The nomination of

Brown, Sean P. of Washington - Commissioner, Department of Children and Families - from March 1, 2021 to February 28, 2023.

To the Committee on Health and Welfare.

The nomination of

Fastiggi, Mary E. of Burlington - Commissioner, Department of Human Resources - from March 1, 2021 to February 28, 2023.

To the Committee on Government Operations.

The nomination of

Fitch, Jennifer M. of Montpelier - Commissioner, Department of Buildings and General Services - from March 1, 2021 to February 28, 2023.

To the Committee on Institutions.

The nomination of

Flynn, Joseph of South Hero - Secretary, Agency of Transportation - from March 1, 2021 to February 28, 2023.

To the Committee on Transportation.

The nomination of

French, Daniel M. of Manchester Center - Secretary, Agency of Education - from March 1, 2021 to February 28, 2023.

To the Committee on Education.

The nomination of

Goldstein, Joan of Royalton - Commissioner, Department of Economic Development - from March 1, 2021 to February 28, 2023.

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

The nomination of

Greshin, Adam of Warren - Commissioner, Department of Finance and Management - from March 1, 2021 to February 28, 2023.

To the Committee on Government Operations.

The nomination of

Gustafson, Cory G. of Montpelier - Commissioner, Department of Vermont Health Access - from March 1, 2021 to February 28, 2023.

To the Committee on Health and Welfare.

The nomination of

Hanford, Joshua C. of Randolph Center - Commissioner, Department of Housing and Community Development - from March 1, 2021 to February 28, 2023.

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

The nomination of

Harrington, Michael A. of Middlesex - Commissioner, Department of Labor - from March 1, 2021 to February 28, 2023.

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

The nomination of

Kurrle, Lindsay H. of Middlesex - Secretary, Agency of Commerce and Community Development - from March 1, 2021 to February 28, 2023.

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

The nomination of

Levine, Mark A., M.D. of Shelburne - Commissioner, Department of Health - from March 1, 2021 to February 28, 2023.

To the Committee on Health and Welfare.

The nomination of

Minoli, Wanda L. of Montpelier - Commissioner, Department of Motor Vehicles - from March 1, 2021 to February 28, 2023.

To the Committee on Transportation.

The nomination of

Moore, Julia S. of Middlesex - Secretary, Agency of Natural Resources - from March 1, 2021 to February 28, 2023.

To the Committee on Natural Resources and Energy.

The nomination of

Pelham, Heather of Randolph - Commissioner, Department of Tourism and Marketing - from March 1, 2021 to February 28, 2023.

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

The nomination of

Pieciak, Michael of Winooski - Commissioner, Department of Financial Regulation - from March 1, 2021 to February 28, 2023.

To the Committee on Finance.

The nomination of

Porter, Louis P. of Adamant - Commissioner, Department of Fish and Wildlife - from March 1, 2021 to February 28, 2023.

To the Committee on Natural Resources and Energy.

The nomination of

Quinn, John J., III of Berlin - Secretary, Agency of Digital Services - from March 1, 2021 to February 28, 2023.

To the Committee on Government Operations.

The nomination of

Schirling, Michael of Burlington - Commissioner, Department of Public Safety - from March 1, 2021 to February 28, 2023.

To the Committee on Transportation.

The nomination of

Smith, Michael K. of Westford - Secretary, Agency of Human Services - from March 1, 2021 to February 28, 2023.

To the Committee on Health and Welfare.

The nomination of

Snyder, Michael C. of Stowe - Commissioner, Department of Forests, Parks and Recreation - from March 1, 2021 to February 28, 2023.

To the Committee on Natural Resources and Energy.

The nomination of

Squirrell, Sarah of Waterbury Center - Commissioner, Department of Mental Health - from March 1, 2021 to February 28, 2023.

To the Committee on Health and Welfare.

The nomination of

Tebbetts, Anson B. of Marshfield - Secretary, Agency of Agriculture, Food and Markets - from March 1, 2021 to February 28, 2023.

To the Committee on Agriculture.

The nomination of

Tierney, June of Randolph - Commissioner, Department of Public Service - from March 1, 2021 to February 28, 2023.

To the Committee on Finance.

The nomination of

Walke, Peter of Montpelier - Commissioner, Department of Environmental Conservation - from March 1, 2021 to February 28, 2023.

To the Committee on Natural Resources and Energy.

The nomination of

Young, Susanne R. of Northfield - Secretary, Agency of Administration - from March 1, 2021 to February 28, 2023.

To the Committee on Government Operations.

Bill Referred to Committee on Finance

S. 48.

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

An act relating to Vermont's adoption of the interstate Nurse Licensure Compact.

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. 15. An act relating to correcting defective ballots.

S. 16. An act relating to the creation of the School Discipline Advisory Council.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 17.

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

By Senator Balint,

J.R.S. 17. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 12, 2021, it be to meet again no later than Tuesday, March 16, 2021.

Joint Resolution Placed on Calendar

J.R.S. 18.

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

By Senator Nitka,

J.R.S. 18. Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges and three Magistrates.

Whereas, declarations have been submitted by the following two Superior Judges that they be retained for another six-year term, Judge Brian J. Grearson, and Judge Nancy J. Waples and three Magistrates that they be retained for another six year term, Magistrate Christine A. (Doremus) Hoyt, Magistrate Joseph Lorman and Magistrate Brian Valentine, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least one public hearing and the review of information provided by each candidate and the comments of members of the Vermont bar and the public, and

Whereas, the Committee was unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the candidates seeking to be retained in office by March 11, 2021, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 18, 2021, the date specified in subsection 10(b) of Title 2, and

Whereas, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, and

Whereas, Vermont has been declared by the Governor to be in a State of Emergency as a result of a pandemic known as “COVID-19”; 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, technology exists which would enable the General Assembly to conduct a Joint Assembly during this time of a declared emergency in a manner: consistent with public access to, and transparency of, its proceedings, as demanded by the Vermont Constitution; and, consistent with and in compliance with statutory and legislative rule requirements regarding Judicial Retention, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 25, 2021, at ten o'clock and thirty minutes in the forenoon to vote on the retention of two Superior Judges and three Magistrate, *and be it further*

Resolved: That the Joint Assembly shall be concurrently conducted electronically at which members of the General Assembly may participate and debate from a remote location; that voting by ballot shall be conducted, as practicable, consistent with Vermont's "Early or Absentee Voters" statute at 17 V.S.A. §2531, et seq.; that after the reports of the Committee on Judicial Retention, the Joint Assembly shall recess until Thursday, April 1, 2021 at 2:00 P.M. (or as otherwise ordered by the Joint Assembly) so that ballots may be submitted; and, that upon reconvening the results of the vote shall be announced or the Joint Assembly shall proceed until the above is completed.

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

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 103.

By Senator Sears,

An act relating to immunity from liability for a person reporting a crime.

To the Committee on Judiciary.

S. 104.

By Senators Ram, Chittenden and Parent,

An act relating to the education of military families.

To the Committee on Education.

S. 105.

By Senators Ram, Chittenden and Parent,

An act relating to purple star school programs.

To the Committee on Education.

S. 106.

By Senators Sirotkin and Brock,

An act relating to the livestream of legislative proceedings of the General Assembly and lobbying regulations.

To the Committee on Government Operations.

S. 107.

By Senators White, Clarkson, Pollina and Ram,

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

To the Committee on Judiciary.

S. 108.

By Senator Sears,

An act relating to establishing the Bureau of Racial Justice Statistics and the Bureau of Racial Justice Statistics Advisory Panel.

To the Committee on Judiciary.

S. 109.

By Senators Bray, Campion, Clarkson, Hardy, McCormack, Pearson, Perchlik and Sirotkin,

An act relating to the Vermonters' Enhanced Energy Savings Act.

To the Committee on Natural Resources and Energy.

S. 110.

By Senator Sirotkin,

An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

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

S. 111.

By Senators Ram, Campion and Sears,

An act relating to local option taxes.

To the Committee on Finance.

S. 112.

By Senators Collamore, Benning, Brock and Ingalls,

An act relating to proposed changes to Act 250.

To the Committee on Natural Resources and Energy.

S. 113.

By Senators Sears and Campion,

An act relating to establishing a cause of action for medical monitoring expenses.

To the Committee on Judiciary.

Bill Referred

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

H. 135.

An act relating to the State Ethics Commission.

To the Committee on Government Operations.

Bill Passed

S. 53.

Senate bill of the following title:

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

Was read the third time and passed on a roll call, Yeas 30, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 10, 2021.

WEDNESDAY, MARCH 10, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 28

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

Madam President:

I am directed to inform the Senate that:

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

H. 88. An act relating to certification of agricultural use for purposes of the use value appraisal program.

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

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:

Madam President:

I am directed to inform the Senate that:

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

H. 199. An act relating to validating legal instruments used in connection with the conveyance of real estate.

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

The Governor has informed the House that on March 2, 2021, he approved and signed a bill originating in the House of the following title:

H. 138. An act relating to fiscal year 2021 budget adjustments.

Rules Suspended; Bill Not Referred to Committee on Appropriations

S. 110

Appearing on the Calendar for notice, and, pending referral of the bill to the Committee on Appropriations pursuant to Senate Rule 31, Senator Balint moved that the rules be suspended and the Senate bill entitled:

An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

Not be referred to the Committee on Appropriations pursuant to Senate Rule 31 (and thereby remain on the Calendar for notice),

Which was agreed to.

Committee Bills Introduced

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 114.

By the Committee on Education,

An act relating to improving prekindergarten through grade 12 literacy within the State.

S. 115.

By the Committee on Education,

An act relating to making miscellaneous changes in education laws.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 116.

By Senators Ram, Chittenden and Parent,

An act relating to veteran status inquiries on program and service intake forms.

To the Committee on Health and Welfare.

Committee Bill Introduced

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

S. 117.

By the Committee on Health and Welfare,

An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

Bills Referred

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

H. 88.

An act relating to certification of agricultural use for purposes of the use value appraisal program.

To the Committee on Agriculture.

H. 199.

An act relating to validating legal instruments used in connection with the conveyance of real estate.

To the Committee on Judiciary.

Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed; Bill Messaged

S. 110.

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

An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

Was taken up for immediate consideration.

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred, reported that the bill ought to pass.

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

Thereupon, on motion of Senator Balint, 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.

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

Third Reading Ordered

S. 39.

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

An act relating to the Judicial Branch fee report and electronic filing fees.

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; Third Reading Ordered

S. 22.

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

An act relating to health care practitioners administering stem cell products not approved by the U.S. Food and Drug Administration.

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

Sec. 1. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. STEM CELL PRODUCTS

§ 4501. DEFINITIONS

As used in this chapter:

(1) "Health care practitioner" means an individual licensed by the Board of Medical Practice or the Office of Professional Regulation to provide professional health care services in this State.

(2)(A) "Stem cell and stem cell-related products" means any articles that contain or consist, or purport to contain or consist, of one or more of the following, when intended for implantation, transplantation, infusion, or transfer into a human recipient and when intended for use in the diagnosis, cure, mitigation, treatment, or prevention of any disease or condition based on or in connection with a proven or purported attribute of stem cells:

(i) human cells, including cells from tissues such as bone marrow; adipose tissue; amniotic membrane; umbilical cord blood, when not

autologous or in a first- or second-degree relative; placenta; and other tissue or cell sources;

(ii) intracellular or extracellular components or vesicles; or

(iii) amniotic fluid.

(B) For purposes of this chapter, "stem cell and stem cell-related products" does not include the use of whole blood or blood products for routine transfusions or use of hematopoietic stem cells for reconstitution of bone marrow after treatment of blood-related cancers or diseases such as leukemias or lymphomas.

§ 4502. UNAPPROVED STEM CELL AND STEM CELL-RELATED PRODUCTS; NOTICE; DISCLOSURE

(a) Notice.

(1) A health care practitioner who administers one or more stem cell or stem cell-related products that are not approved by the U.S. Food and Drug Administration shall provide each patient with the following written notice prior to administering any such product to the patient for the first time:

"THIS NOTICE MUST BE PROVIDED TO YOU UNDER VERMONT LAW. This health care practitioner administers one or more stem cell or stem cell-related products that have not been approved by the U.S. Food and Drug Administration. You are encouraged to consult with your primary care provider prior to having an unapproved stem cell or stem cell-related product administered to you."

(2)(A) The written notice required by subdivision (1) of this subsection shall:

(i) be at least 8.5 by 11 inches and printed in not less than 40-point type; and

(ii) include information on methods for filing a complaint with the applicable licensing authority and for making a consumer inquiry, including to the Attorney General's Consumer Assistance Program.

(B) The health care practitioner shall also prominently display the written notice required by subdivision (1) of this subsection, along with the information required to be included by subdivision (A)(ii) of this subdivision (2), at the entrance and in an area visible to patients in the health care practitioner's office.

(b) Disclosure.

(1) A health care practitioner who administers stem cell or stem cell-related products that are not approved by the U.S. Food and Drug Administration shall provide a disclosure form to a patient for the patient's signature prior to each administration of an unapproved stem cell or stem cell-related product.

(2) The disclosure form shall state, in language that the patient could reasonably be expected to understand, the stem cell or stem cell-related product's U.S. Food and Drug Administration approval status.

(3) The health care practitioner shall retain in the patient's medical record a copy of each disclosure form signed and dated by the patient and shall provide a copy of the disclosure form for the patient to take home.

(c) Advertisements. A health care practitioner shall include the notice set forth in subdivision (a)(1) of this section in any advertisements relating to the use of stem cell or stem cell-related products that are not approved by the U.S. Food and Drug Administration. In print advertisements, the notice shall be clearly legible and in a font size not smaller than the largest font size used in the advertisement. For all other forms of advertisements, the notice shall either be clearly legible in a font size not smaller than the largest font size used in the advertisement or clearly spoken.

(d) Nonapplicability. The provisions of this section shall not apply to the following:

(1) a health care practitioner who has obtained approval or clearance for an investigational new drug or device from the U.S. Food and Drug Administration for the use of stem cell or stem cell-related products;

(2) a health care practitioner who administers a stem cell or stem cell-related product pursuant to an employment or other contract to administer stem cell or stem cell-related products on behalf of or under the auspices of an institution certified by the Foundation for the Accreditation of Cellular Therapy, the National Institutes of Health Blood and Marrow Transplant Clinical Trials Network, or AABB, formerly known as the American Association of Blood Banks; or

(3) a health care practitioner who has personally received a formal or informal determination from the U.S. Food and Drug Administration stating that approval is not necessary for the practitioner's specific usage of the stem cell or stem cell-related products.

(e) Violations. A violation of this section constitutes unprofessional conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.

Sec. 2. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(27) For a health care practitioner, failing to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell or stem cell-related products not approved by the U.S. Food and Drug Administration.

* * *

Sec. 3. 26 V.S.A. § 1354 is amended to read:

§ 1354. UNPROFESSIONAL CONDUCT

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

* * *

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

(39) [Repealed.]

(40) use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age; or

(41) failure to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell or stem cell-related products not approved by the U.S. Food and Drug Administration.

* * *

Sec. 4. EFFECTIVE DATE

This act 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.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 18.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges and three Magistrates.

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

Committee Relieved of Further Consideration; Bill Committed

S. 107.

On motion of Senator Sears, the Committee on Judiciary was relieved of further consideration of Senate bill entitled:

An act relating to confidential information concerning the initial arrest and charge of a juvenile

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Sears, the bill was committed to the Committee on Government Operations.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, March 11, 2021.

THURSDAY, MARCH 11, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

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. 114. An act relating to improving prekindergarten through grade 12 literacy within the State.

S. 115. An act relating to making miscellaneous changes in education laws.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 118.

By Senators Brock, Benning, Collamore, Ingalls, Parent, Sirotkin and Terenzini,

An act relating to reconstituting the Vermont Telecommunications Authority.

To the Committee on Finance.

S. 119.

By Senators Bray, Hooker, MacDonald, McCormack and Ram,

An act relating to establishing a community energy program.

To the Committee on Natural Resources and Energy.

S. 120.

By Senators Hooker, Hardy, Balint, Clarkson and Cummings,

An act relating to the Joint Legislative Health Care Affordability Study Committee.

To the Committee on Health and Welfare.

Bills Passed

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

S. 22. An act relating to health care practitioners administering stem cell products not approved by the U.S. Food and Drug Administration.

S. 39. An act relating to the Judicial Branch fee report and electronic filing fees.

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:

Madam President:

I am directed to inform the Senate that:

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

S. 110. An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

And has passed the same in concurrence.

Adjournment

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

FRIDAY, MARCH 12, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 31

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 108. An act relating to Vermont standards for issuing a Clean Water Act section 401 certification.

H. 127. An act relating to approval of amendments to the charter of the Town of Barre.

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. 17. Joint resolution relating to weekend adjournment.

And has adopted 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:

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 128. An act relating to limiting criminal defenses based on victim identity.

H. 177. An act relating to approval of an amendment to the charter of the City of Montpelier.

H. 195. An act relating to use of facial recognition technology by law enforcement in cases involving sexual exploitation of children.

H. 289. An act relating to professions and occupations regulated by the Office of Professional Regulation.

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. 18. Joint resolution providing for a Joint Assembly to vote on the retention of two Superior Judges and three Magistrates.

And has adopted the same in concurrence.

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

H.C.R. 23. House concurrent resolution honoring former Representative Edward H. Paquin Jr. for his exemplary leadership as a disability rights advocate.

H.C.R. 24. House concurrent resolution designating March 2021 as Vermont Habitat for Humanity Month.

H.C.R. 25. House concurrent resolution recognizing the importance of early childhood care services in Vermont.

H.C.R. 26. House concurrent resolution in memory of John Pandiani of Bristol.

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

Rules Suspended; Bill Committed

S. 24.

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

An act relating to banning flavored tobacco products and e-liquids.

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 Economic Development, Housing and General Affairs with the report of the Committee on Health and Welfare *intact*,

Which was agreed to.

Bill Referred to Committee on Finance

S. 33.

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 project-based tax increment financing districts.

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. 51. An act relating to the persons authorized to make contributions to candidates and political parties and to political committee names.

S. 62. An act relating to creating a New Vermont Employee Incentive Program.

S. 109. An act relating to the Vermonters' Enhanced Energy Savings Act.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 121.

By Senator MacDonald,

An act relating to plug-in electric vehicle registration fees.

To the Committee on Transportation.

S. 122.

By Senator Pearson,

An act relating to the required votes of presidential electors.

To the Committee on Government Operations.

Bills Referred

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

H. 108.

An act relating to Vermont standards for issuing a Clean Water Act section 401 certification.

To the Committee on Natural Resources and Energy.

H. 127.

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

To the Committee on Government Operations.

H. 128.

An act relating to limiting criminal defenses based on victim identity.

To the Committee on Judiciary.

H. 177.

An act relating to approval of an amendment to the charter of the City of Montpelier.

To the Committee on Government Operations.

H. 195.

An act relating to use of facial recognition technology by law enforcement in cases involving sexual exploitation of children.

To the Committee on Judiciary.

H. 289.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

To the Committee on Government Operations.

Third Reading Ordered; Rules Suspended; Bill Passed; Bill Messaged

S. 117.

Senate committee bill entitled:

An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senators Lyons, Cummings, Hardy, Hooker and Terenzini moved to amend the bill by adding a new section to be numbered Sec. 2a to read as follows:

Sec. 2a. 2020 Acts and Resolves No. 178, Sec. 12a is amended to read:

Sec. 12a. SUNSET OF PHARMACIST AUTHORITY TO ORDER OR ADMINISTER SARS-COV TESTS

In Sec. 11, 26 V.S.A. § 2023(b)(2)(A)(x) (clinical pharmacy prescribing; State protocol; SARS-CoV testing) shall be repealed on ~~July 1, 2021~~ March 31, 2022.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Balint, 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.

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

Third Reading Ordered

S. 78.

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

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

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; Third Reading Ordered

S. 7.

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

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

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

Sec. 1. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

* * *

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

(A) stalking as defined in section 1062 of this title;

(B) aggravated stalking as defined in subdivision 1063~~(a)(3) or (4)~~(b) of this title;

(C) domestic assault as defined in section 1042 of this title;

(D) first degree aggravated domestic assault as defined in section 1043 of this title;

(E) second degree aggravated domestic assault as defined in section 1044 of this title;

(F) sexual assault as defined in section 3252 of this title or its predecessor as it was defined in section 3201 or 3202 of this title;

(G) aggravated sexual assault as defined in section 3253 of this title;

(H) lewd or lascivious conduct as defined in section 2601 of this title;

(I) lewd or lascivious conduct with a child as defined in section 2602 of this title;

(J) murder as defined in section 2301 of this title;

(K) aggravated murder as defined in section 2311 of this title;

(L) manslaughter as defined in section 2304 of this title;

(M) aggravated assault as defined in section 1024 of this title;

(N) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;

(O) arson causing death as defined in section 501 of this title;

(P) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;

(Q) maiming as defined in section 2701 of this title;

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

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

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

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

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

(W) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

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

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

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

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

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

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

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

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

Sec. 2. 13 V.S.A. § 7282 is amended to read:

§ 7282. SURCHARGE

* * *

(b) The surcharges imposed by this section shall not be waived by the court except as part of an expungement or sealing proceeding where the petitioner demonstrates an inability to pay.

* * *

Sec. 3. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

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

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

~~(v) a predicate offense;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) "Qualifying felony property offense" means a felony level violation of 9 V.S.A. § 4043 related to fraudulent use; section 1801 of this title related to forgery and counterfeiting; section 1802 of this title related to uttering forged or counterfeited instrument; section 1804 of this title related to counterfeiting paper money; section 1816 of this title related to possession or use of credit card skimming devices; section 2001 of this title related to false personation; section 2002 of this title related to false pretenses or tokens; section 2029 of this title related to home improvement fraud; section 2030 of this title related to identity theft; section 2501 of this title related to grand larceny; section

2502 of this title related to petit larceny; section 2503 of this title related to larceny from the person; section 2531 of this title related to embezzlement; section 2532 of this title related to officers or servants of incorporated bank; section 2533 of this title related to receiver or trustee; section 2537 of this title related to holding property in official capacity or belonging to the State or a municipality; section 2561 of this title related to receiving stolen property; section 2575a of this title related to organized retail theft; section 2577 of this title related to retail theft; section 2582 of this title related to theft of services; section 2591 of this title related to theft of rented property; section 2592 of this title related to failure to return a rented or leased motor vehicle; section 3016 of this title related to false claims; section 3701 of this title related to unlawful mischief; section 3705 of this title related to unlawful trespass; section 3733 of this title related to mills, dams, or bridges; section 3761 of this title related to unauthorized removal of human remains; section 3767 of this title related to grave markers and ornaments; section 4103 of this title related to access to computer for fraudulent purposes; section 4104 of this title related to alteration, damage, or interference; or section 4105 of this title related to theft or destruction.

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

Sec. 4. 13 V.S.A. § 7602 is amended to read:

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

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

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

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

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

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

(2) The State's Attorney or Attorney General shall be the respondent in the matter. Notwithstanding any other provision of law, if a person petitions to seal or expunge a criminal history record prior to the date the offense is eligible for sealing or expungement as provided in this section, only the office that prosecuted the offense that is the subject of the sealing or expungement petition may stipulate to that petition.

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

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

(5) A person convicted of a qualifying offense for which the person has served a term of probation with payment of restitution as a condition of that probation may petition for sealing or expungement of that offense upon satisfaction of the judgement for the qualifying offense. The petition shall request that the court, in the interest of justice, adjust the waiting period for sealing or expungement of the offense as set forth in this section. The court shall consider the nature and circumstances of the offense, typical sentences for similar offenses, and the length of the sentence served by the petitioner in determining whether to adjust the waiting period and the duration of any adjusted waiting period.

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

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

(A) At least five years have elapsed since:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) At least eight years have elapsed since:

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The court shall also make a reasonable effort to notify the person whose record is sealed that, pursuant to section 7602 of this title, he or she may be eligible for a subsequent expungement after a required waiting period. "Reasonable effort" means attempting to contact the person by first-class mail at the person's last known address and by telephone at the person's last known phone number. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 6. 33 V.S.A. § 5119 is amended to read:

§ 5119. SEALING OF RECORDS

* * *

(e)(1) Except as provided in subdivision (2) of this subsection, upon the entry of an order sealing such files and records under this section, the proceedings in the matter ~~under this act~~ shall be considered never to have occurred, all general index references ~~thereto~~ to the sealed record shall be deleted, and the person, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such person upon inquiry in any matter. Copies of the order shall be sent to each agency or official named in the order.

(2)(A) Any court, agency, or department that seals a record pursuant to an order under this section may keep a special index of files and records that have been sealed. This index shall only list the name and date of birth of the subject of the sealed files and records and the docket number of the proceeding ~~which~~ that was the subject of the sealing. The special index shall be confidential and may be accessed only for purposes for which a department or

agency may request to unseal a file or record pursuant to subsection (f) of this section.

(B) Access to the special index shall be restricted to the following persons:

(i) the commissioner and general counsel of any administrative department;

(ii) the secretary and general counsel of any administrative agency;

(iii) a sheriff;

(iv) a police chief;

(v) a State's Attorney;

(vi) the Attorney General;

(vii) the Director of the Vermont Crime Information Center; and

(viii) a designated clerical staff person in each office identified in subdivisions (i)–(vii) of this subdivision (B) who is necessary for establishing and maintaining the indices for persons who are permitted access.

(C) Persons authorized to access an index pursuant to subdivision (B) of this subdivision (2) may access only the index of their own department or agency.

* * *

(g) On application of a person who has pleaded guilty to or has been convicted of the commission of a crime under the laws of this State ~~which~~ that the person committed prior to attaining ~~the age of 21~~ 25 years of age, or on the motion of the court having jurisdiction over such a person, after notice to all parties of record and hearing, the court shall order the sealing of all files and records related to the proceeding if it finds:

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

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

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

* * *

Sec. 7. 23 V.S.A. § 2303 is added to read:

§ 2303. EXPUNGEMENT OF VIOLATION RECORDS

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

(1) section 301 of this title (operating an unregistered vehicle);

(2) subsection 307(a) of this title (failing to possess registration);

(3) section 611 of this title (failing to possess license);

(4) subsection 676(a) of this title (operating after suspension);

(5) section 601 of this title (operating without a license);

(6) section 800 of this title (operating without insurance); and

(7) subsection 1222(c) of this title (operating an uninspected vehicle).

(b) Effect of expungement.

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

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

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

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

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

Sec. 8. VERMONT SENTENCING COMMISSION; EXPUNGEMENT AND SEALING REPORT

During the 2021 legislative interim, the Vermont Sentencing Commission shall consider how to simplify and automate the process of expungement and sealing of criminal history records and develop a comprehensive policy that provides an avenue for expungement or sealing of all offenses except those listed in 33 V.S.A. § 5204(a). On or before November 1, 2021, the Commission shall report to the Joint Legislative Justice Oversight Committee regarding its recommendations on:

(1) a policy to make all criminal history records eligible for sealing or expungement, except for records of convictions of the offenses listed in 33 V.S.A. § 5204(a);

(2) the individuals or entities that should have access to sealed criminal history records;

(3) whether Vermont should continue to employ a two-track system that provides for sealing or expungement of criminal history records based on the nature of the offense, or whether Vermont should employ a one-track system that provides for either sealing or expungement for all eligible offenses;

(4) implementing an automated process, not requiring a petition, to seal and expunge criminal conviction records that provides for notice to the prosecuting office and an opportunity for the prosecutor to oppose the sealing or expungement.

Sec. 9. EFFECTIVE DATE

This act 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.

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:

Madam President:

I am directed to inform the Senate that:

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

S.C.R. 1. Senate concurrent resolution in memory of former Burlington Alderwoman Janet Stackpole.

And has adopted the same in concurrence.

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 Ram and Lyons,

By Reps. Webb and others,

S.C.R. 1.

Senate concurrent resolution in memory of former Burlington Alderwoman Janet Stackpole.

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 All Members of the House,

H.C.R. 23.

House concurrent resolution honoring former Representative Edward H. Paquin Jr. for his exemplary leadership as a disability rights advocate.

By Rep. Walz,

H.C.R. 24.

House concurrent resolution designating March 2021 as Vermont Habitat for Humanity Month.

By Rep. James,

H.C.R. 25.

House concurrent resolution recognizing the importance of early childhood care services in Vermont.

By Reps. Donahue and others,

H.C.R. 26.

House concurrent resolution in memory of John Pandiani of Bristol.

Adjournment

On motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, March 16, 2021, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 17.

TUESDAY, MARCH 16, 2021

The Senate was called to order by the President.

Devotional Exercises

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

Pledge of Allegiance

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

Message from the Governor

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

Mr. President:

I am directed by the Governor to inform the Senate that on the thirteenth day of March, 2021 he approved and signed a bill originating in the Senate of the following title:

S. 14. An act relating to deed restrictions and housing density.

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. 66. An act relating to electric bicycles.

S. 79. An act relating to improving rental housing health and safety.

S. 97. An act relating to miscellaneous judiciary procedures.

S. 101. An act relating to promoting housing choice and opportunity in smart growth areas.

S. 102. An act relating to the regulation of agricultural inputs for farming.

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

S. 13. An act relating to the implementation of the Pupil Weighting Factors Report.

S. 25. An act relating to miscellaneous cannabis regulation procedures.

S. 100. An act relating to universal school breakfast and lunch for all public school students and to creating incentives for schools to purchase locally produced foods.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 19.

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

By Senator Balint,

J.R.S. 19. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 19, 2021, it be to meet again no later than Tuesday, March 23, 2021.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 123.

By Senators Hooker, Hardy, Pollina, Ram and Terenzini,

An act relating to loan repayment assistance for primary care physicians.

To the Committee on Health and Welfare.

Committee Bill Introduced

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

S. 124.

By the Committee on Natural Resources and Energy,

An act relating to miscellaneous utility subjects.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 125.

By Senators McCormack and Ram,

An act relating to the Child and Parent Representation Working Group.

To the Committee on Judiciary.

Third Reading Ordered

S. 107.

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

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

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; Third Reading Ordered

S. 15.

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

An act relating to correcting defective ballots.

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

* * * Candidate Nicknames * * *

Sec. 1. 17 V.S.A. § 2361 is amended to read:

§ 2361. CONSENT OF CANDIDATE

(a) A candidate for whom petitions containing sufficient valid signatures have been filed shall file with the official with whom the petitions were filed a consent to the printing of the candidate's name on the ballot. The Secretary of State shall prepare and furnish forms for this purpose.

(b)(1) The consent shall set forth the name of the candidate, as the candidate wishes to have it printed on the ballot, the candidate's town of residence, and correct mailing address.

(2) If a candidate wishes to use a nickname, the format on the ballot shall be the candidate's first name, the nickname set off in quotations, and the candidate's last name.

(A) A nickname of one or two words by which the candidate has been commonly known for at least three years preceding the election may be used in combination with a candidate's name. A nickname that constitutes a slogan or otherwise indicates a political, economic, social, or religious view or affiliation may not be used.

(B) A nickname may not be used unless the candidate executes and files with the application for a place on the ballot an affidavit indicating that the nickname complies with this subsection.

(3) Professional titles such as "Dr.," "Esq.," or "CPA" shall not be used as part of a candidate's name on the ballot.

(c) The consent shall be filed on or before the day petitions are due. Unless a consent is filed, the candidate's name shall not be printed on the primary ballot.

* * * Outdoor and Drive-up Polling Places * * *

Sec. 2. 17 V.S.A. § 2502 is amended to read:

§ 2502. LOCATION OF POLLING PLACES; OUTDOOR POLLING PLACES

(a) Each polling place shall be located in a public place within the town.

(b) Outdoor polling places. A polling place may be located outdoors if it can be operated in a manner consistent with the provisions of this chapter.

(1) The board of civil authority shall designate the outdoor area that comprises the "polling place" for purposes of restrictions and requirements for polling places imposed pursuant to this chapter, including the restrictions on campaigning and other activities within the building containing the polling place described in subdivisions 2508(a)(1)(A) and (B) of this subchapter.

(2) An indoor polling place alternative must be available at or near the same physical location as the outdoor polling place in case of inclement weather. If conditions require use of the indoor alternative, the Secretary of State's office shall be notified immediately of the change.

(3) Candidates and members of the public who would otherwise be allowed to campaign outside an indoor polling place must be kept a reasonable distance from the outdoor polling place such that any campaigning does not disrupt or interfere in any way with the voting process.

(c) Drive-up voting. Voting may be conducted by a drive-through or drive-up voting method at a polling place if the voting process can be operated in a manner consistent with the provisions of this chapter.

(1) Drive-up voting procedures shall enable voters to complete the voting process without leaving their vehicle, allowing the voters to deposit their ballot directly into a tabulator or secure ballot box that may be brought to the window of the vehicle or located in such a manner that it can be accessed from the vehicle, or providing voters an envelope or folder in which to place their voted ballot before handing it to an election official for processing.

(2) Polling places conducting drive-up voting shall also accommodate walk-in voters and those using other forms of transport.

(d) Ballot transfer. If a polling place is outside or if voting is conducted by a drive-up method, ballots may be periodically transferred from a secure outdoor or drive-up ballot box to another secure container for counting after the close of the polls or to election officials who are processing ballots through the tabulator. Any such transfer shall be done in the presence of two election officials, if possible officials of different parties.

~~(b)~~(e) ~~The~~ Access. The accessible voting system must be available for those who request it. Additionally, the board of civil authority shall take such measures as are necessary to assure that voters who are elders or have a disability may conveniently and secretly cast their votes. Measures that may be taken shall include: location of polling places on the ground floor of a building; providing ramps, elevators, or other facilities for access to the polling place; providing a stencil overlay for ballots; providing a separate polling place with direct communication to the main polling place; and permitting election officials to carry a ballot to an elder or to a person who has a disability in order to permit that person to mark the ballot while in a motor vehicle adjacent to the polling place. For purposes of this subsection, the board of civil authority shall have full jurisdiction on the day of an election over the premises at which a polling place is located.

~~(c)~~(f) Polling place designation.

(1) Thirty days prior to a local, primary, or general election, the town clerk shall submit to the Secretary of State a list of polling places within the municipality that will be used in that election. The list shall include the name of the polling location, its physical address, and the time the polling place will open.

(2)(A) A municipality may change the location of a polling place less than 30 days prior to an election only in cases of emergency. If a municipality changes the location of a polling place less than 30 days prior to the election, the town clerk shall notify the Secretary of State within 24 hours of the change and provide the new polling place information.

(B) The Secretary of State shall assist any municipality that needs to change the location of a polling place on the day of an election due to an emergency, including assisting in finding a new location and informing the public of that new location.

(C) The Secretary of State shall inform the State chairs of Vermont's major political parties of any changes made to polling places that he or she is aware of made less than 30 days prior to an election.

(3) The Secretary of State shall provide on his or her official website a list of polling places that will be used in any local, primary, or general election within the State, and shall specifically provide notice on that website of any change in the location of a municipality's polling place.

* * * Ballot Mailing for Local Elections * * *

Sec. 3. 17 V.S.A. § 2680 is amended to read:

§ 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL

(a) Application. Unless specifically required by statute, the provisions of the Australian ballot system shall not apply to the annual or special meeting of a municipality unless that municipality, at its annual meeting or at a special meeting called for that purpose, votes to have them apply.

* * *

(f) Presiding officer. The presiding officer for any election or part of an election using the Australian ballot system shall be the town clerk or as otherwise provided in section 2452 of this title.

(g) Early and absentee voting. At the time the Australian ballots are available, which shall be not less than 20 days before the election, early and absentee voting shall be permitted in accordance with chapter 51, subchapter 6 of this title.

(1) The legislative body of a town, city, or village may vote to mail a ballot to all active registered voters in the town, city, or village.

(2) A school board may, after receiving the approval of the legislative body of each member town in the district, vote to mail its annual meeting ballot to all active registered voters in the district. In such case, the town clerk

and election officials in the member towns shall be responsible for the mailing of the ballots but all costs associated with the mailing of ballots shall be borne by the school district.

(3) Ballots shall be mailed not less than 20 days before the election, or as soon as they are available.

(4) The mailing of ballots shall be conducted to the extent practicable in accordance with chapter 51, subchapter 6 of this title.

~~(g)~~(h) Hearing.

(1) Whenever a municipality has voted to adopt the Australian ballot system of voting on any public question or budget, except the budget revote as provided in subsection (c) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 10 days in advance of the hearing in at least two public places within the municipality and in the town clerk's office.

* * *

* * * Ballot Mailing for Statewide Elections * * *

Sec. 4. 17 V.S.A. § 2532 is amended to read:

§ 2532. AUTHORIZED APPLICANTS; APPLICATION FORM; DUPLICATES

* * *

(e) Duplicate early voter absentee ballots.

(1)(A) The town clerk may, upon application, issue a duplicate early voter absentee ballot if the original ballot is lost or not received by the voter within a reasonable period of time after ~~mailing~~ it is mailed to the voter by the town clerk or by the Secretary of State's office pursuant to section 2537a of this subchapter.

(B) The application may be made by a person entitled to apply for an early voter absentee ballot under subsection (a) of this section and shall be accompanied by a sworn statement affirming that the voter has not received the original ballot.

(2) If a duplicate early voter absentee ballot is issued and both the duplicate and original early voter absentee ballots are received before the close of the polls on election day, the ballot ~~with the earlier postmark~~ that is received first by the town clerk shall be counted and the Elections Division of the Secretary of State's office shall be notified.

* * *

Sec. 5. 17 V.S.A. § 2536 is amended to read:

§ 2536. FURNISHING EARLY VOTER ABSENTEE BALLOT ENVELOPES

Upon request, for any statewide primary, presidential primary, or general election, the Secretary of State shall furnish the envelopes prescribed in sections 2535 and 2542 of this title to town clerks in such numbers as they request. The cost of absentee ballot envelopes for local elections shall be borne by the municipality.

Sec. 6. 17 V.S.A. § 2537 is amended to read:

§ 2537. EARLY OR ABSENTEE VOTING IN THE TOWN CLERK'S OFFICE

(a)(1) A voter may, if he or she chooses, apply in person to the town clerk for the early voter absentee ballots and envelopes.

(2) In this case, the clerk shall furnish the early voter absentee ballots and envelopes when a valid application has been made, or at such time as the clerk receives the ballots, whichever comes first.

(3) The voter may:

(A) mark his or her ballots, place them in the envelope, sign the certificate, and return the ballots in the envelope containing the certificate to the town clerk or an assistant town clerk without leaving the office of the town clerk; ~~or~~

(B) take the ballots and return them to the town clerk in the same manner as if the ballots had been received by mail~~.~~; or

(C) if the board of civil authority has voted to allow it pursuant to section 2546b of this subchapter, mark the ballots and deposit them directly into the vote tabulator or ballot box in accordance with section 2546b of this subchapter.

(b) Except for justices of the peace as provided in section 2538 of this subchapter, a person shall not take any ballot from the town clerk on behalf of any other person.

Sec. 7. 17 V.S.A. § 2537a is added to read:

§ 2537a. MAILING OF GENERAL ELECTION BALLOTS

(a) For every general election, the Secretary of State's office shall mail a general election ballot to all active voters on the statewide voter checklist described in section 2154 of this title.

(1) The mailing of the ballots shall commence not later than 43 days before the election and shall be completed not later than October 1.

(2) A postage-paid return envelope, pre-addressed to the town or city clerk of the town or city where the voter is registered to vote, shall be included with the ballot sent to every voter in which the ballot may be mailed back to the clerk. All postage cost shall be paid by the Secretary of State's office.

(3) The address file to be used for the mailing shall be generated from the statewide voter checklist as close as practicable to the date of the mailing, and in no case earlier than September 1.

(4) The Secretary of State's office shall include in the mailing to each voter instructions for return of the voted ballot.

(b) General election ballots mailed by the Secretary of State's office under this section shall be returned by the voter to the town or city clerk in the town or city where that voter is registered in accordance with the procedures for return of ballots described in this subchapter.

Sec. 8. 17 V.S.A. § 2539 is amended to read:

§ 2539. DELIVERY OF EARLY VOTER ABSENTEE BALLOTS

(a) Default; town office or mail.

(1) Except as provided in subsections (b) and (c) of this section, unless the early or absentee voter votes in the town clerk's office as set forth in section 2537 of this ~~subchapter~~ title, the town clerk shall provide to the early or absentee voter who comes to the town clerk's office a complete set of early voter absentee ballots or mail a complete set of early voter absentee ballots to each early or absentee voter for whom a valid application has been filed.

(2) ~~The~~ Except as provided in subdivision (3) of this subsection, the early voter absentee ballots shall be mailed forthwith upon the filing of a valid application, or upon the town clerk's receipt of the necessary ballots, whichever is later.

(3)(A) For any general election, if a voter transfers his or her registration from another town or city in the state following the mailing of ballots to all active voters by the Secretary of State's office pursuant to section 2537a of this subchapter, before issuing an absentee ballot the clerk shall confirm the status of the ballot that was previously mailed to that voter by the Secretary of State and proceed as follows:

(i) If the voter has voted and returned the ballot issued to the voter by the Secretary of State to the town in which they were previously registered, the voter shall not be issued a ballot nor be allowed to cast another ballot in the

same general election and shall be registered following the election.

(ii) If the voter did not receive or did not return the ballot that was previously sent to the voter by the Secretary of State, the voter may be issued another ballot for the general election if:

(aa) the voter returned the unvoted ballot that was previously issued to the voter; or

(bb) the voter signs an affidavit stating that the voter has not previously cast a ballot in that general election.

(B) If a voter registers to vote for the first time in Vermont following the time when the Secretary of State's office generated the address file to be used for the mailing of ballots to all active voters by the Secretary of State's Office, and requests a ballot for the general election, the ballot shall be issued to that voter pursuant to subdivision (1) of this subsection (a).

* * *

Sec. 9. 17 V.S.A. § 2540 is amended to read:

§ 2540. INSTRUCTIONS TO BE SENT WITH BALLOTS

(a) The town clerk shall send with all early voter absentee ballots and envelopes printed instructions, which may be included on the envelope, in ~~substantially the following form:~~ a form prescribed by the Secretary of State's office.

~~INSTRUCTIONS FOR EARLY OR ABSENTEE VOTERS~~

~~1. Mark the ballots.~~

~~2. Place them in this envelope.~~

~~3. Fill out and sign the certificate on the envelope.~~

~~4. Mail or deliver the envelope containing the ballots to the town clerk of the town where you are a registered voter in time to arrive not later than election day.~~

~~Note: If these ballots have been brought to you personally by two justices of the peace because of your illness, injury, or disability, just return them to the justices after you have signed the envelope. YOU HAVE THE RIGHT TO MARK YOUR BALLOTS IN PRIVATE — but if you ask for help in filling out the ballots, they will give it to you.~~

~~BE SURE TO FILL OUT AND SIGN THE CERTIFICATE ON THIS ENVELOPE OR YOUR VOTE WILL NOT COUNT!~~

~~(b) In the case of early absentee voting in a primary, the instructions shall also include appropriate instructions prepared by the Secretary of State for separating and depositing unvoted ballots in a separate envelope provided and clearly marked for that purpose.~~

* * * Ballot Curing; Secure Drop Boxes * * *

Sec. 10. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

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

(b) Once an early voter absentee ballot has been returned to the clerk in the envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason unless the ballot is deemed defective under subdivision 2546(a)(2) of this subchapter and the voter chooses to cure the defect and cast the ballot pursuant to subsection 2547(d) of this subchapter.

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

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

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

(B) to any secure ballot drop box provided by the town or city in which the voter is registered pursuant to section 2543a of this subchapter before the close of business on the day before the election;

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

~~(C)~~(D) by hand delivery to the presiding officer at the voter's polling place before the closing of the polls at 7 p.m.

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

Sec. 11. 17 V.S.A. § 2543a is added to read:

§ 2543a. PROVISION OF SECURE BALLOT DROP BOXES

(a) A board of civil authority may vote to install one or more secure outdoor ballot drop boxes ("drop boxes") for the return of voted ballots.

(b) Drop boxes must be located on municipal property. If a town has only one drop box, it shall be located on the property of the municipal clerk's office.

(c) Drop boxes must allow for the return of ballots by voters at any time of day, and must be available for the return of ballots not later than 43 days before the election.

(d) Drop boxes must be installed and maintained in accordance with guidance issued by the Secretary of State's office. At a minimum, drop boxes must:

(1) be affixed to a foundation or other immovable object such that they cannot not be removed without being tampered with;

(2) be under 24-hour video surveillance or in the alternative be within sight of the municipal building;

(3) be constructed in such a manner that it is impossible to remove the ballots without the ballot box being tampered with; and

(4) be able to be closed such that ballots may not be deposited once the deadline for deposit has passed.

(e) Ballots may be deposited in the drop boxes until the close of business on the day before the election. At that time the drop box shall be closed and instructions affixed to the drop box instructing the voter to return their voted ballot to the polling place on the day of the election.

(f) The Secretary of State's office shall provide drop boxes to a town or city upon request following a vote of the board of civil authority. The maximum number of drop boxes that the Secretary of State's office shall provide in any town or city shall be as follows:

(1) up to 5,000 registered voters, one;

(2) between 5,000 and 10,000 registered voters, two;

(3) between 10,000 and 15,000 registered voters, three;

(4) between 15,000 and 20,000 registered voters, four; and

(5) over 20,000 registered voters, five.

(6) A town or city may have a number of secure drop boxes equal to the number of representative districts in that town or city, with one drop box located in each district, if that number is greater than the number allowed based on that town or city's number of registered voters in subdivisions (1)–(5) of this subsection. If there is not suitable municipal property for the

location of a secure drop box in the area covered by a certain district in the town or city, an alternative location may be used with the approval of the Secretary of State's office.

Sec. 12. REPEALS

17 V.S.A. § 2545 (receipt of marked ballots by town clerk; delivery to election officers) is repealed.

* * * Ballot Processing and Defective Ballot Notification * * *

Sec. 13. 17 V.S.A. § 2546 is amended to read:

§ 2546. ~~DEPOSIT OF EARLY VOTER ABSENTEE BALLOTS IN BALLOT BOX OR VOTE TABULATOR~~ RECEIPT OF BALLOTS BY CLERK; VOTER STATUS; OPPORTUNITY TO CURE; PROCESSING ABSENTEE BALLOTS

(a) ~~Not earlier than~~ Beginning 30 days before the opening of the polls on election day, upon receipt of a mailing envelope containing ballots returned by a voter, the town clerk ~~may~~ shall, within three business days or on the next day the office is open for business, whichever is later, direct two election officials working together to do all of the following:

(1) open the ~~outside~~ mailing envelope and sort early voter absentee ballots by ward and district, if necessary; and

(2) determine that the certificate has been ~~properly completed and~~ signed~~;~~, the voted ballot was placed in the certificate envelope, and the ballot is not defective for any other reason pursuant to section 2547 of this subchapter.

(A) If the ballot is not deemed defective, the clerk shall check the name of the early voter off the entrance checklist and record the ballot as received and accepted in the online election management system, and:

(i) place the certificate envelopes into a secure container marked "checked in early voter absentee ballots" to be transported to the polling places on election day; or

(ii) open the certificate envelope and place the voted ballot in the ballot box or tabulator in accordance with the procedures contained in section 2546a of this subchapter.

(B) If the ballot is deemed defective, the clerk shall:

(i) check the name of the early voter off the entrance checklist and record the ballot as received and defective in the online election management system;

(ii) place the ballot in the defective ballot envelope in accordance with the procedures of subdivisions 2547(b)(1)–(3) of this subchapter;

(iii) not later than the next business day mail a postcard, designed and provided by the Secretary of State's office, to the voter at the address where the ballot was sent informing the voter that their ballot was deemed defective and rejected, the reason it was deemed defective, and the voter's opportunity to correct the error pursuant to subsection 2547(d) of this subchapter.

(b) Beginning five business days preceding the election, the clerk is not required to send a postcard to those voters whose ballots have been deemed defective. In these cases, the clerk shall make a reasonable effort to provide notice to the voter as soon as possible using any other contact information that the clerk has on file and shall record the ballot as defective in the online election management system not later than 24 hours after the ballot is deemed defective.

~~(3) check the name of the early voter off the entrance checklist; and~~

~~(4) place the certificate envelopes into a secure container marked "checked in early voter absentee ballots" to be transported to the polling places on election day.~~

~~(b)~~(c) ~~The~~ Processing absentee ballots on election day. If the certificate envelopes have not been opened and the voted ballots placed in the ballot box or tabulator, the town clerk or presiding officer shall deliver the unopened early voter absentee ballots to the election officials at the place where the entrance checklist is located. ~~Upon the opening of the polls~~ During the polling hours on election day~~:~~

~~(1) If the ballots are in a~~ , at the direction of the presiding officer, at least two election officials shall open the container marked "checked in early voter absentee ballots," one election official shall open the certificate envelopes, turn the certificate side face down, and hand the envelope face down to a second election official, if possible from a different political party, who shall remove the ballots from the envelopes and deposit them in the ballot box or vote tabulator. If the early voter is a first-time voter who registered by mail or online, and if the proper identification has not been submitted before the closing of the polls, the ballot shall be treated as a provisional ballot, as provided in subchapter 6A of this chapter.

~~(2) If the ballots have not been previously checked off the entrance checklist and if two election officials, from different political parties, determine that the certificate on the envelope is properly completed and signed~~

~~by the early voter, the name of the early voter appears on the checklist, and the early voter is not a first-time voter in the municipality who registered by mail and is marked on the checklist as requiring additional documentation, the election officials shall mark the checklist, open the certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballots in the ballot box or vote tabulator.~~

~~(3)(A) If the early voter is a first-time voter who registered by mail or online, two election officials from different political parties shall determine whether the identification required under subdivision 2563(1) of this title has been submitted by the voter. Upon ascertaining that the proper identification has been submitted by the voter, the election officials shall mark the checklist, open the certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballot in the ballot box or vote tabulator.~~

~~(B) If the proper identification has not been submitted, the ballot shall be treated as a provisional ballot, as provided in subchapter 6A of this chapter.~~

~~(c)~~(d) All early voter absentee ballots shall be commingled with the ballots of voters who have voted in person.

Sec. 14. 17 V.S.A. § 2546a is amended to read:

§ 2546a. ~~DAY PRECEDING ELECTION;~~ DEPOSIT OF EARLY VOTER ABSENTEE BALLOTS IN VOTE TABULATOR

(a) Generally. Notwithstanding any provision of law to the contrary, ~~if a town will be using a vote tabulator for the registering and counting of votes in the upcoming election and will check in early voter absentee ballots in accordance with subsection 2546(a) of this chapter for that election,~~ the board of civil authority may vote to permit elections officials to deposit ~~those~~ early voter absentee ballots that have been processed in accordance with subsection 2546(a) of this subchapter and have not been deemed defective into the vote tabulator or ballot box in accordance with the provisions of this section and any guidance issued by the Secretary of State. ~~This~~ Any such depositing of ~~these~~ ballots shall take place at the town clerk's office ~~on the day~~ during the 30 days preceding the election.

(b) Notice.

~~(1)~~ If a board of civil authority votes to deposit ballots as described in subsection (a) of this section, ~~the town clerk shall post notice that ballots will be so deposited in at least two public places in the municipality and in or near the town clerk's office not less than 30 nor more than 40 days before the~~

~~election. If a municipality has more than one polling place and the polling places are not all in the same building, the notice shall be posted in at least two public places within each voting district and in or near the town clerk's office.~~ the process shall be conducted during normal business hours if practicable or, if conducting the process at a time other than normal business hours, notice of the date(s), time(s), and location of the processing shall be posted at the clerk's office and two other public places at least three days in advance.

~~(2) In addition, at least five days before the day preceding the election, the notice shall be published in a newspaper of general circulation in the municipality and on the municipality's website, if the municipality actively updates its website on a regular basis.~~

~~(3) The notice shall include the date and time for the count, inspection, and depositing of the ballots and the location of the town clerk's office.~~

(c) Officials. The town clerk and at least two other election officials, from different political parties to the extent practicable, shall be present for the inspection of the sealed certificate envelopes and the processing of the ballots described in this section.

~~(d) Count and inspection.~~

~~(1) On the day preceding the election, at least one hour prior to depositing the ballots in the vote tabulator, the town clerk and the election officials shall:~~

~~(A) first open the secure container marked "checked in early voter absentee ballots," count the certificate envelopes containing those ballots, and record the number counted; and~~

~~(B) permit these certificate envelopes to be inspected by members of the public.~~

~~(2) Any early voter absentee ballot that is returned after the expiration of the period for the count and inspection shall be processed on the day of the election in accordance with section 2546 of this subchapter.~~

~~(e) Processing.~~

~~(1) Immediately after the expiration of the period for the count and inspection described in subsection (d) of this section, the town clerk and election officials shall open each certificate envelope containing an early voter absentee ballot that was counted under subdivision (d)(1) of this section and deposit each ballot into a vote tabulator.~~

~~(2) The town clerk and the election officials shall ensure that all procedures for handling ballots are followed to the fullest extent practicable.~~

~~(3) At the end of the processing, the town clerk shall verify that the vote tabulator's memory card is locked in place and shall sign a statement verifying how many early voter absentee ballots were counted by the vote tabulator and that the memory card is so locked. The town clerk shall compare the vote tabulator's number of counted ballots to the original count of those ballots described in subdivision (d)(1) of this section.~~

~~(f) Security. The town clerk shall otherwise comply with all provisions of this title relating to the security of the vote tabulator.~~

~~(g) Election day. On the day of the election, when the vote tabulator is turned on at the polling place, the town clerk shall verify that the number of ballots that the vote tabulator displays as having been counted matches the number that the town clerk verified the tabulator counted on the preceding day.~~

(d) Processing. The Secretary of State's office shall issue detailed procedures for conducting the processing of early ballots into the vote tabulator or ballot box pursuant to this section. A town or city shall follow the procedures issued by the Secretary of State's office for this purpose.

~~(h)~~(e) Rules. The Secretary of State may adopt rules to implement the provisions of this section.

Sec. 15. 17 V.S.A. § 2546b is amended to read:

§ 2546b. EARLY VOTING IN TOWN CLERK'S OFFICE; DEPOSIT INTO VOTE TABULATOR

(a)(1) A board of civil authority may vote to permit its town's registered early or absentee voters to vote in the town clerk's office in the same manner as those voting on election day by marking their early voter absentee ballots and depositing them into a vote tabulator or secure ballot box.

(2) If a board of civil authority votes to permit early voting as described in subdivision (1) of this subsection, the town's process for conducting this early voting shall conform to the provisions of this section and to procedures that the Secretary of State shall adopt for this purpose.

(b)(1) During business hours in the town clerk's office, the secure ballot box or vote tabulator and ballot bin shall be in a secured area accessible only to election officials and voters. The vote tabulator unit shall be secured with an identifiable seal and the ballot box containing voted ballots shall remain locked at all times and secured with an identifiable seal. Neither seal shall be broken prior to the time of closing the polls on election day.

(2) Once early voting has commenced in the town clerk's office, the town clerk or designee shall certify each day in a record prepared for this purpose that the seals on the vote tabulator and secure ballot box are intact.

(3) When an election official is not present or at times other than business hours, the secure ballot box or sealed vote tabulator and ballot ~~box~~ bin shall be secured in the town clerk's office vault.

(4) The town clerk shall maintain a record of each early or absentee voter who voted in person in accordance with this section and shall mark these voters as having voted early in the clerk's office in the online election management system.

(c) On the day of the election:

(1) The secure ballot box or sealed vote tabulator and ~~sealed ballot boxes~~ ballot bin shall be transferred to the polling place on election day by two election officials and shall not be opened until the polls have closed on election day.

(2) When the vote tabulator is turned on at the polling place, the town clerk shall verify that the number of ballots that the vote tabulator displays as having been counted matches the number of voters who deposited their early voter absentee ballots in the vote tabulator in accordance with this section and any early voter absentee ballots that were processed and deposited in the vote tabulator under section 2546a of this subchapter.

(3) All early voter absentee ballots shall be commingled with those voted at the polls on election day prior to being examined for the purpose of identifying write-in votes.

Sec. 16. 17 V.S.A. § 2547 is amended to read:

§ 2547. DEFECTIVE BALLOTS

(a) If upon examination by the election officials it shall appear that any of the following defects is present, either the ballot or the unopened certificate envelope shall be marked "defective" and the ballot shall not be counted:

(1) the identity of the early or absentee voter cannot be determined;

(2) the early or absentee voter is not legally qualified to vote;

(3) the early or absentee voter has voted in person or previously returned a ballot in the same election;

(4) the certificate is not signed;

(5) the voted ballot is not in the certificate envelope; or

(6) in the case of a primary vote, the early or absentee voter has failed to return the unvoted primary ballots.

(b) Each defective ballot or unopened certificate envelope shall be:

(1) affixed with a note from the presiding officer indicating the reason it was determined to be defective; and

(2) placed with other such defective ballots in an envelope marked "Defective Ballots - Voter Checked Off Checklist - Do Not Count"~~; and~~

~~(3) returned in that envelope to the town clerk in the manner prescribed by section 2590 of this chapter~~.

(c) The provisions of this section shall be indicated prominently in the early or absentee voter material prepared by the Secretary of State.

(d)(1) If a ballot is deemed defective, the voter shall be notified of the defect in accordance with the provisions of subdivision 2546(a)(2)(B) of this subchapter. Upon notification, the voter may cure the defect until the closing of the polls on election day, by either:

(A) correcting the defect or submitting a new absentee ballot in person at the clerk's office or at the polling place on election day; or

(B) requesting a new ballot be mailed to them by the clerk along with materials for submission of the new ballot, provided that the new ballot is received at the clerk's office or at the polling place prior to the closing of the polls.

(2)(A) If a voter corrects the defect in accordance with subdivision (1)(A) of this subsection (d), the clerk shall update the status of the ballot to "received – accepted" in the online election management system.

(B) If a voter corrects the defect by requesting a new ballot be mailed to them under subdivision (1)(B) of this subsection (d), the clerk shall enter a second absentee ballot request and issue date for that voter in the online election management system.

(3) The same voter may cure a ballot deemed defective not more than twice for any single election.

* * * Voting Early at Clerk's Office * * *

Sec. 17. 17 V.S.A. § 2548 is amended to read:

§ 2548. VOTING IN PERSON

(a) Prior to the opening of the polls, the municipal clerk shall provide the election officials of each polling place with a list of the names of all persons who have voted early in the clerk's office or marked and returned early voter

absentee ballots, and these persons shall not thereafter vote in person in the same election.

(b)(1) ~~A person who in good faith has received early voter absentee ballots for his or her use but has not yet marked them, if he or she is able to vote in person, may cast the early voter absentee ballots as provided above, or may vote in person after returning the complete set of unmarked ballots, together with the envelope intended for their return, to the presiding officer at the time the voter appears to vote in person.~~

~~(2) If a person does not have his or her absentee ballots to return, the person shall be checked off the checklist and permitted to vote only after completing a sworn affidavit that he or she does not have his or her absentee ballots to return.~~

~~(3) The presiding officer shall return the unused early voter absentee ballots and envelope to the town clerk, who shall make a record of their return on the list of early or absentee voters and treat them as replaced ballots, pursuant to section 2568 of this title.~~ A voter who has been issued an early ballot, either by the Secretary of State's office pursuant to section 2537a of this subchapter, or otherwise by the town clerk, but who has not returned their voted ballot to the clerk, may vote in person at the polling place on election day.

(2) If the voter brings their marked ballot enclosed in the signed certificate envelope, the voter may submit that certificate envelope containing the voted ballot to the entrance checklist official for processing along with any other early or absentee ballots. The voter shall be marked off the checklist and the clerk shall record the voter as having returned their absentee ballot on election day in the online election management system.

(3) If the voter brings their marked ballot, but it is not enclosed in the certificate envelope, the voter shall be marked off the checklist and be allowed to cast that ballot into the secure ballot box or tabulator in the same manner as other voters who are voting in the polling place. The clerk shall record any such voter as having voted in person on election day in the online election management system.

(4) If the voter brings their unmarked ballot, the voter shall be marked off the checklist and allowed to proceed to a voting booth to mark that ballot and cast it into the ballot box or tabulator in the same manner as other voters who are voting in the polling place. The presiding officer may choose to provide any such voter with a new ballot in exchange for the unvoted ballot that the voter brought to the polls. The clerk shall record any such voter as

having voted in person on election day in the online election management system.

(5) If the voter does not bring their marked or unmarked ballot with them to the polls, the voter shall be required to sign an affidavit that they have not previously cast a ballot in the election, and only then shall they be checked off the checklist and allowed to vote in the same manner as all other voters who are voting at the polling place. The clerk shall record any such voter as having voted in person on election day in the online election management system. Any affidavits signed by voters at the polling place pursuant to this section shall be retained for a period of 90 days following the election.

Sec. 18. 17 V.S.A. § 2565 is amended to read:

§ 2565. DELIVERY OF BALLOTS

~~As~~ Except as otherwise provided in subsection 2548(b) of this title, as each voter passes through the entrance of the guardrail, an election official or officials shall hand him or her one of each kind of ballot. The election officials shall also answer any questions a voter may ask concerning the process of voting. The presiding officer shall keep the election officials in charge of furnishing ballots to voters supplied with a sufficient number of blank ballots, keeping the remainder of the blank ballots safely secured until needed.

Sec. 19. 17 V.S.A. § 2566 is amended to read:

§ 2566. MARKING BALLOTS

~~On~~ Except as provided in subdivision 2548(b)(2) of this title, on receiving his or her ballots, the voter shall forthwith, and without leaving the polling place or going outside the guardrail, proceed to one of the booths not occupied by any other person and vote by filling in the appropriate square or oval opposite the name of the candidate of his or her choice for each office, or by writing in the name of the candidate of his or her choice in the blank space provided and filling in the square or oval to the right of that blank space.

* * * Language Access * * *

Sec. 20. LANGUAGE ACCESS; REPORT

The Secretary of State's office shall consult with municipalities and interested stakeholders on best practices for increasing access to voting for non-English-speaking Vermonters and Vermonters with limited English proficiency and provide recommendations to the Senate and House Committees on Government Operations on or before January 15, 2022.

* * * Position Created * * *

Sec. 21. CREATION OF POSITION WITHIN THE OFFICE OF SECRETARY OF STATE; ELECTIONS

(a) There is created within the Secretary of State's office one new position in the Elections Division.

(b) Any funding necessary to support the position created in subsection (a) of this section shall be derived from the Secretary of State's Service Fund.

* * * Effective Date * * *

Sec. 22. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended by striking out Sec. 21 in its entirety and inserting in lieu thereof a new Sec. 21 to read as follows:

Sec. 21. CREATION AND FUNDING OF POSITION WITHIN THE OFFICE OF SECRETARY OF STATE; ELECTIONS

(a) There is established within the Secretary of State's office one new classified Elections Assistant Director position in the Elections Division.

(b) In fiscal year 2021, $125,000.00 is appropriated from the Secretary of State's Service Fund to the Secretary of State to support the position created in subsection (a) of this section. Any funds needed to support this position in fiscal year 2022 shall be carried forward from fiscal year 2021 to fiscal year 2022 within the Secretary of State's Service Fund.

And that when so amended the bill ought to pass.

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

Thereupon, Senator Benning moved to amend the recommendation of the Committee on Government Operations, as amended, as follows:

By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

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

(b) Once an early voter absentee ballot has been returned to the clerk in the envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason unless the ballot is deemed defective under subdivision 2546(a)(2) of this subchapter and the voter chooses to cure the defect and cast the ballot pursuant to subsection 2547(d) of this subchapter.

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

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

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

(B) to any secure ballot drop box provided by the town or city in which the voter is registered pursuant to section 2543a of this subchapter before the close of business on the day before the election;

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

~~(C)~~(D) by hand delivery to the presiding officer at the voter's polling place before the closing of the polls at 7:00 p.m.

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

(e) A candidate whose name appears on the ballot for that election, or a paid campaign staff member of any such candidate, may not return a ballot to the town clerk or to a secure ballot drop box, unless that candidate or paid campaign staff member:

(1) is returning the candidate's or paid campaign staff member's own ballot;

(2) is returning the ballot of an immediate family member, as defined in section 2532 of this title, including a person's spouse, children, brothers,

sisters, parents, spouse's parents, grandparents, and spouse's grandparents, who has requested the candidate's or paid campaign staff member's assistance with the return of that ballot;

(3) is returning the ballot of a voter for whom the candidate or paid campaign staff member is a caretaker, and who has requested their assistance with the return of that ballot; or

(4) is a justice of the peace performing his or her official duties pursuant to section 2538 of this title.

(f) The clerk or other local election official accepting the return of ballots shall not be required to enforce the provisions of subsection (e) of this section but shall report any suspected violations to the Secretary of State's office, who shall refer them to the Attorney General's office for investigation. Candidates violating this section may be subject to penalties pursuant to section 2017 of this title.

Which was agreed to on a roll call, Yeas 28, Nays 2.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Benning, Bray, Brock, Campion, Chittenden, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingalls, Kitchel, Lyons, MacDonald, Mazza, Nitka, Parent, Perchlik, Pollina, Ram, Sears, Sirotkin, Starr, Terenzini, Westman, White.

Those Senators who voted in the negative were: McCormack, Pearson.

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

Bill Passed

Senate bill of the following title:

S. 7. An act relating to expanding access to expungement and sealing of criminal history records.

Was read the third time and passed on a roll call, Yeas 30, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Bill Passed

S. 78.

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

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

Adjournment

On motion of Senator Balint, the Senate adjourned until twelve o'clock and thirty minutes in the afternoon on Wednesday, March 17, 2021.

WEDNESDAY, MARCH 17, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 34

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 133. An act relating to emergency relief from abuse orders and relinquishment of firearms.

H. 420. An act relating to miscellaneous agricultural subjects.

H. 421. An act relating to animal cruelty investigation response and training.

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

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. 48. An act relating to Vermont's adoption of the interstate Nurse Licensure Compact.

S. 124. An act relating to miscellaneous utility subjects.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 126.

By Senator Westman,

An act relating to the collection and recycling of electronic waste.

To the Committee on Natural Resources and Energy.

Bills Referred

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

H. 133.

An act relating to emergency relief from abuse orders and relinquishment of firearms.

To the Committee on Judiciary.

H. 420.

An act relating to miscellaneous agricultural subjects.

To the Committee on Agriculture.

H. 421.

An act relating to animal cruelty investigation response and training.

To the Committee on Agriculture.

Bill Passed

S. 107.

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

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

Third Reading Ordered

S. 115.

Senate committee bill entitled:

An act relating to making miscellaneous changes in education laws.

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

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Hardy moved to amend the bill in Sec. 11, 16 V.S.A. § 1432 (menstrual products), as follows:

First: In subsection (a), by striking out the words "the embarrassment of"

Second: In subsection (b), by striking out subdivision (1)(A) in its entirety and inserting in lieu thereof a new subdivision (A) to read as follows:

(A) a majority of gender-neutral bathrooms and bathrooms designated for female students that are generally used by students in any of grades five through 12; and

Third: In subsection (b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) The school district or independent school, in consultation with the school nurse who provides services to the school, shall determine which of the gender-neutral bathrooms and bathrooms designated for female students to stock with menstrual products and which brands to use.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 1.

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

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

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

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

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT

(a) ~~In~~ As used in this section:

(1) "Baseload renewable power" means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) "Baseload renewable power portfolio requirement" means ~~an annual average of 175,000 MWh~~ the actual output of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) "Biomass" means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of subdivision 8002~~(17)~~(21) of this title.

(4) [Repealed.]

(b) Notwithstanding subsection 8004(a) and subdivision 8005~~(d)~~(c)(1) of this title, commencing November 1, 2012, ~~the electricity supplied by~~ each Vermont retail electricity ~~provider to its customers~~ shall ~~include~~ purchase the provider's pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, ~~2022~~ 2024.

* * *

Sec. 2. PUBLIC UTILITY COMMISSION ORDER EXTENSION

All decisions and orders of the former Public Service Board and the Public Utility Commission in the matter Investigation into the Establishment of a Standard-Offer Price for Baseload Renewable Power under the Sustainably Priced Energy Enterprise Development (SPEED) Program, Docket No. 7782, shall remain in full force and effect through October 31, 2024. For years 2023 and 2024, the purchase price shall be the levelized value determined in Docket No. 7782.

Sec. 3. BASELOAD RENEWABLE POWER PORTFOLIO REQUIREMENT; COLOCATION REPORT

On or before January 15, 2023, the owner of the baseload renewable power

plant subject to 30 V.S.A. § 8009(b) shall report to the General Assembly on whether a project utilizing the excess thermal energy generated by the plant has been developed and is operational, or when a project utilizing the excess thermal energy generated by the plant will be operational.

Sec. 4. PLANT CLOSURE CONTINGENCY PLAN

On or before March 1, 2022, the Secretary of Commerce and Community Development in consultation with the Commissioner of Forests, Parks, and Recreation shall report to the Senate Committee on Finance and the House Committee on Energy and Technology a contingency plan to address how to reduce the economic impacts that may occur if the baseload renewable power plant closes. The plan shall address how to remediate harm to the workforce impacted by the closure of the plant, the forestry industry, and forest health.

Sec. 5. 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.

Bill Amended; Third Reading Ordered

S. 16.

Senator Hooker, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to the creation of the School Discipline Advisory Council.

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Nationally, millions of students are removed from the classroom each year for disciplinary reasons.

(2) U.S. Department of Education data reveals that in the 2013–2014 school year, of the 50 million students nationally enrolled in schools:

(A) 2.7 million received in-school suspensions;

(B) 1.6 million received one out-of-school suspension;

(C) 1.1 million received more than one out-of-school suspension; and

(D) 111,215 were expelled.

(3) Exclusionary discipline is used mostly in middle and high schools, and mostly for minor misconduct, according to the Council on State Governments' Justice Center.

(4) Students who are suspended are at significantly higher risk of academic failure, of dropping out of school, and of entering the juvenile justice system according to the Council on State Governments' Justice Center.

(5) Nationally, students of certain racial and ethnic groups and students with disabilities are disciplined at higher rates than their peers, beginning in preschool, as evidenced by 2013–2014 data from the U.S. Department of Education's Office for Civil Rights.

(A) Black students, representing approximately 15 percent of the U.S. student population, are suspended and expelled at a rate two times greater than White students, representing approximately 50 percent of the U.S. student population.

(B) Students with disabilities who have individualized education plans (IEPs) are more likely to be suspended than students without disabilities.

(6)(A) According to the Agency of Education's Report on Exclusionary Discipline Response, January 2017, for the 2015–2016 school year, 3,616 Vermont public school students were excluded, representing 4.7 percent of total enrollment.

(B) The Agency of Education found that students who are non-Caucasian, participate in the free and reduced lunch program, have Section 504 or IEP plans, male, or are English Learners are over-represented in terms of the number who experience exclusion and the number of incidents resulting in exclusion.

(C) Use of school discipline strategies, such as exclusionary discipline, restraint, seclusion, referral to law enforcement, and school-related arrest, varies widely throughout the State.

(7) Valuable data on school discipline in Vermont is largely unavailable and incomplete.

(A) Vermont does not publicly report any discipline data on the Agency of Education website, even if this data has been collected by schools and districts and reported to the Agency of Education.

(B) Some relevant data is not readily available from the Vermont Agency of Education, such as the total number of school days missed by students due to suspension or expulsion.

(C) Other relevant data is not maintained by the Vermont Agency of Education, such as data indicating whether students received educational services during suspensions, beyond federal requirements for certain students with disabilities.

(D) The public school discipline data that Vermont submitted to the U.S. Department of Education's Civil Rights Data Collection for the

2013–2014 school year, while available, is incomplete and may be inaccurate.

(8) More data on school discipline practices in Vermont is necessary to understand what strategies are effective and to encourage the adoption of these strategies at the local level.

Sec. 2. TASK FORCE ON SCHOOL EXCLUSIONARY DISCIPLINE REFORM; REPORT

(a) Creation. There is created the Task Force on School Exclusionary Discipline Reform. The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and compile data regarding school discipline in Vermont public and approved independent schools in order to inform strategic planning, guide statewide and local decision making and resource allocation, and measure the effectiveness of statewide and local policies and practices.

(b) Membership. The Task Force shall be composed of the Secretary of Education and not more than 20 members appointed by the Secretary of Education, who shall be Vermont residents and a balanced representation of the following:

(1) educators;

(2) school administrators;

(3) high school students;

(4) special educators;

(5) parents of students;

(6) school board members; and

(7) members of community groups working in the areas of racial justice and school discipline reform.

(c) Membership diversity. The Secretary shall seek, in making appointments to the Task Force, racial diversity in membership and shall

include representation of public and approved independent schools, including therapeutic schools.

(d) Powers and duties. The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and, taking into account the Vermont Youth Risk Behavior Survey issued by the Department of Health, shall perform the following tasks:

(1) review in-school services and availability of these services in various supervisory unions, approved independent schools, and regions of the State that are available to support students who would otherwise face exclusionary discipline;

(2) recommend additional or more uniform in-school services that should be available to:

(A) students who are under eight years of age where expulsion is not permitted under 16 V.S.A. § 1162 as amended by this act; and

(B) other students who would otherwise face exclusionary discipline;

(3) define the most serious behaviors that, after considering all other alternatives and supports, should remain eligible for suspension or expulsion;

(4) identify best practice procedures that minimize law enforcement contacts for students facing in-school or exclusionary discipline;

(5) compile, on a school-district and approved independent schools basis, the available data and the data collection processes regarding suspensions and expulsions and compile additional data necessary to inform the work of the Task Force, including:

(A) the total number of instances of expulsions and suspensions in each grade operated by the district or approved independent school;

(B) the total number of students in each grade operated by the district or approved independent school who were expelled or suspended and the number of instances of expulsion or suspension, or both, for each student;

(C) the duration of each instance of expulsion and suspension;

(D) the infraction for which each expulsion and suspension was imposed; and

(E) each instance of referral to local law enforcement authorities or the juvenile justice system;

(6) recommend changes to the types of data collected and the data collection processes regarding suspensions and expulsions, as necessary, for

the collection of all appropriate data related to school discipline; and

(7) review how other states address exclusionary discipline.

(e) Report. On or before November 30, 2021, the Task Force shall submit a written report to the House and Senate Committees on Education with its findings, addressing each of its duties under subsection (d), and any recommendations for legislative action. The Agency of Education shall share the report and any related insights and best practices with Vermont educators, school administrators, policymakers, agencies, and education and advocacy organizations, and shall post the report on its website.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Task Force to occur on or before August 1, 2021.

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

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

(4) The Task Force shall meet not more than six times.

(g) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Agency of Education.

(h) Compensation and reimbursement. Members of the Task Force 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 of the Task Force.

Sec. 3. APPROPRIATION

The sum of $15,000.00 is appropriated from the General Fund in fiscal year 2022 to the Agency of Education for per diem and reimbursement of expenses for members of the Task Force on School Exclusionary Discipline Reform created under Sec. 2 of this act and for expenses incurred by the Task Force in carrying out its duties.

Sec. 4. DATA COLLECTION; SECRETARY OF EDUCATION

(a) On or before the first meeting of the Task Force established in Sec. 2 of this act, the Secretary of Education shall collect and distribute to the members of the Task Force all readily available data on suspensions and expulsions from each Vermont public school and approved independent school in academic years 2013–2014 through 2018–2019, including the data specified in subdivision (d)(1)(E) of Sec. 2.

(b) On or before July 1, 2022, the Secretary of Education and the State Board of Education shall incorporate the Task Force's data collection and

practices recommendations developed in subdivision (d)(1)(f) of Sec. 2 of this act into their data collection rules and procedures and, to the extent permitted by 20 U.S.C. § 1232g (family educational and privacy rights) and any regulations adopted thereunder, shall require the collection of data as recommended by the Task Force beginning with the 2023–2024 school year.

Sec. 5. OUTCOME ANALYSIS

On or before January 15 of each year from 2025 to 2030, the Secretary of Education shall submit a written report to the House and Senate Committees on Education on suspensions and expulsions from each Vermont public school and approved independent school in the prior school year, including the data specified in subdivision (d)(1)(E) of Sec. 2.

Sec. 6. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

* * *

(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school who is under eight years of age shall not be expelled from the school; provided, however, that the school may expel the student if the student poses a threat of harm or danger to others in the school.

Sec. 7. REFERRALS OF TRUANCY TO THE STATE'S ATTORNEYS

(a) On or before September 1, 2021, each school district shall report to the Agency of Education the number of cases referred by the district or its staff to a State's Attorney for truancy under 16 V.S.A. § 1127 or 33 V.S.A. § 5309, what mitigation techniques were used by the district to engage with families prior to each referral, and the result of each referral.

(b) On or before December 15, 2021, the Agency of Education shall collate the reports from school districts and report the results to the General Assembly.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to the creation of the Task Force on School Exclusionary Discipline Reform.

And that when so amended the bill ought to pass.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Education?, Senators Campion, Balint, Hardy and Hooker moved to amend the recommendation of the Committee on Education as follows:

In Sec. 2, Task Force on Exclusionary Discipline Reform; report, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) Powers and duties.

(1) The Task Force shall make recommendations to end suspensions and expulsions for all but the most serious student behaviors and, taking into account the Vermont Youth Risk Behavior Survey issued by the Department of Health, shall perform the following tasks:

(A) review in-school services and availability of these services in various supervisory unions, approved independent schools, and regions of the State that are available to support students who would otherwise face exclusionary discipline;

(B) recommend additional or more uniform in-school services that should be available to:

(i) students who are under eight years of age where expulsion is not permitted under 16 V.S.A. § 1162 as amended by this act; and

(ii) other students who would otherwise face exclusionary discipline;

(C) define the most serious behaviors that, after considering all other alternatives and supports, should remain eligible for suspension or expulsion;

(D) identify best practice procedures that minimize law enforcement contacts for students facing in-school or exclusionary discipline;

(E) compile, on a school-district and approved independent schools basis, the available data and the data collection processes regarding suspensions and expulsions and compile additional data necessary to inform the work of the Task Force, including:

(i) the total number of instances of expulsions and suspensions in each grade operated by the district or approved independent school;

(ii) the total number of students in each grade operated by the district or approved independent school who were expelled or suspended and the number of instances of expulsion or suspension, or both, for each student;

(iii) the duration of each instance of expulsion and suspension;

(iv) the infraction for which each expulsion and suspension was imposed;

(v) each instance of referral to local law enforcement authorities, the juvenile justice system, community justice center, State's Attorneys Offices, Department for Children and Families, or other juvenile justice-related authority;

(vi) each instance in which a civil, criminal, or juvenile citation was the consequence for a school-related infraction; and

(vii) each instance in which an excluded student received reeducational services, as well as the duration of reeducational services per day, per week, and per month;

(F) recommend changes to the types of data collected and the data collection processes regarding suspensions and expulsions, as necessary, for the collection of all appropriate data related to school discipline, including recommendations on the types of data collected and data collection processes to reflect the contribution of social determinants to instances of suspensions and expulsions; and

(G) review how other states address exclusionary discipline.

(2) All data specified in subdivision (1)(E) of this subsection shall be in disaggregated format by, at a minimum, the following subgroups and categories to the extent permitted by federal and State privacy laws and to the extent information is available:

(A) White;

(B) Black;

(C) Hispanic;

(D) American Indian/Alaskan Native;

(E) Asian, Pacific Islander/Hawaiian Native;

(F) low-income/free or reduced lunch;

(G) Limited English Proficient or English Language Learner;

(H) migrant status;

(I) students receiving special education services;

(J) students on educational plans under Section 504 of the Rehabilitation Act of 1973;

(K) gender;

(L) sexual orientation;

(M) foster care status;

(N) homeless status; and

(O) grade level.

(3) All data specified in subdivision (1)(E) of this subsection shall be cross-tabulated by, at a minimum, the following subgroups and categories to the extent permitted by federal and State privacy laws and to the extent information is available:

(A) school;

(B) school district;

(C) race;

(D) low-income/free or reduced lunch;

(E) Limited English Proficient or English Language Learner;

(F) migrant status;

(G) students receiving special education services;

(H) students on educational plans under Section 504 of the Rehabilitation Act of 1973;

(I) gender;

(J) sexual orientation;

(K) foster care status;

(L) homeless status;

(M) grade level;

(N) behavior infraction code;

(O) intervention applied, including restraint and inclusion; and

(P) educational services provided.

Which was agreed to.

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

Bill Amended; Third Reading Ordered

S. 20.

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

An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products.

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

* * * PFAS in Class B Firefighting Foam * * *

Sec. 1. 18 V.S.A. chapter 33 is added to read:

CHAPTER 33. PFAS IN FIREFIGHTING AGENTS AND EQUIPMENT

§ 1661. DEFINITIONS

As used in this chapter:

(1) "Class B firefighting foam" means chemical foams designed for flammable liquid fires.

(2) "Department" means the Vermont Department of Health.

(3) "Personal protective equipment" means clothing designed, intended, or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for use in fire and rescue activities, and includes jackets, pants, shoes, gloves, helmets, and respiratory equipment.

(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(5) "Manufacturer" means any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of firefighting agents or equipment. As used in this subsection, "importer" means the owner of the product.

(6) "Municipality" means any city, town, incorporated village, town fire district, or other political subdivision that provides firefighting services pursuant to general law or municipal charter.

(7) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

§ 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

A person, municipality, or State agency shall not discharge or otherwise use for training purposes class B firefighting foam that contains intentionally added PFAS.

§ 1663. RESTRICTION ON MANUFACTURE, SALE, AND DISTRIBUTION; EXCEPTIONS

(a) A manufacturer of class B firefighting foam shall not manufacture, sell, offer for sale, or distribute for sale or use in this State class B firefighting foam to which PFAS have been intentionally added.

(b) Notwithstanding subsection (a) of this section, any manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS is required by federal law, including the requirements of 14 C.F.R. 139.317 (aircraft rescue and firefighting: equipment and agents), as that section existed as of January 1, 2020, is allowed. In the event that applicable federal regulations change after that date to allow the use of alternative firefighting agents that do not contain PFAS, the Department shall adopt rules that restrict PFAS for the manufacture, sale, and distribution of firefighting foam for uses that are addressed by federal regulation.

§ 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT CONTAINING PFAS

(a) A manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency shall provide written notice to the purchaser at the time of sale if the personal protective equipment contains PFAS. The written notice shall include a statement that the personal protective equipment contains PFAS and the reason PFAS are added to the equipment.

(b) The manufacturer or person selling personal protective equipment and the purchaser of the personal protective equipment shall retain the notice for at least three years from the date of the transaction. Upon request of the Department, a person, manufacturer, or purchaser shall furnish the notice or written copies and associated sales documentation to the Department within 60 days.

§ 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

(a) A manufacturer of class B firefighting foam prohibited pursuant to section 1663 of this title shall notify, in writing, persons that sell the manufacturer's products in this State about the provisions of this chapter not less than one year prior to the effective date of the restrictions.

(b) A manufacturer that produces, sells, or distributes a class B firefighting foam prohibited pursuant to section 1663 of this title shall recall the product

and reimburse the retailer or any other purchaser for the product.

§ 1666. CERTIFICATE OF COMPLIANCE

(a) The Department may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. A certificate of compliance attests that a manufacturer's product or products meet the requirements of this chapter.

(b) The Department shall assist other State agencies and municipalities to avoid purchasing or using class B firefighting foams to which PFAS have been intentionally added. The Department shall assist other State agencies, town fire districts, and other municipalities to give priority and preference to the purchase of personal protective equipment that does not contain PFAS.

§ 1667. PENALTIES

A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

* * * PFAS, Phthalates, and Bisphenols in Food Packaging * * *

Sec. 2. 18 V.S.A. chapter 33A is added to read:

CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

§ 1671. DEFINITIONS

As used in this chapter:

(1) "Bisphenols" means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(2) "Department" means the Department of Health.

(3) "Food packaging" means a package that is designed for direct food contact, including a food or beverage product that is contained in a food package or to which a food package is applied, a packaging component of a food package, and plastic disposable gloves used in commercial or institutional food service.

(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(5) "Package" means a container providing a means of marketing, protecting, or handling a product and shall include a unit package, an

intermediate package, and a shipping container. "Package" also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

(6) "Packaging component" means an individual assembled part of a package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

(7) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

(8) "Phthalates" means any member of the class of organic chemicals that are esters of phthalic acid.

§ 1672. FOOD PACKAGING

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package to which PFAS have been intentionally added in any amount.

(b) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules prohibiting a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package to which bisphenols have been intentionally added in any amount greater than an incidental presence.

(1) The Department may only prohibit a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with this subsection if the Department has determined that a safer alternative is readily available in sufficient quantity and at a comparable cost and that the safer alternative performs as well as or better than bisphenols in a specific application of bisphenols to a food package or the packaging component of a food package.

(2) If the Department prohibits a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with this subsection, the prohibition shall not take effect until two years after the Department determines that a safer alternative to bisphenols is available.

(c) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which phthalates have been intentionally added in any amount greater than an incidental presence.

(d) This section shall not apply to the sale or resale of used products.

§ 1673. CERTIFICATE OF COMPLIANCE

A manufacturer subject to the prohibitions under this chapter shall develop a certificate of compliance under this section. A certificate of compliance attests that a manufacturer's product or products meet the requirements of this chapter. If the Department requests such a certificate, the manufacturer shall provide the certificate within 30 calendar days after the request is made.

§ 1674. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner of Health shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

* * * Rugs, Carpets, and Aftermarket Stain and Water Resistant Treatments * * *

Sec. 3. 18 V.S.A. chapter 33B is added to read:

CHAPTER 33B. PFAS IN RUGS, CARPETS, AND AFTERMARKET STAIN AND WATER RESISTANT TREATMENTS

§ 1681. DEFINITIONS

As used in this chapter:

(1) "Aftermarket stain and water resistant treatments" means treatments for textile and leather consumer products used in residential settings that have been treated during the manufacturing process for stain, oil, and water resistance, but excludes products marketed or sold exclusively for use at industrial facilities during the manufacture of a carpet, rug, clothing, or shoe.

(2) "Department" means the Department of Health.

(3) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(4) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

(5) "Rug or carpet" means a thick fabric used to cover floors.

§ 1682. RUGS AND CARPETS

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a residential rug or carpet to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1683. AFTERMARKET STAIN AND WATER RESISTANT TREATMENTS

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State aftermarket stain and water resistant treatments for rugs or carpets to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1684. CERTIFICATE OF COMPLIANCE

A manufacturer subject to the prohibitions under this chapter shall develop a certificate of compliance under this section. A certificate of compliance attests that a manufacturer's product or products meet the requirements of this chapter. If the Department requests such a certificate, the manufacturer shall provide the certificate within 30 calendar days after the request is made.

§ 1685. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

* * * Ski Wax * * *

Sec. 4. 18 V.S.A. chapter 33C is added to read:

CHAPTER 33C. PFAS IN SKI WAX

§ 1691. DEFINITIONS

As used in this chapter:

(1) "Department" means the Department of Health.

(2) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(3) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in section 1661 of this title.

(4) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

§ 1692. SKI WAX

(a) A manufacturer, supplier, or distributor shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State ski wax or related tuning products to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 1693. CERTIFICATE OF COMPLIANCE

A manufacturer subject to the prohibitions under this chapter shall develop a certificate of compliance under this section. A certificate of compliance attests that a manufacturer's product or products meet the requirements of this chapter. If the Department requests such a certificate, the manufacturer shall provide the certificate within 30 calendar days after the request is made.

§ 1694. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

* * * Chemicals of High Concern to Children * * *

Sec. 5. 18 V.S.A. § 1773 is amended to read:

§ 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

(a) List of chemicals of high concern to children. The following chemicals or a member of a class of chemicals are designated as chemicals of high concern to children for the purposes of the requirements of this chapter:

* * *

(67) Perfluoroalkyl and polyfluoroalkyl substances, the class for fluorinated organic chemicals containing at least one fully fluorinated carbon atom or a chemical compound meant to replace perfluoroalkyl and polyfluoroalkyl substances that has similar chemical properties.

(68) Any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.

* * *

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that Secs. 1 (class B firefighting foam) and 5 (chemicals of high concern to children) shall take effect on July 1, 2022 and Secs. 2 (food packaging), 3 (rugs and carpets), and 4 (ski wax) shall take effect on July 1, 2023.

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.

Adjournment

On motion of Senator Balint, the Senate adjourned until eleven o'clock in the morning on Thursday, March 18, 2021.

THURSDAY, MARCH 18, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

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:

Madam President:

I am directed by the Governor to inform the Senate that on the seventeenth day of March he approved and signed a bill originating in the Senate of the following title:

S. 110. An act relating to extending eligibility for Pandemic Emergency Unemployment Compensation.

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:

Madam President:

I am directed to inform the Senate that:

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

S. 117. An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

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

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. 79. An act relating to improving rental housing health and safety.

S. 101. An act relating to promoting housing choice and opportunity in smart growth areas.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 127.

By Senator Sears,

An act relating to a pilot project for a Department of Corrections report to assist the court setting conditions of probation.

To the Committee on Judiciary.

Bill Amended; Bill Passed

S. 15.

Senate bill entitled:

An act relating to correcting defective ballots.

Was taken up.

Thereupon, pending third reading of the bill, Senator Parent moved to amend the bill by adding a new section to be numbered Sec. 21a to read as follows:

Sec. 21a. VOTING ACCESS; REPORT

On or before January 30, 2023, the Secretary of State's office shall submit a written report to the House and Senate Committees on Government Operations with its findings and any recommendations for legislative action on:

(a) issues related to implementing universal vote by mail for municipal and primary elections; and

(b) the impact expanding vote by mail would have on:

(A) access to voting among those who have historically been disenfranchised and populations that have historically had low voter turnout;

(B) public satisfaction with the voting process; and

(C) the administration of elections.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 27, Nays 3.

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

Roll Call

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

Those Senators who voted in the negative were: Collamore, Ingalls, *Terenzini.

*Senator Terenzini explained his vote as follows:

"Madam President,

"I offer an explanation to you, my senate colleagues, and my constituents as to why I voted NO against S.15, the universal mail-in voting bill.

"I, along with so many of my colleagues have had the pleasure of serving as ballot clerks, as Justices of the Peace, as members of a select board, and as people who have been champions for free and fair elections.

"I have spent time at countless events registering voters and encouraging others to participate in our elections, regardless of who they decide to vote for!

"Our right to vote in this country is a cornerstone of our democracy. It's what sets us apart from other nations and makes America as special as it is.

"Everyone should have the ability to vote in an election if they choose. However, we already provide the opportunity for all Vermonters to vote by mail in they choose. If a registered voter cannot make it to the polls on election day, or decides that they wish to vote by mail, all that's needed is a simple phone call to your clerk's office to request a ballot. This fulfills your request as a voter, allows you to vote, and creates a record of your request.

"I also heard from several local town clerks who were not in favor of this bill. As they are the local election officers, their consideration was a deciding factor of mine.

"I want to make it clear that I did not vote against this measure because I believe that we saw wide-spread voter fraud in November. I simply don't see that to be the case. However, voting is one of life's great responsibilities and

having a record of your request is simply a measure that protects the integrity of the election.

"Voting is everyone's right, but with that right comes great responsibility."

Bill Amended; Third Reading Ordered

S. 30.

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

An act relating to prohibiting possession of firearms at childcare facilities, hospitals, and certain public buildings.

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. § 4023 is added to read:

§ 4023. POSSESSION OF FIREARMS IN HOSPITAL BUILDINGS PROHIBITED

(a) A person shall not knowingly possess a firearm while within a hospital building.

(b) A person who violates this section shall be imprisoned for not more than one year or fined not more than $1,000.00, or both.

(c) This section shall not apply to a firearm possessed by a federal law enforcement officer or a law enforcement officer certified as a law enforcement officer by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. § 2358, for legitimate law enforcement purposes.

(d) Notice of the provisions of this section shall be posted conspicuously at each public entrance to each hospital.

(e) As used in this section:

(1) "Firearm" has the same meaning as in subsection 4017(d) of this title.

(2) "Hospital" has the same meaning as in 18 V.S.A. § 1902.

Sec. 2. CAPITOL COMPLEX SECURITY ADVISORY COMMITTEE; REPORT ON FIREARMS IN STATE HOUSE

On or before December 1, 2021, the Capitol Complex Security Advisory Committee shall report to the Joint Justice Oversight Committee on the regulation of firearms in the Capitol Complex as defined in 29 V.S.A. § 182. The report shall:

(1) summarize how the possession of firearms at the Capitol Complex is currently regulated, including pursuant to Rule 26 of the Joint Rules of the Senate and House of Representatives;

(2) describe situations when persons have impermissibly possessed firearms at the Capitol Complex in the past and how these situations are typically handled; and

(3) recommend whether and how the issue of firearms at the Capitol Complex should be addressed in legislation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

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

An act relating to prohibiting possession of firearms within hospital buildings.

And that when so amended the bill ought to pass.

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

Thereupon, Senator Benning requested that the question be divided and that be voted on separately.

Thereupon, the bill was amended as recommended in Secs 1 and 3 on a roll call, Yeas 20, Nays 9.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Bray, Campion, Chittenden, Clarkson, Hardy, Hooker, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin, Westman.

Those Senators who voted in the negative were: Benning, Brock, Collamore, Ingalls, Mazza, Parent, Starr, Terenzini, *White.

The Senator absent and not voting was: Cummings.

*Senator White explained her vote as follows:

"As an original cosponsor of this bill I know many are surprised by my vote. On listening to the testimony this was the conclusion I came to. Our Defender General asks four questions when considering a new crime - these two are relevant to my vote: is there another law to deal with this situation and

will it have the intended impact. Without going into detail about the no trespass statute I believe that in fact this is a law to address this issue. And to the intended impact - I do not believe that this law will deter someone with ill intent."

Thereupon, the bill was amended as recommended in Sec. 2 on a roll call, Yeas 19, Nays 10.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Bray, Campion, Chittenden, Clarkson, Hardy, Hooker, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin.

Those Senators who voted in the negative were: Benning, Brock, Collamore, Ingalls, Mazza, Parent, Starr, Terenzini, Westman, White.

The Senator absent and not voting was: Cummings.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 47.

Senator Perchlik, for the Committee on Transportation, to which was referred Senate bill entitled:

An act relating to motor vehicle manufacturers and motor vehicle warranty or service facilities.

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. § 4085(13) is amended to read:

(13) "New motor vehicle dealer" means any person ~~engaged in the business of~~ who holds, or held at the time a cause of action under this chapter accrued, a valid sales and service agreement, franchise, or contract granted by the manufacturer or distributor for the retail sale of said manufacturer's or distributor's new motor vehicles, is not affiliated by ownership or control with a franchisor, and is engaged in the business of any of the following with respect to new motor vehicles or the parts and accessories for those new motor vehicles:

(A) selling~~,~~ or leasing;

(B) offering to sell~~,~~ or lease;

(C) soliciting~~,~~ or advertising the sale or lease; or

(D) ~~of new motor vehicles and who holds, or held at the time a cause of action under this chapter accrued, a valid sales and service agreement, franchise, or contract, granted by the manufacturer or distributor for the retail sale of said manufacturer's or distributor's new motor vehicles~~ offering through a subscription or like agreement.

Sec. 2. 9 V.S.A. § 4085(18) is added to read:

(18) "Non-franchised zero emissions vehicle manufacturer" means a manufacturer that:

(A) only manufacturers zero-emission vehicles, including plug-in electric vehicles as defined in 23 V.S.A. § 4(85);

(B) only sells or leases directly to consumers new or used zero-emission vehicles that it manufactures or vehicles that have been traded in in conjunction with a new zero-emission vehicle sale;

(C) does not currently sell or lease, and has never sold or leased, motor vehicles in Vermont through a franchisee;

(D) has not sold or transferred a combined direct or indirect ownership interest of greater than 30 percent in such non-franchised zero emissions vehicle manufacturer to a franchisor, subsidiary, or other entity controlled by a franchisor or has not acquired a combined direct or indirect ownership interest of greater than 30 percent in a franchisor, subsidiary, or other entity controlled by a franchisor; and

(E) is a dealer registered pursuant to 23 V.S.A. chapter 7, subchapter 4.

Sec. 3. 9 V.S.A. § 4086(i) is amended to read:

(i) It is unlawful for a franchisor, manufacturer, factory branch, distributor branch, or subsidiary to own, operate, or control, either directly or indirectly, a motor vehicle warranty or service facility located in the State except:

(1) on an emergency or interim basis ~~or~~;

(2) if no qualified applicant has applied for appointment as a dealer in a market previously served by a new motor vehicle dealer of that manufacturer's line-make; or

(3) if the manufacturer is a non-franchised zero emissions vehicle manufacturer that directly owns, operates, and controls the warranty or service facility.

Sec. 4. 9 V.S.A. § 4097 is amended to read:

§ 4097. MANUFACTURER VIOLATIONS

It shall be a violation of this chapter for any manufacturer defined under this chapter:

* * *

(8)(A) To compete with a new motor vehicle dealer ~~in the same line-make~~ operating under an agreement or franchise from the aforementioned manufacturer ~~in the relevant market area~~ in the State.

(B) For purposes of this subdivision (8), any manufacturer that is not a non-franchised zero-emission vehicle manufacturer, competes with a new motor vehicle dealer if it engages in the business of any of the following with respect to new motor vehicles or the retail sale of parts and accessories for those new motor vehicles:

(i) selling or leasing;

(ii) offering to sell or lease;

(iii) soliciting or advertising the sale or lease; or

(iv) offering through a subscription or like agreement.

(C) A manufacturer shall not, however, be deemed to be competing when operating a dealership either temporarily for a reasonable period, or in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

* * *

Sec. 5. AMENDMENTS TO THE MOTOR VEHICLE MANUFACTURERS, DISTRIBUTORS, AND DEALERS FRANCHISING PRACTICES ACT; CREATION OF A DIRECT SHIPPER LICENSE; REPORT

(a) It is the intent of the General Assembly to amend the Motor Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act, 9 V.S.A. chapter 108, in the 2021 Adjourned Session. Amendments may address facility requirements as regulated under 9 V.S.A. § 4096, warranty and predelivery obligations under 9 V.S.A. § 4086, potentially unreasonable

standards contained in franchise agreements, and the protection of consumer data.

(b) Any persons that are interested in proposing amendments to the Motor Vehicle Manufacturers, Distributors, and Dealers Franchising Practices Act, 9 V.S.A. chapter 108, shall provide them to the Department of Motor Vehicles not later than December 1, 2021 through an e-mail address to be posted on the website for the Department of Motor Vehicles. Persons may also file proposals on the establishment of a direct shipper license to be administered by the Department of Motor Vehicles with the Department of Motor Vehicles not later than December 1, 2021, through the same e-mail address that is posted on the website for the Department of Motor Vehicles. To the extent practicable, entities should cooperate and file joint proposals.

(c) The Department of Motor Vehicles shall file a written report containing any proposals it receives under subsections (a) and (b) of this section and its own proposal, if it so chooses, on the creation and implementation of a direct shipper license with the House and Senate Committees on Transportation, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs not later than January 15, 2022.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to motor vehicle manufacturers, dealers, and warranty or service facilities.

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.

Bills Passed

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

S. 1. An act relating to extending the baseload renewable power portfolio requirement.

S. 16. An act relating to the creation of the School Discipline Advisory Council.

S. 115. An act relating to making miscellaneous changes in education laws.

Adjournment

On motion of Senator Balint, the Senate adjourned until eleven o'clock in the morning.

FRIDAY, MARCH 19, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 36

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 10. An act relating to permitted candidate expenditures.

H. 46. An act relating to miscellaneous provisions of mental health law.

H. 104. An act relating to considerations in facilitating the interstate practice of health care professionals using telehealth.

H. 149. An act relating to modernizing statutes related to the Vermont National Guard.

H. 337. An act relating to the printing and distribution of State publications.

H. 366. An act relating to 2021 technical corrections.

The House has adopted joint resolution of the following title:

J.R.H. 5. Joint resolution authorizing, subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Boys State educational program to use the State House.

In the adoption 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. 19. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the Governor
Appointments Referred

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

The nomination of

Jepson, Lyle of Rutland - Member of the State Board of Education - from March 15, 2021 to February 28, 2027.

To the Committee on Education.

The nomination of

Lavoie, Kathy of Swanton - Member of the State Board of Education - from March 15, 2021 to February 28, 2027.

To the Committee on Education.

The nomination of

Lovett, Thomas of Waterford - Member of the State Board of Education - from March 15, 2021 to February 28, 2027.

To the Committee on Education.

Bill Referred to Committee on Finance

S. 25.

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

An act relating to miscellaneous cannabis regulation procedures.

Joint Resolution Placed on Calendar

J.R.H. 5.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing, subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Boys State educational program to use the State House

Whereas, the American Legion Department of Vermont sponsors the Green Mountain Boys State educational program, providing a group of boys entering the 12th grade a special opportunity to study the workings of State

government, including conducting a mock legislative session at the State House, and

Whereas, the COVID-19 pandemic has forced the temporary closure of the State House to the public, and the extent of permitted public access to the building on June 24, 2021 will be dependent on the prevailing public health situation, now therefore be it

Resolved by the Senate and House of Representatives:

That subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Boys State educational program is authorized to use the chambers and committee rooms of the State House on Thursday, June 24, 2021, from 8:00 a.m. to 4:15 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont.

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

Bills Referred

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

H. 10.

An act relating to permitted candidate expenditures.

To the Committee on Government Operations.

H. 46.

An act relating to miscellaneous provisions of mental health law.

To the Committee on Health and Welfare.

H. 104.

An act relating to considerations in facilitating the interstate practice of health care professionals using telehealth.

To the Committee on Health and Welfare.

H. 149.

An act relating to modernizing statutes related to the Vermont National Guard.

To the Committee on Government Operations.

H. 337.

An act relating to the printing and distribution of State publications.

To the Committee on Government Operations.

H. 366.

An act relating to 2021 technical corrections.

To the Committee on Government Operations.

Consideration Postponed

Senate bill entitled:

S. 10.

An act relating to extending certain unemployment insurance provisions related to COVID-19.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs, Senator Balint moved that consideration of the bill be postponed until Thursday, March 25, 2021, which was agreed to.

Bill Amended; Third Reading Ordered

S. 60.

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

An act relating to allowing municipal and cooperative utilities to offer innovative rates and services.

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

Sec. 1. 30 V.S.A. §§ 218d(n) and 218d(o) are added to read:

(n)(1) Notwithstanding subsection (a) of this section and sections 218, 225, 226, 227, and 229 of this title, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to change its rates for service to its customers if the rate change is:

(A) applied to all customers equally;

(B) not more than two percent during any twelve-month period;

(C) cumulatively not more than 10 percent from the rates last approved by the Commission; and

(D) not going to take effect more than 10 years from the last approval for a rate change from the Commission.

(2) The municipal company or electric cooperative shall provide written notice of a rate change pursuant to this subsection to its customers, the Department of Public Service, and the Commission at least 45 days prior to implementing the rate change. Included with the submission shall be a rate analysis describing the rationale for the rate change. Unless an objection to the rate change is filed by the Department of Public Service with the Commission within 45 days of this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may implement the rate change.

(3) If the Department does not object to the change within 30 days, five persons adversely affected by the change may apply at their own expense to the Commission by petition alleging why the change is unreasonable and unjust and asking that the Commission investigate the matter and make such orders as justice and law require.

(4) A municipal company or electric cooperative shall be eligible to change its rates pursuant to this subsection only if it has received approval for a rate change from its governing body at a duly warned meeting held for such purpose prior to filing its written notice with the Department and the Commission.

(5) The Commission shall establish, by rule or order, standards and procedures for implementing this subsection.

(o)(1) Notwithstanding subsections (a) and (n) of this section and sections 218, 225, 226, 227, and 229 of this title, a municipal company formed under local charter or under chapter 79 of this title and an electric cooperative formed under chapter 81 of this title shall be authorized to offer innovative rates or services to their customers as pilot programs without obtaining prior approval from the Commission if the rate or service:

(A) is designed to satisfy the requirements of subdivision 8005(a)(3) of this title or to advance the goals of the State Comprehensive Energy Plan;

(B) has a duration of 18 months or less; and

(C) shall not result in:

(i) plant additions of more than two percent of the municipal company's or electric cooperative's net plant capacity; or

(ii) an increase in the municipal company's or electric cooperative's overall cost-of-service by more than two percent.

(2) The municipal company or electric cooperative shall provide written notice of an innovative rate or service to its customers, the Department of Public Service, and the Commission at least 45 days prior to offering the innovative rate or service to its customers. Included with the submission shall be the terms and conditions of service. Unless an objection to the innovative rate or service is filed with the Commission within 45 days of this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may commence offering the innovative rate or service to its customers.

(3) The municipal company or electric cooperative shall provide written notice to the Department of Public Service and the Commission at least 45 days prior to the end of an innovative rate or service duration period with any proposed modifications to the terms and conditions. Unless an objection to the innovative rate or service is filed with the Commission within 45 days of this notice or the Commission orders an investigation on its own motion, the municipal company or electric cooperative may continue offering the innovative rate or service to its customers. The Commission may allow for the innovative rate or service to remain in effect pending the outcome of an investigation into the notice filing.

(4) The Commission may establish, by rule or order, standards and procedures for implementing and interpreting this section.

Sec. 2. EFFECTIVE DATE

This act 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. 88.

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

An act relating to insurance, banking, and securities.

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

Sec. 1. 8 V.S.A. § 2760b is amended to read:

§ 2760b. PROHIBITED ACTIVITIES

* * *

(c) No person or any other entity, other than a licensee, shall use the ~~title~~ titles "debt adjuster," "budget planner," "licensed debt adjuster," or "licensed budget planner" or the ~~term~~ terms "debt adjuster," "debt reduction," ~~or~~ "budget planning," or, in each case, words of similar import in any public advertisement, business card, or letterhead.

* * *

Sec. 2. 8 V.S.A. § 2102 is amended to read:

§ 2102. APPLICATION FOR LICENSE

* * *

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

* * *

(8) ~~For an application for any combination of lender license under chapter 73 of this title, mortgage broker license under chapter 73 of this title, loan solicitation license under chapter 73 of this title, or loan servicer license under chapter 85 of this title, $1,500.00 as a license fee and $1,500.00 as an application and investigation fee.~~ [Repealed.]

* * *

Sec. 3. 8 V.S.A. § 2109 is amended to read:

§ 2109. ANNUAL RENEWAL OF LICENSE

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

* * *

(8) ~~For any combination of lender license under chapter 73 of this title, mortgage broker license under chapter 73 of this title, loan solicitation license under chapter 73 of this title, or loan servicer license under chapter 85 of this title, $1,700.00.~~ [Repealed.]

* * *

Sec. 4. 8 V.S.A. § 2120(a)(4) is amended to read:

(4) If a licensee does not file its annual report on or before April 1, or within any extension of time granted by the Commissioner, the licensee shall pay to the Department ~~$100.00~~ $1,000.00 for each month or part of a month that the report is past due, beginning on the date that is five business days after April 1 or the last date of such extension, as applicable.

Sec. 5. 8 V.S.A. § 2405(a) shall be amended to read:

(a) ~~Each independent trust company shall annually file a report on its financial condition with the Commissioner on or before February 15 for the preceding year ending December 31~~ The Commissioner may require reports from any independent trust company doing a trust business in this State, containing such information, including on its financial condition, at such times and in such format as the Commissioner may prescribe. ~~The Commissioner may require additional reports from any independent trust company that is doing a trust business in this State. The Commissioner may accept a copy of any report from the primary regulator of the independent trust company if the Commissioner determines that the report is substantially similar to a report required under this section.~~

Sec. 6. 8 V.S.A. § 2105 is amended to read:

§ 2105. CONTENTS OF LICENSE; NONTRANSFERABLE

(a) A license shall state the address at which a licensee will conduct its business, shall state fully the name of the licensee, and, if the licensee is not an individual, shall state the date and place of its organization or incorporation.

(b) A mortgage loan originator license shall state fully the name of the individual, his or her sponsoring company, and the licensed location ~~at~~ to which he or she is ~~employed~~ assigned.

* * *

Sec. 7. 8 V.S.A. § 2122 is amended to read:

§ 2122. USE OF OTHER NAMES OR BUSINESS PLACES

(a) A licensee shall not conduct business or make a loan subject to regulation under this part under any other name or at any other place of

business than as specified in its license.

(b) Mortgage loan originators and employees of licensees may work remotely through a licensed location without being physically present at such location, provided the mortgage loan originator or employee is assigned to a licensed location, is adequately supervised by the licensee, and the licensee and the mortgage loan originator or employee meet such additional conditions as the Commissioner may require.

(c) This section does not apply to a commercial loan made to a borrower located outside Vermont for use outside Vermont.

Sec. 8. 8 V.S.A. § 2201 is amended to read:

§ 2201. LICENSES REQUIRED

* * *

(b) A licensed mortgage loan originator shall register and maintain a valid unique identifier with the Nationwide Multistate Licensing System and Registry and shall be either:

(1) An employee actively employed at or assigned to a licensed location of, and supervised and sponsored by, only one licensed lender or licensed mortgage broker operating in this State.

(2) An individual sole proprietor who is also a licensed lender or licensed mortgage broker.

(3) An employee engaged in loan modifications employed at or assigned to a licensed location of, and supervised and sponsored by, only one third-party loan servicer licensed to operate in this State pursuant to chapter 85 of this title. As used in this subsection, "loan modification" means an adjustment or compromise of an existing residential mortgage loan. The term "loan modification" does not include a refinancing transaction.

* * *

Sec. 9. 8 V.S.A. § 4806 is amended to read:

§ 4806. ~~SURRENDER OF LICENSE; LOSS OR DESTRUCTION~~ SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE

* * *

~~(c) Upon suspension, revocation, or termination of a license, the licensee shall forthwith deliver it to the Commissioner by personal delivery or by mail.~~ [Repealed.]

~~(d) Any licensee who ceases to maintain his or her residency in this State as defined in subdivision 4800(3) of this title, shall deliver his or her insurance license or licenses to the Commissioner by personal delivery or by mail within 30 days after terminating his or her residency.~~ [Repealed.]

~~(e) The Commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this subchapter upon an affidavit of the licensee prescribed by the Commissioner concerning the facts of the loss, theft, or destruction.~~ [Repealed.]

Sec. 10. 8 V.S.A. § 23(a) is amended to read:

(a) This section shall apply to all persons licensed, authorized, or registered, or required to be licensed, authorized, or registered, under ~~Parts 2 and 4 of~~ this title.

Sec. 11. 8 V.S.A. § 8301 is amended to read:

§ 8301. DEFINITIONS

As used in this chapter:

(1) "Adjusted risk based capital report" means a risk based capital report ~~which~~ that has been adjusted by the Commissioner in accordance with subsection 8302(e) of this title.

(2) "Commissioner" means the Commissioner of Financial Regulation.

(3) "Corrective order" means an order issued by the Commissioner specifying corrective actions ~~which~~ that the Commissioner has determined are required under this chapter.

(4) "Domestic insurer" means any insurance company organized in this State under subchapter 1 of chapter 101 of this title, any fraternal benefit society organized in this State under chapter 121 of this title, any health maintenance organization organized in this State under chapter 139 of this title, and any entity organized in this State under chapter 123 or 125 of this title.

(5) "Fraternal benefit society" means any insurance company licensed under chapter 121 of this title.

(6) "Foreign insurer" means any entity licensed to transact business in this State that is required to file a risk based capital statement in the state where the entity is domiciled.

(7) "Health maintenance organization" means any entity organized in the State under chapter 139 of this title.

(8) "Life or health insurer" means ~~any~~ an insurance company ~~who~~ that insures lives or health as defined in subdivisions 3301(a)(1) and (2) of this title, ~~any health maintenance organization organized in this State under chapter 139 of this title, any~~ an entity organized in this State under chapter 123 or 125 of this title, or a licensed property and casualty insurer writing only accident and health insurance.

~~(8)~~(9) "NAIC" means the National Association of Insurance Commissioners.

~~(9)~~(10) "Negative trend" means, with respect to a life or health insurer or fraternal benefit society, negative trend over a period of time as determined in accordance with the trend test calculation included in the life or fraternal risk based capital instructions.

~~(10)~~(11) "Property and casualty insurer" means any insurance company ~~who~~ that insures property or casualty as defined in subdivisions 3301(a)(3) and (7) of this title, but shall not include monoline mortgage guaranty insurers, financial guaranty insurers, ~~and~~ or title insurers.

~~(11)~~(12) "Risk based capital instructions" means the risk based capital report form and the related instructions adopted by the NAIC and approved by the Commissioner.

~~(12)~~(13) "Risk based capital level" means one of the following four levels: company action level risk based capital, regulatory action level risk based capital, authorized control level risk based capital, or mandatory control level risk based capital.

(A) "Company action level risk based capital" means, with respect to any insurer, the product of 2.0 and its authorized control level risk based capital.

(B) "Regulatory action level risk based capital" means, with respect to any insurer, the product of 1.5 and its authorized control level risk based capital.

(C) "Authorized control level risk based capital" means the number determined under the risk based capital formula in accordance with the risk based capital instructions.

(D) "Mandatory control level risk based capital" means, with respect to any insurer, the product of 0.70 and its authorized control level risk based capital.

~~(13)~~(14) "Risk based capital plan" means a comprehensive financial plan containing the elements specified in subsection 8303(b) of this title. If

the Commissioner rejects the risk based capital plan and it is revised by the insurer, with or without the Commissioner's recommendation, the plan shall be called the "revised risk based capital plan."

~~(14)~~(15) "Risk based capital report" means the report required in section 8302 of this title.

~~(15)~~(16) "Total adjusted capital" means the sum of:

(A) the insurer's statutory capital and surplus reported in the insurer's annual statement under section 3561 of this title; and

(B) such other items, if any, as the risk based capital instructions may provide.

Sec. 12. 8 V.S.A. § 8302 is amended to read:

§ 8302. RISK BASED CAPITAL REPORT

* * *

(d) A property and casualty insurer's or health maintenance organization's risk based capital shall be determined in accordance with the formula set forth in the risk based capital instructions. The formula shall take into account and may adjust for the covariance between the following factors determined in each case by applying the factors in the manner set forth in the risk based capital instructions:

(1) asset risk;

(2) credit risk;

(3) underwriting risk; and

(4) all other business risks and such other relevant risks as are set forth in the risk based capital instructions.

(e) If a domestic insurer files a risk based capital report ~~which~~ that in the judgment of the Commissioner is inaccurate, then the Commissioner shall adjust the risk based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice shall contain a statement of the reason for the adjustment. A risk based capital report adjusted by the Commissioner under this subsection shall be referred to as an "adjusted risk based capital report."

Sec. 13. 8 V.S.A. § 8303 is amended to read:

§ 8303. COMPANY ACTION LEVEL EVENT

(a) "Company action level event" means any of the following events:

(1) The filing of a risk based capital report by an insurer ~~which~~ that indicates that:

(A) the insurer's total adjusted capital is greater than or equal to its regulatory action level risk based capital but less than its company action level risk based capital;

(B) ~~if~~ in the case of a life or health insurer or a fraternal benefit society, the insurer or society has total adjusted capital ~~which~~ that is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and has a negative trend; ~~or~~

(C) ~~if~~ in the case of a property and casualty insurer, the insurer has total adjusted capital ~~which~~ that is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty risk based capital instructions; or

(D) in the case of a health maintenance organization, the insurer has total adjusted capital that is greater than or equal to its company action level risk based capital but less than the product of its authorized control level risk based capital and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the health risk based capital instructions.

(2) The notification by the Commissioner to the insurer of an adjusted risk based capital report that indicates an event in subdivision (1) of this subsection, provided the insurer does not challenge the adjusted risk based capital report under section 8307 of this title.

(3) If, under section 8307 of this title, an insurer challenges an adjusted risk based capital report that indicates the event in subdivision (1) of this subsection, the notification by the Commissioner to the insurer that the Commissioner has, after a hearing, rejected the insurer's challenge.

(b) An insurer shall prepare and submit to the Commissioner a risk based capital plan within 45 days of filing a risk based capital report or within 45 days of a final adjusted risk based capital report showing a company action level event. The risk based capital plan shall be a comprehensive financial plan and shall:

(1) ~~identify~~ Identify the conditions in the insurer ~~which~~ that contribute to the company action level event~~;~~.

(2) ~~contain~~ Contain proposals of corrective actions ~~which~~ that the insurer intends to take that would result in the elimination of the company action level event~~;~~.

(3) ~~provide~~ Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business should include separate projections for each major line of business and separately identify each significant income, expense, and benefit component~~;~~.

(4) ~~identify~~ Identify the key assumptions impacting the insurer's projections and the sensitivity of the projections to the assumptions~~; and~~.

(5) ~~identify~~ Identify the quality of, and problems associated with, the insurer's business, including its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance.

(c) The Commissioner shall notify the insurer whether the proposed risk based capital plan is approved within 60 days of its submission. If the Commissioner disapproves the plan, the notice shall set forth the reasons for the disapproval and may notify the insurer of revisions ~~which~~ that will render the risk based capital plan satisfactory to the Commissioner. Upon notice that a proposed plan is disapproved, the insurer shall prepare and submit a revised risk based capital plan within 45 days of the Commissioner's notice of disapproval or, if the Commissioner's notice of disapproval is appealed under section 8307 of this title, within 45 days of a Commissioner's determination adverse to the insurer.

(d) In the event of a notification by the Commissioner to an insurer that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, the Commissioner may at the Commissioner's discretion, subject to the insurer's right to a hearing under section 8307 of this title, specify in the notification that the notification constitutes a regulatory action level event.

(e) Each domestic insurer required to file a risk based capital plan or revised risk based capital plan under this section shall file a copy of the plan with the insurance commissioner in any state in which the insurer is authorized to do business if:

(1) such state has a provision that is substantially similar to section 8308 of this title; ~~and~~ or

(2) the insurance commissioner of that state has notified the insurer of its request for the filing in writing. Plans required to be filed under this subdivision shall be filed ~~no~~ not later than the later of:

(A) 15 days after notice to file a copy of its risk based capital plan or revised risk based capital plan with the state; or

(B) the date on which the risk based capital plan or revised risk based capital plan is required to be filed under section 8304 of this title.

Sec. 14. 8 V.S.A. § 8307 is amended to read:

§ 8307. HEARINGS

Upon receipt of any notice required under ~~subsections~~ subsection 8302(e), 8303(c) ~~and~~ or (d), ~~and subdivisions~~ subdivision 8304(a)(4) ~~and~~ or (5), ~~and~~ or subsection 8304(c) of this title, any insurer aggrieved by any action taken under those sections may appeal to the Commissioner within five days of receipt of notice of the action. The hearing shall be subject to 3 V.S.A. chapter 25. Upon receipt of the insurer's request for a hearing, the Commissioner shall set a date for the hearing, which date shall be ~~no~~ not less than 10 nor more than 30 days after the date of the insurer's request.

Sec. 15. 8 V.S.A. § 8308(a) is amended to read:

(a) All risk based capital reports, to the extent the information therein is not required to be set forth in a publicly available annual statement schedule, and risk based capital plans, including the results or report of any examination or analysis of an insurer performed pursuant hereto and any corrective order issued by the Commissioner pursuant to examination or analysis, with respect to any domestic insurer or foreign insurer ~~which~~ that are filed with the Commissioner, constitute information that might be damaging to the insurer if made available to its competitors, and therefore shall be kept confidential and privileged by the Commissioner. This information shall not be made available for public inspection and copying under the Public Records Act, shall not be subject to subpoena, shall not be subject to discovery, and shall not be admissible in evidence in any private civil action. However, the Commissioner is authorized to use the documents, materials, or other information for the purpose of enforcement actions taken by the Commissioner under this chapter or any other provision of the insurance laws of this State.

Sec. 16. 8 V.S.A. § 8312 is amended to read:

§ 8312. CONFIDENTIALITY OF RISK BASED CAPITAL REPORTS

All risk based capital reports concerning insurance companies that are not included in section 8308 of this title that are submitted to the Department by

the ~~National Association of Insurance Commissioners~~ NAIC or ~~by~~ other states are confidential and ~~may~~ shall not be disclosed by the Department.

Sec. 17. 8 V.S.A. § 15a is amended to read:

§ 15a. INSURANCE REGULATORY SANDBOX; INNOVATION WAIVER; SUNSET.

* * *

(o) No new waivers or extensions shall be granted after July 1, ~~2021~~ 2023.

(p) This section shall be repealed on July 1, ~~2023~~ 2025.

Sec. 18. 9 V.S.A. § 5410 is amended to read:

§ 5410. FILING FEES

(a) A person shall pay a fee of $300.00 when initially filing an application for registration as a broker-dealer and a fee of $300.00 when filing a renewal of registration as a broker-dealer. A separate application in writing for branch office registration or renewal, accompanied by a filing fee of $120.00 per branch office, shall be filed in the Office of the Commissioner in such form as the Commissioner may prescribe by any broker-dealer who transacts business in this State from any place of business located within this State. ~~If the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(b) The fee for an individual is $120.00 when filing an application for registration as an agent, $120.00 when filing a renewal of registration as an agent, and $120.00 when filing for a change of registration as an agent. ~~If the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(c) A person shall pay a fee of $300.00 when filing an application for registration as an investment adviser and a fee of $300.00 when filing a renewal of registration as an investment adviser. A separate application in writing for branch office registration or renewal, accompanied by a filing fee of $120.00 per branch office, shall be filed in the Office of the Commissioner in such form as the Commissioner may prescribe by any investment adviser who transacts business in this State from any place of business located within the State. ~~If the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(d) The fee for an individual is $80.00 when filing an application for registration as an investment adviser representative, $80.00 when filing a renewal of registration as an investment adviser representative, and $80.00 when filing a change of registration as an investment adviser representative. ~~If~~

~~the filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

(e) A federal covered investment adviser required to file a notice under section 5405 of this title shall pay an initial fee of $300.00 and an annual notice fee of $300.00. A notice filing may be terminated by filing notice of such termination with the Commissioner. ~~If a notice filing results in a denial or withdrawal, the Commissioner shall retain the fee~~ The fee is nonrefundable.

Sec. 19. 8 V.S.A. § 4077 is added to read:

§ 4077. TERMINATION; COMPREHENSIVE MAJOR MEDICAL POLICIES; GRACE PERIOD

(a) A comprehensive major medical insurance policy issued by a health insurance company, nonprofit hospital or medical service corporation, or health maintenance organization that insures employees, members, or subscribers for hospital and medical insurance on an expense-incurred, service, or prepaid basis shall:

(1) provide notice to the policyholder or other responsible party of any premium payment due on a policy at least 21 days before the due date; and

(2) provide a grace period of at least one month for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force and the issuer of the policy shall be liable for valid claims for covered losses incurred prior to the end of the grace period.

(b) If the issuer of a policy described in subsection (a) of this section does not receive payment by the due date, the issuer shall send a termination notice to the policyholder at least 21 days prior to termination notifying the policyholder that the issuer may terminate the policy if payment is not received by the termination date.

(c) The termination date of a policy described in subsection (a) of this section shall not be earlier than the day following the last day of the grace period set forth in subdivision (a)(1) of this section.

Sec. 20. 8 V.S.A. § 4089h is amended to read:

§ 4089h. CANCELLATION OR NONRENEWAL OF HEALTH INSURANCE COVERAGE

(a) ~~A~~ Except as otherwise provided for comprehensive major medical insurance coverage in section 4077 of this chapter, a health insurer shall notify a policyholder of any premium payment due on a policy at least 21 days before the due date. If an insurer does not receive payment by the due date, an

insurer shall send a termination notice to the policyholder notifying the policyholder that the insurer will terminate the policy effective on the due date if payment is not received within 14 days from the date of mailing of the termination notice. If an insurer does not receive payment within 14 days from the date of mailing of the termination notice an insurer may cancel coverage effective on the due date.

(b) As used in this section, "health insurer" means a health insurance company, a hospital or medical service corporation, or a health maintenance organization ~~which~~ that issues or renews any individual policy, service contract, or benefit plan in this State.

Sec. 21. 8 V.S.A. § 6002 is amended to read:

§ 6002. LICENSING; AUTHORITY

* * *

(b) No captive insurance company shall do any insurance business in this State unless:

(1) it first obtains from the Commissioner a license authorizing it to do insurance business in this State;

(2) its board of directors or committee of managers or, in the case of a reciprocal insurer, its subscribers' advisory committee holds at least one meeting each year in this State;

(3) it maintains its principal place of business in this State; and

(4) it appoints a registered agent to accept service of process and to otherwise act on its behalf in this State; provided that whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the ~~Secretary of State~~ Commissioner shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.

(c)(1) Before receiving a license, a captive insurance company shall:

(A) File with the Commissioner a ~~certified~~ copy of its organizational documents~~, a statement under oath of its president and secretary showing its financial condition,~~ and any other statements or documents required by the Commissioner.

(B) Submit to the Commissioner for approval a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the Commissioner may reasonably require. In the event of any subsequent material change in any item in such description, the captive insurance company shall submit to the Commissioner for approval an

appropriate revision and shall not offer any additional kinds of insurance until a revision of such description is approved by the Commissioner. The captive insurance company shall inform the Commissioner of any material change in rates within 30 days of the adoption of such change.

(2) Each applicant captive insurance company shall also file with the Commissioner evidence of the following:

(A) the amount and liquidity of its assets relative to the risks to be assumed;

(B) the adequacy of the expertise, experience, and character of the person or persons who will manage it;

(C) the overall soundness of its plan of operation;

(D) the adequacy of the loss prevention programs of its insureds; and

(E) such other factors deemed relevant by the Commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted pursuant to this subsection shall be and remain confidential, and may not be made public by the Commissioner or an employee or agent of the Commissioner without the written consent of the company, except that:

(A) such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

(i) the information sought is relevant to and necessary for the furtherance of such action or case;

(ii) the information sought is unavailable from other nonconfidential sources; and

(iii) a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the Commissioner; provided, however, that the provisions of this subdivision (3) shall not apply to any risk retention group; and

(B) the Commissioner may, in the Commissioner's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance in another state, provided that:

(i) such public official shall agree in writing to maintain the confidentiality of such information; and

(ii) the laws of the state in which such public official serves require such information to be and to remain confidential.

* * *

(e) If the Commissioner is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of this chapter, and that such captive insurance company has been duly organized, the Commissioner may grant a license authorizing it to do insurance business in this State until April 1 thereafter, which license may be renewed.

Sec. 22. 8 V.S.A. § 6004 is amended to read:

§ 6004. MINIMUM CAPITAL AND SURPLUS; LETTER OF CREDIT

(a) ~~No captive insurance company shall be issued a license unless it~~ Prior to issuing any policies of insurance or entering into any contracts of reinsurance, each captive insurance company shall possess and thereafter maintain unimpaired paid-in capital and surplus of:

(1) in the case of a pure captive insurance company, not less than $250,000.00;

(2) in the case of an association captive insurance company, not less than $500,000.00;

(3) in the case of an industrial insured captive insurance company, not less than $500,000.00;

(4) in the case of an agency captive insurance company, not less than $500,000.00;

(5) in the case of a risk retention group, not less than $1,000,000.00; and

(6) in the case of a sponsored captive insurance company, not less than $100,000.00.

(b) The Commissioner may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

(c) Capital and surplus may be in the form of cash, marketable securities, a trust approved by the Commissioner and of which the Commissioner is the sole beneficiary, or an irrevocable letter of credit issued by a bank approved by the Commissioner. The Commissioner may reduce or waive the capital and surplus amounts required by this section pursuant to a plan of dissolution for the company approved by the Commissioner.

(d) Within 30 days after commencing business, each captive insurance company shall file with the Commissioner a statement under oath of its president and secretary certifying that the captive insurance company possessed the requisite unimpaired paid-in capital and surplus prior to commencing business.

Sec. 23. 8 V.S.A. § 6007 is amended to read:

§ 6007. REPORTS AND STATEMENTS

(a) Captive insurance companies shall not be required to make any annual report except as provided in this chapter.

(b) Prior to March 1 of each year, and prior to March 15 of each year in the case of pure captive insurance companies, association captive insurance companies, sponsored captive insurance companies, ~~or~~ industrial insured captive insurance companies, or agency captive insurance companies, each captive insurance company shall submit to the Commissioner a report of its financial condition, verified by oath of two of its executive officers. Each captive insurance company shall report using generally accepted accounting principles, statutory accounting principles, or international financial reporting standards unless the Commissioner requires, approves, or accepts the use of any other comprehensive basis of accounting, in each case with any appropriate or necessary modifications or adaptations thereof required or approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. As used in this section, statutory accounting principles shall mean the accounting principles codified in the NAIC Accounting Practices and Procedures Manual. Upon application for admission, a captive insurance company shall select, with explanation, an accounting method for reporting. Any change in a captive insurance company's accounting method shall require prior approval. Except as otherwise provided, each risk retention group shall file its report in the form required by subsection 3561(a) of this title, and each risk retention group shall comply with the requirements set forth in section 3569 of this title. The Commissioner shall by rule propose the forms in which pure captive insurance companies, association captive insurance companies, sponsored captive insurance companies, and industrial insured captive insurance companies shall report. Subdivision 6002(c)(3) of this title shall apply to each report filed pursuant to this section, except that such subdivision shall not apply to reports filed by risk retention groups.

(c) Any pure captive insurance company, association captive insurance company, sponsored captive insurance company, ~~or~~ industrial insured captive

insurance company, or agency captive insurance company may make written application for filing the required report on a fiscal year-end. If an alternative reporting date is granted:

(1) the annual report is due 75 days after the fiscal year-end; and

(2) in order to provide sufficient detail to support the premium tax return, the pure captive insurance company, association captive insurance company, sponsored captive insurance company, or industrial insured captive insurance company shall file prior to March 15 of each year for each calendar year-end, pages 1, 2, 3, and 5 of the "Vermont Captive Insurance Company Annual Report - Short Form" verified by oath of two of its executive officers.

Sec. 24. 8 V.S.A. § 6034c is amended to read:

§ 6034c. PROTECTED CELL CONVERSION ~~INTO AN INCORPORATED PROTECTED CELL~~

(a)(1) Subject to the prior written approval of the Commissioner, on application of the sponsor and with the prior consent of each participant of the affected protected ~~cell~~ cells or as otherwise permitted pursuant to a participation agreement and the consent of each affected incorporated protected cell, a sponsored captive insurance company or a sponsored captive insurance company licensed as a special purpose financial insurance company may convert ~~a protected cell into an incorporated protected cell pursuant to the provisions of section 6034a of this title, without affecting the protected cell's assets, rights, benefits, obligations, and liabilities~~ one or more protected cells or incorporated protected cells into a:

(A) single protected cell or incorporated protected cell;

(B) new sponsored captive insurance company;

(C) new sponsored captive insurance company licensed as a special purpose financial insurance company;

(D) new special purpose financial insurance company;

(E) new pure captive insurance company;

(F) new risk retention group;

(G) new agency captive insurance company;

(H) new industrial insured captive insurance company; or

(I) new association captive insurance company.

(2) Any such conversion shall be subject to section 6031 and subchapters 1 and 4 of this chapter, as applicable, as well as to a plan or plans of operation approved by the Commissioner, without affecting any protected

cell's or incorporated protected cell's assets, rights, benefits, obligations, and liabilities.

(b) Any such conversion shall be deemed for all purposes to be a continuation of ~~the~~ each such protected cell's or incorporated protected cell's existence together with all of its assets, rights, benefits, obligations, and liabilities, as ~~an~~ a new protected cell or incorporated protected cell ~~of the~~, a licensed sponsored captive insurance company ~~or~~, a sponsored captive insurance company licensed as a special purpose financial insurance company, a special purpose financial insurance company, a pure captive insurance captive, a risk retention group, an industrial insured captive insurance company, or an association captive insurance company, as applicable. Any such conversion shall be deemed to occur without any transfer or assignment of any such assets, rights, benefits, obligations, or liabilities and without the creation of any reversionary interest in, or impairment of, any such assets, rights, benefits, obligations, and liabilities.

(c) Any such conversion shall not be construed to limit any rights or protections applicable to any converted protected cell or incorporated protected cell and such sponsored captive insurance company or sponsored captive insurance company licensed as a special purpose financial insurance company under this subchapter or under subchapter 4 of this chapter, as applicable, that existed immediately prior to the date of any such conversion.

(d)(1) Any protected cell converting into an incorporated protected cell pursuant to this section, or converting into a new captive insurance company or risk retention group pursuant to this section, shall perform such conversion in accordance with:

(A) the provisions of 11A V.S.A. chapter 11 if the converted entity is to be a corporation;

(B) the provisions of 11 V.S.A. chapter 25, subchapter 10 if the converted entity is to be a limited liability company; or

(C) the provisions applicable to any other type of entity permissible under Vermont law if the converted entity is to be such an entity.

(2) As used in this subdivision, a protected cell that is not an incorporated protected cell shall be considered an "organization" as that term is defined in 11A V.S.A. § 11.01 and 11 V.S.A. § 4141; an "other insurer" as that term is defined in 8 V.S.A. § 6020; and an "entity" as that term is defined in 11C V.S.A. § 102.

Sec. 25. REPEAL

8 V.S.A. § 6034e is repealed.

Sec. 26. 8 V.S.A. § 6006(j) is amended to read:

(j) The provisions of chapter 101, subchapters 3 and 3A of this title, pertaining to mergers, consolidations, conversions, mutualizations, redomestications, and mutual holding companies, shall apply in determining the procedures to be followed by captive insurance companies in carrying out any of the transactions described therein, except that:

(1) If the shareholders, members, or policyholders of the captive insurance company have unanimously approved of the merger, the procedures set forth in section 6006a of this title shall apply.

(2) The Commissioner may, upon request of an insurer party to a merger authorized under this subsection, waive the requirement of subdivision 3424(6) of this title.

~~(2)~~(3) The Commissioner may waive the requirements for public notice and hearing or, in accordance with rules ~~which~~ that the Commissioner may adopt addressing categories of transactions, modify the requirements for public notice and hearing. If a notice of public hearing is required, but no one requests a hearing ten days before the day set for the hearing, then the Commissioner may cancel the hearing.

~~(3)~~(4) The provisions of subsections 3423(f) and (h) of this title shall not apply, and the Commissioner may waive or modify the requirement of subdivision 3423(b)(4) of this title, with respect to market value of a converted company as necessary or desirable to reflect applicable restrictions on ownership of companies formed under this chapter.

~~(4)~~(5) An alien insurer may be a party to a merger authorized under this subsection; provided that the requirements for a merger between a captive insurance company and a foreign insurer under section 3431 of this title shall apply to a merger between a captive insurance company and an alien insurer under this subsection. Such alien insurer shall be treated as a foreign insurer under section 3431 and such other jurisdictions shall be the equivalent of a state for purposes of section 3431.

~~(5)~~(6) The Commissioner may issue a certificate of general good to permit the formation of a captive insurance company that is established for the purpose of consolidating or merging with or assuming existing insurance or reinsurance business from an existing licensed captive insurance company. The Commissioner may, upon request of such newly formed captive insurance company, waive or modify the requirements of subdivisions 6002(c)(1)(B) and

(2) of this title.

~~(6)~~(7) The Commissioner may waive or modify application of the provisions of chapter 132 and chapter 101, subchapters 3 and 3A of this title and the provisions of Titles 11, 11A, and 11B in order to permit mergers of a non-insurer subsidiary of a captive insurance company with and into the captive insurance company or another of its subsidiaries without approval of the shareholders, members, or subscribers of such captive insurance company and without making available to the shareholders, members, or subscribers dissenters' rights otherwise made available in such a merger; provided, however, that the board of directors, managers, or subscribers' advisory committee of each of the merging entities shall approve such merger. The Commissioner may condition any such waiver or modification upon a good faith effort by the captive insurance company to provide notice of the merger to its shareholders, members, or subscribers.

Sec. 27. 8 V.S.A. § 6006a is added to read:

§ 6006a. MERGERS

(a) Any captive insurance company meeting the qualifications set forth in subdivision 6006(j)(1) of this title may merge with any other insurer, whether licensed in this State or elsewhere, in the following manner:

(1) The board of directors of each insurer shall, by a resolution adopted by a majority vote of the members of such board, approve a joint agreement of merger setting forth:

(A) the names of the insurers proposed to merge, and the name of the insurer into which they propose to merge, which is hereafter designated as the surviving company;

(B) the terms and conditions of the proposed merger and the mode of carrying the same into effect;

(C) the manner and basis of converting the ownership interests, if applicable, in other than the surviving insurer into ownership interests or other consideration, securities, or obligations of the surviving insurer;

(D) a restatement of such provisions of the articles of incorporation of the surviving insurer as may be deemed necessary or advisable to give effect to the proposed merger; and

(E) any other provisions with respect to the proposed merger as are deemed necessary or desirable.

(2) The resolution of the board of directors of each insurer approving the agreement shall direct that the agreement be submitted to a vote of the shareholders, members, or policyholders, as the case may be, of each insurer entitled to vote in respect thereof at a designated meeting thereof, or via unanimous written consent of such shareholders, members, or policyholders in lieu of a meeting. Notice of the meeting shall be given as provided in the bylaws, charter, or articles of association, or other governance document, as the case may be, of each insurer and shall specifically reflect the agreement as a matter to be considered at the meeting.

(3) The agreement of merger so approved shall be submitted to a vote of the shareholders, members, or policyholders, as the case may be, of each insurer entitled to vote in respect thereof at the meeting directed by the resolution of the board of directors of such company approving the agreement, and the agreement shall be unanimously adopted by the shareholders, members, or policyholders, as the case may be.

(4) Following the adoption of the agreement by any insurer, articles of merger shall be adopted in the following manner:

(A) Upon the execution of the agreement of merger by all of the insurers parties thereto, there shall be executed and filed, in the manner hereafter provided, articles of merger setting forth the agreement of merger, the signatures of the several insurers parties thereto, the manner of its adoption, and the vote by which adopted by each insurer.

(B) The articles of merger shall be signed on behalf of each insurer by a duly authorized officer, in such multiple copies as shall be required to enable the insurers to comply with the provisions of this subchapter with respect to filing and recording the articles of merger, and shall then be presented to the Commissioner.

(C) The Commissioner shall approve the articles of merger if he or she finds that the merger will promote the general good of the State in conformity with those standards set forth in section 3305 of this title. If he or she approves the articles of merger, he or she shall issue a certificate of approval of merger.

(5) The insurer shall file the articles of merger, accompanied by the agreement of merger and the certificate of approval of merger, with the Secretary of State and pay all fees as required by law. If the Secretary of State finds that they conform to law, he or she shall issue a certificate of merger and return it to the surviving insurer or its representatives. The merger shall take effect upon the filing of articles of merger with the Secretary of State, unless a later effective date is specified therein.

(6) The surviving insurer shall file a copy of the certificate of merger from the Secretary of State with the Commissioner.

(b) When such merger or consolidation has been effected as provided in this section:

(1) The several insurers parties to the agreement of merger shall be a single captive insurance company that shall be the surviving insurer a party to the agreement of merger into which it has been agreed the other insurers parties to the agreement shall be merged, which surviving insurer shall survive the merger.

(2) The separate existence of all of the insurers parties to the agreement of merger, except the surviving captive insurance company, shall cease.

(3) The single captive insurance company shall have all of the rights, privileges, immunities, and powers and shall be subject to all of the duties and liabilities of a captive insurance company organized under this chapter.

(4) The single captive insurance company shall possess all the rights, privileges, immunities, powers, and franchises of a public as well as of a private nature of each of the insurers so merged; and all property, real, personal, and mixed, and all debts due on whatever account, including subscriptions to shares of capital stock, and all other choses in action and all and every other interest, of or belonging to or due to each of the insurers so merged shall be taken and deemed to be transferred to and vested in such single captive insurance company without further act or deed; and the title to any real estate, or any interest therein, under the laws of this State vested in any such insurers shall not revert or be in any way impaired by reason of the merger.

(5) The single captive insurance company shall be responsible and liable for all the liabilities and obligations of each of the insurers so merged in the same manner and to the same extent as if the single insurer had itself incurred the same or contracted therefor; and any claim existing or action or proceeding pending by or against any of the insurers may be prosecuted to judgment as if the merger had not taken place. Neither the rights of creditors nor any liens upon the property of any insurers shall be impaired by the merger, but such liens shall be limited to the property upon which they were liens immediately prior to the time of the merger unless otherwise provided in the agreement of merger.

(6) The articles of association or other governing document of the surviving captive insurance company shall be supplanted and superseded to the extent, if any, that any provision or provisions of the articles are restated in the

agreement of merger as provided in subsection (a) of this section, and such articles of association or other governing document shall be deemed to be thereby and to that extent amended.

(c)(1) In the case of a merger between a domestic and a foreign or alien insurer, the articles of merger shall be regarded as executed by the proper officers of said foreign or alien insurer when such officers are duly authorized to execute same through such action on the part of the directors, shareholders, members, or policyholders, as the case may be, of said foreign or alien insurer as may be required by the laws of the state where the same is incorporated, and upon execution, the articles of merger shall be submitted to the Insurance Commissioner or other officer at the head of the insurance department of the jurisdiction where such foreign or alien insurer is domiciled. No merger shall take effect until it has been approved by the insurance official of the jurisdiction where the foreign or alien insurer is domiciled nor until a certificate of his or her approval has been filed with the Commissioner, provided that such submission to and approval by the proper official of the other jurisdiction shall not be required unless the same are required by the laws of the foreign or alien jurisdiction. Provided, further, that the domestic captive insurance company involved in the merger shall not through anything contained in this section be relieved of any of the procedural requirements enumerated elsewhere in this section.

(2) A merger between a domestic and a foreign or alien captive insurance company shall not take effect unless and until the surviving captive insurance company, if such is a foreign or alien insurer, files with the Commissioner a power of attorney appointing the Commissioner the attorney for service of the foreign or alien insurer, upon whom all lawful process against the insurers may be served. Said power of attorney shall be irrevocable if the foreign or alien insurer has outstanding in this State any contract of insurance, or other obligation whatsoever, and shall by its terms so provide. Service upon the Commissioner shall be deemed sufficient service upon the insurer.

Sec. 28. 8 V.S.A. § 6006b is added to read:

§ 6006b. REDOMESTICATION

(a) Any foreign or alien insurer that qualifies for licensure as a captive insurance company in this State may redomesticate to this State by complying with all of the requirements of law relative to the organization and licensing of a captive insurance company and by filing with the Secretary of State its articles of association, charter, or other organization document, together with appropriate amendments thereto adopted in accordance with the laws of this State bringing such articles of association, charter, or other organizational

document into compliance with the laws of this State, along with a certificate of general good issued by the Commissioner and a filing fee per section 3440 of this title. An insurer becoming a domestic captive insurance company through this redomestication process shall pay to the Commissioner such fees as would otherwise be payable by a captive insurance company organizing and becoming licensed or transacting business in this State. The Commissioner may issue a conditional license prior to the effective date of the redomestication in order to facilitate the transaction and provide notice of approval of the transaction to the outgoing jurisdiction. The domestic insurer shall be entitled to the necessary or appropriate certificates and licenses to continue its business and to transact business in this State and shall be subject to the authority and jurisdiction of this State. No insurer redomesticating into this State as a captive insurance company need merge, consolidate, transfer assets, or otherwise engage in any other reorganization, other than as specified in this section.

(b) Upon the approval of and compliance with such conditions as may be imposed by the Commissioner, any captive insurance company may transfer its domicile, in accordance with the laws thereof, to any other state or jurisdiction and upon such a transfer shall cease to be a domestic captive insurance company, and its corporate or other legal existence in this State shall cease upon the filing of articles of redomestication with the Secretary of State, or upon such later date if a delayed effective date is specified in the articles of redomestication, accompanied by a certificate of approval of redomestication issued by the Commissioner and proof of acceptance of the insurer by the Secretary of State or analogous officer of the jurisdiction to which the captive insurance company is redomesticating, and upon payment to the Secretary of State of a filing fee per section 3438 of this title. Said articles of redomestication shall contain, at a minimum, the following information:

(1) the name, organizational form, date of formation, and jurisdiction of formation of the redomesticating entity;

(2) the jurisdiction to which the redomesticating entity will be transferring its domicile and its name following the redomestication date;

(3) the registered office and agent of the redomesticating entity following the redomestication date; and

(4) a statement that the redomestication has been approved by the appropriate vote of the shareholders or other owners of the redomesticating entity.

(c) Upon redomestication in accordance with this section, the foreign or alien insurer shall become a captive insurance company organized under the laws of this State and have all the rights, privileges, immunities, and powers, and be subject to all applicable laws, duties, and liabilities, of domestic insurers of the same type. Such captive insurance company shall possess all rights that obtained prior to the redomestication to the extent permitted by the laws of this State, and shall be responsible and liable for all the liabilities and obligations that obtained prior to the redomestication. The certificate of authority, agents, appointments and licenses, rates, and other items that the Commissioner allows, in his or her discretion, that are in existence at the time any insurer transfers its corporate domicile to this or any other state or jurisdiction by redomestication pursuant to this section shall continue in full force and effect upon such transfer. All outstanding policies of any transferring insurer shall remain in full force and effect.

Sec. 29. 8 V.S.A. § 6053(1) is amended to read:

(1) Notice of operations and designation of ~~Secretary of State~~ Commissioner as agent. Before offering insurance in this State, a risk retention group shall submit to the Commissioner:

(A) a statement identifying the state or states in which the risk retention group is chartered and licensed as a liability insurance company, charter date, its principal place of business, and such other information, including information on its membership, as the Commissioner of this State may require to verify that the risk retention group is qualified under subdivision 6051(11) of this title;

(B) a copy of its plan of operations and feasibility study and revisions of such plan or study submitted to the state in which the risk retention group is chartered and licensed; provided, however, that the provision relating to the submission of a plan of operation or feasibility study shall not apply with respect to any line or classification of liability insurance which:

(i) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(ii) was offered before such date by any risk retention group which had been chartered and operating for not less than three years before such date; and

(iii) the risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by subsection 6052(b) of this title at the time that such revision has become effective in its chartering state; and

(C) a statement of registration, for which a filing fee shall be determined by the Commissioner, which designates the ~~Secretary of State~~ Commissioner as its agent for the purpose of receiving service of legal documents or process.

* * *

Sec. 30. 8 V.S.A. § 6056(b) is amended to read:

(b) The purchasing group shall register with and designate the ~~Secretary of State~~ Commissioner as its agent solely for the purpose of receiving service of legal documents or process, except for any groups exempted under 15 U.S.C. § 3903(e). Service shall be effected in the manner provided in section 3383 of this title.

Sec. 31. 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.

Bill Amended; Bill Passed

S. 20.

Senate bill entitled:

An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products.

Was taken up.

Thereupon, pending third reading of the bill, Senator Lyons moved to amend the bill by in Sec. 5, 18 V.S.A. § 1773(a)(67), by striking out "or a chemical compound meant to replace perfluoroalkyl and polyfluoroalkyl substances that has similar chemical properties"

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 30, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Proposal of Amendment; Third Reading Ordered

H. 315.

Senator Kitchel, for the Committee on Appropriations, to which was referred House bill entitled:

An act relating to COVID-19 relief.

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

* * * Federal Funding, Administration * * *

Sec. 1. FEDERAL FUNDS; ANTICIPATED RECEIPTS

(a) To the extent that appropriations in this act are made from federal funds provided by the American Rescue Plan Act of 2021 (ARPA), including state holding funds that are established as a result of the ARPA, the Commissioner of Finance and Management is authorized, to make expenditures in anticipation of receipts as necessary. The Commissioner shall immediately notify the House and Senate Appropriations Committees, or the Joint Fiscal Committee through the Joint Fiscal Office when the General Assembly is not in session, if any such expenditure is later deemed impermissible by subsequent federal guidance.

(b) The appropriations in this act from funds provided by ARPA of 2021 shall carry forward from fiscal year 2021 until expended.

Sec. 2. REMAINING CORONAVIRUS RELIEF FUNDS; CARRYFORWARD, REVERSION, AND APPLICATION

(a) To the extent that Coronavirus Relief Fund (CRF) spending authority made through appropriation or approval of the Joint Fiscal Committee remains available as of June 30, 2021, any amounts necessary to pay for expenditures that have been obligated but not paid out as of June 30, 2021 shall carry forward to fiscal year 2022.

(b) Prior to the close of fiscal year 2021, the Commissioner of Finance and Management is authorized to revert all unobligated CRF appropriations to the State CRF. In fiscal year 2021, the total amount of CRF reverted under this subsection shall be appropriated to the Department of Corrections for eligible costs and the same amount of general funds appropriated to the Department of Corrections shall be reverted.

(c) The Commissioner shall report to the House and Senate Committees on Appropriations on or before June 1, 2021 with estimates of each of the following: CRF carryforward need, CRF reversions, and total CRF appropriation to the Department of Corrections and the General Fund reversion from Department of Corrections anticipated on or before June 30, 2021 as authorized under this section. The report shall also include a brief description of the degree to which FEMA funding applications and awards are impacting these estimates. The Commissioner shall provide a final report on these amounts to the Joint Fiscal Committee at its meeting in July 2021.

* * * Commerce and Community Development; Targeted Business Grants * * *

Sec. 3. GAP ECONOMIC RECOVERY GRANTS; FISCAL YEAR 2021 ONE-TIME APPROPRIATION

(a) Appropriation.

(1)(A) In fiscal year 2021, the amount of $10,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Commerce and Community Development to provide gap economic recovery grants to eligible businesses pursuant to this act.

(B) Of this amount, the Agency shall work with community partners to allocate $1,000,000.00 for eligible businesses owned by Vermonters who are members of underrepresented communities that have historically experienced unequal access to State economic benefits and services or suffered discrimination due to race, gender, socioeconomic status, citizenship status, disability status, or other similar factors.

(2) The Agency may use not more than five percent of the appropriated funds for the costs of administration, including technical assistance and guidance concerning potential eligibility for federal programs.

(b) Eligibility. To be eligible for a grant, a business shall meet the following criteria:

(1) The business is domiciled or has its primary place of business in Vermont.

(2) The business is organized and operated:

(A) on a for-profit basis, including a sole proprietor, partnership, limited liability company, business corporation, cooperative, or mutual benefit enterprise; or

(B) on a nonprofit or low-profit basis, including a mutual benefit corporation, public benefit corporation, and a low-profit limited liability company.

(3) The business submits a written plan that demonstrates that the business will use grant funds for business-related operations and economic recovery and that:

(A) the business is open at the time of application; or

(B) the business is closed due to the COVID-19 public health emergency but has a good-faith plan to reopen within 60 days of receiving the grant award and will use grant funds for reopening.

(4) The business suffered an economic loss due to the COVID-19 public health emergency and has filed a 2020 tax return that demonstrates a tax loss.

(5) At the time the business submits its application to the Agency, the business demonstrates that it has not received prior COVID-19-related State assistance and:

(A) the business has applied for the forgivable loans and grants made available through the Paycheck Protection Program, the Economic Injury Disaster Relief Advance program, or other COVID-19-related business financial assistance programs created by, or as modified by, the Consolidated Appropriations Act of 2021, P.L. 116-260, but was denied assistance because the business does not meet the eligibility criteria for any program; or

(B) the business has not applied for any such assistance based on a determination by a financial institution or other participating lender, an attorney, an accountant, or another qualified financial professional that the business is not eligible for such assistance because the business does not meet the eligibility criteria for any program.

(6) The business is in compliance with current State health and safety protocols established by Executive Order.

(c) Amount of grant. A grant shall not exceed the lesser of:

(1) the loss demonstrated on the business's 2020 tax return;

(2) three times the eligible business's fixed monthly expenses for commercial mortgage or rent, insurance, electricity, heat, water, sewer service,

telecommunications service, and Internet service; or

(3) $150,000.00.

(d) Grant administration; use of funds; future grant awards. Any amounts that remain unspent through the program shall revert to the Agency of Commerce and Community Development for purposes of supplementing any future economic recovery grant program established prior to January 1, 2022, and if no program is established, then to the General Fund.

(e) Guidelines. Not later than 10 days after the effective date of this act, the Agency shall publish guidelines governing the implementation of the program, which at minimum shall:

(1) establish application award procedures, and a timeline for accepting applications and awarding grants;

(2) establish standards to determine whether an eligible business has its primary place of business in Vermont;

(3) establish standards for the use of grant funds for the purpose of business-related economic recovery;

(4) establish procedures to ensure that grant awards comply with the requirements of this section and that the State maintains adequate records to demonstrate compliance with this section;

(5) establish procedures to prevent, detect, and mitigate fraud, waste, error, and abuse; and

(6) establish procedures to ensure that grant applicants comply with State and federal employment and labor laws.

(f) Reporting. The Agency shall submit two reports to the House Committees on Appropriations and on Commerce and Economic Development and the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs detailing the implementation of this section, including specific information concerning the amount, identity, and demographic information of grant recipients, which shall be publicly available:

(1) an initial report following the 30-day approval period specified in subdivision (d)(1) of this section; and

(2) a final report not later than 30 days after program funds are exhausted.

(g) Auditing; compliance. The Agency shall include in all grant awards standard audit provisions, substantially similar to the audit provisions included

pursuant to administrative bulletins 3.5 and 5.0, that provide that records pertaining to grant awards shall be retained and remain subject to audit and inspection by the Agency and the State Auditor of Accounts for a period of time specified by the Agency.

(h) Recapture. The Agency shall include in all grant awards standard recapture provisions, which shall include that a grant award may be subject to recapture if a recipient is found to be ineligible for the award or to have used an award for an ineligible purpose, consistent with the guidelines the Agency adopts pursuant to subsection (e) of this section.

Sec. 3a. AMERICAN RESCUE PLAN ACT OF 2021; FUTURE BUSINESS GRANT AWARDS

The Agency of Commerce and Community Development and other relevant Executive Branch agencies and departments shall consult and coordinate in a timely manner with legislative policy committees of jurisdiction through the Office of Legislative Counsel and the Joint Fiscal Office in the development of proposals for future distributions of funds for business recovery through the American Rescue Plan Act of 2021.

Sec. 3b. VERMONT MICROBUSINESS DEVELOPMENT FUNDING

The sum of $500,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund in fiscal year 2021 to Department for Children and Families, Office of Economic Opportunity, to be granted to the Community Action Agencies for the Statewide Community Action Network's Economic Micro Business Recovery Assistance for the COVID-19 Epidemic (EMBRACE) to assist the Vermont microbusiness owners impacted by COVID-19.

* * * Housing and Homeowner Assistance * * *

Sec. 4. VERMONT HOUSING AND CONSERVATION BOARD, HOUSING AND FACILITIES

The sum of $10,000,000.00 of General Fund is appropriated to the Vermont Housing and Conservation Board in fiscal year 2021, which the Board shall use, in part through grants to nonprofit housing partners and service organizations, for housing and facilities necessary to provide safe shelter to lower-income and at-risk populations. These funds are intended to be expended as expeditiously as possible on projects ready to proceed in 2021 and designed to meet immediate housing needs.

Sec. 5. HOMEOWNER; MORTGAGE ASSISTANCE FORECLOSURE PREVENTION

The sum of $5,000,000.00 is appropriated from the American Rescue Plan

Act of 2021 - Homeowner Assistance Fund in fiscal year 2021 to the Department of Housing and Community Development for a grant to the Vermont Housing Finance Agency to provide financial and technical assistance to stabilize low- and moderate-income homeowners and prevent home foreclosures for Vermont families. To the extent permitted by federal law and guidance, these funds may be used to provide mortgage assistance retroactively to January 1, 2021.

* * * Human Services, Mental Health and Health Care * * *

Sec. 6. DEPARTMENT OF MENTAL HEALTH; EMERGENCY OUTREACH SERVICES GRANTS

The sum of $300,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 for grants to peer-led and impacted member-led organizations for emergency outreach services to address COVID-19-related needs. Of these funds, the Department shall allocate $150,000.00 to a mental health peer-support organization and $150,000.00 to an organization supporting the needs of LGBTQ youths.

Sec. 7. DEPARTMENT OF MENTAL HEALTH; HOUSING

The sum of $4,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 to make existing housing and community-based service facilities providing mental health services more accessible, safe, and compliant with the Americans with Disabilities Act or to expand capacity in community settings. The Department shall select the projects in consultation with the Agency of Human Services Secretary's Office, the Department of Disabilities, Aging, and Independent Living, and representatives of the designated agencies, specialized service agencies, and peer organizations. The grants shall be awarded to organizations that demonstrate the greatest ability to respond immediately to the need for housing and shall be for projects that will not require additional State funds for operating costs in future years. At least one grant shall be awarded to a peer-run or peer-directed housing organization. The Department of Mental Health shall partner with the Agency of Human Services Secretary's Office and the Department of Disabilities, Aging, and Independent Living to include as potential grant candidates all designated and specialized service agencies that provide developmental and mental health services.

Sec. 8. DEPARTMENT OF MENTAL HEALTH; CASE MANAGEMENT SERVICES

The sum of $850,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 to provide funds to the mental health designated agencies to enable them each to hire an additional case manager to provide case management services to Vermont residents who may not previously have been part of an agency's caseload but whose lives have been significantly disrupted by the COVID-19 pandemic and who are now urgently in need of these agencies' supports. Agencies have the flexibility to identify where the targeted need exists within their agency, across all programs. The purpose funded in this section is limited to addressing the impacts related to the COVID-19 pandemic and not intended to create an ongoing funding commitment.

Sec. 9. DEPARTMENT OF MENTAL HEALTH; WORKFORCE TRAINING AND WELLNESS SUPPORTS

The sum of $150,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Mental Health in fiscal year 2021 for training and wellness supports for frontline health care workers to help them meet Vermont residents' current mental health needs, such as training for emergency department personnel responding to an increased demand for crisis services as a result of the COVID-19 pandemic and training on trauma-informed and trauma-specific care for mental health professionals responding to the surge in mental health treatment needs. These workers would also benefit from wellness supports as they continue to care for people in crisis while experiencing their own stress, anxiety, and trauma as a result of the pandemic.

Sec. 10. SUPPORTS FOR NEW AMERICANS, REFUGEES, AND IMMIGRANTS

(a) The sum of $700,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Human Services in fiscal year 2021 for distribution in equal amounts to the Association of Africans Living in Vermont and the U.S. Committee for Refugees and Immigrants' Vermont Refugee Resettlement Program for various purposes related to COVID-19, including:

(1) interpretation and translation services related to COVD-19, including accessing testing and vaccines;

(2) purchasing laptops and providing digital literacy for households to ensure that children can attend school remotely, that families can access telehealth services, and that adult family members can find employment;

(3) providing case management services related to an increased need

related to housing assistance, workforce development, and employment coaching; and

(4) providing navigation of Reach Up, 3SquaresVT, and other public assistance programs following job losses.

Sec. 11. GRANTS TO REACH UP PARTICIPANTS

The sum of $1,300,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department for Children and Families in fiscal year 2021 for the purposes of distributing monies to families participating in the Reach Up program. These funds shall be distributed in a manner similar to the distribution funds made to the population under 2020 Acts and Resolves No. 136, Sec. 15.

Sec. 12. VERMONT FOOD BANK

(a) The sum of $1,376,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund in fiscal year 2021 to the Agency of Human Services' Central Office to be granted to the Vermont Food Bank to pay the costs of the Vermont Farmers to Families Food Box Program for the months of January and February 2021.

(b) The sum of $82,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund in fiscal year 2021 to the Agency of Human Services' Central Office to be granted to the Vermont Food Bank for statewide provision of diapers to families in need.

Sec. 13. GRANT TO THE ASSOCIATION FOR THE BLIND AND VISUALLY IMPAIRED

(a) The sum of $100,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Disabilities, Aging, and Independent Living in fiscal year 2021 to be granted to the Vermont Association for the Blind and Visually Impaired for a technology training program for older Vermonters who experience decreased vision and blindness and others who are blind or visually impaired to address social isolation resulting from social distancing.

Sec. 14. GREEN MOUNTAIN CARE BOARD; DEPARTMENT OF HEALTH; HEALTH CARE DISPARITIES; DATA COLLECTION AND ANALYSIS

(a) The sum of $66,000.00 is appropriated from the General Fund to the Green Mountain Care Board in fiscal year 2021 to provide the State share pursuant to 18 V.S.A. § 9374(h) for updates to the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES) to improve data

collection related to health equity.

(b) The sum of $134,000.00 is appropriated from the General Fund to the Department of Health in fiscal year 2021 for collection and analysis of demographic data, including race and ethnicity data, regarding Vermont residents who experience health disparities.

* * * Education * * *

Sec. 15. SCHOOL INDOOR AIR QUALITY GRANT PROGRAM

(a) Appropriation. In fiscal year 2021, $15,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund for the Pre-K–12 Education Pandemic - School Indoor Air Quality Grant Program established in 2020 Acts and Resolves No. 120, Sec. A.51. This appropriation may be adjusted if the Commissioner of Finance and Management determines that federal FEMA funds will be awarded for this purpose. The funds authorized by this section shall be either granted by the Agency of Education or paid to Efficiency Vermont to carry out the duties listed in 2020 Acts and Resolves No. 120, Sec. A.51(e). Efficiency Vermont is authorized to use up to $250,000.00 of the $15,000,000.00 appropriated under this section for direct labor costs.

(b) Authorization. Efficiency Vermont shall require that any school that receives a grant through the School Indoor Air Quality Grant Program established in 2020 Acts and Resolves No. 120, Sec. A.51 authorize Efficiency Vermont to release the school name and grant amount in any report requested by the General Assembly.

(c) Reporting. Upon expenditure of the funds, the Agency of Education shall report to the House and Senate Committees on Appropriations on the specific uses of the funds appropriated in subsection (a) of this section on or before March 15, 2022.

Sec. 16. EDUCATION SERVICES; FEDERAL FUNDS APPROPRIATIONS

In fiscal year 2021 and to be carried forward, appropriations are made to the Agency of Education from federal funds for Elementary and Secondary School Relief (ESSR) funds provided in the American Rescue Plan Act of 2021 Section 2001(f) as follows:

(1) Literacy Training. $3,000,000.00 for the Agency of Education to provide grants to supervisory districts and supervisory unions, on behalf of their member school districts, to provide professional development for teachers in methods of teaching literacy.

(A) The Agency shall administer the grant program and determine which supervisory districts and supervisory unions are eligible and the amount

to be granted to each applicant based on its assessment of the relative need for this funding, taking into account the following factors across applicants:

(i) literacy assessments of students;

(ii) the number of literacy instructors per enrolled students;

(iii) the percentage of students eligible for free or reduced-priced meals;

(iv) the percentage of students who are English language learners;

(v) discrepancies in outcome data on literacy for students from historically underserved populations, including, to the extent that data is available in compliance with privacy laws, students who are Black, Indigenous, and Persons of Color and students on individualized education programs; and

(vi) the extent to which teacher professional development is integrated with a multitiered system of supports.

(B) There is established one limited service position, Education Programs Manager, within the Agency of Education for the literacy training program established by this section. The Agency of Education may utilize funds appropriated in this subdivision (1) for this position.

(2) Student Mental Health. $500,000.00 to fund collaboration with the Department of Mental Health and Health programs in schools to educate parents and school faculty on the signs of depression and suicide and to provide information and resources for assistance.

(3) Truancy. $1,000,000.00 to provide services to school districts and supervisory unions to address the needs of students who have been truant during the pandemic and integrate them into a supportive school culture.

(4) Afterschool and Summer Programs. $4,000,000.00 that shall be transferred to the Department for Children and Families – Child Development Division to be distributed to the Afterschool for All program. These funds shall be used for grants to afterschool and summer programs that fulfill requirements specified in American Rescue Plan Act of 2021 pursuant to Section 2001(f)(2) and (3).

(5) Summer Meals: In fiscal year 2021 and to be carried forward, $5,500,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Education to ensure that children and families have access to nutritious foods throughout the summer. This appropriation may be adjusted if the Commissioner of Finance

and Management determines that federal FEMA funds will be awarded for this purpose.

Sec. 17. PRACTICAL NURSE; WORKFORCE FUNDING

(a) The sum of $1,400,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Vermont State Colleges to open 40 to 45 seats in the Practical Nurse Program in partnership with skilled nursing facilities across the State to upskill existing staff to achieve certification as a Practical Nurse. These funds may be used as follows:

(1) Up to $500,000.00 for administrative and start-up costs for Vermont Technical College.

(2) Up to $260,000.00 in incentive payments in the amount of $6,000.00 per student to offset lost income during enrollment in the Program.

(3) All remaining funds are allocated for tuition payments for required prerequisite courses at Community College of Vermont and for the Practical Nurse Program at Vermont Technical College.

(b) To be eligible to participate in the program, a skilled nursing facility shall provide an incentive match in the amount of $4,000.00 per student during enrollment in the Program.

Sec. 18. WORKFORCE UPSKILL OPPORTUNITY

(a) The sum of $3,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Vermont State Colleges to provide up to two free classes in the summer or fall of 2021 and spring 2022 at any of the Vermont State Colleges for any Vermont resident who is seeking to transition to a new career or to enhance the resident's job skills.

(b) The sum of $1,000,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the University of Vermont to provide up to two free classes in summer or fall of 2021 and spring 2022 for any Vermont resident who is seeking to transition to a new career or to enhance the resident's job skills.

Sec. 19. RECENT HIGH SCHOOL GRADUATES; ADVANCEMENT OPPORTUNITY

(a) The sum of $2,800,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Vermont Student Assistance Corporation (VSAC) to provide up to two free class in the summer or fall of 2021 and spring 2022 at any of the Vermont State Colleges

for any Vermont 2020 or 2021 high school graduate to enhance the graduate's work or academic skills. VSAC may provide a stipend of $200.00 per student per class for transportation, books, or other class or attendance-related costs, and may allocate up to $100,000.00 for the cost of administering this program.

* * * Reserve for Retirement Related Obligations * * *

Sec. 20. PENSION AND OTHER POSTEMPLOYMENT BENEFIT OBLIGATIONS; LONG-TERM PLAN

(a) In fiscal year 2021, the amount of $20,000,000.00 in General Fund monies is hereby reserved to be part of pension funding initiatives and prefunding of other postemployment benefits (OPEB).

(b) On or before May 30, 2021, the General Assembly and the Administration, in collaboration with the Treasurer and interested parties, shall develop a long-term plan to address pension and OPEB liabilities. The funds reserved in subsection (a) of this section are available for an appropriation as part of this long-term funding initiative.

* * * Public Service; Broadband * * *

Sec. 21. BROADBAND ALLOCATIONS AND APPROPRIATIONS

(a) Coronavirus Relief Fund (CRF) Authorization and Allocation: Notwithstanding any other provision of law to the contrary, the Department of Public Service is authorized to use $3,200,000.00 of the unobligated balance remaining from the CRF appropriated to the Department for broadband programs in 2020 Acts and Resolves No. 137 as follows:

(1) $1,600,000.00 shall be allocated for additional assistance under the COVID-Response Line Extension Customer Assistance Program established in 2020 Acts and Resolves No. 137, Sec. 13. The customer costs eligible for financial assistance under this Program shall include costs for associated equipment such as routers and modems; and

(2) $1,600,000.00 shall be allocated to extend the COVID-Response Temporary Broadband Lifeline Program established in 2020 Acts and Resolves No. 137, Sec. 13(d) for the covered period beginning on March 1, 2021 and extending until such funds are depleted. The subsidy under this Program may be used for the provision of broadband service and connected devices.

(b) The sum of $1,800,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Public Service as follows:

(1) $1,600,000.00 for the COVID-Response Connected Community Resilience Program established in 2020 Acts and Resolves No. 137, Sec. 14, and for a broadband infrastructure program to assist CUDs with preconstruction costs and general support services; and

(2) $200,000.00 to fund the following:

(A) one or more limited-term employment positions to provide outreach, technical assistance, and other support services to communications union districts;

(B) restoration of the Vermont Relay Conference Captioning (RCC) service for remote conference calling service for the deaf or hard of hearing; and

(C) Wi-Fi hotspot license renewals.

* * * Natural Resources and Agriculture * * *

Sec. 22. NATURAL RESOURCES AND AGRICULTURE

(a) In fiscal year 2021, funds are appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund as follows:

(1) $3,000,000.00 to the Agency of Agriculture, Food and Markets for the Working Lands Program. Of these funds, $500,000.00 is allocated for a grants related to slaughter, meat processing and meat processing training proposals.

(2) $10,000,000.00 to the Agency of Natural Resources for the following:

(A) $5,000,000.00 to the Department of Forests, Parks and Recreation for the Vermont Outdoor Recreation Economic Collaborative (VOREC); and

(B) $5,000,000.00 to the Vermont Agency of Natural Resources' Central Office for investments to improve recreational infrastructure and access on State lands and to fund repairs and improvements to Vermont's trail network on both private and public land.

(b) In fiscal year 2021, funds are appropriated from the General Fund as follows:

(1) $14,000,000.00 to the Department of Environmental Conservation for brownfield remediation and environmental clean-up and related administrative costs; and

(2) $250,000.00 to the Agency of Agriculture for continuation of work in soil conservation practice and payment for ecosystem services including the

costs of the task force established by 2019 Acts and Resolves No. 83.

* * * Taxation; Annual Link to Federal Statutes * * *

Sec. 23. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect on December 31, ~~2019~~ 2020, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 24. 32 V.S.A. § 7402(8) is amended to read:

(8) "Laws of the United States" means the U.S. Internal Revenue Code of 1986, as amended through December 31, ~~2019~~ 2020. As used in this chapter, "Internal Revenue Code" has the same meaning as "laws of the United States" as defined in this subdivision.

* * * Technical Assistance * * *

Sec. 25. PROVISION OF TECHNICAL ASSISTANCE SERVICES TO LOCAL EDUCATION AGENCIES

(a) The sum of $2,800,000.00 of Federal Elementary and Secondary Education Relief Funding is appropriated to the Agency of Education to fund a contract or contracts, for the period of award through December 2023, to provide support for Local Educational Agencies (LEAs) including charter schools that are LEAs, in their utilization of Federal Elementary and Secondary School Emergency Relief Funds and with assistance in utilization of other federal funds received through the various federal budget processes.

(b) Specifically, the contractor or contractors shall assist the LEAs with activities:

(1) to address learning loss by supporting the implementation of evidence-based interventions;

(2) to address the disproportionate impact of the coronavirus on the student subgroups described in section 1111(b)(2)(B)(xi) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(B)(xi)), students experiencing homelessness, and children and youth in foster care;

(3) to aid LEAs with planning and implementation to effectively use these federal funds for other areas of need consistent with state and federal law and regulations; including but not limited to facilities improvements and technological needs.

(4) to aid LEAs in prioritizing activities that will effectively use these federal funds without creating an ongoing funding demand.

(5) to assist in fund reporting and to provide other guidance to ensure that the funds are used in accordance with federal law and regulations within the time period allowed by law.

(c) The Agency may go through a bidding process or is authorized to award a sole source contract consistent with 3 V.S.A. § 3026 to the University of Vermont.

Sec. 26. PROVISION OF TECHNICAL ASSISTANCE SERVICES TO LOCAL GOVERNMENTS

(a) The sum of $950,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Agency of Commerce and Community Development to be granted as follows:

(1) $650,000.00 to the Vermont League of Cities and Towns (VLCT), to be used through State fiscal year 2024, to establish a support program for the use of federal funds received under 42 U.SC. 801 Sec. 603, the Coronavirus Local Fiscal Recovery Fund. The VLCT shall use these resources to work with local governments to facilitate the local communities' efforts to:

(A) respond to the public health emergency with respect to COVID–19 and its negative economic impacts;

(B) assist with fund reporting, accountability, transparency, and usage technical assistance where necessary;

(C) provide for other guidance to ensure that 42 U.S.C. 801 Sec. 603 funds are used in accordance with federal law and regulations; and

(D) provide guidance; model templates and policies; and training on ARP compliant finance and program management.

(2) $300,000 to one or more regional planning commissions, to be used through state fiscal year 2024, to establish and implement a capacity to assist local communities with specific project management needs in expending federal funds received under 42 U.S.C. 801 Sec. 603. The Regional Planning Entities shall use these resources to work with local governments to facilitate the local communities' efforts to:

(A) identify needs and top priorities for designing and building projects that are consistent with state and federal law; implement existing State, regional and local plans; and do not duplicate investments made by other federal recovery funds;

(B) respond to inquiries on eligibility and to facilitate local discussions among stakeholders on specific projects; and

(C) provide other assistance as needed from local communities in coordination with the VLCT.

* * * Other Miscellaneous Amendments * * *

Sec. 27. VERMONT CENTER FOR CRIME VICTIM SERVICES

The amount of $27,500.00 is appropriated from the General Fund in fiscal year 2021 to the Vermont Center for Crime Victim Services for a grant to the Burlington Community Justice Center for the St. Joseph's Orphanage Restorative Inquiry.

Sec. 28. AUDIT OF SHERIFFS' USE OF STATE PAID DEPUTIES

The amount of $25,000.00 is appropriated from the General Fund in fiscal year 2021 to the Vermont State Auditor to contract for up to five audits of the use of State paid deputies by county sheriffs during the state of emergency in calendar year 2020.

Sec. 29. HEALTHCARE WAIVERS: LEGISLATIVE CAPACITY

The Joint Fiscal Office is authorized to use available legislative appropriations including carryforward funds to engage a consultant to assist the legislative health care and fiscal committees on the policy and fiscal implications and opportunities related to the Global Commitment waiver and All Payer agreement renewals with Center for Medicaid and Medicare Services.

Sec. 30. 2020 Acts and Resolves No. 154, Sec. B.1123.1 is amended to read:

Sec. B.1123.1 FISCAL YEAR 2021 YEAR-END CLOSEOUT TRANSFERS

(a) At the close of fiscal year 2021, after the application of the provisions of 32 V.S.A. § 308(b), and before the application of 32 V.S.A. § ~~308(c)~~ 308c up to $5,000,000 of any remaining unreserved and undesignated end of fiscal year 2021 General Fund surplus shall be allocated as follows:

* * *

Sec. 31. 2020 Acts and Resolves No. 154, Sec. B.330 as amended by 2021 Acts and Resolves No. 3 (Budget Adjustment Act) Sec. 25 is further amended to read:

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	19,375,620	19,375,620
Total	19,375,620	19,375,620

Source of funds		
General fund	7,454,782	7,454,782
Federal funds	~~7,748,373~~	7,148,466
Global Commitment fund	~~4,172,465~~	4,772,372
Total	19,375,620	19,375,620

Sec. 32. 2020 Acts and Resolves No. 154, Sec. B.346, as amended by 2021 Acts and Resolves No. 3, Sec. 30, is further amended to read:

Sec. B.346 Total human services

Source of funds		
General fund	977,495,760	977,495,760
Special funds	116,403,523	116,403,523
Tobacco fund	25,088,208	25,088,208
State health care resources fund	17,078,501	17,078,501
Federal Coronavirus Relief Fund	17,774,276	17,774,276
Federal funds	~~1,471,852,944~~	1,471,253,037
Global Commitment fund	~~1,592,184,231~~	1,592,784,138
Internal service funds	1,930,685	1,930,685
Interdepartmental transfers	46,869,842	46,869,842
Permanent trust funds	25,000	25,000
Total	4,266,702,970	4,266,702,970

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

This act shall take passage, except that, notwithstanding 1 V.S.A. § 214:

(1) Sec. 5 (mortgage assistance foreclosure assistance) shall take effect retroactively on January 1, 2021; and

(2) Secs. 23 and 24 (annual link to federal statutes) shall take effect retroactively on January 1, 2021 and apply to taxable years beginning on and after January 1, 2020.

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

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

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

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

Sec. 1a. AMERICAN RESCUE PLAN ACT OF 2021: ACCEPTANCE OF SPECIFIC FEDERAL GRANTS

(a) Notwithstanding 32 V.S.A § 5, funds from the American Rescue Plan Act of 2021, the Coronavirus State Fiscal Recovery Fund, the Coronavirus Capital Projects Fund, and the Homeowner Assistance Fund shall be deposited into the State Treasury and are hereby accepted and shall be spent subject to appropriation.

(b) Notwithstanding 32 V.S.A § 5, any funds received through Section 2001 of the Elementary and Secondary School Emergency Relief Fund and not required to be made as subgrants to local educational agencies in the American Rescue Plan Act of 2021 shall be spent subject to appropriation.

Second: In Sec. 2, remaining coronavirus relief funds; carry forward, reversion, and application, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Prior to the close of fiscal year 2021, the Commissioner of Finance and Management is authorized to revert all unobligated CRF appropriations to the State CRF. In fiscal year 2021, the total amount of CRF reverted under this subsection shall be appropriated to the Department of Corrections for CRF eligible public safety payroll and benefits costs and the same amount of General Fund appropriated to the Department of Corrections shall be reverted. To the extent there are insufficient eligible public safety payroll and benefits costs, any remaining reverted CRF balance shall be appropriated to the Department of Corrections and the same amount of General Fund appropriated to the Department of Corrections shall be reverted in fiscal year 2022.

Third: In Sec. 5, homeowner; mortgage assistance foreclosure prevention, after the words "appropriated from" by striking out the following: the American Rescue Plan Act of 2021 – Homeowner Assistance Fund and inserting in lieu thereof the following: Coronavirus Relief Funds

Fourth: By adding a new section to be numbered Sec. 9a. to read as follows:

Sec. 9a. RECOVERY CENTER SUPPLEMENTAL GRANTS

(a) The sum of $240,000.00 is appropriated from the American Rescue Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund to the Department of Health to make grants of $20,000.00 to cover the financial impacts of the ongoing COVID-19 pandemic at each of the recovery centers statewide.

Fifth: In Sec. 17, practical nurse; workforce funding, in subsection (a), in subdivision (3), after the words "allocated for tuition" by adding the words and fees and after the words "Vermont Technical College" by adding the words after available federal and State financial aid is applied to ensure no cost to the student

Sixth: In Sec. 25, provision of technical assistance services to local education agencies, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The sum of $2,800,000.00 is appropriated in fiscal year 2021 and to be carried forward, to the Agency of Education from federal funds for Elementary and Secondary School Relief (ESSR) funds provided in the American Rescue Plan Act of 2021 Section 2001(f)(1), to fund a contract or contracts, for the period of award through December 2023, to provide support for Local Educational Agencies (LEAs), including charter schools that are LEAs, in their utilization of Federal Elementary and Secondary School Emergency Relief Funds and with assistance in utilization of other federal funds received through the various federal budget processes.

Seventh: In Sec. 33, effective dates, in the first sentence after the words "This act shall take" by adding the words effect on

Which was agreed to.

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

Bills Passed

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

S. 30. An act relating to prohibiting possession of firearms at childcare facilities, hospitals, and certain public buildings.

S. 47. An act relating to motor vehicle manufacturers and motor vehicle warranty or service facilities.

Consideration Postponed

Senate bill entitled:

S. 102.

An act relating to the regulation of agricultural inputs 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 Wednesday, March 24, 2021, which was agreed to to.

Bill Amended; Third Reading Ordered

S. 114.

Senate committee bill entitled:

An act relating to improving prekindergarten through grade 12 literacy within the State.

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

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as follows:

First: By striking out Sec. 3 (Literacy grant funding; appropriation) in its entirety.

Second: By striking out Sec. 4 (Agency of Education; staffing) in its entirety.

Third: By striking out Sec. 8 (Agency of Education; annual budget request) in its entirety.

And by renumbering the remaining sections of the bill to be numerically correct.

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

House Proposal of Amendment Concurred In

S. 117.

House proposal of amendment to Senate bill entitled:

An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

Was taken up.

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

By striking out Sec. 11, 18 V.S.A. § 1129, in its entirety and inserting in lieu thereof the following:

Sec. 11. [Deleted.]

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

House Concurrent Resolutions

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

By Reps. Redmond and others,

H.C.R. 27.

House concurrent resolution recognizing July 2021 as Park and Recreation Month in Vermont and designating July 16, 2021 as Vermont Park and Recreation Professionals Day.

By Rep. Wood,

H.C.R. 28.

House concurrent resolution honoring Dr. William Ashe for his leadership and service on behalf of Vermonters with developmental and intellectual disabilities.

Message from the House No. 37

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 87. An act relating to establishing a classification system for criminal offenses.

H. 145. An act relating to amending the standards for law enforcement use of force.

H. 154. An act relating to the failure of municipal officers to accept office.

H. 428. An act relating to hate-motivated crimes and misconduct.

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

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

H.C.R. 27. House concurrent resolution recognizing July 2021 as Park and Recreation Month in Vermont and designating July 16, 2021 as Vermont Park and Recreation Professionals Day.

H.C.R. 28. House concurrent resolution honoring Dr. William Ashe for his leadership and service on behalf of Vermonters with developmental and intellectual disabilities.

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

Adjournment

On motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, March 23, 2021, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 19.

TUESDAY, MARCH 23, 2021

The Senate was called to order by the President.

Devotional Exercises

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

Pledge of Allegiance

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

Bill Referred to Committee on Appropriations

H. 81.

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

An act relating to statewide public school employee health benefits.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 20.

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

By Senator Balint,

J.R.S. 20. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 26, 2021, it be to meet again no later than Tuesday, March 30, 2021.

Bills Referred

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

H. 87.

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

To the Committee on Judiciary.

H. 145.

An act relating to amending the standards for law enforcement use of force.

To the Committee on Judiciary.

H. 154.

An act relating to the failure of municipal officers to accept office.

To the Committee on Government Operations.

H. 428.

An act relating to hate-motivated crimes and misconduct.

To the Committee on Judiciary.

Bill Amended; Third Reading Ordered

S. 3.

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

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

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

Sec. 1. 13 V.S.A. § 4816 is amended to read:

§ 4816. SCOPE OF EXAMINATION; REPORT; EVIDENCE

(a) Examinations provided for in section 4815 of this title shall have reference to one or both of the following:

(1) ~~mental~~ Mental competency of the person examined to stand trial for the alleged offense~~; and~~.

(2) ~~sanity~~ Sanity of the person examined at the time of the alleged offense.

(b) A competency evaluation for an individual thought to have a developmental disability shall include a current evaluation by a psychologist skilled in assessing individuals with developmental disabilities.

(c)(1) As soon as practicable after the examination has been completed, the examining psychiatrist or psychologist~~, if applicable,~~ shall prepare a report containing findings in regard to ~~each of~~ the applicable ~~matters listed in~~ provisions of subsection (a) of this section. The report shall be transmitted to the court issuing the order for examination, and copies of the report sent to the State's Attorney, ~~and,~~ to the respondent's attorney if the respondent is represented by counsel, and to the Commissioner of Mental Health.

(2) If the psychiatrist or psychologist has been asked to provide opinions as to both the person's competency to stand trial and the person's sanity at the time of the alleged offense, those opinions shall be presented in separate reports and addressed separately by the court. In such cases, the examination of the person's sanity shall only be undertaken if the psychiatrist or psychologist is able to form the opinion that the person is competent to stand trial.

* * *

Sec. 2. 13 V.S.A. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) When a person charged on information, complaint, or indictment with a criminal offense:

(1) Is reported by the examining psychiatrist following examination pursuant to sections 4814–4816 of this title to have been insane at the time of the alleged offense.

(2) Is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental disease or mental defect.

(3) Is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court.

(4) Upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense; the court before which such person is tried or is to be tried for such offense, shall hold a hearing for the purpose of determining whether such person should be committed to the custody of the Commissioner of Mental Health. Such person may be confined in jail or some other suitable

place by order of the court pending hearing for a period not exceeding 15 days.

(b) When a person is found to be incompetent to stand trial pursuant to subdivision (a)(2) of this section, has not been indicted by reason of insanity for the alleged offense, or has been acquitted by reason of insanity at the time of the alleged offense, the person shall be entitled to have counsel appointed from Vermont Legal Aid to represent the person. The Department of Mental Health shall be entitled to appear and call witnesses at the proceeding.

Sec. 3. 13 V.S.A. § 4822 is amended to read:

§ 4822. FINDINGS AND ORDER; PERSONS WITH A MENTAL ILLNESS

(a) If the court finds that the person is a person in need of treatment or a patient in need of further treatment as defined in 18 V.S.A. § 7101, the court shall issue an order of commitment directed to the Commissioner of Mental Health that shall admit the person to the care and custody of the Department of Mental Health for an indeterminate period. In any case involving personal injury or threat of personal injury, the committing court may issue an order requiring a court hearing before a person committed under this section may be discharged from custody.

(b) An order of commitment issued pursuant to this section shall have the same force and effect as an order issued under 18 V.S.A. §§ 7611–7622, and a person committed under this order shall have the same status and the same rights, including the right to receive care and treatment, to be examined and discharged, and to apply for and obtain judicial review of his or her case, as a person ordered committed under 18 V.S.A. §§ 7611–7622.

(c)(1) Notwithstanding the provisions of subsection (b) of this section, at least 10 days prior to the proposed discharge of any person committed under this section, the Commissioner of Mental Health shall give notice of the discharge to the committing court and State's Attorney of the county where the prosecution originated. In all cases requiring a hearing prior to discharge of a person found incompetent to stand trial under section 4817 of this title, the hearing shall be conducted by the committing court issuing the order under that section. In all other cases, when the committing court orders a hearing under subsection (a) of this section or when, in the discretion of the Commissioner of Mental Health, a hearing should be held prior to the discharge, the hearing shall be held in the Family Division of the Superior Court to determine if the committed person is no longer a person in need of treatment or a patient in need of further treatment as set forth in subsection (a) of this section. Notice of the hearing shall be given to the Commissioner, the State's Attorney of the county where the prosecution originated, the committed person, and the person's attorney. Prior to the hearing, the State's Attorney

may enter an appearance in the proceedings and may request examination of the patient by an independent psychiatrist, who may testify at the hearing.

(2)(A) This subdivision (2) shall apply when a person is committed to the care and custody of the Commissioner of Mental Health under this section after having been found:

(i) not guilty by reason of insanity; or

(ii) incompetent to stand trial, provided that the person's criminal case has not been dismissed.

(B)(i) When a person has been committed under this section, the Commissioner shall provide notice to the State's Attorney of the county where the prosecution originated or to the Office of the Attorney General if that office prosecuted the case:

(I) at least 10 days prior to discharging the person from:

(aa) the care and custody of the Commissioner; or

(bb) commitment in a hospital or a secure residential recovery facility to the community on an order of nonhospitalization pursuant to 18 V.S.A. § 7618;

(II) at least 10 days prior to the expiration of a commitment order issued under this section if the Commissioner does not seek continued treatment; or

(III) any time that the person absconds from the custody of the Commissioner.

(ii) When the State's Attorney or Attorney General receives notice under subdivision (i) of this subdivision (B), the Office shall provide notice of the action to any victim of the offense who has not opted out of receiving notice.

(iii) As used in this subdivision (B), "victim" has the same meaning as in section 5301 of this title.

(C) When a person has been committed under this section and is subject to a nonhospitalization order as a result of that commitment under 18 V.S.A. § 7618, the Commissioner shall provide notice to the committing court and to the State's Attorney of the county where the prosecution originated, or to the Office of the Attorney General if that office prosecuted the case, if the Commissioner becomes aware that:

(i) the person is not complying with the order; or

(ii) the alternative treatment has not been adequate to meet the person's treatment needs.

* * *

Sec. 4. Vermont Rule of Criminal Procedure 16.1 is amended to read:

RULE 16.1. DISCLOSURE TO THE PROSECUTION

(a) The Person of the Defendant.

(1) Notwithstanding the initiation of judicial proceedings, and subject to constitutional limitations, upon motion and notice a judicial officer may require the defendant to:

* * *

(H) provide specimens of ~~his~~ 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

(J) submit to a reasonable mental examination by a psychiatrist or other expert when a court ordered examiner pursuant to 13 V.S.A. § 4814(a)(2) or (4) reports that a defendant is not competent to stand trial.

* * *

Sec. 5. CORRECTIONS; ASSESSMENT OF MENTAL HEALTH SERVICES

On or before November 1, 2021, the Departments of Corrections and of Mental Health shall jointly submit an inventory and evaluation of the mental health services provided by the entity with whom the Department of Corrections contracts for health care services to the House Committees on Corrections and Institutions, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary. The evaluation shall include a comparison as to how the type, frequency, and timeliness of mental health services provided in a correctional setting differ from those services available in the community. The evaluation shall further address how the memorandum of understanding executed by the Departments of Corrections and of Mental Health impacts the mental health services provided by the entity with whom the Department of Corrections contracts for health care services.

Sec. 6. FORENSIC CARE WORKING GROUP

(a) On or before August 1, 2021, the Department of Mental Health shall convene a working group of interested stakeholders, including as appropriate, the Department of Corrections, the Department of State's Attorneys and Sheriffs, the Office of the Attorney General, the Office of the Defender General, the Director of Health Care Reform, the Department of Buildings and General Services, a representative appointed by Vermont Care Partners, a representative appointed by Vermont Legal Aid's Mental Health Project, two crime victims representatives appointed by the Vermont Center for Crime Victim Services, the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259, a representative of the designated hospitals appointed by the Vermont Association of Hospitals and Health Care Systems, a person with lived experience of mental illness, and any other interested party permitted by the Commissioner of Mental Health, to:

(1) Identify any gaps in the current mental health and criminal justice system structure and opportunities to improve public safety and the coordination of treatment for individuals incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The working group shall review competency restoration models used in other states and explore models used in other states that balance the treatment and public safety risks posed by individuals found not guilty by reason of insanity, such as Psychiatric Security Review Boards, including the Connecticut Psychiatric Security Review Board, and guilty but mentally ill verdicts in criminal cases.

(2) Evaluate various models for the establishment of a State-funded forensic treatment facility for individuals found incompetent to stand trial or who are adjudicated not guilty by reason of insanity. The evaluation shall address:

(A) the need for a forensic treatment facility in Vermont;

(B) the entity or entities most appropriate to operate a forensic treatment facility;

(C) the feasibility and appropriateness of repurposing an existing facility for the purpose of establishing a forensic treatment facility versus constructing a new facility for this purpose;

(D) the number of beds needed in a forensic treatment facility and the impact that repurposing an existing mental health treatment facility would have on the availability of beds for persons seeking mental health treatment in the community or through the civil commitment system; and

(E) the fiscal impact of constructing or repurposing a forensic treatment facility and estimated annual operational costs considering "institutions of mental disease" waivers available through the Center for Medicare and Medicaid Services that do not provide federal fiscal participation for forensic mental health patients.

(b) Members of the working group who are not State employees shall be entitled to per diem compensation and reimbursement of expenses for attending meetings as permitted under 32 V.S.A. § 1010.

(c) On or before November 1, 2021, the Department of Mental Health shall submit a report containing the findings and recommendations of the working group to the Joint Legislative Justice Oversight Committee. The report shall include proposed draft legislation addressing any identified needed changes to statute.

Sec. 7. APPROPRIATIONS

(a) The sum of $250,000.00 is appropriated from the General Fund to Vermont Legal Aid for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820(b).

(b) The sum of $250,000.00 is appropriated from the General Fund to the Department of Mental Health. for the purpose of providing legal representation in commitment proceedings pursuant to 13 V.S.A. § 4820(b).

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

And that when so amended the bill ought to pass.

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

By striking out Sec. 7 in its entirety and by renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

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

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Judiciary, as amended?, Senator Sears moved to amend the recommendation of the Committee on Judiciary, as amended as follows:

In Sec. 6, forensic care working group, subsection (a), by inserting a subdivision (3) to read as follows:

(3) Consider the notification process under 13 V.S.A. § 4822(c)(2)(C) when the Commissioner is required to provide notification to the prosecutor upon becoming aware that persons on orders of non-hospitalization are not complying with the order or that the alternative treatment is not adequate to meet the person's treatment needs. The working group shall make any recommendations it deems necessary to clarify the process, including recommendations as to what facts and circumstances should trigger the Commissioner's duty to notify the prosecutor, and recommendations as to steps that the prosecutor should take after receiving the notification.

Which was agreed to.

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

Bill Amended; Third Reading Ordered

S. 97.

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

An act relating to miscellaneous judiciary procedures.

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

* * * Sunset Repeals and Extension * * *

Sec. 1. SUNSET REPEAL; COURT DIVERSION PROGRAM CHANGES

2017 Acts and Resolves No. 61, Sec. 7, as amended by 2020 Acts and Resolves No. 134, Sec. 1 (July 1, 2020 repeal of changes to the court diversion program), is repealed.

Sec. 2. SUNSET REPEAL; RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS ADVISORY PANEL

2017 Acts and Resolves No. 54, Sec. 6a, as amended by 2020 Acts and Resolves No. 134, Sec. 2 (July 1, 2020 repeal of 3 V.S.A. § 168, Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel), is repealed.

Sec. 3. SUNSET REPEAL; SPOUSAL MAINTENANCE AND SUPPORT GUIDELINES

2017 Acts and Resolves No. 60, Sec. 3, as amended by 2018 Acts and Resolves No. 203, Sec. 1 (July 1, 2021 repeal of spousal maintenance and

support guidelines), is repealed.

Sec. 4. 2017 Acts and Resolves No. 142, Sec. 5, is amended to read:

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, ~~2021~~ 2022.

* * * Repeals * * *

Sec. 5. 13 V.S.A. § 2579 is amended to read:

§ 2579. ~~CIVIL RECOVERY FOR RETAIL THEFT~~

~~(a) Any person over the age of 16 years or any emancipated minor who commits the offense of retail theft against a retail mercantile establishment in violation of section 2575 of this title shall be civilly liable to the retail mercantile establishment in an amount consisting of:~~

~~(1) damages equal to the retail price of the merchandise if the item is not returned in a merchantable condition; and~~

~~(2) a civil penalty of two times the retail price of the merchandise, to be not less than $25.00 and not more than $300.00.~~

~~(b) The fact that an action may be brought against an individual as provided in this section shall not limit the right of a retail mercantile establishment to demand, in writing, that a person who is liable for damages and penalties under this section remit the damages and penalties prior to the commencement of any legal action.~~

~~(c) If the person to whom a demand is made complies with the demand, that person shall incur no further civil liability for that specific act of retail theft.~~

~~(d) Any demand made under this section shall be accompanied by a copy of this law.~~

~~(e) A criminal prosecution under section 2575 of this title is not a prerequisite to the applicability of this section and such a criminal prosecution shall not bar an action under this section. An action under this section shall not bar a criminal prosecution under section 2575 of this title.~~

~~(f) The provisions of this section shall not be construed to prohibit or limit any other cause of action that a retail mercantile establishment may have against a person who unlawfully takes merchandise from a retail mercantile establishment, except as provided in subsection (c) of this section.~~

~~(g) Any testimony or statements by the defendant or any evidence derived from an attempt to reach a civil settlement or from a civil proceeding brought under this section shall be inadmissible in any other court proceeding relating to such retail theft.~~

~~(h) If a retail mercantile establishment files suit to recover damages and penalties pursuant to subsection (a) of this section and the mercantile establishment fails to appear at a hearing in such proceedings without excuse from the court, the court shall dismiss the suit with prejudice and award costs to the defendant.~~

~~(i) A person who knowingly uses the provisions of this section to demand or extract money from a person who is not legally obligated to pay a penalty shall be imprisoned not more than one year or fined not more than $1,000.00, or both.~~ [Repealed.]

Sec. 6. 20 V.S.A. § 187 is amended to read:

§ 187. ~~SPECIAL EMERGENCY JUDGES~~

~~In the event that any district judge is unavailable to exercise the powers and discharge the duties of his or her office, the duties of the office shall be discharged and the powers exercised by one of three special emergency judges residing in the district served by such judge, and designated by him or her within 60 days after the approval of this chapter, and thereafter immediately after the date that he or she shall have been appointed and qualified as such. Such special emergency judges shall, in the order specified, exercise the powers and discharge the duties of such office in case of the unavailability of the regular judge or persons immediately preceding them in the designation. The designating authority shall, each year, review and shall revise, as necessary, designations made pursuant to this chapter to insure their current status. Forthwith after such designations are made and after a revision thereof copies shall be filed in the offices of the governor and the county clerk. Said emergency special judges shall discharge the duties and exercise the powers of such office until such time as a vacancy which may exist shall be filled in accordance with the constitution and statutes or until the regular judge or one preceding the designee in the order of designation becomes available to exercise the powers and discharge the duties of his or her office. While exercising the powers and discharging the duties of the office of a district judge a special emergency judge shall receive the pro rata salary and perquisites thereof.~~ [Repealed.]

* * * Probate Fees * * *

* * *

Sec. 7. 14 V.S.A. § 1492 is amended to read:

§ 1492. ACTION FOR DEATH FROM WRONGFUL ACT; PROCEDURE; DAMAGES

(a) The action shall be brought in the name of the personal representative of the deceased person and commenced within two years from the discovery of the death of the person, but if the person against whom the action accrues is out of the State, the action may be commenced within two years after the person comes into the State. After the cause of action accrues and before the two years have run, if the person against whom it accrues is absent from and resides out of the State and has no known property within the State that can by common process of law be attached, the time of his or her absence shall not be taken as part of the time limited for the commencement of the action. If the death of the decedent occurred under circumstances such that probable cause is found to charge a person with homicide, the action shall be commenced within seven years after the discovery of the death of the decedent or not more than two years after the judgment in that criminal action has become final, whichever occurs later.

* * *

(f) The fee for the appointment of a personal representative to bring an action pursuant to subsection(a) of this section shall be the entry fee established by 32 V.S.A. § 1434(a)(1).

Sec. 8. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

(a) The following entry fees shall be paid to the Probate Division of the Superior Court for the benefit of the State, except for subdivisions (18) and (19) of this subsection, which shall be for the benefit of the county in which the fee was collected:

(1) Estates of $10,000.00 or less $50.00

* * *

(34) Registration of foreign guardianship order $90.00

* * *

* * * Judicial Bureau; Agricultural Product Identification Labels Misuse * * *

Sec. 9. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

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

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

* * *

(7) Violations of 16 V.S.A. chapter ~~1~~ 9, subchapter ~~9~~ 5, relating to hazing.

* * *

(19) ~~Violations of 6 V.S.A. § 2965, relating to the misuse of identification labels for agricultural products produced in Vermont and meeting standards of quality established by the Secretary of Agriculture, Food and Markets.~~ [Repealed.]

* * *

* * * Roadside Safety Technical Correction * * *

Sec. 10. 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 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, laboratory assistant, intermediate or advanced emergency medical technician, or paramedic acting at the request of a law enforcement officer may, at a medical facility, police or fire department, or other safe and clean location as determined by the individual withdrawing blood, withdraw blood for the purpose of determining the presence of alcohol or another drug. ~~A~~ Any withdrawal of blood shall not be taken at roadside, and a law enforcement officer, even if trained to withdraw blood, acting in that official capacity may not withdraw blood for the purpose of determining the presence of alcohol or another drug. 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 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 that is intended to be introduced in evidence is taken with a crimper device or when~~ blood or saliva 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 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.

* * *

(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.

* * *

Sec. 11. REPEAL

2020 Acts and Resolves No. 164, Sec. 24 (administration of tests; 23 V.S.A. § 1203) is repealed.

Sec. 12. 2020 Acts and Resolves No. 164, Sec. 33(c) is amended to read:

(c) Secs. 10 (implementation of Medical Cannabis Registry), 13 (implementation of medical cannabis dispensaries), 18 (income tax deduction), 18c (legislative intent), 21 (definition of evidentiary test), 22 (operating vehicle under the influence of alcohol or other substance), 23 (consent to taking of tests to determine blood alcohol content or presence of other drug), ~~24 (administration of tests),~~ and 25 (independent testing of evidentiary sample) shall take effect January 1, 2022.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 10 shall take effect on January 1, 2022.

And that when so amended the bill ought to pass.

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

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

Bills Passed

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

S. 88. An act relating to insurance, banking, and securities.

S. 114. An act relating to improving prekindergarten through grade 12 literacy within the State.

Third Reading Ordered

S. 66.

Senator Chittenden, for the Committee on Transportation, to which was referred Senate bill entitled:

An act relating to electric bicycles.

Reported that the bill ought to pass.

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

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

Bill Amended; Third Reading Ordered

S. 51.

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

An act relating to the persons authorized to make contributions to candidates and political parties and to political committee names.

Reported recommending that the bill be amended by striking out Sec. 4 in its entirety and inserting in lieu thereof a two new sections to be numbered Secs. 4 and 5 to read as follows:

Sec. 4. PUBLIC CAMPAIGN FINANCE STUDY COMMITTEE; REPORT

(a) Creation. There is created the Public Campaign Finance Study Committee to study and make recommendations regarding Vermont's current public campaign finance option.

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

(1) one current member of the Senate, who shall be appointed by the Committee on Committees and who shall be Co-Chair;

(2) one current member of the House of Representatives, who shall be appointed by the Speaker of the House and who shall be Co-Chair;

(3) the Secretary of State or designee;

(4) the Attorney General or designee; and

(5) the Executive Director of the State Ethics Commission or designee.

(c) Powers and duties. The Committee shall consult with interested stakeholders to study and make recommendations on Vermont's current public campaign finance option (Option), including the following issues:

(1) whether the structure of the Option is appropriate or whether Vermont should instead enact a different public campaign finance system, such as one based on vouchers as in the Seattle Democracy Voucher Program or one that provides supplemental payments based on the amount of qualifying contributions as in the Maine Clean Election Act;

(2) if Vermont should retain the Option:

(A) whether the current qualifying contributions and grant amounts for candidates for Governor and Lieutenant Governor are appropriate;

(B) whether the Option should be extended to other offices and, if so, which offices and what the qualifying contributions and grant amounts should be for each office; and

(C) how it may be improved; and

(3) what the funding source should be for either the Option or any recommended substitute.

(d) Assistance. The Committee shall have the assistance of the Office of Legislative Counsel and the Joint Fiscal Office.

(e) Report. On or before December 1, 2021, the Committee shall report to the Senate and House Committees on Government Operations with its findings and any recommendations for legislative action. The report may be in the form of legislation.

(f) Meetings.

(1) The Co-Chairs shall call the first meeting of the Committee to occur on or before August 15, 2021.

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

(3) The Committee shall cease to exist on December 1, 2021.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings. These payments shall be made from monies appropriated to the member's appointing authority.

Sec. 5. EFFECTIVE DATES

This act shall take effect on December 11, 2022, except that Sec. 4 (campaign finance study) shall take effect upon passage.

And that when so amended the bill ought to pass.

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

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

Bill Amended; Third Reading Ordered

S. 62.

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

An act relating to creating a New Vermont Employee Incentive Program.

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

Sec. 1. INTENT AND PURPOSE

It is the intent of the General Assembly and the purpose of this act to:

(1) expand the Vermont workforce;

(2) attract new residents to the State; and

(3) provide support to employers who are unable to fill positions from among candidates who are already located in this State, whether due to very low unemployment rate or due to a disconnect between job requirements and candidate qualifications.

Sec. 2. 10 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ECONOMIC DEVELOPMENT

* * *

§ 4. NEW RELOCATING AND REMOTE EMPLOYEES; INCENTIVES

(a) The Agency of Commerce and Community Development shall design and implement a program to award incentive grants to relocating employees as provided in this section and subject to the policies and procedures the Agency

adopts to implement the program.

(b) A relocating employee may be eligible for a grant under the program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed $5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed $7,500.00, for a relocating employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the program, which shall include a simple certification process to certify relocating employees and qualifying expenses;

(2) promote awareness of the program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to relocating employees on a first-come, first-served basis beginning on July 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the program.

(d) Annually, on or before December 15, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the program;

(2) the promotion and marketing of the program;

(3) an analysis of the utilization and performance of the program, including the projected revenue impacts and other qualitative and quantitative returns on investment in the program based on available data and modeling.

(e) As used in this section:

(1) "Qualifying expenses" means the actual costs a relocating employee incurs for one or more of the following:

(A) relocation expenses, which may include moving costs, closing costs for a primary residence, rental security deposit, one month's rent payment, and other relocation expenses established in Agency guidelines;

(B) reasonable and necessary costs, considering the employee's location and employment position, to access or upgrade broadband Internet connectivity or to acquire membership in a co-working or similar space.

(2) "Relocating employee" means an individual who on or after July 1, 2021 meets the following criteria:

(A) The individual becomes a full-time resident of this State.

(B) The individual:

(i)(I) becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State; and

(II) the employer attests to the Agency that, after reasonable time and effort, the employer has been unable to fill the employee's position from among Vermont applicants; or

(ii) is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(C) The individual receives gross salary or wages that equal or exceed:

(i) 160 percent of the State minimum wage; or

(ii) 140 percent of the State minimum wage if:

(I) the individual becomes a full-time employee at a Vermont location of a business domiciled or authorized to do business in this State that is located in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State; or

(II) the individual is a full-time employee of an out-of-state business and performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State, and the individual becomes a resident in a Vermont labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State.

(D) The individual is subject to Vermont income tax.

Sec. 3. IMPLEMENTATION; FUNDING; TRANSITION; REPORT

(a) It is the intent of the General Assembly to consolidate into a single program:

(1) the funding and activities of 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; and

(2) the funding and activities of the New Worker Relocation Incentive Program created by 2019 Acts and Resolves No. 80, Sec. 12.

(b) Consistent with subsection (a) of this section, the Agency of Commerce and Community Development may use any remaining funds appropriated to it for the New Remote Worker Grant Program and the New Worker Relocation Incentive Program to:

(1) award incentives to new remote workers and new relocating workers who qualify for an incentive under either of those programs until July 1, 2021; and

(2) award incentives to relocating employees under the program created pursuant to Sec. 2 of this act on or after July 1, 2021.

(c) On or before January 15, 2022, the Agency of Commerce and Community Development shall report to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development concerning any recommended changes to the program created in Sec. 2 of this act, including any residency requirements or other further changes on new employee eligibility.

Sec. 4. REPEAL

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

Sec. 5. APPROPRIATION

(a) In fiscal year 2022, the amount of $1,000,000.00 is appropriated from the General Fund to the Agency of Commerce and Community Development to provide grants pursuant to the program created in Sec. 2 of this act.

(b) The Agency shall make reasonable efforts to promote the availability of grants through the program to communities that are underrepresented in

Vermont and to populations that have historically experienced discrimination or unequal access to benefits and services.

Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 3 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2021.

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

An act relating to creating incentives for new remote and relocating workers.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

By striking out Sec. 5 in its entirety

And by renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended? was agreed to and third reading of the bill was ordered.

Joint Resolution Adopted in Concurrence

J.R.H. 5.

Joint House resolution entitled:

Joint resolution authorizing, subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Boys State educational program to use the State House.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 24, 2021.

WEDNESDAY, MARCH 24, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 38

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 101. An act relating to the implementation of 2018 Acts and Resolves No. 173 by providing grant funding to build systems-driven, sustainable literacy support for all students with measurable outcomes.

H. 106. An act relating to equitable access to a high-quality education through community schools.

H. 218. An act relating to the sale of unpasteurized raw milk.

H. 426. An act relating to addressing the needs and conditions of public school facilities in the State.

H. 434. An act relating to establishing the Agricultural Innovation Board.

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

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 128.

By Senator Pearson,

An act relating to the taxation of grid-connected renewable energy plants, energy storage facilities, and energy transformation projects.

To the Committee on Finance.

Bills Referred

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

H. 101.

An act relating to the implementation of 2018 Acts and Resolves No. 173 by providing grant funding to build systems-driven, sustainable literacy support for all students with measurable outcomes.

To the Committee on Education.

H. 106.

An act relating to equitable access to a high-quality education through community schools.

To the Committee on Education.

H. 218.

An act relating to the sale of unpasteurized raw milk.

To the Committee on Agriculture.

H. 426.

An act relating to addressing the needs and conditions of public school facilities in the State.

To the Committee on Education.

H. 434.

An act relating to establishing the Agricultural Innovation Board.

To the Committee on Agriculture.

Third Reading Ordered

S. 102.

Senate committee bill entitled:

An act relating to the regulation of agricultural inputs for farming.

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

Senator MacDonald, for the Committee on Natural Resources and Energy, to which the bill was referred, reported that the bill ought to pass.

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

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

Thereupon, pending the question, Shall the bill be read third time?, Senators MacDonald, Bray, Campion, McCormack and Westman moved to amend the bill as follows:

First: In Sec. 3, 6 V.S.A. chapter 218, in section 5133, in subsection (b), by adding two new subdivisions (3) and (4) to read:

(3) The rules shall prohibit a farm from initiating the production of compost on or after July 1, 2021 within a downtown, village center, new town center, neighborhood development area, or growth center designated under 24 V.S.A. chapter 76a, unless the municipality has expressly allowed composting in the designated area under the municipal zoning or subdivision bylaws or in an approved municipal plan.

(4) The rules adopted under this section shall be designed to reduce odor, noise, vectors, and other nuisance conditions on farms and to protect the public health and the environment in a manner that is equal to or better than the rules for compost facilities in the Agency of Natural Resources' Vermont Solid Waste Management Rules, as amended.

Second: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. REPORT ON IMPORTATION OF FOOD RESIDUALS FOR FARMING

On or before January 15, 2022 and annually thereafter, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Natural Resources, Fish, and Wildlife a report regarding importation of food residuals for composting under 10 V.S.A. § 6001(22)(H). The report shall include:

(1) an inventory of the operators of farms that are producing compost under 10 V.S.A. § 6001(22)(H), including the estimated volume of food residuals imported onto farms;

(2) a status report on the rulemaking required under 6 V.S.A. § 5133 and any subsequent amendment to those rules;

(3) an accounting of any complaints regarding or enforcement actions brought against a farm producing compost under 10 V.S.A. § 6001(22)(H); and

(4) any additional information that the Secretary determines is relevant to the administration of compost production under 10 V.S.A. § 6001(22)(H).

Third: By adding a new section to be numbered Sec. 8a to read as follows:

Sec. 8a. RULEMAKING; IMPLEMENTATION

The Secretary of Agriculture, Food and Markets shall initiate the rulemaking required under 6 V.S.A. § 5133 on or before January 1, 2022. The Secretary of Agriculture, Food and Markets shall file under 3 V.S.A. § 841 a final proposal of the rules required under 6 V.S.A. § 5133 on or before January 1, 2023.

Fourth: By striking out Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and Secs. 1–8a (compost foraging; farming) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2021.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 60.

Senate bill entitled:

An act relating to allowing municipal and cooperative utilities to offer innovative rates and services.

Was taken up.

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

First: By striking out the Sec. 1 heading in its entirety and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 218d(n) and (o) are added to read:

Second: In Sec. 1. 30 V.S.A. § 218d subsection (o), in subdivision (1)(C)(i), by striking out the word "plant" immediately preceding the word "additions"

Third: In Sec. 1. 30 V.S.A. § 218d subsection (o), in subdivision (1)(C)(i), by striking out the words "net plant capacity" and inserting in lieu thereof the words net asset

Which was agreed to.

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

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 315.

House bill entitled:

An act relating to COVID-19 relief.

Was taken up.

Thereupon, pending third reading of the bill, Senator Lyons moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 14a to read as follows:

Sec. 14a. 18 V.S.A. § 1129(d) and (e) are amended to read:

(d) The Department may provide confidential registry information to health care provider networks serving Vermont patients, to the Vermont Health Information Exchange, and, with the approval of the Commissioner, to researchers who present evidence of approval from an institutional review board in accordance with 45 C.F.R. § 164.512.

(e) Prior to releasing confidential information pursuant to subsections (c) and (d) of this section, the Commissioner shall obtain from State registries, health care provider networks, the Vermont Health Information Exchange, and researchers a written agreement to keep any identifying information confidential and privileged.

Which was agreed to.

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

First: By striking out Secs. 23 and 24 (annual link to federal statutes) in their entireties and inserting in lieu thereof new Secs. 23 and 24 to read as follows:

Sec. 23. [Deleted.]

Sec. 24. TAXATION; ANNUAL LINK TO FEDERAL STATUTES; TAX YEAR 2020

It is the intent of the General Assembly that this act shall include legislative language conforming the Vermont tax code under 32 V.S.A. §§ 5824 and 7402(8) to the statutes of the United States for taxable year 2020, and further, to make explicit in this act the incorporation or lack thereof of the federal income tax-related changes enacted on March 11, 2021 in the American Recovery Plan Act, Pub. L. No. 117-2.

Second: By striking out Sec. 33 (effective dates) in its entirety and inserting in lieu thereof a new Sec. 33 to read as follows:

Sec. 33. EFFECTIVE DATES

This act shall take effect on passage, except notwithstanding 1 V.S.A. § 214, Sec. 5 (mortgage assistance foreclosure assistance) shall take effect retroactively on January 1, 2021.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment, on a roll call, Yeas 30, Nays 0.

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

Roll Call

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

Those Senators who voted in the negative were: None.

Bill Passed

S. 3.

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

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

Bill Passed

S. 51.

Senate bill of the following title:

An act relating to the persons authorized to make contributions to candidates and political parties and to political committee names.

Was read the third time and passed on a roll call, Yeas 22, Nays 8.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Bray, Campion, Chittenden, Clarkson, Cummings, Hardy, Hooker, Kitchel, Lyons, MacDonald, Mazza, McCormack, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin, Starr, White.

Those Senators who voted in the negative were: Benning, Brock, Collamore, Ingalls, Nitka, Parent, Terenzini, Westman.

Bills Passed

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

S. 62. An act relating to creating a New Vermont Employee Incentive Program.

S. 66. An act relating to electric bicycles.

S. 97. An act relating to miscellaneous judiciary procedures.

Third Reading Ordered

S. 124.

Senate committee bill entitled:

An act relating to miscellaneous utility subjects.

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

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported the same without recommendation.

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

Bill Amended; Third Reading Ordered

S. 13.

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

An act relating to the implementation of the Pupil Weighting Factors Report.

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

Sec. 1. FINDINGS

(a) 2018 Acts and Resolves No. 173, Sec. 11 directed the Agency of Education to undertake a study examining and evaluating the current formula used to weigh economically disadvantaged students, English language learners, and secondary-level students in Vermont for purposes of calculating equalized pupils. The study was also to consider whether new cost factors and weights should be included in the equalized pupil calculation.

(b) The findings from the Pupil Weighting Factors Report dated December 24, 2019 (Report), produced by a University of Vermont-led team of researchers, including national experts on student weighting, were stark, stating that "[n]either the factors considered by the [current] formula nor the value of the weights reflect contemporary educational circumstances and costs." The Report also found that the current "values for the existing weights have weak ties, if any, with evidence describing the difference in the costs of educating students with disparate needs or operating schools in different contexts."

(c) As a corrective to this situation, the major recommendations of the Report are straightforward, specifically that the General Assembly increase certain of the existing weights and that it add population density (rurality) as a new weighting factor, given the Report's finding that rural districts pay more to educate a student. However, given the statewide nature of Vermont's education funding system and the reality that any change in the weighting formula is complex due to its relationship to other educational policies and will produce fluctuations in tax rates across the State, the General Assembly has chosen to develop a phased approach to revising the weighting formula.

Sec. 2. TASK FORCE ON THE IMPLEMENTATION OF THE PUPIL WEIGHTING FACTORS REPORT

(a) Creation. There is created the Task Force on the Implementation of the Pupil Weighting Factors Report. The Task Force shall recommend to the General Assembly an action plan and proposed legislation to ensure that all public school students have equitable access to educational opportunities, taking into account the Pupil Weighting Factors Report dated December 24, 2019 (Report), produced by a University of Vermont-led team of researchers.

(b) Membership. The Task Force shall be composed of the following six members:

(1) a member of the Senate Committee on Finance, appointed by the Chair of the Committee;

(2) a member of the Senate Committee on Education, appointed by the Chair of the Committee;

(3) a member of the House Committee on Ways and Means, appointed by the Chair of the Committee;

(4) a member of the House Committee on Education, appointed by the Chair of the Committee;

(5) the Secretary of Education or designee; and

(6) the Chair of the State Board of Education or designee.

(c) Powers and duties. The Task Force shall recommend to the General Assembly an action plan and proposed legislation to ensure that all public school students have equitable access to educational opportunities, taking into account the Report, and shall:

(1) recommend which weighting factors to modify or create and their associated weights and whether any weights should be eliminated in lieu of categorical aid;

(2) consider use of categorical aid, including whether categorical aid should be used instead of some or all of the weighting factors and, if weighting factors are used, whether small schools grants, transportation aid, and other State grant funding targeted for a specific purpose should be adjusted or terminated;

(3) recommend how to ensure that school districts are using funding to meet education quality standards and improve student outcomes and opportunities;

(4) consider education property tax rates and the taxing capacity of school districts and how the Task Force's recommendations relate to the recommendations of the Vermont Tax Structure Commission Report dated February 8, 2021;

(5) recommend how to transition to the new weights or categorical aid to promote equity and ease the financial impact on school districts during the transition, including the availability and use of federal funding;

(6) recommend how tuition rates for non-operating school districts and career technical centers should be adjusted to account for the cost of educating students as reflected in the recommended weights or categorical aid;

(7) consider school funding formulas in other states and alternative models for school funding;

(8) consider the relationship between the recommended weights or categorical aid and the changes to special education funding under 2018 Acts and Resolves No. 173; and

(9) consider the impact of the recommended weights or categorical aid on the goals and outcomes of 1997 Acts and Resolves No. 60 and 2015 Acts and Resolves No. 46, each as amended.

(d) Consultant. The Task Force shall retain a consultant to assist it with executing its powers and duties. The consultant shall have expertise and experience in providing advice on Vermont's education funding and tax system and shall be nationally recognized in the field of education funding and tax systems.

(e) Collaboration. In performing its duties under this section, the Task Force shall collaborate with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Council of Special Education Administrators, the Vermont Principals' Association, and the Vermont-National Education Association.

(f) Public meetings. The Task Force shall hold one or more meetings to share information and receive input from the public concerning its work, which may be part of or separate from its regular meetings.

(g) Report. On or before January 15, 2022, the Task Force shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its action plan and proposed legislation.

(h) Meetings.

(1) The Secretary of Education shall call the first meeting of the Task Force to occur on or before August 1, 2021.

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

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

(4) The Task Force shall meet not more than 12 times.

(i) Assistance. The Task Force shall have the:

(1) administrative assistance of the Agency of Education, which shall include organizing meetings and taking minutes;

(2) technical assistance of the Joint Fiscal Office, which shall include data analysis and computation;

(3) assistance from the consultant, which shall include assistance with executing its powers and duties as directed by the Task Force and writing the report required under subsection (g) of this section; and

(4) legal assistance from Legislative Counsel, which shall include legal advice and drafting proposed legislation.

(j) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23 for not more than 12 meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 3. REQUIREMENT FOR ADDITIONAL LEGISLATIVE ACTION

During the second year of the 2021–2022 biennium, the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance shall consider the action plan and legislation proposed by the Task Force on the Implementation of the Pupil Weighting Factors Report created under Sec. 2 of this act. It is the intent of the General Assembly that it pass legislation during the second year of the biennium that implements changes to how education is funded to ensure that all public school students have equitable access to educational opportunities. A positive vote of both the House and Senate, and approval by the Governor, would be required to implement these changes.

Sec. 4. APPROPRIATIONS

(a) The sum of $10,800.00 is appropriated from the General Fund in fiscal year 2022 to the General Assembly for per diem and reimbursement of expenses for members of the Task Force on the Implementation of the Pupil Weighting Factors Report created under Sec. 2 of this act.

(b) The sum of $150,000.00 is appropriated from the General Fund in fiscal year 2022 to the General Assembly for consultant expenses of the Task Force on the Implementation of the Pupil Weighting Factors Report created under Sec. 2 of this act.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Education with the following amendments thereto:

First: In Sec. 2, Task Force on the Implementation of the Pupil Weighting Factors Report, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Membership. The Task Force shall be a legislative task force and shall be composed of the following six members:

(1) the Chair of the Senate Committee on Finance or designee;

(2) the Chair of the Senate Committee on Education or designee;

(3) the Chair of the House Committee on Ways and Means or designee;

(4) the Chair of the House Committee on Education or designee;

(5) the Secretary of Education or designee; and

(6) the Chair of the State Board of Education or designee.

Second: In Sec. 2, Task Force on the Implementation of the Pupil Weighting Factors Report, by striking out subsection (i) in its entirety and inserting in lieu thereof the following:

(i) Assistance. The Task Force shall have the:

(1) administrative assistance from the Agency of Education, which shall include organizing meetings and taking minutes;

(2) technical assistance of the Joint Fiscal Office, which shall include contracting with, and overseeing the work of, the consultant and data analysis and computation;

(3) assistance from the consultant, which shall include assistance with executing the Task Force's powers and duties and writing the report required under subsection (g) of this section; and

(4) legal assistance from Office of Legislative Counsel, which shall include legal advice and drafting proposed legislation.

Third: In Sec. 4, appropriations, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The sum of $150,000.00 is appropriated from the General Fund in fiscal year 2022 to the Joint Fiscal Office for consultant expenses of the Task Force on the Implementation of the Pupil Weighting Factors Report created under Sec. 2 of this act.

And that when so amended the bill ought to pass.

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

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Education, as amended?, Senator Campion moved to amend the recommendation of the Committee on Education, as amended as follows:

In Sec. 2, Task Force on the Implementation of the Pupil Weighting Factors Report, by striking out subsection (e) in its entirety and inserting in lieu thereof the following:

(e) Collaboration. In performing its duties under this section, the Task Force shall collaborate with the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Council of Special Education Administrators, the Vermont Principals' Association, the Vermont Independent Schools Association, and the Vermont-National Education Association.

Which was agreed to.

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

Bill Amended; Third Reading Ordered

S. 25.

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

An act relating to miscellaneous cannabis regulation procedures.

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

* * * Town Vote on Retail Sales * * *

Sec. 1. 7 V.S.A. § 863 is amended to read:

§ 863. REGULATION BY LOCAL GOVERNMENT

(a)(1) Prior to a cannabis retailer or the retail portion of an integrated licensee operating within a municipality, the municipality shall affirmatively permit the operation of such cannabis establishments by majority vote of those present and voting by Australian ballot at an annual or special meeting warned

for that purpose. A municipality may place retailers or integrated licensees, or both, on the ballot for approval.

* * *

(3) On March 8, 2023, any municipality that has not previously voted on the question of permitting the operation of cannabis establishments pursuant to subdivision (1) of this subsection shall be deemed to permit the operation of both cannabis retailers and integrated licensees.

* * *

* * * Cannabis Control Board Advisory Committee * * *

Sec. 2. 7 V.S.A. § 843 is amended to read:

§ 843. CANNABIS CONTROL BOARD; DUTIES; MEMBERS

* * *

(c) Membership.

* * *

(4) A member may be removed only for cause by either the remaining members of the Commission or a two-thirds vote of the advisory committee ~~in accordance with the Vermont Administrative Procedure Act~~. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for removal.

* * *

(h) Advisory committee.

(1) There is an advisory committee established within the Board that shall be composed of members with expertise and knowledge relevant to the Board's mission. The Board shall collaborate with the advisory committee on recommendations to the General Assembly. The advisory committee shall be composed of the following ~~12~~ 13 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~~ 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; and

(M) one member appointed by the Vermont Cannabis Trade Association.

(2) Initial appointments to the advisory committee as provided in subdivision (1) of this subsection (h) shall be made on or before ~~May 1, 2021~~ April 1, 2021, and the Secretary of Agriculture, Food and Markets shall convene the first meeting on or before April 15, 2021.

* * *

* * * Advertising * * *

Sec. 3. 7 V.S.A. § 845 is amended to read:

§ 845. CANNABIS REGULATION FUND

* * *

(b) The Fund shall be composed of:

(1) all State application fees, annual license fees, renewal fees, advertising review fees, and civil penalties collected by the Board pursuant to chapters 33 (cannabis establishments) and 37 (medical cannabis dispensaries) of this title; and

(2) all annual and renewal fees collected by the Board pursuant to chapter 35 (medical cannabis registry) of this title.

* * *

Sec. 4. 2019 Acts and Resolves No. 164, Sec. 5 is amended to read:

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; ADVERTISING; OUTREACH, TRAINING, AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND DELIVERY; ADDITIONAL TYPES OF LICENSES

(a) On or before April 1, 2021, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the following :

* * *

(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.

(C) Fee for advertisement review for a cannabis establishment licensee as provided in 7 V.S.A. § 865.

* * *

Sec. 5. 7 V.S.A. § 861 is amended to read:

§ 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.

~~(2)~~(4) "Applicant" means a person that applies for a license to operate a cannabis establishment pursuant to this chapter.

~~(3)~~(5) "Board" means the Cannabis Control Board.

~~(4)~~(6) "Cannabis" shall have the same meaning as provided in section 831 of this title.

~~(5)~~(7) "Cannabis cultivator" or "cultivator" means a person licensed by the Board to engage in the cultivation of cannabis in accordance with this chapter.

~~(6)~~(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.

~~(7)~~(9) "Cannabis product" shall have the same meaning as provided in section 831 of this title.

~~(8)~~(10) "Cannabis product manufacturer" or "product manufacturer" means a person licensed by the Board to manufacture cannabis products in accordance with this chapter.

~~(9)~~(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.

~~(10)~~(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.

~~(11)~~(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.

~~(12)~~(14) "Chair" means the Chair of the Cannabis Control Board.

~~(13)~~(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.

~~(14)~~(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.

~~(15)~~(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.

~~(16)~~(18) "Dispensary" means a business organization licensed pursuant to chapter 37 of this title or 18 V.S.A. chapter 86.

~~(17)~~(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.

~~(18)~~(20) "Flavored oil cannabis product" means any oil cannabis product that contains an additive to give it a characterizing flavor.

~~(19)~~(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.

~~(20)~~(22) "Municipality" means a town, city, or incorporated village.

~~(21)~~(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.

~~(22)~~(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.

~~(23)~~(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.

~~(24)~~(26) "Small cultivator" means a cultivator with a plant canopy or space for cultivating plants for breeding stock of not more than 1,000 square feet.

Sec. 6. 7 V.S.A. § 864 is added to read:

§ 864. ADVERTISING

(a) "Advertise" and "advertisement" have the same meaning as in section 861 of this title.

(b) A cannabis establishment advertisement shall not contain any statement or illustration that:

(1) is deceptive, false, or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;

(5) offers free samples of cannabis or cannabis products;

(6) depicts a person under 21 years of age consuming cannabis or cannabis products; or

(7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(c) Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.

(e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:

(1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or

(2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review.

(f) The Board may charge and collect fees for review of advertisements.

Sec. 7. 7 V.S.A. § 866(d) is added to read:

(d) In accordance with section 864 of this title, advertising by a cannabis establishment shall not depict a person under 21 years of age consuming cannabis or cannabis products or be designed to be or have the effect of being particularly appealing to persons under 21 years of age. Cannabis establishments shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

Sec. 8. 7 V.S.A. § 881 is amended to read:

§ 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:

* * *

(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; and

(R) advertising and marketing.

Sec. 9. 7 V.S.A. § 978 is added to read:

§ 978. ADVERTISING

(a) "Advertise" and "advertisement" have the same meaning as in section 861 of this title.

(b) A dispensary advertisement shall not contain any statement or illustration that:

(1) is deceptive, false, or misleading;

(2) promotes overconsumption;

(3) represents that the use of cannabis has curative effects;

(4) offers a prize, award, or inducement for purchasing cannabis or a cannabis product, except that price discounts are allowed;

(5) offers free samples of cannabis or cannabis products;

(6) depicts a person under 21 years of age consuming cannabis or cannabis products; or

(7) is designed to be or has the effect of being particularly appealing to persons under 21 years of age.

(c) Dispensaries shall not advertise their products via any medium unless the licensee can show that not more than 15 percent of the audience is reasonably expected to be under 21 years of age.

(d) All advertisements shall contain health warnings adopted by rule by the Board in consultation with the Department of Health.

(e) All advertisements shall be submitted to the Board on a form or in a format prescribed by the Board, prior to the dissemination of the advertisement. The Board may:

(1) require a specific disclosure be made in the advertisement in a clear and conspicuous manner if the Board determines that the advertisement would be false or misleading without such a disclosure; or

(2) require changes that are necessary to protect the public health, safety, and welfare or consistent with dispensing information for the product under review.

(f) The Board may charge and collect fees for review of advertisements.

* * * Cultivation * * *

Sec. 10. 2019 Acts and Resolves No. 164, Sec. 8 is amended to read:

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 February 1, 2022. 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 April 1, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

(2) On or before April 1, 2022, the Board shall begin accepting applications for integrated licenses.

(3) On or before May 1, 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. Between August 1, 2022 and October 1, 2022, 25 percent of cannabis flower sold by an integrated licensee shall be obtained from a licensed small cultivator, if available.

(b)(1) On or before April 1, 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 May 1, 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 legally grown pursuant to the license 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 May 1, 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 June 1, 2022, the Board shall begin issuing all cultivator licenses to qualified applicants.

(d)(1) On or before July 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 August 1, 2022, the Board shall begin issuing product manufacturer and wholesaler licenses to qualified applicants.

(e)(1) On or before September 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 October 1, 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.

* * * Social Equity * * *

Sec. 11. FEES; SOCIAL EQUITY

When reporting to the General Assembly regarding recommended fees for licensing cannabis establishments pursuant to Sec. 5 of the 2019 Acts and Resolves No. 164, the Cannabis Control Board shall propose a plan for reducing or eliminating licensing fees for individuals from communities that historically have been disproportionately impacted by cannabis prohibition or individuals directly and personally impacted by cannabis prohibition.

Sec. 12. 7 V.S.A. chapter 39 is added to read:

CHAPTER 39. CANNABIS SOCIAL EQUITY PROGRAMS

§ 986. DEFINITIONS

As used in this chapter:

(1) "Agency" means the Agency of Commerce and Community Development.

(2) "Board" means the Cannabis Control Board.

§ 987. CANNABIS BUSINESS DEVLOPMENT FUND

(a) There is established the Cannabis Business Development Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) The Fund shall comprise:

(1) three percent of gross sales made by integrated licensees prior to October 15, 2022, with a maximum contribution of $50,000.00 per integrated licensee; and

(2) monies allocated to the fund by the General Assembly.

(c) The Fund shall be used for the following purposes:

(1) to provide low-interest rate loans and grants to social equity applicants to pay for ordinary and necessary expenses to start and operate a licensed cannabis establishment;

(2) to pay for outreach that may be provided or targeted to attract and support social equity applicants; and

(3) necessary costs incurred in administering the Fund.

(d) Amounts from loans that are repaid shall provide additional funding through the Fund.

§ 988. SOCIAL EQUITY LOANS AND GRANTS

The Agency of Commerce and Community Development

shall establish a program using funds from the Cannabis Business Development Fund for the purpose of providing financial assistance, loans, grants, and outreach to social equity applicants.

Sec. 13. SOCIAL EQUITY APPLICANTS; CANNABIS CONTROL BOARD ADVISORY COMMITTEE

The Cannabis Control Board Advisory Committee, in consultation with the Board, shall develop criteria for social equity applicants for the purpose of obtaining social equity loans and grants from the Cannabis Business Development Fund pursuant to 7 V.S.A. chapter 39. The Board shall provide the criteria to the General Assembly not later than October 15, 2021.

Sec. 14. APPROPRIATION

In fiscal year 2022, $500,000.00 is appropriated to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987.

* * * Transfer of Medical Cannabis Program * * *

Sec. 15. IMPLEMENTATION OF MEDICAL CANNABIS REGISTRY

(a) On July 1, 2021, the following shall transfer from the Department of Public Safety to the Cannabis Control Board.

(1) the authority to administer the Medical Cannabis Registry and the regulation of cannabis dispensaries pursuant to 18 V.S.A. chapter 86;

(2) the cannabis registration fee fund established pursuant to 18 V.S.A. chapter 86; and

(3) the positions dedicated to administering 18 V.S.A. chapter 86.

(b) The Registry shall continue to be governed by 18 V.S.A. chapter 86 and the rules adopted pursuant to that chapter until 7 V.S.A. chapters 35 and 37 and the rules adopted by the Board pursuant to those chapters take effect on March 1, 2022 as provided in 2019 Acts and Resolves No. 164.

Sec. 16. REPEAL

Secs. 10 and 13 of 2019 Acts and Resolves No. 164 are repealed.

* * * Highway Safety * * *

Sec. 17. VERMONT CRIMINAL JUSTICE COUNCIL

Not later than July 1, 2021, the Vermont Criminal Justice Council shall report to the Joint Legislative Justice Oversight Committee regarding funding for the requirement that on or before December 31, 2021 all law enforcement officers receive a minimum of 16 hours of Advanced Roadside Impaired Driving Enforcement training as required by Sec. 20 of 2019 Acts and Resolves No. 164.

* * * Substance Misuse Prevention Funding * * *

Sec. 18. 32 V.S.A. § 7909 is added to read:

§ 7909. SUBSTANCE MISUSE PREVENTION FUNDING

(a) Thirty percent of the revenues raised by the cannabis excise tax imposed by section 7902 of this title, not to exceed $10,000,000.00 per fiscal year, shall be used to fund substance misuse prevention programming.

(b) If any General Fund appropriations for substance misuse prevention programming remain unexpended at the end of a fiscal year, that balance shall be carried forward and shall only be used for the purpose of funding substance misuse prevention programming in the subsequent fiscal year.

(c) Any appropriation balance carried forward pursuant to subsection (b) of this section shall be in addition to revenues allocated for substance misuse prevention programming pursuant to subsection (a) of this section.

Sec. 19. REPEAL

2019 Acts and Resolves No. 164, Sec. 19 (substance misuse prevention funding) is repealed.

* * * Effective Date * * *

Sec. 20. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

By striking out Sec. 14, appropriation, in its entirety and inserting in lieu thereof the following:

Sec. 14. TRANSFER AND APPROPRIATION

(a) In fiscal year 2022, $500,000.00 is transferred from General Fund to the Cannabis Business Development Fund established pursuant to 7 V.S.A. § 987.

(b) In fiscal year 2022, $500,000.00 is appropriated from the Cannabis Business Development Fund to the Agency of Commerce and Community Development to make grants pursuant to 7 V.S.A. § 987.

And that when so amended the bill ought to pass.

Senator Pearson, for the Committee on Finance, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

First: By striking Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. 2019 Acts and Resolves No. 164, Sec. 5 is amended to read:

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; ADVERTISING; OUTREACH, TRAINING, AND EMPLOYMENT PROGRAMS; ONLINE ORDERING AND DELIVERY; ADDITIONAL TYPES OF LICENSES

(a) On or before April 1, 2021, the Executive Director of the Cannabis Control Board shall provide recommendations to the General Assembly on the ~~following:~~

~~(1) Resources~~ 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.~~

* * *

Second: By adding a new Sec. 4a to read as follows:

Sec. 4a. CANNABIS CONTROL BOARD REPORT TO THE JOINT FISCAL COMMITTEE; FEES

(a) On or before September 1, 2021, the Cannabis Control Board shall provide draft recommendations to the Joint Fiscal Committee for its approval on the following:

(1) 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 the 2019 Acts and Resolves No. 164.

(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.

(C) Fee for advertisement review for a cannabis establishment licensee as provided in 7 V.S.A. § 865.

(2) Whether monies expected to be generated by State fees identified in subdivision (1) 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.

(3) 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) Upon receiving the proposal, the Joint Fiscal Committee shall review the recommendations and provide feedback to the Board for any suggested changes.

(c) The Board shall revise the proposal, if necessary, to incorporate the Committee's recommendations and present a revised draft for approval to the Committee.

(d) Notwithstanding 32 V.S.A. § 603, the fees shall take effect upon approval of the Committee.

(e) Beginning on July 1, 2022, and every three years thereafter, all cannabis regulation fees shall be included in the annual consolidated Executive Branch fee report pursuant to 32 V.S.A. § 605.

And that when so amended the bill ought to pass.

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

Thereupon, the recommendation of amendment of the Committee on Judiciary, as amended was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Judiciary, as amended? was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 33.

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

An act relating to project-based 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. 24 V.S.A. 1892(d) is amended to read:

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district:

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;

(3) the ~~Town of Milton, North and South~~ Town of Bennington;

(4) the ~~City of Newport~~ City of Montpelier;

(5) the City of Winooski;

(6) the ~~Town of Colchester;~~

~~(7) the~~ Town of Hartford;

~~(8)~~(7) the City of St. Albans;

~~(9)~~(8) the City of Barre;

~~(10)~~(9) the Town of Milton, Town Core; and

~~(11)~~(10) the City of South Burlington.

Sec. 2. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

* * *

(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:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than ~~six~~ four districts in the State, and not more than two per county, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the ~~six-district~~ four-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the six-district limit.

(D) The Council shall not approve more than one district in Bennington County and one district in Washington County.

* * *

Sec. 3. TAX INCREMENT FINANCING PROJECT DEVELOPMENT; PILOT PROGRAM

(a) Definitions. As used in this section:

(1) "Committed" means pledged and appropriated for the purpose of the current and future payment of tax increment financing and related costs as defined in this section.

(2) "Coordinating agency" means any public or private entity from outside the municipality's departments or offices and not employing the municipality's staff, which has been designated by a municipality to administer and coordinate a district during creation, public hearing process, approval process, or administration and operation during the life of the district, including overseeing infrastructure development, real property development and redevelopment, assisting with reporting, and ensuring compliance with statute and rule.

(3) "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 and related costs for the approved project, only if authorized by the legal voters of the municipality in accordance with 24 V.S.A. § 1894. Payment for eligible related costs may also include direct payment by the municipality using the district increment. However, such anticipated payments shall be included in the vote by the legal voters of the municipality in accordance with subsection (f) of this section. 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 municipality's first incurrence of debt. A municipality that uses a bond anticipation note during the third or sixth year that a municipality may incur debt pursuant to subsection (f) of this section shall incur all permanent financing not more than one year after issuing the bond anticipation note.

(4) "Improvements" means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose, 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 on which the first debt is incurred.

(5) "Legislative body" means the mayor and alderboard, the city council, the selectboard, and the president and trustees of an incorporated village, as appropriate.

(6) "Municipality" means a city, town, or incorporated village.

(7) "Nexus" means the causal relationship that must exist between the improvements and the expected development and redevelopment in the TIF Project Zone or the expected outcomes in the TIF Project Zone.

(8) "Original taxable value" means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the project as of the creation date, provided that no parcel within the project shall be divided or bisected.

(9) "Project" means a public improvement, as defined in subdivision (4) of this subsection (a), with a total debt ceiling, including related costs, and principal and interest payments, of not more than $5,000,000.00. A project must:

(A) clearly require substantial public investment over and above the normal municipal operating or bonded debt expenditures;

(B) only include public improvements that are integral to the expected private development; and

(C) meet one of the following four criteria:

(i) The development includes new or rehabilitated affordable housing, as defined in 24 V.S.A. § 4303.

(ii) The project will affect the remediation and redevelopment of a brownfield located within 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.

(iii) The development will include at least one entirely new business or business operation or expansion of an existing business within the project, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the Department of Labor.

(iv) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

(10) "Related costs" means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing improvements, that are directly related to the creation and implementation of the project, including reimbursement of sums previously advanced by the municipality for those purposes. Related costs may not include direct municipal expenses such as departmental or personnel costs.

(11) "TIF project zone" means an area located within one or more active designations approved by the Vermont Downtown Development Board under 24 V.S.A. chapter 76A for the parcels in a municipality that have nexus to the project.

(b) Pilot program. Beginning on January 1, 2022 and ending on December 31, 2026, the Vermont Economic Progress Council is authorized to approve not more than 15 tax increment financing projects, provided that there shall be not more than one project per municipality.

(c) General authority. Under the pilot program established in subsection (b) of this section, a municipality, upon approval of its legislative body, may apply to the Vermont Economic Progress Council pursuant to the process set forth in subsection (e) of this section to use tax increment financing for a project.

(d) Eligibility.

(1) A municipality is only authorized to apply for a project under this section if:

(A) the project will serve one or more active designations approved by the Vermont Downtown Development Board under 24 V.S.A. chapter 76A; and

(B) the proposed infrastructure improvements and the projected development or redevelopment are compatible with confirmed municipal and regional development plans and the project has clear local and regional significance for employment, housing, or transportation improvements.

(2) A municipality with an approved tax increment financing district as set forth in 24 V.S.A. 1892(d) is not authorized to apply for a project under this section.

(e) Approval process. The Vermont Economic Progress Council shall do all of the following to approve an application submitted pursuant to subsection (c) of this section:

(1)(A) Review each application to determine that the infrastructure improvements proposed to serve the project and the proposed development in the project would not have occurred as proposed in the application, or would have occurred in a significantly different and less desirable manner than as proposed in the application, but for the proposed utilization of the incremental tax revenues.

(B) The review shall take into account:

(i) the amount of additional time, if any, needed to complete the proposed development for the project and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(ii) how the proposed project components and size would differ, if at all, including, if applicable to the project, in the number of units of affordable housing, as defined in 24 V.S.A. § 4303, without education property tax increment financing; and

(iii)(I) the amount of additional revenue expected to be generated as a result of the proposed project;

(II) the percentage of that revenue that shall be paid to the Education Fund;

(III) the percentage that shall be paid to the municipality; and

(IV) the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the project.

(2) Process requirements. Determine that each application meets all of the following requirements:

(A) The municipality held public hearings and established a project.

(B) The municipality has developed a tax increment financing project plan, including a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(f) Incurring indebtedness.

(1) A municipality approved under the process set forth in subsection (e) of this section may incur indebtedness against revenues to provide funding to pay for improvements and related costs for tax increment financing project development.

(2) Notwithstanding any provision of any municipal charter, the municipality shall only require one authorizing vote to incur debt through one instance of borrowing to finance or otherwise pay for the tax increment financing project improvements and related costs; provided, however, that a municipality may present one or more subsequent authorization votes in the

event a vote fails. The municipality shall be authorized to incur indebtedness only after the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, authorize the legislative body to pledge the credit of the municipality, borrow, or otherwise secure the debt for the specific purposes so warned. The creation of the project shall occur at 12:01 a.m. on April 1 of the calendar year the municipal legislative body votes to approve the tax increment financing project plan.

(3) Any indebtedness shall be incurred within three years from the date of approval by the Vermont Economic Progress Council, unless the Vermont Economic Progress Council grants an extension of an additional three years pursuant to the substantial change process set forth in the 2015 TIF Rule; provided, however, that an updated plan is submitted prior to the three-year termination date of the project.

(g) Original taxable value. As of the date the project is approved by the legislative body of the municipality, 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 project 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 project has increased or decreased relative to the original taxable value.

(h) Tax increments.

(1) In each year following the approval of the project, the lister or assessor shall include no more than the original taxable value of the real property in the assessed valuation upon which the treasurer computes the rates of all taxes levied by the municipality and every other taxing district in which the project is situated, but the treasurer shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the municipality shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property within the project that the excess valuation bears to the total assessed valuation. The amount held apart each year is the "tax increment" for that year. No more than the percentages established pursuant to subsection (i) of this section of the municipal and State education tax increments received with respect to the project and committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing project account and in its official books and records until all capital indebtedness of the project has been fully paid. The final payment shall be reported to the treasurer, who shall thereafter include the entire assessed

valuation of the project in the assessed valuations upon which municipal and other tax rates are computed and extended and thereafter no taxes from the project shall be deposited in the project's tax increment financing account.

(2) Notwithstanding any charter provision or other provision, all property taxes assessed within a project shall be subject to the provision of subdivision (1) of this subsection. Special assessments levied under 24 V.S.A. chapters 76A or 87 or under a municipal charter shall not be considered property taxes for the purpose of this section if the proceeds are used exclusively for operating expenses related to properties within the project and not for improvements within the district, as defined in subdivision (a)(3) of this section.

(3) Amounts held apart under subdivision (1) of this subsection shall only be used for financing and related costs as defined in subsection (a) of this section.

(i) Use of tax increment.

(1) Education property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, up to 70 percent of the education tax increment may be retained for up to 20 years, beginning with the education tax increment generated the year in which the first debt incurred for the project financed in whole or in part with incremental education property tax revenue. Upon incurring the first debt, a municipality shall notify the Department of Taxes and the Vermont Economic Progress Council of the beginning of the 20-year retention period of the education tax increment.

(2) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, not less than 85 percent of the municipal tax increment shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subdivision (1) of this subsection.

(3) The Vermont Economic Progress Council shall determine there is a nexus between the improvement and the expected development and redevelopment for the project and expected outcomes in the TIF Project Zone.

(j) Distribution. Of the municipal and education tax increments received in any tax year that exceed the amounts committed for the payment of the financing for improvements and related costs for the project, equal portions of each increment may be retained for the following purposes: prepayment of principal and interest on the financing, placed in a special account required by subdivision (g)(1) of this section and used for future financing payments or

used for defeasance of the financing. Any remaining portion of the excess municipal tax increment shall be distributed to the city, town, or village budget, in the proportion that each budget bears to the combined total of the budgets, unless otherwise negotiated by the city, town, or village, and any remaining portion of the excess education tax increment shall be distributed to the Education Fund.

(k) Information reporting. Every municipality with an approved project pursuant to this section shall:

(1) Develop a system, segregated for the project, to identify, collect, and maintain all data and information necessary to fulfill the reporting requirements of this section, including performance measures.

(2) Provide, as required by events, notification to the Vermont Economic Progress Council and the Department of Taxes regarding any tax increment financing development project debt obligations, public votes, or votes by the municipal legislative body immediately following such obligation or vote on a form prescribed by the Council, including copies of public notices, agendas, minutes, vote tally, and a copy of the information provided to the public in accordance with 24 V.S.A. § 1894(i).

(3) Annually:

(A) Ensure that the tax increment financing project account required by subdivision (h)(1) is subject to the annual audit prescribed in subsection (m) of this section. Procedures must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(B) On or before February 15 of each year, on a form prescribed by the Council, submit an annual report to the Vermont Economic Progress Council and the Department of Taxes, including the information required by subdivision (2) of this section if not already submitted during the year, all information required by subdivision (A) of this subdivision (3), and the information required by 32 V.S.A. § 5404a(i), including performance measures and any other information required by the Council or the Department of Taxes.

(l) Annual report. The Vermont Economic Progress Council and the Department of Taxes shall submit an annual report to the Senate Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means on or before April 1 each year. The report shall include the date of approval, a description of the project, the original taxable value of the property subject to the project development, the scope and value of projected and actual improvements and developments in the TIF Project Zone, projected

and actual incremental revenue amounts, and division of the increment revenue between project debt, the Education Fund, the special account required by subdivision (h)(1) and the municipal General Fund, projected and actual financing, and a set of performance measures developed by the Vermont Economic Progress Council, which may include outcomes related to the criteria for which the municipality applied and the amount of infrastructure work performed by Vermont firms.

(m) Audit; financial reports. Annually, until the year following the end of the period for retention of education tax increment, a municipality with an approved project under this section shall:

(1) on or before January 1, submit an annual report to the Vermont Economic Progress Council, which shall provide sufficient information for the Vermont Economic Progress Council to prepare its report required by subsection (i) of this section; and

(2) on or before April 1, ensure that the project is subject to the annual audit prescribed in 24 V.S.A. § 1681 or 1690. In the event that the audit is only subject to the audit under 24 V.S.A. § 1681, the Vermont Economic Progress Council shall ensure a process is in place to subject the project to an independent audit. Procedures for the audit must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(n) Authority to issue decisions.

(1) The Secretary of Commerce and Community Development, after reasonable notice to a municipality and an opportunity for a hearing, is authorized to issue decisions to a municipality on questions and inquiries concerning the administration of projects, statutes, rules, noncompliance with this section, and any instances of noncompliance identified in audit reports conducted pursuant to subsection (m) of this section.

(2) The Vermont Economic Progress Council shall prepare recommendations for the Secretary prior to the issuance of a decision. As appropriate, the Council may prepare such recommendations in consultation with the Commissioner of Taxes, the Attorney General, and the State Treasurer. In preparing recommendations, the Council shall provide a municipality with a reasonable opportunity to submit written information in support of its position. The Secretary shall review the recommendations of the Council and issue a final written decision on each matter within 60 days of the receipt of the recommendations. The Secretary may permit an appeal to be

taken by any party to a Superior Court for determination of questions of law in the same manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court before issuing a final decision.

(o) The Vermont Economic Progress Council is authorized to adopt policies that are consistent with the 2015 TIF Rule, as may be modified by subsequent rule, to implement this section.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

And that when so amended the bill ought to pass.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: By striking out Sec. 2, 32 V.S.A. § 5404a, in its entirety and inserting in lieu thereof the following:

§ 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:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than ~~six~~ four districts in the State, and not more than two per county, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the ~~six-district~~ four-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the six-district limit.

(D) The Council shall not approve more than one district in Bennington County and one district in Washington County.

* * *

(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.

* * *

(h) To approve utilization of incremental revenues pursuant to subsection (f) of this section:

* * *

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least three of the following five criteria:

* * *

(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.

* * *

Second: In Sec. 3, tax increment financing project development; pilot program, in subsection (a), in subdivision (2), by striking out "district" and inserting in lieu thereof project after "coordinate a" and "the life of a", and by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Pilot program. Beginning on January 1, 2022 and ending on December 31, 2026, the Vermont Economic Progress Council is authorized to approve a total of not more than 10 tax increment financing projects, with not more than three projects per year; provided, however, that there shall not be more than one project per municipality.

Third: By adding a new Sec. 4, 24 V.S.A. § 1891, to read as follows:

Sec. 4. 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 fifth 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.

* * *

Fourth: By adding a new Sec. 5, 24 V.S.A. § 1895, to read as follows:

Sec. 5. 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.

And by renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, March 25, 2021.

THURSDAY, MARCH 25, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 39

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 313. An act relating to miscellaneous amendments to alcoholic beverage laws.

H. 431. An act relating to miscellaneous energy subjects.

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. 20. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 129.

By Senator Campion,

An act relating to the management of fish and wildlife.

To the Committee on Natural Resources and Energy.

S. 130.

By Senators Terenzini, Balint, Baruth, Benning, Campion, Chittenden, Clarkson, Collamore, Hardy, Hooker, Ingalls, Kitchel, Lyons, Parent, Pearson, Perchlik, Pollina, Ram, Sears and Starr,

An act relating to employment protection for volunteer emergency responders.

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

Bills Referred

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

H. 313.

An act relating to miscellaneous amendments to alcoholic beverage laws.

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

H. 431.

An act relating to miscellaneous energy subjects.

To the Committee on Finance.

Consideration Postponed

Senate bill entitled:

S. 100.

An act relating to universal school breakfast and lunch for all public school students and to creating incentives for schools to purchase locally produced foods.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Agriculture, Senator Balint moved that consideration of the bill be postponed until Thursday, April 1, 2021, which was agreed to.

Bill Amended; Third Reading Ordered

S. 48.

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

An act relating to Vermont's adoption of the interstate Nurse Licensure Compact.

Reported recommending that the bill be amended in Sec. 1, 26 V.S.A. chapter 28, subchapter 5, by striking out section 1648 in its entirety and inserting in lieu thereof a new section 1648 to read as follows:

§ 1648. ADMINISTRATION OF THE NURSE LICENSURE COMPACT

(a) The Vermont State Board of Nursing shall have the power to:

(1) oversee the administration and enforcement of the Nurse Licensure Compact within the State of Vermont;

(2) recover from a nurse practicing under the provisions of the Nurse Licensure Compact the cost of investigation and disposition of a case resulting in adverse action taken against that nurse;

(3) establish fees to offset the costs associated with administering this subchapter; and

(4) conduct a background check, prior to issuing a multistate license under the provisions of the Nurse Licensure Compact, that includes a fingerprint-based check of State and federal criminal history databases, as authorized by 28 C.F.R. § 20.33.

(b) The Executive Director of the Vermont State Board of Nursing or designee shall be the administrator (State Administrator) of the Nurse Licensure Compact for the State of Vermont pursuant to subdivision 1647g(b)(1) of this chapter.

(c) The State Administrator shall promptly, and prior to a vote of the Commission, notify the Commissioner of Finance and Management if the Commission proposes to pledge the credit of the State of Vermont under subdivision 1647g(h)(3) of this subchapter or in any way proposes to impose liability on the State of Vermont for an amount equal to or in excess of $100,000.00.

(d) The Vermont State Board of Nursing may:

(1) adopt rules necessary to implement and enforce the provisions of this subchapter within the State of Vermont; and

(2) take disciplinary action against the practice privilege of a nurse practicing within the State of Vermont under the provisions of the Nurse Licensure Compact, which may include disciplinary action based on disciplinary action taken against the nurse's license by another party state to the Nurse Licensure Compact.

(e) Nothing in this subchapter shall supersede or abridge State labor laws.

And that when so amended the bill ought to pass.

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

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

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

Third Reading Ordered

H. 81.

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 that the bill ought to pass.

Senator Balint, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

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

Bills Passed

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

S. 13. An act relating to the implementation of the Pupil Weighting Factors Report.

S. 25. An act relating to miscellaneous cannabis regulation procedures.

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

S. 102. An act relating to the regulation of agricultural inputs for farming.

S. 124. An act relating to miscellaneous utility subjects.

Bill Amended; Consideration Interrupted

S. 79.

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

An act relating to improving rental housing health and safety.

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

* * * Department of Public Safety; Authority for Rental Housing Health and Safety * * *

Sec. 1. 20 V.S.A. chapter 173 is amended to read:

CHAPTER 173. PREVENTION AND INVESTIGATION OF FIRES; PUBLIC BUILDINGS; HEALTH AND SAFETY; ENERGY STANDARDS

* * *

Subchapter 2. Division of Fire Safety; Public Buildings; Building Codes; Rental Housing Health and Safety; Building Energy Standards

* * *

§ 2729. GENERAL PROVISIONS; FIRE SAFETY; CARBON MONOXIDE

(a) A person shall not build or cause to be built any structure that is unsafe or likely to be unsafe to other persons or property in case of fire or generation and leakage of carbon monoxide.

(b) A person shall not maintain, keep or operate any premises or any part thereof, or cause or permit to be maintained, kept, or operated, any premises or part thereof, under his or her control or ownership in a manner that causes or is likely to cause harm to other persons or property in case of fire or generation and leakage of carbon monoxide.

(c) On premises under a person's control, excluding single family owner-occupied houses and premises, that person shall observe rules adopted under this subchapter for the prevention of fires and carbon monoxide leakage that may cause harm to other persons or property.

(d) Any condominium or multiple unit dwelling using a common roof, or row houses so-called, or other residential buildings in which people sleep, including hotels, motels, and tourist homes, excluding single family owner-occupied houses and premises, whether the units are owned or leased or

rented, shall be subject to the rules adopted under this subchapter and shall be provided with one or more carbon monoxide detectors, as defined in 9 V.S.A. § 2881(3), properly installed according to the manufacturer's requirements.

§ 2730. DEFINITIONS

(a) As used in this subchapter, "public building" means:

* * *

(D) a building in which people rent accommodations, whether overnight or for a longer term, including "rental housing" as defined in subsection (f) of this section;

* * *

(2) Use of any portion of a building in a manner described in this subsection shall make the entire building a "public building" for purposes of this subsection. For purposes of this subsection, a "person" does not include an individual who is directly related to the employer and who resides in the employment-related building.

(b) The term "public building" does not include:

(1) An owner-occupied single family residence, unless used for a purpose described in subsection (a) of this section.

* * *

(4) ~~A single family residence with an accessory dwelling unit as permitted under 24 V.S.A. § 4406(4)(D).~~ [Repealed.]

* * *

(f) "Rental housing" means a "dwelling unit" as defined in 9 V.S.A. § 4451 and a "short-term rental" as defined in 18 V.S.A. § 4301.

§ 2731. RULES; INSPECTIONS; VARIANCES

(a) Rules.

(1) The Commissioner is authorized to adopt rules regarding the construction, health, safety, sanitation, and fitness for habitation of buildings, maintenance and operation of premises, and prevention of fires and removal of fire hazards, and to prescribe standards necessary to protect the public, employees, and property against harm arising out of or likely to arise out of fire.

* * *

(b) Inspections.

(1) The Commissioner shall conduct inspections of premises to ensure that the rules adopted under this subchapter are being observed and may establish priorities for enforcing these rules and standards based on the relative risks to persons and property from fire of particular types of premises.

(2) The Commissioner may also conduct inspections to ensure that buildings are constructed in accordance with approved plans and drawings.

(3) When conducting an investigation of rental housing, the Commissioner shall:

(A) issue a written inspection report on the unit or building that:

(i) contains findings of fact that serve as the basis of one or more violations;

(ii) specifies the requirements and timelines necessary to correct a violation;

(iii) provides notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provides notice in plain language that the landlord or agents of the landlord must have access to the rental unit to make repairs as ordered by the Commissioner consistent with the access provisions in 9 V.S.A. § 4460;

(B) provide a copy of the inspection report to the landlord, to the person who requested the inspection, and to any tenants who are affected by a violation:

(i) electronically, if the Department has an electronic mailing address for the person; or

(ii) by first-class mail, if the Department does not have an electronic mailing address for the person;

(C) if an entire building is affected by a violation, provide a notice of inspection, either directly to the individual tenants or posted in a common area, that specifies:

(i) the date of the inspection;

(ii) that violations were found and must be corrected by a certain date;

(iii) how to obtain a copy of the inspection electronically or by first-class mail; and

(iv) if the notice is posted in a common area, that the notice shall not be removed until authorized by the Commissioner;

(D) make the inspection report available as a public record.

(c) Fees. The following fire prevention and building code fees are established:

(1) The permit application fee for a construction plan approval shall be based on $8.00 per each $1,000.00 of the total valuation of the construction work proposed to be done for all buildings, but in no event shall the permit application fee exceed $185,000.00 nor be less than $50.00.

(2) When an inspection is required due to the change in use or ownership of a public building, the fee shall be $125.00.

(3) The proof of inspection fee for fire suppression, alarm, detection, and any other fire protection systems shall be $30.00.

(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:

(A) Water-based fire protection system design:

(i) Initial certification: $150.00.

(ii) Renewal: $50.00.

(B) Water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: $115.00.

(ii) Renewal: $50.00.

(C) Gas appliance installation, inspection, and service: $60.00.

(D) Oil burning equipment installation, inspection, and service: $60.00.

(E) Fire alarm system inspection and testing: $90.00.

(F) Limited oil burning equipment installation, inspection, and service: $60.00.

(G) Domestic water-based fire protection system installation, maintenance, repair, and testing:

(i) Initial certification: $60.00.

(ii) Renewal: $20.00.

(H) Fixed fire extinguishing system design, installation, inspection, servicing, and recharging:

(i) Initial certification: $60.00.

(ii) Renewal: $20.00.

(I) Emergency generator installation, maintenance, repair, and testing: $30.00;

(J) Chimney and solid fuel burning appliance cleaning, maintenance, and evaluation: $30.00.

(d) Permit processing. The Commissioner shall make all practical efforts to process permits in a prompt manner. The Commissioner shall establish time limits for permit processing as well as procedures and time periods within which to notify applicants whether an application is complete.

(e) Variances; exemptions. Except for any rules requiring the education module regarding the State's energy goals described in subdivision (a)(2) of this section, the Commissioner may grant variances or exemptions from rules adopted under this subchapter where strict compliance would entail practical difficulty, unnecessary hardship, or is otherwise found unwarranted, provided that:

(1) any such variance or exemption secures the public safety and health;

(2) any petitioner for such a variance or exemption can demonstrate that the methods, means, or practices proposed to be taken in lieu of compliance with the rule or rules provide, in the opinion of the Commissioner, equal protection of the public safety and health as provided by the rule or rules;

(3) the rule or rules from which the variance or exemption is sought has not also been adopted as a rule or standard under 21 V.S.A. chapter 3, subchapters 4 and 5; and

(4) any such variance or exemption does not violate any of the provisions of 26 V.S.A. chapters 3 and 20 or any rules adopted thereunder.

* * *

§ 2733. ORDERS TO REPAIR, REHABILITATE, OR REMOVE STRUCTURE

(a)(1) Whenever the ~~commissioner~~ Commissioner finds that premises or any part of them does not meet the standards adopted under this subchapter, the ~~commissioner~~ Commissioner may order it repaired or rehabilitated.

(2) If ~~it~~ the premises is not repaired or rehabilitated within a reasonable time as specified by the ~~commissioner~~ Commissioner in his or her order, the ~~commissioner~~ Commissioner may order the premises or part of them closed, if by doing so the public safety will not be imperiled; otherwise he or she shall

order demolition and removal of the structure, or fencing of the premises.

(3) Whenever a violation of the rules is deemed to be imminently hazardous to persons or property, the ~~commissioner~~ Commissioner shall order the violation corrected immediately.

(4) If the violation is not corrected, the ~~commissioner~~ Commissioner may ~~then~~ order the premises or part of them immediately closed and to remain closed until the violation is corrected.

(b) Whenever a structure, by reason of age, neglect, want of repair, action of the elements, destruction, either partial or total by fire or other casualty or other cause, is so dilapidated, ruinous, decayed, filthy, unstable, or dangerous as to constitute a material menace or damage in any way to adjacent property, or to the public, and has so remained for a period of not less than one week, the ~~commissioner~~ Commissioner may order such structure demolished and removed.

(c) Orders issued under this section shall be served by certified mail with return receipt requested or in the discretion of the ~~commissioner~~ Commissioner, shall be served in the same manner as summonses are served under the Vermont Rules of Civil Procedure promulgated by the ~~supreme court~~ Supreme Court, to all persons who have a recorded interest in the property recorded in the place where land records for the property are recorded, or who will be temporarily or permanently displaced by the order, including owners, tenants, mortgagees, attaching creditors, lien holders, and public utilities or water companies serving the premises.

§ 2734. PENALTIES

(a)(1) A person who violates any provision of this subchapter or any order or rule issued pursuant thereto shall be fined not more than $10,000.00.

(2) The ~~state's attorney~~ State's Attorney of the county in which such violation occurs shall prosecute the violation and may commence a proceeding in the ~~superior court~~ Superior Court to compel compliance with such order or rule, and such court may make orders and decrees therein by way of writ of injunction or otherwise.

(b)(1) A person who fails to comply with a lawful order issued under authority of this subchapter in case of sudden emergency shall be fined not more than $20,000.00.

(2) A person who fails to comply with an order requiring notice shall be fined $200.00 for each day's neglect commencing with the effective date of such order or the date such order is finally determined if an appeal has been filed.

(c)(1) The ~~commissioner~~ Commissioner may, after notice and opportunity for hearing, assess an administrative penalty of not more than $1,000.00 for each violation of this subchapter or any rule adopted under this subchapter.

(2) Penalties assessed pursuant to this subsection shall be based on the severity of the violation.

(3) An election by the ~~commissioner~~ Commissioner to proceed under this subsection shall not limit or restrict the ~~commissioner's~~ Commissioner's authority under subsection (a) of this section.

(d) Violation of any rule adopted under this subchapter shall be prima facie evidence of negligence in any civil action for damage or injury ~~which~~ that is the result of the violation.

* * *

§ 2736. MUNICIPAL ENFORCEMENT

(a)(1) The legislative body of a municipality may appoint one or more trained and qualified officials and may establish procedures to enforce rules and standards adopted under subsection 2731(a) of this title.

(2) After considering the type of buildings within the municipality, if the ~~commissioner~~ Commissioner determines that the training, qualifications, and procedures are sufficient, he or she may assign responsibility to the municipality for enforcement of some or all of these rules and standards.

(3) The ~~commissioner~~ Commissioner may also assign responsibility for enforcement of the rules of the access board adopted under section 2902 of this title.

(4) The ~~commissioner~~ Commissioner shall provide continuing review, consultation, and assistance as may be necessary.

(5) The assignment of responsibility may be revoked by the ~~commissioner~~ Commissioner after notice and an opportunity for hearing if the ~~commissioner~~ Commissioner determines that the training, qualifications, or procedures are insufficient.

(6) The assignment of responsibility shall not affect the ~~commissioner's~~ Commissioner's authority under this subchapter.

(b) If a municipality assumes responsibility under subsection (a) of this section for performing any functions that would be subject to a fee established under subsection 2731(a) of this title, the municipality may establish and collect reasonable fees for its own use, and no fee shall be charged for the benefit of the ~~state~~ State.

(c)(1) Subject to rules adopted under section 2731 of this title, municipal officials appointed under this section may enter any premises in order to carry out the responsibilities of this section.

(2) The officials may order the repair, rehabilitation, closing, demolition, or removal of any premises to the same extent as the ~~commissioner~~ Commissioner may under section 2732 of this title.

(d) Upon a determination by the ~~commissioner~~ Commissioner that a municipality has established sufficient procedures for granting variances and exemptions, such variances and exemptions may be granted to the same extent authorized under subsection 2731(b) of this title.

(e) The results of all activities conducted by municipal officials under this section shall be reported to the ~~commissioner~~ Commissioner periodically upon request.

(f) Nothing in this section shall be interpreted to decrease the authority of municipal officials under other laws, including laws concerning building codes and laws concerning housing codes.

* * *

§ 2738. FIRE PREVENTION AND BUILDING INSPECTION SPECIAL FUND

(a) The fire prevention and building inspection special fund revenues shall be from the following sources:

(1) fees relating to construction and inspection of public building and fire prevention inspections under section 2731 of this title;

(2) fees relating to boilers and pressure vessels under section 2883 of this title;

(3) fees relating to electrical installations and inspections and the licensing of electricians under 26 V.S.A. §§ 891-915;

(4) fees relating to cigarette certification under section 2757 of this title; and

(5) fees relating to plumbing installations and inspections and the licensing of plumbers under 26 V.S.A. §§ 2171-2199.

(b) Fees collected under subsection (a) of this section shall be available to the ~~department of public safety~~ Department of Public Safety to offset the costs of the ~~division of fire safety~~ Division of Fire Safety.

(c) The ~~commissioner of finance and management~~ Commissioner of Finance and Management may anticipate receipts to this fund and issue warrants based thereon.

* * *

* * * State Rental Housing Registry; Registration Requirement * * *

Sec. 2. 3 V.S.A. § 2478 is added to read:

§ 2478. STATE RENTAL HOUSING REGISTRY; HOUSING DATA

(a) The Department of Housing and Community Development, in coordination with the Division of Fire Safety, the Department of Health, the Enhanced 911 Board, and the Department of Taxes, shall create and maintain a registry of the rental housing in this State, which includes a "dwelling unit" as defined in 9 V.S.A. § 4451 and a "short-term rental" as defined in 18 V.S.A. § 4301.

(b) The Department of Housing and Community Development shall require for each unit that is registered the following data:

(1) the name of the owner or landlord;

(2) phone number, electronic mail, and mailing address of the landlord, as available;

(3) location of the unit;

(4) year built;

(5) type of rental unit;

(6) number of units in the building;

(7) school property account number;

(8) accessibility of the unit; and

(9) any other information the Department deems appropriate.

(c) Upon request of the Department of Housing and Community Development, and at least annually, a municipal, district, or other local government entity that operates a rental housing health and safety program that requires registration of a rental housing unit and a fee for inclusion on the registry shall provide to the Department the data for each unit that is required pursuant to subsection (b) of this section.

(d) The registry, and data collected by the registry, shall be protected pursuant to 1 V.S.A. § 317 (c)(2) and may only be released to specifically designated persons who, in the discretion of the Department, shall use such data to further the public good. Registry data may not be disclosed to entities

for the purposes of solicitation campaigns without express authority granted by the Department. Data about a specific unit may be disclosed to the owner or operator of the rental unit regulated by the registry for the purpose of informing the owner or operator of its registry status.

Sec. 3. 3 V.S.A. § 2479 is added to read:

§ 2479. RENTAL HOUSING REGISTRATION

(a) Except as provided in subsection (c) of this section, an owner of rental housing that is subject to 9 V.S.A. chapter 137 shall:

(1) file with the Department of Taxes the landlord certificate required for the renter's rebate or the renter credit program; and

(2) within 30 days of filing the certificate, register, provide the information required by subsection 2478(b) of this title, and pay to the Department of Housing and Community Development an annual registration fee of $35.00 per rental unit, unless the owner has within the preceding 12 months:

(A) registered the unit pursuant to subsection (b) of this section; or

(B) registered the unit with a municipal, district, or other local government entity that operates a rental housing health and safety program with a rental registry that complies with subsection 2478(b) of this title.

(b) Except as provided in subsection (c) of this section, an owner of a short-term rental, as defined in 18 V.S.A. § 4301, shall, annually, within 30 days of renting a unit, register with and pay to the Department of Housing and Community Development an annual registration fee of $35.00 per rental unit, unless the owner has within the preceding 12 months:

(1) registered the unit pursuant to subsection (a) of this section; or

(2) registered the unit with a municipal, district, or other local government entity that operates a rental housing health and safety program with a rental registry that complies with subsection 2478(b) of this title.

(c)(1) An owner of a mobile home lot within a mobile home park who has registered the lot with the Department of Housing and Community Development and who does not own a mobile home on the lot is exempt from registering the lot pursuant to this section.

(2) An owner of a mobile home lot within a mobile home park who has registered the lot with the Department and who owns a mobile home on the lot that is available for rent or rented shall register the property with the Department and pay a fee equal to the fee required by subdivision (a)(2) of this

section less any fee paid within the previous 12 months pursuant to 10 V.S.A. § 6254(c).

(3) An owner of a mobile home who rents the mobile home, whether located in a mobile home park, shall register pursuant to this section.

(d) An owner of rental housing who fails to register pursuant to this section shall pay a late registration fee of $150.00 and may be subject to administrative penalties not to exceed $5,000.00 for each violation.

* * * Positions Authorized * * *

Sec. 4. DEPARTMENT OF PUBLIC SAFETY; POSITIONS

The Department of Public Safety is authorized to create five full-time, classified Inspector positions in order to conduct rental housing health and safety inspections and enforcement pursuant to 20 V.S.A. chapter 173, subchapter 2.

Sec. 5. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; POSITIONS

(a) The Department of Housing and Community Development is authorized to create one-and-a-half full-time classified positions to administer and enforce the registry requirements created in 3 V.S.A. § 2478 and one full-time classified position to enforce compliance with registry requirements.

(b) It is the intent of the General Assembly to fund the implementation of the provisions in this act from the registration fees collected by the Department of Housing and Community Development pursuant to 3 V.S.A. § 2479.

* * * Conforming Changes to Current Law Governing the Department of Health, State Board of Health, and Local Health Officials * * *

Sec. 6. 18 V.S.A. chapter 11 is amended to read:

CHAPTER 11. LOCAL HEALTH OFFICIALS

* * *

§ 602a. DUTIES OF LOCAL HEALTH OFFICERS

(a) A local health officer, within his or her jurisdiction, shall:

(1) ~~upon request of a landlord or tenant, or~~ upon receipt of information regarding a condition that may be a public health hazard, conduct an investigation;

(2) enforce the provisions of this title, the rules promulgated, and permits issued thereunder;

(3) prevent, remove, or destroy any public health hazard~~,~~ or mitigate any significant public health risk in accordance with the provisions of this title;

(4) in consultation with the Department, take the steps necessary to enforce all orders issued pursuant to chapter 3 of this title; and

(5) have the authority to assist the Division of Fire Safety in inspecting rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2, provided that if the local health officer inspects a rental property without an inspector from the Division, the offer shall issue an inspection report in compliance with 20 V.S.A § 2731(b).

(b) Upon discovery of violation or a public health hazard or public health risk that involves a public water system, a food or lodging establishment, or any other matter regulated by Department rule, the local health officer shall immediately notify the Division of Environmental Health. Upon discovery of any other violation, public health hazard, or public health risk, the local health officer shall notify the Division of Environmental Health within 48 hours of discovery of such violation or hazard and of any action taken by the officer.

§ 603. ~~RENTAL HOUSING SAFETY; INSPECTION REPORTS~~

~~(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.~~

~~(2) A written inspection report shall:~~

~~(A) contain findings of fact that serve as the basis of one or more violations;~~

~~(B) specify the requirements and timelines necessary to correct a violation;~~

~~(C) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and~~

~~(D) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by the health officer consistent with the access provisions in 9 V.S.A. § 4460.~~

~~(3) A local health officer shall:~~

~~(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and~~

~~(B)(i) if a municipality has established a code enforcement office, provide information on each inspection according to a schedule and in a format adopted by the Department in consultation with municipalities that have established code enforcement offices; or~~

~~(ii) if a municipality has not established a code enforcement office, provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose, or within 14 days by mail if the municipality is unable to utilize the electronic system.~~

~~(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.~~

~~(5) A municipality shall make an inspection report available as a public record.~~

~~(b)(1) A local health officer may impose a civil penalty of not more than $200.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.~~

~~(2)(A) If the cumulative amount of penalties imposed pursuant to this subsection is $800.00 or less, the local health officer, Department of Health, or State's Attorney may bring a civil enforcement action in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.~~

~~(B) The waiver penalty for a violation in an action brought pursuant to this subsection is 50 percent of the full penalty amount.~~

~~(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than $800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney may commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.~~

~~(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.~~

[Repealed.]

* * *

* * * Transition Provisions * * *

Sec. 7. RENTAL HOUSING HEALTH AND SAFETY; TRANSITION PROVISIONS

(a) Notwithstanding any provision of law to the contrary:

(1) Until the Commissioner of Public Safety adopts rules governing rental housing health and safety pursuant to 20 V.S.A. § 2731, the Department of Health, local officials authorized by law, and the Department of Public Safety have concurrent authority to enforce the Vermont Rental Housing Health Code adopted by the Department of Health pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. § 801(b)(11).

(2) The Commissioner of Public Safety may immediately adopt a rule incorporating the Rental Housing Health Code without following the procedures otherwise required for general rulemaking in 3 V.S.A. chapter 25.

(3) Except as provided in subdivision (2) of this subsection, the Commissioner of Public Safety shall comply with the requirements for general rulemaking in 3 V.S.A. chapter 25 when adopting rules governing rental housing health and safety.

(b) Upon the adoption of rules governing rental housing health and safety pursuant to the authority in 20 V.S.A. § 2731:

(1) the Department of Public Safety is the State government entity with primary authority to enforce State laws governing rental housing health and safety;

(2) the Department of Public Safety and local officials have concurrent authority to enforce State and local laws governing rental housing health and safety pursuant to 18 V.S.A. chapter 11; 20 V.S.A. chapter 173, subchapter 2; 24 V.S.A. chapters 83 and 123; and applicable municipal law; and

(3) the Department of Health, the State Board of Health, and local health officials have concurrent authority to enforce State and local laws governing public health hazards and public health risks, as those terms are defined in 18 V.S.A. § 2, pursuant to 18 V.S.A. chapters 1, 3, and 11.

* * * Vermont Housing Investments * * *

Sec. 8. VERMONT RENTAL HOUSING INVESTMENT PROGRAM; PURPOSE

(a) Recognizing that Vermont's rental housing stock is some of the oldest in the country and that much of it needs to be updated to meet code requirements and other standards, the Vermont Rental Housing Investment

Program is intended to incentivize private apartment owners to make significant improvements to both housing quality and weatherization by providing grants and forgivable loans that are matched in part by the property owner.

(b) The Program seeks to take the lessons learned from the successful Re-housing Recovery Program established with funds provided by the Federal CARES Act and implement them in a State-funded program.

Sec. 9. 10 V.S.A. chapter 29, subchapter 3 is added to read:

Subchapter 3. Housing; Investments

§ 699. VERMONT RENTAL HOUSING INVESTMENT PROGRAM

(a) Creation of program. The Department of Housing and Community Development shall design and implement a Vermont Rental Housing Investment Program, through which the Department shall award funding to statewide or regional non-profit housing organizations, or both, to provide grants and forgivable loans to private landlords for the rehabilitation and weatherization of eligible rental housing units.

(b) Eligible rental housing units. The following units are eligible for a grant or forgivable loan through the Program:

(1) Non-code compliant. The unit does not comply with the requirements of applicable building, housing, or health laws.

(2) Vacant. The unit has not been leased or occupied for at least 90 days prior to the date of application and remains unoccupied on the date of the award.

(3) Accessory dwelling. The unit is an accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).

(c) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:

(1) a standard application form that describes the application process and includes instructions and examples to help landlords apply;

(2) an award process that ensures equitable selection of landlords; and

(3) a grants and loan management system that ensures accountability for funds awarded.

(d) Program requirements applicable to grants and forgivable loans.

(1) A grant or loan shall not exceed $30,000 per unit.

(2) A landlord shall contribute matching funds or in-kind services that equal or exceed 20 percent of the value of the grant or loan.

(3) A project shall include a weatherization component.

(4) A project shall comply with applicable building, housing, and health laws.

(5) The terms and conditions of a grant or loan agreement apply to the original recipient and to a successor in interest for the period the grant or loan agreement is in effect.

(e) Program requirements applicable to grants. For a grant awarded under the Program, the following requirements apply for a minimum period of five years:

(1) A landlord shall coordinate with nonprofit housing partners and local coordinated entry organizations to identify potential tenants.

(2)(A) Except as provided in subdivision (2)(B) of this subsection, a landlord shall lease the unit to a household that is exiting homelessness.

(B) If, upon petition of the landlord, the Department or the housing organization that issued the grant determines that a household exiting homelessness is not available to lease the unit, then the landlord shall lease the unit:

(i) to a household with an income equal to or less than 80 percent of area median income; or

(ii) if such a household is unavailable, to another household with the approval of the Department or housing organization.

(3)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the total cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(4)(A) A landlord may convert a grant to a forgivable loan upon approval of the Department and the housing organization that approved the grant.

(B) A landlord who converts a grant to a forgivable loan shall receive a 10 percent credit for loan forgiveness for each year in which the landlord participates in the grant program.

(f) Requirements applicable to forgivable loans. For a forgivable loan awarded under the Program, the following requirements apply for a minimum period of 10 years:

(1)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(2) The Department shall forgive 10 percent of the amount of a forgivable loan for each year a landlord participates in the loan program.

(g) A lien for a grant converted to a loan or for a forgivable loan issued pursuant to this section:

(1) is subordinate to a lien on the property in existence at the time the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records; and

(2) is subordinate to a first mortgage on the property recorded after such filing.

* * * Appropriations * * *

Sec. 10. APPROPRIATIONS

(a) The amount of $200,000.00 is appropriated from the General Fund to the Department of Housing and Community Development as one-time start-up funding to assist in creating the rental housing registry created in 3 V.S.A. § 2478 and to fund the positions authorized in Sec. 5 of this act.

(b) The amount of $200,000.00 is appropriated from the General Fund to the Division of Fire Safety as one-time start-up funding for the positions authorized in Sec. 4 of this act.

(c) From the amounts collected from rental housing registration fees pursuant to 3 V.S.A. § 2479, the Commissioner of Finance and Management shall allocate:

(1) $200,000.00 to the Department of Housing and Community Development to assist in creating the rental housing registry created in 3 V.S.A. § 2478 and to fund the positions authorized in Sec. 5 of this act; and

(2) $345,691.00 to the Division of Fire Safety to assist in funding the positions authorized in Sec. 4 of this act.

(d) The amount of $3,000,000.00 is appropriated from the General Fund to the Department of Housing and Community Development to provide grants and loans through the Vermont Rental Housing Investment Program created in 10 V.S.A. § 699.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 1 (DPS authority for rental housing health and safety).

(2) Sec. 2 (rental housing registry).

(3) Sec. 6 (conforming changes to Department of Health statutes).

(4) Sec. 7 (DPS rulemaking authority and transition provisions).

(b) The following sections take effect on July 1, 2021:

(1) Sec. 4 (DPS positions).

(2) Sec. 5 (DHCD positions);

(3) Secs. 8-9 (housing investment programs).

(4) Sec. 10 (appropriations).

(c) Sec. 3 (rental housing registration) shall take effect on January 1, 2022.

And that when so amended the bill ought to pass.

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

Senator Balint, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following ammendments thereto:

First: In Sec. 3, in 3 V.S.A. § 2479, by adding a subsection (e) to read:

(e) The Department of Housing and Community Development shall maintain the registration fees collected pursuant to this section in a special fund entitled the Rental Housing Safety Special Fund, the proceeds of which the Department shall use:

(1) to hire authorized staff to administer the registry and registration requirements imposed in this section and in section 2478 of this title; and

(2) to provide funding to the Department of Public Safety to hire authorized staff to conduct inspections and regulate rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2.

Second: By striking out Secs. 4–5 in their entireties and inserting in lieu thereof new Secs. 4 and 5 to read:

Sec. 4. DEPARTMENT OF PUBLIC SAFETY; POSITIONS

(a) The Department of Public Safety is authorized to create five full-time, classified Inspector positions in order to conduct rental housing health and safety inspections and enforcement pursuant to 20 V.S.A. chapter 173, subchapter 2.

(b) In fiscal year 2022, the amount of $200,000.00 is appropriated from the General Fund to the Department of Public Safety as one-time startup funding to hire one or more Inspector positions authorized pursuant to subsection (a) of this section.

(c) The Department may hire additional Inspectors authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.

Sec. 5. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; POSITIONS

(a) The Department of Housing and Community Development is authorized to create one full-time classified position and one half-time classified position to administer and enforce the registry requirements created in 3 V.S.A. § 2478.

(b) In fiscal year 2022, the amount of $200,000.00 is appropriated from the General Fund to the Department of Housing and Community Development as one-time startup funding to hire one or more of the positions authorized pursuant to subsection (a) of this section.

(c) The Department may hire additional staff authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.

Third: By striking out Secs. 8–10 and their reader assistance headings in their entireties and by renumbering the remaining section to be numerically correct.

Fourth: In the newly renumbered Sec. 10, effective dates, in subsection (b), by striking out subdivisions (2)–(4) in their entireties and inserting in lieu thereof (2) Sec. 5 (DHCD positions).

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the report of the Committee on Economic Development, Housing and General Affairs was agreed to.

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

First: By striking out Sec. 9, 10 V.S.A. chapter 29, subchapter 3, in its entirety and inserting in lieu thereof Secs. 9–9a to read:

Sec. 9. 10 V.S.A. chapter 29, subchapter 3 is added to read:

Subchapter 3. Housing; Investments

§ 699. VERMONT RENTAL HOUSING INVESTMENT PROGRAM

(a) Creation of program.

(1) The Department of Housing and Community Development shall design and implement the Vermont Rental Housing Investment Program through which the Department shall award funding to statewide or regional nonprofit housing organizations, or both, to provide competitive grants and forgivable loans to private landlords for the rehabilitation and weatherization of eligible rental housing units.

(2) The Department shall develop statewide standards for the Program, including factors that partner organizations shall use to evaluate applications and award grants and forgivable loans.

(b) Eligible rental housing units. The following units are eligible for a grant or forgivable loan through the Program:

(1) Non-code compliant. The unit does not comply with the requirements of applicable building, housing, or health laws.

(2) Vacant. The unit has not been leased or occupied for at least 90 days prior to the date of application and remains unoccupied on the date of the award.

(3) Accessory dwelling. The unit is an accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).

(c) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:

(1) a standard application form that describes the application process and includes instructions and examples to help landlords apply;

(2) an award process that ensures equitable selection of landlords, subject to a housing organization's exercise of discretion based on the factors adopted by the Department pursuant to subsection (a) of this section; and

(3) a grants and loan management system that ensures accountability for funds awarded.

(d) Program requirements applicable to grants and forgivable loans.

(1) A grant or loan shall not exceed $30,000 per unit.

(2) A landlord shall contribute matching funds or in-kind services that equal or exceed 20 percent of the value of the grant or loan.

(3) A project shall include a weatherization component.

(4) A project shall comply with applicable building, housing, and health laws.

(5) The terms and conditions of a grant or loan agreement apply to the original recipient and to a successor in interest for the period the grant or loan agreement is in effect.

(6) The identity of a recipient and the amount of a grant or forgivable loan are public records that shall be available for public copying and inspection and the Department shall publish this information at least monthly on its website.

(e) Program requirements applicable to grants. For a grant awarded under the Program, the following requirements apply for a minimum period of five years:

(1) A landlord shall coordinate with nonprofit housing partners and local coordinated entry organizations to identify potential tenants.

(2)(A) Except as provided in subdivision (2)(B) of this subsection, a landlord shall lease the unit to a household that is exiting homelessness.

(B) If, upon petition of the landlord, the Department or the housing organization that issued the grant determines that a household exiting homelessness is not available to lease the unit, then the landlord shall lease the unit:

(i) to a household with an income equal to or less than 80 percent of area median income; or

(ii) if such a household is unavailable, to another household with the approval of the Department or housing organization.

(3)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the total cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(4)(A) A landlord may convert a grant to a forgivable loan upon approval of the Department and the housing organization that approved the grant.

(B) A landlord who converts a grant to a forgivable loan shall receive a 10 percent credit for loan forgiveness for each year in which the landlord participates in the grant program.

(f) Requirements applicable to forgivable loans. For a forgivable loan awarded under the Program, the following requirements apply for a minimum period of 10 years:

(1)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(2) The Department shall forgive 10 percent of the amount of a forgivable loan for each year a landlord participates in the loan program.

(g) Lien priority. A lien for a grant converted to a loan or for a forgivable loan issued pursuant to this section is subordinate to:

(1) a lien on the property in existence at the time the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records; and

(2) a first mortgage on the property that is refinanced and recorded after the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records.

Sec. 9a. REPORT

On or before February 15, 2022 the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Housing Investment Program, including findings and any recommendations related to the amount of grant awards.

Second: In Sec. 11, effective dates, in subsection (b), by striking out subdivision (3) in its entirety and inserting in lieu thereof:

(3) Secs 8–9a (housing investment programs).

Thereupon, on motion of Senator Balint, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, MARCH 26, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 40

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

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 360. An act relating to accelerated community broadband deployment.

H. 430. An act relating to expanding eligibility for Dr. Dynasaur to all income-eligible children and pregnant individuals regardless of immigration status.

H. 433. An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

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

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 131.

By Senators Pollina, Balint, Baruth, Chittenden, Clarkson, Cummings, Hardy, Hooker, McCormack, Pearson, Perchlik, Ram and White,

An act relating to authorizing card check elections.

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

Bills Referred

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

H. 360.

An act relating to accelerated community broadband deployment.

To the Committee on Finance.

H. 430.

An act relating to expanding eligibility for Dr. Dynasaur to all income-eligible children and pregnant individuals regardless of immigration status.

To the Committee on Health and Welfare.

H. 433.

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

To the Committee on Transportation.

Consideration Resumed; Bill Amended; Third Reading Ordered

S. 79.

Consideration was resumed on Senate bill entitled:

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

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Clarkson, Balint, Brock, Ram and Sirotkin?, Senator Clarkson requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, Senators Clarkson, Balint, Brock, Ram and Sirotkin moved to amend the bill by striking out Sec. 8, and inserting in lieu thereof the following:

* * * Vermont Housing Investments * * *

Sec. 8. VERMONT RENTAL HOUSING INVESTMENT PROGRAM; PURPOSE

(a) Recognizing that Vermont's rental housing stock is some of the oldest in the country and that much of it needs to be updated to meet code requirements and other standards, the Vermont Rental Housing Investment Program is intended to incentivize private apartment owners to make

significant improvements to both housing quality and weatherization by providing grants and forgivable loans that are matched in part by the property owner.

(b) The Program seeks to take the lessons learned from the successful Re-housing Recovery Program established with funds provided by the Federal CARES Act and implement them in a State-funded program.

Sec. 9. 10 V.S.A. chapter 29, subchapter 3 is added to read:

Subchapter 3. Housing; Investments

§ 699. VERMONT RENTAL HOUSING INVESTMENT PROGRAM

(a) Creation of program.

(1) The Department of Housing and Community Development shall design and implement the Vermont Rental Housing Investment Program through which the Department shall award funding to statewide or regional nonprofit housing organizations, or both, to provide competitive grants and forgivable loans to private landlords for the rehabilitation and weatherization of eligible rental housing units.

(2) The Department shall develop statewide standards for the Program, including factors that partner organizations shall use to evaluate applications and award grants and forgivable loans.

(b) Eligible rental housing units. The following units are eligible for a grant or forgivable loan through the Program:

(1) Non-code compliant. The unit does not comply with the requirements of applicable building, housing, or health laws.

(2) Vacant. The unit has not been leased or occupied for at least 90 days prior to the date of application and remains unoccupied on the date of the award.

(3) Accessory dwelling. The unit is an accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).

(c) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:

(1) a standard application form that describes the application process and includes instructions and examples to help landlords apply;

(2) an award process that ensures equitable selection of landlords, subject to a housing organization's exercise of discretion based on the factors adopted by the Department pursuant to subsection (a) of this section; and

(3) a grants and loan management system that ensures accountability for funds awarded.

(d) Program requirements applicable to grants and forgivable loans.

(1) A grant or loan shall not exceed $30,000 per unit.

(2) A landlord shall contribute matching funds or in-kind services that equal or exceed 20 percent of the value of the grant or loan.

(3) A project shall include a weatherization component.

(4) A project shall comply with applicable building, housing, and health laws.

(5) The terms and conditions of a grant or loan agreement apply to the original recipient and to a successor in interest for the period the grant or loan agreement is in effect.

(6) The identity of a recipient and the amount of a grant or forgivable loan are public records that shall be available for public copying and inspection and the Department shall publish this information at least monthly on its website.

(e) Program requirements applicable to grants. For a grant awarded under the Program, the following requirements apply for a minimum period of five years:

(1) A landlord shall coordinate with nonprofit housing partners and local coordinated entry organizations to identify potential tenants.

(2)(A) Except as provided in subdivision (2)(B) of this subsection, a landlord shall lease the unit to a household that is exiting homelessness.

(B) If, upon petition of the landlord, the Department or the housing organization that issued the grant determines that a household exiting homelessness is not available to lease the unit, then the landlord shall lease the unit:

(i) to a household with an income equal to or less than 80 percent of area median income; or

(ii) if such a household is unavailable, to another household with the approval of the Department or housing organization.

(3)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the total cost of rent for the unit, including utilities not covered by rent payments,

shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(4)(A) A landlord may convert a grant to a forgivable loan upon approval of the Department and the housing organization that approved the grant.

(B) A landlord who converts a grant to a forgivable loan shall receive a 10 percent credit for loan forgiveness for each year in which the landlord participates in the grant program.

(f) Requirements applicable to forgivable loans. For a forgivable loan awarded under the Program, the following requirements apply for a minimum period of 10 years:

(1)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(2) The Department shall forgive 10 percent of the amount of a forgivable loan for each year a landlord participates in the loan program.

(g) Lien priority. A lien for a grant converted to a loan or for a forgivable loan issued pursuant to this section is subordinate to:

(1) a lien on the property in existence at the time the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records; and

(2) a first mortgage on the property that is refinanced and recorded after the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records.

Sec. 10. REPORT

On or before February 15, 2022 the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Housing Investment Program, including findings and any recommendations related to the amount of grant awards.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 1 (DPS authority for rental housing health and safety).

(2) Sec. 2 (rental housing registry).

(3) Sec. 6 (conforming changes to Department of Health statutes).

(4) Sec. 7 (DPS rulemaking authority and transition provisions).

(b) The following sections take effect on July 1, 2021:

(1) Sec. 4 (DPS positions).

(2) Sec. 5 (DHCD positions);

(3) Secs. 8-10 (Vermont Housing Investment Program).

(c) Sec. 3 (rental housing registration) shall take effect on January 1, 2022.

Which was agreed to.

Thereupon, the question, Shall the bill be read the third time?, was decided in the affirmative on a roll call, Yeas 22, Nays 7.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Bray, Brock, Campion, Chittenden, Clarkson, Hardy, Hooker, Kitchel, Lyons, MacDonald, Mazza, McCormack, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin, Starr, White.

Those Senators who voted in the negative were: Benning, Collamore, Ingalls, Nitka, Parent, Terenzini, Westman.

The Senator absent and not voting was: Cummings.

Bill Amended; Third Reading Ordered

S. 101.

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

An act relating to promoting housing choice and opportunity in smart growth areas.

Reported recommending that the bill be amended as follows:

First: In Sec. 11, 10 V.S.A. § 1983, in subdivision (a)(2)(A), by striking out the words: "that serves a single connection"

Second: In Sec. 11, 10 V.S.A. § 1983, in subdivision (a)(2)(B), by striking out the words: "that serves a single connection"

And that when so amended the bill ought to pass.

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

Senator Balint, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: By striking out Sec. 3 (appropriation; municipal bylaw modernization) in its entirety.

Second: By striking out Sec. 4 (appropriation; training and permitting assistance) in its entirety.

Third: By striking out Sec. 6 (32 V.S.A. § 5930ee) in its entirety.

And by renumbering the remaining sections to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended? was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Bray, Campion, MacDonald and Sirotkin moved to amend the bill as follows:

In Sec. 11, 10 V.S.A. § 1983, as follows:

First: In subsection (a), in subdivision (5), after the words "requires documentation" and before the words "in the land records" by inserting the words issued by a professional engineer or licensed designer that is filed

Second: In subsection (b), in the first sentence by striking out the word registration" where it appears and inserting in lieu thereof the word authorization

Third: By adding a new subsection (c) to read as follows:

(c) A municipality issuing an authorization under this section shall require the person to whom the authorization is issued to post notice of the authorization as part of the notice required for a permit issued under 24 V.S.A. § 4449 or other bylaw authorized under this chapter.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Parent moved to amend the bill as follows:

By striking out Sec. 9, effective dates, and its reader assistance heading their entireties and inserting in lieu thereof the following:

* * * Act 250 Downtown Exemption * * *

Sec. 9. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. ~~At the option of the applicant, owner-occupied housing may be characterized by either of the following:~~

~~(i) at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

~~(ii)~~ At the time of initial sale, at least 20 percent of the housing units ~~have a purchase price that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits~~ meet the requirements of affordable owner-occupied housing under subdivision (29)(A) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.

(B) Rental housing. ~~At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of~~ For not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.

* * *

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of~~:~~

~~(A)~~ mixed income housing or mixed use, or any combination thereof, and is located entirely within a ~~designated downtown development district,~~ designated new town center~~,~~ or designated growth center~~, or designated village center that is also a designated neighborhood development area~~ under 24 V.S.A. chapter 76A~~; or~~

~~(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A~~.

* * *

Sec. 10. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a ~~priority housing project~~ development or subdivision that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p) of this section on the basis of that designation.

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793~~, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after May 28, 2002, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title~~ or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit issued by an appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit for a development or subdivision located in a downtown development area or a neighborhood development area is extinguished.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions,

an application may be filed pursuant to section 6084 of this title.

* * *

(v) ~~A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change.~~ [Repealed.]

* * *

Sec. 11. REPEALS

The following are repealed:

(1) 10 V.S.A. § 6083a(d) (neighborhood development area fees).

(2) 10 V.S.A. § 6086b (downtown development).

Sec. 12. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(f)(1) This subsection shall apply to a subdivision or development that:

(A) was previously permitted pursuant to 10 V.S.A. chapter 151;

(B) is located in a downtown development district or neighborhood development area designated pursuant to chapter 76A of this title; and

(C) has applied for a permit or permit amendment required by zoning regulations or bylaws adopted pursuant to this subchapter.

(2) The appropriate municipal panel reviewing a municipal permit or permit amendment pursuant to this subsection shall include conditions contained within a permit previously issued pursuant to 10 V.S.A. chapter 151 unless the panel determines that the permit condition pertains to any of the following:

(A) the construction phase of the project that has already been constructed;

(B) compliance with another State permit that has independent jurisdiction;

(C) federal or State law that is no longer in effect or applicable;

(D) an issue that is addressed by municipal regulation and the project will meet the municipal standards; or

(E) a physical or use condition that is no longer in effect or applicable, or that will no longer be in effect or applicable once the new project is approved.

(3) After issuing or amending a permit containing conditions pursuant to this subsection, the appropriate municipal panel shall provide notice and a copy of the permit to the Natural Resources Board.

(4) The appropriate municipal panel shall comply with the notice and hearing requirements provided in subdivision 4464(a)(1) of this title. In addition, notice shall be provided to those persons requiring notice under 10 V.S.A.§ 6084(b) and shall explicitly reference the existing Act 250 permit.

(5) The appropriate municipal panel's decision shall be issued in accord with subsection 4464(b) of this title and shall include specific findings with respect to its determinations pursuant to subdivision (2) of this subsection.

(6) Any final action by the appropriate municipal panel affecting a condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land records.

Sec. 13. 24 V.S.A. § 2792(a) is amended to read:

(a) A "Vermont Downtown Development Board," also referred to as the "State Board," is created to administer the provisions of this chapter. The State Board shall be composed of the following members or their designees:

* * *

(12) The executive director of the Vermont Housing and Conservation Board or designee.

Sec. 14. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(b) Within 45 days of receipt of a completed application, the State Board shall designate a downtown development district if the State Board finds in its written decision that the municipality has:

(1) Demonstrated a commitment to protect and enhance the historic character of the downtown through the adoption of a design review district, through the adoption of an historic district, or through the adoption of regulations that adequately regulate the physical form and scale of development that the State Board determines substantially meet the historic preservation requirements in subdivisions 4414(1)(E) and (F) of this title~~, or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title~~.

* * *

(4) A housing element in its plan in accordance with subdivision 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this title and that includes clear implementation steps for achieving mixed income housing, including affordable housing, a timeline for implementation, responsibility for each implementation step, and potential funding sources.

(5) Adopted one of the following to promote the availability of affordable housing opportunities in the municipality:

(A) inclusionary zoning as provided in subdivision 4414(7) of this title;

(B) a restricted housing trust fund with designated revenue streams;

(C) a housing commission as provided in section 4433 of this title; or

(D) impact fee exemptions or reductions for affordable housing as provided in section 5205 of this title.

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. Beginning on July 1, 2023, any community under review or seeking renewal shall comply with subdivisions (b)(4) and (5) of this section. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

(1) require corrective action;

(2) provide technical assistance through the Vermont Downtown Program;

(3) limit eligibility for the benefits established in section 2794 of this chapter without affecting any of the district's previously awarded benefits; or

(4) remove the district's designation without affecting any of the district's previously awarded benefits.

* * * Effective Date * * *

Sec. 15. EFFECTIVE DATE

This act shall take effect on July 1, 2021.

Thereupon, pending the question, Shall the bill be amended as moved by Senator Parent? Senator Bray raised a point of order under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the amendment offered by Senator Parent was not germane to the bill and therfore could not be considered by the Senate.

In order for an amendment to be considered, it must be germane. Mason's Manual of Legislative Procedure, Sec. 402.

Whether a proposed amendment is germane is not always an easy question. Generally speaking, the following factors are considered:

1. Is the proposed amendment relevant, appropriate, and in a natural or logical sequence to the subject matter of the original proposal?

2. Does the proposed amendment introduce an independent question?

3. Does the proposed amendment unreasonably or unduly expand the subject matter of the bill?

4. Does the proposed amendment deal with a different topic or subject?

5. Does the proposed amendment change the purpose, scope or object of the original bill?

In deciding a question of germaneness, the threshold determination must be that of the subject matter of the bill or amendment under consideration and its scope.

After weighing the factors the President found the proposed amendment ***not germane*** to S. 101 and *sustained* the point of order and ruled that the amendment offered by Senator Parent was *not germane* to the bill.

The President thereupon declared that the amendment offered by Senator Parent could *not* be considered by the Senate and amendment was ordered stricken.

Thereupon, third reading of the bill was ordered.

Bill Passed

S. 48.

Senate bill entitled:

An act relating to Vermont's adoption of the interstate Nurse Licensure Compact.

Was taken up.

Thereupon, pending third reading of the bill, Senator Terenzini moved to amend the bill by striking out Sec. 2 in its entirety and inserting two new sections to be numbered Secs. 2 and 3 to read as follows:

Sec. 2. LICENSE FEES

The Office of Professional Regulation shall not increase the license renewal fee for a Vermont single-state nurse license to recover any revenue the Office of Professional Regulation loses or anticipates losing as a result of Vermont's adoption of the Nurse Licensure Compact.

Sec. 3. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 1 shall take effect on February 1, 2022.

Which was disagreed to.

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

Bill Passed

H. 81.

Senate bill of the following title:

An act relating to statewide public school employee health benefits.

Was read the third time and passed on a roll call, Yeas 22, Nays 5.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Campion, Chittenden, Clarkson, Hardy, Hooker, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram, Sears, Sirotkin, Starr, Westman, White.

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

Those Senators absent and not voting were: Bray, Cummings, Terenzini.

Committee Report Substituted; Consideration Interrupted by Adjournment

S. 10.

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

An act relating to extending certain unemployment insurance provisions related to COVID-19.

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

* * * Experience Rating Relief for Calendar Year 2020 * * *

Sec. 1. 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-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~~ Between March 15, 2020 and December 31, 2020, the individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

* * *

(3)(A) Subject to the provisions of ~~subdivision~~ subdivisions (B) and (C) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual between March 15, 2020 and December 31, 2020 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, including through a change or reduction in the employer's operation at the individual's place of employment that is a direct result of such a state of emergency, order, or directive; or

(iii) the employer has temporarily laid off the individual ~~has been recommended or requested~~ based on a recommendation or request by a medical professional or a public health authority with jurisdiction ~~to~~ that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

(B)(i) ~~An~~ Unless extended by the Commissioner pursuant to subdivision (C) of this subdivision (a)(3), an employer shall ~~only be eligible for relief~~ be relieved of charges for up to eight weeks of benefits paid between March 15, 2020 and December 31, 2020 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~~ unless the Commissioner determines that:

(I) the employee was not separated from employment for one of the reasons set forth in subdivision (A) of this subdivision (a)(3); or

(II) the reason for the individual's separation from employment set forth in subdivision (A) of this subdivision (a)(3) no longer exists and the employer has failed to rehire or offer to rehire the individual without good cause.

(ii) If the Commissioner has cause to believe or receives an allegation or other information indicating that an employer may not be entitled to relief from charges pursuant to this subdivision (a)(3), the Commissioner shall examine the employer's records and any other documents and information necessary to determine if the employer is entitled to relief from charges pursuant to this subdivision (a)(3).

(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.

* * *

* * * Experience Rating Relief for Calendar Year 2021 * * *

Sec. 2. RELIEF FROM COVID-19-RELATED UNEMPLOYMENT BENEFIT CHARGES FOR CALENDAR YEAR 2021

(a) For calendar year 2021, an employer shall be relieved from charges against its unemployment insurance experience rating under 21 V.S.A. § 1325 for benefits paid because:

(1)(A) the individual voluntarily separated from employment with the employer for one of the reasons set forth in 21 V.S.A. § 1344(a)(2)(A)(ii)–(vi);

(B) 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;

(C) the individual became 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, including through a change or reduction in the employer's operation at the individual's place of employment that was a direct result of such a state of emergency, order, or directive; or

(D) the employer temporarily laid off the individual based on a recommendation or request by a medical professional or a public health authority with jurisdiction that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual was diagnosed with COVID-19; and

(2)(A) the employer rehired or offered to rehire the employee within a reasonable time, not to exceed 30 days after the reason for the individual's separation from employment set forth in subdivision (1) of this subsection (a) no longer exists; or

(B) the employer demonstrates to the satisfaction of the Commissioner that it had good cause for failing to rehire or offer to rehire the employee within the time period set forth in subdivision (A) of this subdivision (a)(2).

(b) On or before June 1, 2021, the Commissioner of Labor shall adopt procedures and an application form for employers to apply for relief from charges pursuant to subsection (a) of this section.

(c) The Commissioner shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any procedures adopted under subsection (b) of this section.

(d) On or before April 15, 2021, the Commissioner shall:

(1) submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report summarizing the procedures and application form to be adopted pursuant to subsection (b) of this section; and

(2) commence a public outreach campaign to notify employers and employees of the requirements and procedures to obtain relief from charges under this section.

* * * Extension of Unemployment Insurance Related Sunset from 2020 Acts and Resolves No. 91 * * *

Sec. 3. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

(3) Secs. 32 and 33 shall take effect on ~~March 31, 2021~~ the first day of the calendar quarter following the calendar quarter in which the state of emergency declared in response to COVID-19 pursuant to Executive Order 01-20 is terminated, provided that if the state of emergency is terminated within the final 30 days of a calendar quarter, Secs. 32 and 33 shall take effect on the first day of the second calendar quarter following the calendar quarter in which the state of emergency is terminated.

* * * Implementation of Continued Assistance Act Provisions * * *

Sec. 4. TEMPORARY SUSPENSION OF CERTAIN REQUIREMENTS FOR TRIGGERING AN EXTENDED BENEFIT PERIOD

For purposes of determining whether the State is in an extended benefit period during the period from November 1, 2020 through December 31, 2021, the Commissioner shall disregard the requirement in 21 V.S.A. § 1421 that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period.

* * * Increased Unemployment Insurance Benefits * * *

Sec. 5. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

(a) Each eligible individual who is totally unemployed in any week shall be paid with respect to such a week a weekly benefit amount determined as provided in this section.

* * *

(e)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, an individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by ~~45~~ 38; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in subsection (f) of this section.

(2)(A) In addition to the weekly benefit amount determined pursuant to subdivision (1) of this subsection, an individual shall be entitled to an additional weekly allowance of $50.00 if the individual has one or more dependent children under 18 years of age.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply during the period from July 1, 2022 through June 30, 2023 if, on April 15, 2022, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2022.

* * *

Sec. 6. MAXIMUM WEEKLY BENEFIT FOR BENEFIT YEARS BEGINNING JULY 1, 2021 AND JULY 1, 2022

(a) Notwithstanding any provision of 21 V.S.A. § 1338(f) to the contrary, the maximum weekly benefit for the benefit year beginning July 1, 2021 shall be $637.00 plus the amount of any dependent allowance pursuant to 21 V.S.A. § 1338(e)(2).

(b) Notwithstanding any provision of 21 V.S.A. § 1338(f) to the contrary, the maximum weekly benefit for the benefit year beginning July 1, 2022 shall be equal to 57 percent of the State annual average weekly wage determined pursuant to 21 V.S.A. § 1338(g).

Sec. 7. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

(a) Each eligible individual who is totally unemployed in any week shall be paid with respect to such a week a weekly benefit amount determined as provided in this section.

* * *

(e)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, an individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by ~~38~~ 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in subsection (f) of this section.

* * *

* * * Unemployment Insurance Contribution Relief * * *

Sec. 8. UNEMPLOYMENT INSURANCE RATE SCHEDULE FOR BENEFIT YEARS BEGINNING JULY 1, 2021 AND JULY 1, 2022

(a)(1) Notwithstanding any provision of 21 V.S.A. § 1326 to the contrary, the unemployment insurance contribution rate schedule for the benefit year beginning on July 1, 2021 shall remain at Schedule I.

(2) The provisions of this section shall not apply if, on April 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

(b)(1) Notwithstanding any provision of 21 V.S.A. § 1326 to the contrary, the unemployment insurance contribution rate schedule for the benefit year beginning on July 1, 2022 shall increase to Schedule III.

(2) The provisions of this section shall not apply if, on April 15, 2022, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2022.

Sec. 9. UNEMPLOYMENT INSURANCE; BASE OF CONTRIBUTIONS FOR 2022 AND 2023

(a)(1) Notwithstanding 21 V.S.A. § 1321(b), the base of contributions for calendar year 2022 shall be the same amount as for calendar year 2021.

(2) The provisions of this subsection shall not apply if, on October 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

(b) Notwithstanding any provision of subsection (a) of this section or 21 V.S.A. § 1321(b) to the contrary, the base of contributions for calendar year 2023 shall be determined pursuant to 21 V.S.A. § 1321(b) as if the base of contributions for calendar year 2022 had been determined pursuant to 21 V.S.A. § 1321(b) rather than the provisions of subsection (a) of this section.

* * * Effective Dates * * *

Sec. 10. EFFECTIVE DATES

(a)(1) Secs. 5 and 6 shall take effect on July 1, 2021.

(2) Sec. 7 shall take effect on July 1, 2022.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, Secs. 5, 6, and 7 shall not take effect at all if on April 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

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

And that when so amended the bill ought to pass.

Senator Sirotkin moved to substitute a recommendation of amendment for the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs as follows:

* * * Experience Rating Relief for Calendar Year 2020 * * *

Sec. 1. 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~~ Between March 15, 2020 and December 31, 2020, the individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

* * *

(3)(A) Subject to the provisions of ~~subdivision~~ subdivisions (B) and (C) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual between March 15, 2020 and December 31, 2020 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, including through a change or reduction in the employer's operation at the individual's place of employment that is a direct result of such a state of emergency, order, or directive; or

(iii) the employer has temporarily laid off the individual ~~has been recommended or requested~~ based on a recommendation or request by a medical professional or a public health authority with jurisdiction ~~to~~ that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

(B)(i) ~~An~~ Unless extended by the Commissioner pursuant to subdivision (C) of this subdivision (a)(3), an employer shall ~~only be eligible for relief~~ be relieved of charges for up to eight weeks of benefits paid between March 15, 2020 and December 31, 2020 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~~ unless the Commissioner determines that:

(I) the employee was not separated from employment for one of the reasons set forth in subdivision (A) of this subdivision (a)(3); or

(II) the reason for the individual's separation from employment set forth in subdivision (A) of this subdivision (a)(3) no longer exists and the employer has failed to rehire or offer to rehire the individual without good cause.

(ii) If the Commissioner has cause to believe or receives an allegation or other information indicating that an employer may not be entitled to relief from charges pursuant to this subdivision (a)(3), the Commissioner shall examine the employer's records and any other documents and information necessary to determine if the employer is entitled to relief from charges pursuant to this subdivision (a)(3).

(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.

* * *

* * * Experience Rating Relief for Calendar Year 2021 * * *

Sec. 2. RELIEF FROM COVID-19-RELATED UNEMPLOYMENT BENEFIT CHARGES FOR CALENDAR YEAR 2021

(a) For calendar year 2021, an employer shall be relieved from charges against its unemployment insurance experience rating under 21 V.S.A. § 1325 for benefits paid because:

(1)(A) the individual voluntarily separated from employment with the employer for one of the reasons set forth in 21 V.S.A. § 1344(a)(2)(A)(ii)–(vi);

(B) 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;

(C) the individual became 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, including through a change or reduction in the employer's

operation at the individual's place of employment that was a direct result of such a state of emergency, order, or directive; or

(D) the employer temporarily laid off the individual based on a recommendation or request by a medical professional or a public health authority with jurisdiction that the individual be isolated or quarantined as a result of COVID-19, regardless of whether the individual was diagnosed with COVID-19; and

(2)(A) the employer rehired or offered to rehire the employee within a reasonable time, not to exceed 30 days after the reason for the individual's separation from employment set forth in subdivision (1) of this subsection (a) no longer exists; or

(B) the employer demonstrates to the satisfaction of the Commissioner that it had good cause for failing to rehire or offer to rehire the employee within the time period set forth in subdivision (A) of this subdivision (a)(2).

(b) On or before June 1, 2021, the Commissioner of Labor shall adopt procedures and an application form for employers to apply for relief from charges pursuant to subsection (a) of this section.

(c) The Commissioner shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any procedures adopted under subsection (b) of this section.

(d) On or before April 15, 2021, the Commissioner shall:

(1) submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report summarizing the procedures and application form to be adopted pursuant to subsection (b) of this section; and

(2) commence a public outreach campaign to notify employers and employees of the requirements and procedures to obtain relief from charges under this section.

* * * Extension of Unemployment Insurance-Related Sunset from 2020 Acts and Resolves No. 91 * * *

Sec. 3. 2020 Acts and Resolves No. 91, Sec. 38(3) is amended to read:

(3) Secs. 32 and 33 shall take effect on ~~March 31, 2021~~ the first day of the calendar quarter following the calendar quarter in which the state of emergency declared in response to COVID-19 pursuant to Executive Order 01-20 is terminated, provided that if the state of emergency is terminated within

the final 30 days of a calendar quarter, Secs. 32 and 33 shall take effect on the first day of the second calendar quarter following the calendar quarter in which the state of emergency is terminated.

* * * Implementation of Continued Assistance Act Provisions * * *

Sec. 4. TEMPORARY SUSPENSION OF CERTAIN REQUIREMENTS FOR TRIGGERING AN EXTENDED BENEFIT PERIOD

For purposes of determining whether the State is in an extended benefit period during the period from November 1, 2020 through December 31, 2021, the Commissioner shall disregard the requirement in 21 V.S.A. § 1421 that no extended benefit period may begin before the 14th week following the end of a prior extended benefit period.

* * * Unemployment Insurance Dependent Benefits * * *

Sec. 5. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

(a) Each eligible individual who is totally unemployed in any week shall be paid with respect to such a week a weekly benefit amount determined as provided in this section.

* * *

(e)(1) For benefit years beginning on January 3, 1988 and subsequent thereto, an individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in subsection (f) of this section.

(2)(A) In addition to the weekly benefit amount determined pursuant to subdivision (1) of this subsection, an individual shall be entitled to an additional weekly allowance of $50.00 if the individual has one or more dependent children under 18 years of age.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply during the period from July 1, 2022 through June 30, 2023 if, on April 15, 2022, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2022.

* * *

Sec. 6. 21 V.S.A. § 1338 is amended to read:

§ 1338. WEEKLY BENEFITS

(a) Each eligible individual who is totally unemployed in any week shall be paid with respect to such a week a weekly benefit amount determined as provided in this section.

* * *

(e)~~(1)~~ For benefit years beginning on January 3, 1988 and subsequent thereto, an individual's weekly benefit amount shall be determined by dividing the individual's two high quarter total subject wages required under subdivision (d)(1) of this section by 45; provided that the weekly benefit amount so determined shall not exceed the maximum weekly benefit amount computed as provided in subsection (f) of this section.

~~(2)(A) In addition to the weekly benefit amount determined pursuant to subdivision (1) of this subsection, an individual shall be entitled to an additional weekly allowance of $50.00 if the individual has one or more dependent children under 18 years of age.~~

~~(B) The provisions of subdivision (A) of this subdivision (2) shall not apply during the period from July 1, 2022 through June 30, 2023 if, on April 15, 2022, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2022.~~

* * *

* * * Unemployment Insurance Contribution Relief * * *

Sec. 7. UNEMPLOYMENT INSURANCE RATE SCHEDULE FOR BENEFIT YEAR BEGINNING JULY 1, 2021

(a) Notwithstanding any provision of 21 V.S.A. § 1326 to the contrary, the unemployment insurance contribution rate schedule for the benefit year beginning on July 1, 2021 shall remain at Schedule I.

(b) The provisions of this section shall not apply if, on April 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

Sec. 8. AVOIDANCE OF LONG-TERM RATE IMPACTS ON EMPLOYERS

During the period beginning on July 1, 2022 and ending on June 30, 2031,

the Commissioner of Labor shall reduce the amount of unemployment insurance contributions made by employers by a total of $66,500,000.00. The reductions shall be distributed proportionately across each year of the period and among all employers liable for payment of contributions to the Unemployment Insurance Trust Fund. Notwithstanding any provision of 21 V.S.A. chapter 17 to the contrary, the reductions shall be accomplished by the following means:

(1) a proportionate reduction in the rates for each rate class on the appropriate rate schedule set forth in 21 V.S.A. § 1326(e);

(2) any other proportionate reduction in the contributions made by each employer liable for payment of contributions to the Unemployment Insurance Trust Fund that is permitted by federal law;

(3) any other means of achieving a reduction in the contributions made by each employer liable for payment of contributions to the Unemployment Insurance Trust Fund that is permitted by federal law; or

(4) any combination of subdivisions (1) though (3) of this section.

Sec. 9. UNEMPLOYMENT INSURANCE; BASE OF CONTRIBUTIONS FOR 2022 AND 2023

(a)(1) Notwithstanding 21 V.S.A. § 1321(b), the base of contributions for calendar year 2022 shall be the same amount as for calendar year 2021.

(2) The provisions of this subsection shall not apply if, on October 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

(b) Notwithstanding any provision of subsection (a) of this section or 21 V.S.A. § 1321(b) to the contrary, the base of contributions for calendar year 2023 shall be determined pursuant to 21 V.S.A. § 1321(b) as if the base of contributions for calendar year 2022 had been determined pursuant to 21 V.S.A. § 1321(b) rather than the provisions of subsection (a) of this section.

Sec. 10. REVISED UNEMPLOYMENT INSURANCE TRUST FUND TARGET BALANCE; REPORT

(a)(1) The Commissioner of Labor shall conduct a review of the solvency of the Unemployment Insurance Trust Fund during the period since January 1, 2000 and the impact on the Trust Fund of the statutes related to unemployment insurance contributions and benefits and any changes made to those statutes during that time period.

(2) The review shall also:

(A) include an assessment and consideration of:

(i) the amount necessary to ensure the continued solvency of the Trust Fund during a future economic recession based on the economic cycles experienced by the State since January 1, 2000; and

(ii) how potential future statutory changes related to unemployment insurance contributions and benefits may impact the amount determined pursuant to subdivision (i) of this subdivision (a)(2)(A); and

(B) develop a range of amounts needed to ensure the continued solvency of the Trust Fund during a future economic recession based on the potential future statutory changes considered during the review.

(b)(1) In conducting the review, the Commissioner shall convene and consult with a working group composed of representatives of employers and employees, economists, and other individuals with relevant knowledge or experience as determined by the Commissioner.

(2) The Commissioner shall provide the members of the working group with an opportunity to review and comment on the analysis and determinations made pursuant to subsection (a) of this section.

(c)(1) On or before November 15, 2021, the Commissioner of Labor shall submit a written report documenting the results of the review conducted pursuant to subsection (a) of this section and the consultation with the working group pursuant to subsection (b) of this section to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development.

(2) The report shall include a detailed explanation of the potential statutory changes considered for purposes of the analysis and determinations made pursuant to subsection (a) of this section and the basis for the amount determined to be necessary to ensure the continued solvency of the Trust Fund during a future economic recession.

(3) The report shall specifically identify the members of the working group, summarize their comments regarding the analysis and determinations made pursuant to subsection (a) of this section, and identify any revisions to the Commissioner's analysis and determinations that were made based on the comments received.

(4) The Commissioner shall also provide each member of the working group with an opportunity to submit a written statement responding to the Commissioner's review, which shall be included as part of the report submitted pursuant to this subsection.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a)(1) Sec. 5 (dependent benefit) shall take effect on the termination date for Federal Pandemic Unemployment Compensation set forth in 15 U.S.C. § 9023(e)(2), as amended.

(2) Sec. 6 (repeal of dependent benefit) shall take effect five years after the effective date of Sec. 5.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, Secs. 5 (dependent benefit) and 6 (repeal of dependent benefit) shall not take effect at all if on April 15, 2021, the balance of the Unemployment Insurance Trust Fund is either below $90,000,000.00 or projected to drop below that amount on or before December 31, 2021.

(b) This section and the remaining sections shall take effect on passage; provided, however, that if the date of passage is after March 31, 2021, then notwithstanding 1 V.S.A. § 214, Sec. 3 (extension of sunset) shall apply retroactively to March 31, 2021.

And that when so amended the bill ought to pass.

Thereupon, Senator Sirotkin's motion to substitute was agreed to.

Thereupon, on motion of Senator Balint, the Senate adjourned, to reconvene on Tuesday, March 30, 2021, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 20.

House Concurrent Resolution

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

By Reps. McFaun and LaClair,

H.C.R. 29.

House concurrent resolution honoring Barre Town's Town Clerk and Treasurer, Donna Kelty.

By Reps. Yacovone and others,

H.C.R. 30.

House concurrent resolution honoring Angeline Faraci for her teaching and soccer coaching achievements.

By All Members of the House,

By All Members of the Senate,

H.C.R. 31.

House concurrent resolution in memory of U.S. Second Circuit Judge Peter W. Hall.

By Reps. Shaw and others,

By Senators Collamore, Hooker and Terenzini,

H.C.R. 32.

House concurrent resolution honoring Ronald J. Cioffi for his outstanding leadership of the VNA & Hospice of the Southwest Region.

By Reps. Burditt and others,

By Senators Collamore, Hooker and Terenzini,

H.C.R. 33.

House concurrent resolution in memory of Mary Theresa Ojala of Rutland.

By Rep. Toof,

H.C.R. 34.

House concurrent resolution recognizing March 26, 2021 as SEL (Social and Emotional Learning) Day in Vermont.

TUESDAY, MARCH 30, 2021

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Katelyn Macrae of Richmond.

Pledge of Allegiance

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

Message from the House No. 41

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 152. An act relating to education property tax.

H. 153. An act relating to Medicaid reimbursement rates for home- and community-based service providers.

H. 159. An act relating to community and economic development and workforce revitalization.

H. 171. An act relating to the governance and financing of Vermont's child care system.

H. 183. An act relating to sexual violence.

H. 435. An act relating to miscellaneous Department of Corrections-related amendments.

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

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

H.C.R. 29. House concurrent resolution honoring Barre Town's Town Clerk and Treasurer, Donna Kelty.

H.C.R. 30. House concurrent resolution honoring Angeline Faraci for her teaching and soccer coaching achievements.

H.C.R. 31. House concurrent resolution in memory of U.S. Second Circuit Judge Peter W. Hall.

H.C.R. 32. House concurrent resolution honoring Ronald J. Cioffi for his outstanding leadership of the VNA & Hospice of the Southwest Region.

H.C.R. 33. House concurrent resolution in memory of Mary Theresa Ojala of Rutland.

H.C.R. 34. House concurrent resolution recognizing March 26, 2021 as SEL (Social and Emotional Learning) Day in Vermont.

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:

Madam President:

I am directed by the Governor to inform the Senate that on the twenty-ninth day of March 2021 he approved and signed a bill originating in the Senate of the following title:

S. 117. An act relating to extending health care regulatory flexibility during and after the COVID-19 pandemic and to coverage of health care services delivered by audio-only telephone.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 21.

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

By Senator Balint,

J.R.S. 21. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 2, 2021, it be to meet again no later than Tuesday, April 6, 2021.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 132.

By Senator Lyons,

An act relating to health care reform implementation.

To the Committee on Health and Welfare.

Bills Referred

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

H. 152.

An act relating to education property tax.

To the Committee on Education.

H. 153.

An act relating to Medicaid reimbursement rates for home- and community-based service providers.

To the Committee on Health and Welfare.

H. 159.

An act relating to community and economic development and workforce revitalization.

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

H. 171.

An act relating to the governance and financing of Vermont's child care system.

To the Committee on Health and Welfare.

H. 183.

An act relating to sexual violence.

To the Committee on Judiciary.

H. 435.

An act relating to miscellaneous Department of Corrections-related amendments.

To the Committee on Institutions.

Consideration Resumed; Bill Amended; Third Reading Ordered

S. 10.

Consideration was resumed on Senate bill entitled:

An act relating to extending certain unemployment insurance provisions related to COVID-19.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as substituted?, was decided in the affirmative on a roll call, Yeas 18, Nays 12.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Bray, Campion, Clarkson, Cummings, Hardy, Hooker, Lyons, MacDonald, McCormack, Nitka, Pearson, Perchlik, Pollina, Ram, Sirotkin, White.

Those Senators who voted in the negative were: Benning, Brock, Chittenden, Collamore, Ingalls, Kitchel, Mazza, Parent, Sears, Starr, Terenzini, Westman.

Thereupon, third reading of the bill was ordered.

Bills Passed

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

S. 79. An act relating to improving rental housing health and safety.

S. 101. An act relating to promoting housing choice and opportunity in smart growth areas.

Message from the House No. 42

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Madam President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 210. An act relating to addressing disparities and promoting equity in the health care system.

H. 436. An act relating to miscellaneous changes to Vermont's tax laws.

H. 437. An act relating to changes that affect the revenue of the State.

H. 438. An act relating to capital construction and State bonding.

H. 439. An act relating to making appropriations for the support of government.

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

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 31, 2021.

WEDNESDAY, MARCH 31, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Committee Relieved of Further Consideration; Bill Committed

H. 435.

On motion of Senator Benning, the Committee on Institutions was relieved of further consideration of House bill entitled:

An act relating to miscellaneous Department of Corrections-related amendments,

and the bill was committed to the Committee on Government Operations.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 133.

By Senator Hooker,

An act relating to authorizing the Probate Division to reopen guardianship proceedings to correct or remedy manifest injustice.

To the Committee on Judiciary.

Bills Referred

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

H. 210.

An act relating to addressing disparities and promoting equity in the health care system.

To the Committee on Health and Welfare.

H. 436.

An act relating to miscellaneous changes to Vermont's tax laws.

To the Committee on Finance.

H. 437.

An act relating to changes that affect the revenue of the State.

To the Committee on Rules.

H. 438.

An act relating to capital construction and State bonding.

To the Committee on Institutions.

H. 439.

An act relating to making appropriations for the support of government.

To the Committee on Appropriations.

Bill Amended; Bill Passed

S. 10.

Senate bill entitled:

An act relating to extending certain unemployment insurance provisions related to COVID-19.

Was taken up.

Thereupon, pending third reading of the bill, Senators Brock and Sirotkin moved to amend the bill by inserting three new sections to be numbered Secs. 11 through 13 to read as follows:

* * * Prevention of Employee and Employer Fraud * * *

Sec. 11. UNEMPLOYMENT INSURANCE; FRAUD; OVERPAYMENTS; DETECTION; PREVENTION; REPORT

(a) On or before November 15, 2021, the Commissioner of Labor shall submit to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development a written report regarding the detection and prevention of unemployment insurance fraud and the reduction and effective recovery of overpaid unemployment insurance benefits. The report shall:

(1) with respect to unemployment insurance fraud:

(A) review the Department of Labor's existing practices for detecting fraud and preventing claimants from intentionally misrepresenting or knowingly failing to disclose material facts;

(B) identify effective strategies and measures employed by other states to detect fraud and prevent claimants from intentionally misrepresenting or knowingly failing to disclose material facts;

(C) identify potential actions for improving the Department's ability to detect fraud and prevent claimants from intentionally misrepresenting or knowingly failing to disclose material facts;

(D) identify potential actions for improving the Department's ability to effectively communicate with claimants regarding reporting requirements, application procedures, and program rules;

(E) identify any additional resources, including staff, funding, technology, and training, that may be necessary to improve claimants' ability to fully and accurately provide the Department with required information;

(F) examine the extent to which overpayments flagged as fraud are attributable to intentional fraud as opposed to the claimant's mistake, the claimant's misunderstanding of unemployment insurance rules and requirements, or a miscommunication by a departmental staff person;

(G) to the extent practicable, identify the number of fraud determinations that are appealed and the percentage of those determinations that are reversed following the appeal;

(H) examine and identify when it may be appropriate to refer unemployment insurance fraud for criminal prosecution;

(I) for any instances of unemployment insurance fraud that are determined to be appropriate for criminal prosecution, examine whether they can be effectively prosecuted under existing statutes and, if not, identify any statutory changes necessary to allow for effective criminal prosecution; and

(J) identify any additional resources, including staff, funding, and training, that may be necessary to enable effective criminal prosecution of unemployment insurance fraud; and

(2) with respect to the overpayment of unemployment insurance benefits:

(A) review existing practices for preventing, reducing, and collecting overpayments of benefits;

(B) identify effective strategies employed by other states to prevent, reduce, and collect overpayments of benefits;

(C) identify potential actions for improving the Department's ability to prevent, reduce, and collect overpayments of benefits, including hiring additional staff and making improvements to technology and training; and

(D) identify the instances in which an individual's liability for an overpayment could potentially be reduced or waived, such as when the claimant is not at fault or the overpayment results from a mistake or lack of understanding regarding the unemployment insurance rules, and the criteria, if any, that the Department would employ to determine whether a reduction or waiver is appropriate.

(b) In preparing the report, the Department shall consult with the Attorney General, the Department of State's Attorneys and Sheriffs, representatives of employers, representatives of employees, and representatives of claimants.

The report shall specifically identify the parties that the Department consulted with.

(c)(1) The report shall specifically identify any legislative action necessary to implement any measures identified pursuant to subsection (a) of this section to improve the Department's ability to prevent and detect unemployment insurance fraud and its ability to reduce and more effectively recover overpaid unemployment insurance benefits.

(2) The Department may omit from the report information regarding techniques, procedures, and guidelines for unemployment insurance fraud investigations or prosecution if the disclosure of that information could reasonably be expected to risk circumvention of the law.

(d) As used in this section:

(1) "Overpayment of unemployment insurance benefits" includes overpayments due to a mistake on the part of a claimant or the Department, a claimant's unintentional misrepresentation or nondisclosure of a material fact, or a claimant's intentional misrepresentation or nondisclosure of a material fact.

(2) "Unemployment insurance fraud" means the intentional misrepresentation or knowing nondisclosure of a material fact by a claimant or any other entity for purposes of obtaining unemployment insurance benefits.

Sec. 12. 2020 Acts and Resolves No. 85, Sec. 9(a)(1) is amended to read:

(a)(1) On or before ~~January 15, 2022~~ November 15, 2021, the Attorney General and the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on General, Housing, and Military Affairs and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the enforcement of employment laws related to employee misclassification pursuant to 21 V.S.A. §§ 346, 387, 712, and 1379 and by the Commissioner of Labor pursuant to 21 V.S.A. chapter 5, subchapters 2 and 3, and 21 V.S.A. chapters 9 and 17.

Sec. 13. 3 V.S.A. 2222d is amended to read:

§ 2222d. EMPLOYEE MISCLASSIFICATION TASK FORCE

* * *

(f) On or before ~~January 15, 2022~~ November 15, 2021, the Task Force shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic

Development, Housing and General Affairs regarding ways to improve the effectiveness and efficiency of the system of joint enforcement by the Commissioner of Labor and the Attorney General of the laws related to employee misclassification that is established pursuant to 21 V.S.A. §§ 3, 346, 387, 712, and 1379. In particular, the Report shall examine:

* * *

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

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

Third Readings Ordered

H. 10.

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

An act relating to permitted candidate expenditures.

Reported that the bill ought to pass in concurrence.

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

H. 127.

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

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

Reported that the bill ought to pass in concurrence.

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

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock in the afternoon on Thursday, April 1, 2021.

THURSDAY, APRIL 1, 2021

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.