions or factors.

\* \* \*

Sec. 3. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

\* \* \*

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if:

(i) the individual left such employment to accompany a spouse who:

~~(i)~~(I) is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or

~~(ii)~~(II) holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit;;

(ii) The individual has left employment to self-isolate or quarantine at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the individual has been diagnosed with COVID-19;

(II) the individual is experiencing the symptoms of COVID-19;

(III) the individual has been exposed to COVID-19; or

(IV) the individual belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(iii) The individual has left employment because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment.

(iv) The individual has left employment to care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the family member has been diagnosed with COVID-19;

(II) the family member is experiencing the symptoms of COVID-19;

(III) the family member has been exposed to COVID-19; or

(IV) the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(v) the individual has left employment to care for or assist a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or

(v) The individual left employment to care for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.

\* \* \*

(G) As used in this subdivision (a)(2):

(i) "Family member" means an individual's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(2)(G)(i), "spouse" includes a domestic partner or civil union partner.

(ii) "An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment" shall include the individual's place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.

(H)(i) Except as otherwise provided pursuant to subdivision (2) of this subdivision (a)(2)(H), an unemployed individual who is eligible for benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection shall be ineligible for benefits under those subdivisions if the individual becomes eligible for benefits provided pursuant to:

(I) enacted federal legislation that amends or establishes a federal program providing benefits for unemployed individuals that are similar to the benefits provided pursuant to subdivisions (2)(A)(ii)–(vi); or

(II) a national emergency declared by the President that results in the provision of benefits pursuant to Disaster Unemployment Assistance, Emergency Unemployment Compensation, Extended Unemployment Compensation, or any similar type program.

(ii) An individual who is receiving benefits pursuant to a federal program as set forth in subdivision (i) of this subdivision (a)(2)(H) shall not receive benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection except when and to the extent that the benefits provided by the applicable federal program are different from or are not in lieu of the benefits that are available pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection, in which case the benefits provided under subdivisions (2)(A)(ii)–(vi) of this subsection shall continue.

(iii) Nothing in this subdivision (a)(2)(H) shall be construed to prevent an individual from receiving benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection if the individual’s employer refuses or fails to pay the individual for leave under the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.

\* \* \*

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

\* \* \*

(F) Sick pay or pay received pursuant to the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.

\* \* \*

\* \* \* Repeal of COVID-19 Related Unemployment Insurance Provisions \* \* \*

#### Sec. 4. REPEAL

21 V.S.A. § 1325(a)(1)(G), (H), and (a)(3) are repealed.

Sec. 5. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

\* \* \*

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if:

(i) the individual left such employment to accompany a spouse who:

~~(I)(i)~~ is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or

~~(II)(ii)~~ holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit;

~~(ii) The individual has left employment to self-isolate or quarantine at the recommendation of a healthcare provider, or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:~~

~~(I) the individual has been diagnosed with COVID-19;~~

~~(II) the individual is experiencing the symptoms of COVID-19;~~

~~(III) the individual has been exposed to COVID-19; or~~

~~(IV) the individual belongs to a specific class or group of persons that have been identified as being at high risk if exposed to or infected with COVID-19.~~



~~(iii) The individual has left employment because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment.~~

~~(iv) The individual has left employment to care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a healthcare provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President, for one of the following reasons:~~

~~(I) the family member has been diagnosed with COVID-19;~~

~~(II) the family member is experiencing the symptoms of COVID-19;~~

~~(III) the family member has been exposed to COVID-19; or~~

~~(IV) the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.~~

~~(v) the individual has left employment to care for or assist a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or~~

~~(v) The individual left such employment to care for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.~~

~~(H)(i) Except as otherwise provided pursuant to subdivision (2) of this subdivision (a)(2)(H), an unemployed individual who is eligible for benefits pursuant to subdivisions (2)(A)(ii)-(vi) of this subsection shall be ineligible for benefits under those subdivisions if the individual becomes eligible for benefits provided pursuant to:~~

~~(I) enacted federal legislation that amends or establishes a federal program providing benefits for unemployed individuals that are similar to the benefits provided pursuant to subdivisions (2)(A)(ii)-(vi); or~~

~~(II) a national emergency declared by the President that results in the provision of benefits pursuant to Disaster Unemployment Assistance, Emergency Unemployment Compensation, Extended Unemployment Compensation, or any similar type program.~~

~~(ii) An individual who is receiving benefits pursuant to a federal program as set forth in subdivision (i) of this subdivision (a)(2)(H) shall not~~

~~receive benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection except when and to the extent that the benefits provided by the applicable federal program are different from or are not in lieu of the benefits that are available pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection, in which case the benefits provided under subdivisions (2)(A)(ii)–(vi) of this subsection shall continue.~~

~~(iii) Nothing in this subdivision (a)(2)(H) shall be construed to prevent an individual from receiving benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection if the individual’s employer refuses or fails to pay the individual for leave under the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.~~

\* \* \*

~~(G) As used in this subdivision (a)(2):~~

~~(i) “Family member” means an individual’s parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(2)(G)(i), “spouse” includes a domestic partner or civil union partner.~~

~~(ii) “An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual’s place of employment” shall include the individual’s place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.~~

\* \* \*

~~(5) For any week in which the individual is receiving or has received remuneration in the form of:~~

\* \* \*

~~(F) Sick pay or pay received pursuant to the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.~~

\* \* \*

Sec. 6. 21 V.S.A. § 1346 is amended to read:

§ 1346. CLAIMS FOR BENEFITS; RULES; NOTICE

\* \* \*

(c)(1) An employer shall post notice of how an unemployed individual can seek unemployment benefits in a form provided by the Commissioner in a place conspicuous to individuals performing services for the employer. The notice shall also advise individuals of their rights under the Domestic and Sexual Violence Survivor's Transitional Employment Program, established pursuant to chapter 16A of this title. The Commissioner shall provide a copy of the notice to an employer upon request without cost to the employer.

(2) An employer shall provide an individual with notification of the availability of unemployment compensation at the time of the individual's separation from employment. The notification may be based on model notification language provided by the U.S. Secretary of Labor.

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

#### Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 2, 3, and 6 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2020.

(c) Secs. 4 and 5 shall take effect on March 31, 2021.

And by renumbering sections as necessary to be numerically correct.

Which was agreed to.

Thereupon, Senators Ashe, Mazza, Kitchel, McNeil and Perchlik moved that the Senate propose to the House to amend the bill as follows :

By adding three new sections to read as follows:

\* \* \* Motor Vehicles \* \* \*

#### Sec. 1. PHOTOGRAPHS FOR RENEWALS

(a) Notwithstanding any provision of 23 V.S.A. § 115(g), 610(c), or 617(e) to the contrary, a licensee shall be permitted to renew a driver's license, learner's permit, privilege to operate, or non-driver identification card with a photograph obtained not more than 16 years earlier that is compliant with the federal REAL ID Act, 6 C.F.R. part 37.

(b) Notwithstanding 1 V.S.A. § 214, subsection (a) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

#### Sec. 2. EXTENSIONS

(a) Notwithstanding any provision of 23 V.S.A. § 312, 457, 458, 3702 or 3703 to the contrary, all International Registration Plan trip permits and

temporary authorizations, temporary registration certificates, and temporary number plates shall be valid for 90 days from the date of issuance.

(b) Notwithstanding any provision of Title 23 of the Vermont Statutes Annotated or rules adopted pursuant to Title 23 to the contrary, the Commissioner of Motor Vehicles may extend any existing permits issued by the Department of Motor Vehicles, excluding International Registration Plan trip permits, for an additional 90 days.

(c) Notwithstanding any provision of 23 V.S.A. § 115, 302, 304a, 305, 601, or 617 to the contrary, the Commissioner shall extend all of the following for an additional 90 days after expiration: driver's licenses; learner's permits; privileges to operate; non-driver identification cards; registrations; and registration plates or placards for an individual with a disability.

(d) Notwithstanding 1 V.S.A. § 214, subsections (a) and (b) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

(e) Notwithstanding 1 V.S.A. § 214, subsection (c) of this section shall take effect retroactively on March 17, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

### Sec. 3. USE OF EIGHT-LIGHT SYSTEM ON SCHOOL BUSES

(a) Notwithstanding any provision of 23 V.S.A. § 1283(a)(4) to the contrary, the driver of a Type I or a Type II school bus may keep the alternately flashing red signal lamps of an eight-light system lighted when making deliveries of food to school aged children.

(b) Notwithstanding 1 V.S.A. § 214, subsection (a) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

And by renumbering the sections to be numerically correct.

Which was agreed to.

Thereupon, third reading 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.

**Bill Amended; Third Reading Ordered; Rules Suspended; Bill Passed****S. 316.**

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

An act relating to execution of wills during an emergency.

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

Sec. 1. 14 V.S.A. § 5 is amended to read:

§ 5. EXECUTION OF WILL; REQUISITES

(a) A will shall be:

(1) in writing;

(2) signed in the presence of two or more credible witnesses by the testator or in the testator's name by some other person in the testator's presence and by the testator's express direction; and

(3) attested and subscribed by the witnesses in the presence of the testator and each other.

(b) During the period that the Emergency Administrative Rules for Remote Notarial Acts adopted by the Vermont Secretary of State ("the Emergency Rules") are in effect, the witnesses to a will signed in conformity with the Emergency Rules and pursuant to the self-proving will provisions of section 108 of this title shall be considered to be in the presence of the testator and each other whether or not the witnesses are physically present with the testator or the notary.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

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

**Rules Suspended; Bills and Resolutions Messaged**

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

**S. 316, H. 681, H. 742, J.R.S. 48, J.R.S. 49.**

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until eleven o'clock and thirty in the afternoon on Friday, March 27, 2020.

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**Friday, March 27, 2020**

Pursuant to Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the time for convening of the Senate having been set at 11:30 A.M., the Senate was called to order by John H. Bloomer, Jr., Secretary of the Senate.

**Message from the House No. 35**

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. 681.** An act relating to employer registration for unemployment insurance and amendments to the unemployment laws to address the COVID-19 outbreak.

**H. 742.** An act relating to grants for emergency medical personnel training. And has severally concurred therein.

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

**J.R.S. 48.** Joint resolution relating to the adoption of an emergency temporary Joint Rule 22A.

**J.R.S. 49.** Joint resolution to postpone the Joint Assembly to vote on the retention of five Superior Judges and one Environmental Judge.

And has adopted the same in concurrence.