

Journal of the House

Friday, April 28, 2017

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by State House Singers, *Dona Nobis Pacem* (Grant Us Peace).

Remarks Journalized

On motion of **Rep. McCoy of Poultney**, the following remarks by **Rep. Scheuermann of Stowe** were ordered printed in the Journal:

“Thank you Madam Speaker:

The first resolution read today was honoring my good friend and former Stowe Town Clerk, Alison Kaiser.

Alison grew up in Stowe and shortly after finishing school there, she was hired by the Town of Stowe. By the time I returned to Stowe in 2001, my old friend Alison – the one with whom I had gone to school, had been in Girls Scouts, played softball, played field hockey under the stern eye of Miss O, and celebrated graduations – was now an elected official in Stowe.

For over two decades Alison served the people and community of Stowe with honesty and integrity, and with the hard work and dedication that she demonstrated throughout her life.

She was so well-respected that she was chosen by her peers to serve on the Vermont League of Cities and Towns Board for many years, and as Vice-Chair of the New England Association of City and Town Clerks. Many of you here will also remember Alison for her work in this building through the years as she lobbied on behalf of our local Town Clerks and local governments.

Alison is now facing an incredible challenge, as her career as Town Clerk was tragically cut short by a car accident. Through no fault of her own, Alison was no longer able to continue her duties as Town Clerk, and was forced to resign this past March.

Knowing Alison as I do, I know she is facing this recovery with the same determination she has always faced challenges. And, I for one, look forward to her next chapter.

Thank you, Alison, for your lifetime of service to the people and Town of

Stowe, and to the State of Vermont.

**Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 61

Rep. Taylor of Colchester, for the committee on Corrections and Institutions, to which had been referred Senate bill, entitled

An act relating to offenders with mental illness

Reported in favor of its passage in concurrence with proposal of amendment as follows:

Sec. 1. 13 V.S.A. § 4820(5) is added to read:

(5) When a person who is found to be incompetent to stand trial pursuant to subdivision (2) of this section, the court shall appoint counsel from Vermont Legal Aid to represent the person who is the subject of the proceedings and from the Office of the Attorney General to represent the State in the proceedings.

Sec. 2. 13 V.S.A. § 4821 is amended to read:

§ 4821. NOTICE OF HEARING; PROCEDURES

The person who is the subject of the proceedings, his or her attorney, the legal guardian, if any, the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent Living, and the ~~State's Attorney or other prosecuting officer representing~~ counsel appointed pursuant to subsection 4820(5) of this title to represent the State in the case, shall be given notice of the time and place of a hearing under section 4820 of this title. Procedures for hearings for persons with a mental illness shall be as provided in 18 V.S.A. chapter 181. Procedures for hearings for persons with an intellectual disability shall be as provided in 18 V.S.A. chapter 206, subchapter 3.

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

§ 3. GENERAL DEFINITIONS

As used in this title:

* * *

(12) Despite other names this concept has been given in the past or may be given in the future, "segregation" means a form of separation from the general population that may or may not include placement in a single-occupancy cell and that is used for disciplinary, administrative, or other reasons, but shall not mean confinement to an infirmary or a residential

treatment setting for purposes of evaluation, treatment, or provision of services.

Sec. 4. 28 V.S.A. § 701a(b) is amended to read:

(b) ~~For purposes of this title, and despite other names this concept has been given in the past or may be given in the future, “segregation” means a form of separation from the general population which may or may not include placement in a single occupancy cell and which is used for disciplinary, administrative, or other reasons~~ As used in this section, “segregation” shall have the same meaning as in subdivision 3(12) of this title.

Sec. 5. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND
RESPONSIBILITIES OF COMMISSIONER

The Commissioner shall administer a program of trauma-informed mental health services ~~which~~ that shall be available to all inmates and shall provide adequate staff to support the program. The program shall provide the following services:

(1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition or, psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and ~~community based~~ community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services shall, within 24 hours of the screening, be referred for such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 6. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND
RESPONSIBILITIES OF COMMISSIONER

* * *

(1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition or,

psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services shall, within 24 48 hours of the screening, be ~~referred for~~ provided with such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 7. AGENCY OF HUMAN SERVICES; OFFICE OF THE ATTORNEY
GENERAL; REPORT TO STANDING COMMITTEES

On or before January 18, 2018:

(1) the Secretary of Human Services shall report to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, the Senate Committee on Health and Welfare, and the House Committee on Health Care on how best to provide mental health treatment and services to inmates and detainees housed in a correctional facility, including recommendations on whether those services should be provided by a classified State employee working within the Agency of Human Services, by designated agencies, or by other professionals contracted for professional mental health care services within the Department; and

(2) the Secretary of Human Services, in consultation with the Attorney General, shall report to the House and Senate Committees on Judiciary and the House and Senate Committees on Appropriations on the resources necessary to comply with the requirements set forth in 13 V.S.A. § 4820(5). The Committees on Appropriations shall consider the report during their FY 2019 budget deliberations in determining the appropriate funding for the State to meet the requirements of 13 V.S.A. § 4820(c).

Sec. 8. LEGISLATIVE INTENT; DEPARTMENT OF CORRECTIONS;
USE OF SEGREGATION

It is the intent of the General Assembly that the Department of Corrections continue to house inmates in the least restrictive setting necessary to ensure their own safety as well as the safety of staff and other inmates, and to use segregation only in instances when it serves a specific disciplinary or administrative purpose, pursuant to 28 V.S.A. § 3, and to ensure that inmates

designated as seriously functionally impaired or inmates with a serious mental illness receive the support and rehabilitative services they need.

Sec. 9. DEPARTMENT OF CORRECTIONS; DEPARTMENT OF
MENTAL HEALTH; FORENSIC MENTAL HEALTH CENTER;
MEMORANDUM OF UNDERSTANDING FOR MENTAL
HEALTH SERVICES; REPORTS

(a)(1) On or before July 1, 2017, the Department of Corrections shall, jointly with the Department of Mental Health, execute a memorandum of understanding regarding mental health services for inmates prior to the establishment of a forensic mental health center as required by subdivision (c) of this section. The memorandum of understanding shall:

(A) establish that when an inmate is identified by the Department of Corrections as requiring a level of care that cannot be adequately provided by the Department of Corrections, then the Department of Mental Health and the Department of Corrections will work together to determine how to augment the inmate's existing treatment plan until the augmented treatment plan is no longer clinically necessary; and

(B) formally outline the role of the Department of Mental Health Care Management Team in facilitating the clinical placement of inmates coming into the custody of the Commissioner of Mental Health pursuant to Title 13 or Title 18 and inmates voluntarily seeking hospitalization who meet inpatient criteria.

(2) On or before July 1, 2017, the Departments shall jointly report on the memorandum of understanding to the Joint Legislative Justice Oversight Committee.

(b) On or before January 18, 2018, the Department of Corrections shall, in consultation with the Department of Mental Health and the designated agencies, and in accordance with the principles set forth in 18 V.S.A. § 7251, develop a plan to create or establish access to a forensic mental health center pursuant to subsection (c) of this section. On or before January 18, 2018, the Departments shall jointly report on the plan to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

(c) On or before July 1, 2019, pursuant to the plan set forth in subsection (b) of this section, a forensic mental health center shall be available to provide comprehensive assessment, evaluation, and treatment for detainees and inmates with mental illness, while preventing inappropriate segregation.

Sec. 10. 2016 Acts and Resolves No. 137, Sec. 7 is amended to read:

Sec. 7. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

(b) Except as provided in subsection (c) of this section, the Commissioner of Corrections may only release or permit inspection of offender or inmate records in reliance upon an exception to the confidentiality of offender and inmate records if the exception is created by law, including an exception created by rule adopted in accordance with the Administrative Procedure Act under the mandate in Sec. 5, 28 V.S.A. § 107(b)(5).

(c) The Department of Corrections may rely upon exceptions to the confidentiality of offender and inmate files under directives adopted by the Department prior to the effective date of this act until the Commissioner adopts rules pursuant to the rulemaking mandates of Sec. 5, 28 V.S.A. § 107(a) and (b)(5). On or before September 1, 2016, the Commissioner shall prefile rules with the Interagency Committee on Administrative Rules in accordance with these mandates. The Commissioner shall update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee's first meeting on or after September 1, 2016.

(d)(1) On August 30, 2016, to implement the rulemaking requirements of 28 V.S.A. § 107, the Commissioner prefled a proposed rule entitled "inmate/offender records and access to information" with the Interagency Committee on Administrative Rules. The Commissioner filed the proposed rule, as corrected, with the Secretary of State on October 13, 2016 and the final proposed rule, as revised, with the Legislative Committee on Administrative Rules (LCAR) on January 31, 2017. After reviewing and receiving testimony on the final proposed rule, as revised, the House Committee on Corrections and Institutions found that it was not consistent with legislative intent because the rule would potentially cause significant costs and disruptions to the Department.

(2) The Commissioner shall:

(A) withdraw the proposed final rule filed with LCAR on January 31, 2017; and

(B) redraft the proposed rule so that it reflects legislative intent as described in subsection (e) of this section.

(3) The Department of Corrections may continue to rely upon exceptions to the confidentiality of offender and inmate files under directives adopted by the Department prior to May 26, 2016 until the Commissioner

adopts final rules as required under 28 V.S.A. § 107.

(e) The General Assembly intends that, in either of the following situations, 28 V.S.A. § 107 shall be interpreted not to require the Department to provide an inmate or offender a copy of records:

(1) Previously provided by the Department to the inmate or offender, if the inmate or offender has custody of or the right to access the copy.

(2) If the inmate or offender is responsible for the loss or destruction of a previously provided copy. In the case of such loss or destruction, the inmate or offender may—subject to the limitations of 28 V.S.A. § 107—be entitled to a replacement copy, but the Department may charge him or her for the replacement copy in accordance with law.

(f) On or before October 1, 2017, the Commissioner shall:

(1) develop a plan to implement and use modern records management technology and practices in order to minimize the costs of reviewing, redacting, and furnishing such records in accordance with law; and

(2) send to the members of the House Committee on Corrections and Institutions and of the Senate Committee on Institutions a copy of the plan required under subdivision (1) of this subsection, and a written report that:

(A) summarizes the status of the Department’s efforts to redraft the rules as required under subsection (d) of this section; and

(B) outlines the implementation steps, expected benefits and costs to the State of Vermont, and time line associated with transitioning to digital delivery of inmate and offender records.

(g) On or before January 15, 2018, the Commissioner shall submit a copy of the redrafted rules to the House Committee on Corrections and Institutions and to the Senate Committee on Institutions. On or before July 1, 2018, the Commissioner shall prefile the redrafted rules, as may be revised, with the Interagency Committee on Administrative Rules.

Sec. 11. SUBSTANCE ABUSE RECOVERY SERVICES AT
CORRECTIONAL FACILITIES; STUDY

(a) The Commissioner of Corrections, in consultation with the Division of Alcohol and Drug Abuse, the Judiciary, and the Vermont State Employees Association, shall study approaches to substance abuse recovery services in State and out-of-state correctional facilities for inmates who are in need of substance abuse recovery in order to provide a holistic approach to their recovery. The study shall include:

(1) a review of recovery regimens for inmates, including:

(A) screening by a medical and mental health professional upon initial entry into a correctional facility;

(B) continuing preexisting prescriptions and medication treatments during an inmate's incarceration;

(C) providing supportive and treatment-enhancing activities throughout the inmate's incarceration, including recovery coaching, certified drug and alcohol counselors, and technology-enabled substance abuse recovery programs; and

(D) developing relationships with community providers once an inmate approaches release;

(2) ways to link recovery programs with increased secondary and postsecondary educational opportunities and job skills and training opportunities;

(3) opportunities to develop and use self-help peer groups to assist in recovery and in maintaining abstinence;

(4) opportunities for mandatory and voluntary services;

(5) the estimated number of inmates impacted and costs associated with providing recovery services;

(6) any operational challenges associated with providing recovery services; and

(7) the feasibility of using classified State employees for delivery of services.

(b) On or before December 1, 2017, the Commissioner of Corrections shall submit a report to the House Committees on Corrections and Institutions, on Human Services, and on Judiciary and the Senate Committees on Institutions, on Health and Welfare, and on Judiciary on the findings of the study described in subsection (a) of this section. The report shall include recommendations for legislative action to implement new recovery services based on the findings of the study.

Sec. 12. EFFECTIVE DATES

(a) This section, Sec. 9 (Department of Corrections; Department of Mental Health; forensic mental health center; memorandum of understanding for provision of mental health services; report to standing committees), and Sec. 10 (2016 Acts and Resolves No. 137, Sec. 7) shall take effect on passage.

(b) Secs. 3 (general definitions), 4 (28 V.S.A. § 701a(b)), 5 (mental health service for inmates; powers and responsibilities of commissioner), 7 (Agency

of Human Services; Office of the Attorney General report to standing committees), 8 (legislative intent, Department of Corrections; use of segregation), and 11 (substance abuse recovery services at correctional facilities; study) shall take effect on July 1, 2017.

(c) Sec. 6 (mental health service for inmates; powers and responsibilities of Commissioner) shall take effect on July 1, 2019.

(d) Secs. 1 (hearing regarding commitment) and 2 (notice of hearing; procedures) shall take effect on July 1, 2018.

And that after passage the title of the bill be amended to read: “An act relating to offenders with mental illness, inmate records, and inmate services”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Corrections and Institutions agreed to and third reading ordered.

Action on Bill Postponed

S. 33

House bill, entitled

An act relating to the Rozo McLaughlin Farm-to-School Program

Was taken up and pending the reading of the report of the committee on Agriculture & Forestry, on motion of **Rep. Hooper of Brookfield**, action on the bill was postponed until April 29, 2017.

Third Reading; Bill Passed

H. 529

House bill, entitled

An act relating to approval of amendments to the charter of the City of Barre

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 534

House bill, entitled

An act relating to approval of the adoption and codification of the charter of the Town of Calais

Was taken up, read the third time and passed.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 3

Senate bill, entitled

An act relating to mental health professionals' duty to warn

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 4

Senate bill, entitled

An act relating to publicly accessible meetings of an accountable care organization's governing body

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Second Reading; Bill Amended; Third Reading Ordered

H. 241

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the charter of the Central Vermont Solid Waste Management District

Reported in favor of its passage when amended as follows:

First: In Sec. 1, 24 App. V.S.A. chapter 403, in section 5, by striking out subdivision (15) in its entirety and inserting in lieu thereof the following:

(15) To exercise the power of eminent domain upon the approval of a majority of the legislative bodies of the member municipalities.

Second: In Sec. 1, 24 App. V.S.A. chapter 403, in section 5, in subdivision (18), after "To levy" and before ", surcharges", by striking out "taxes" and inserting in lieu thereof "assessments"

Third: In Sec. 1, 24 App. V.S.A. chapter 403, in section 5, by striking out subdivision (26) in its entirety and inserting in lieu thereof the following:

(26) To grant nonexclusive franchises or establish collection districts for the purposes of: the collection of recyclable materials; composting; resource recovery; or disposal of solid waste.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

**Favorable Report; Second Reading;
Bill Amended; Third Reading Ordered**

H. 154

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the City of Burlington

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Hubert of Milton** moved to amend the bill as follows:

By adding a new section to be Sec. 2A to read:

Sec. 2A. 17 V.S.A. § 2645 is amended to read:
§ 2645. CHARTERS; ADOPTION, REPEAL, OR AMENDMENT;
PROCEDURE

(a) A municipality may propose to the ~~general assembly~~ General Assembly to adopt, repeal, or amend its charter by majority vote of the legal voters of the municipality present and voting at any annual or special meeting warned for that purpose in accordance with the following procedure:

(1) A proposal to adopt, repeal, or amend a municipal charter (charter proposal) may be made by the legislative body of the municipality or by petition of five percent of the voters of the municipality.

(2) An official copy of the ~~proposed charter amendments proposal~~ proposal shall be filed as a public record in the office of the clerk of the municipality at least 10 days before the first public hearing. The clerk shall certify the date on which he or she received the official copy, and the dated copies thereof shall be made available to members of the public upon request.

(3)(A) The legislative body of the municipality shall hold at least two public hearings prior to the meeting to vote on the ~~proposed charter amendments proposal~~.

(B) The first public hearing shall be held in accordance with subdivision (a)(2) of this section and at least 30 days before the ~~annual or special meeting vote~~.

~~(4)(A) If the proposals to amend the charter are~~ proposal is made by the legislative body, the legislative body may revise the ~~amendments proposal~~ as a result of suggestions and recommendations made at a public hearing, but in no event shall such revisions be made less than 20 days before the date of the meeting to vote on the charter proposal.

(B) If revisions are made, the legislative body shall post a notice of these revisions in the same places as the warning for the meeting not less than 20 days before the date of the meeting and shall attach such revisions to the official copy kept on file for public inspection in the office of the clerk of the municipality.

~~(5)(A) If the proposals to amend the charter are~~ proposal is made by petition, the second public hearing shall be held no later than 10 days after the first public hearing. The legislative body shall not have the authority to revise ~~proposals to amend the a charter proposal~~ made by petition.

(B) After the warning and hearing requirements of this section are satisfied, ~~proposals by petition~~ the petitioned charter proposal shall be submitted to the voters at the next annual meeting, primary, or general election in the form in which ~~they were~~ it was filed, except that the legislative body may make technical corrections.

~~(6)(A) Notice of the each public hearings~~ hearing and of the annual or special meeting shall be given in ~~the same way and time as for annual meetings of the municipality~~ accordance with section 2641 of this chapter.

(B)(i) ~~Such Each~~ notice shall specify the charter sections to be adopted, repealed, or amended, setting out those sections to be amended in the amended form, with deleted matter ~~in brackets~~ struck through and new matter underlined ~~or in italics~~.

(ii) If the legislative body of the municipality determines that the ~~proposed charter amendments are~~ proposal is too long or unwieldy to set out in amended form, the notice shall include a concise summary of the ~~proposed charter amendments~~ proposal and shall state that an official copy of the ~~proposed charter amendments~~ proposal is on file for public inspection in the office of the clerk of the municipality and that copies thereof shall be made available to members of the public upon request.

~~(7)(A) Voting on a~~ charter amendments proposal shall be by Australian ballot.

(B)(i) The ballot shall show each charter section to be adopted, repealed, or amended in the amended form, with deleted matter ~~in brackets~~ struck through and new matter underlined ~~or in italics~~, and shall permit the voter to vote on each separate proposal of amendment separately contained

within the charter proposal.

(ii) If the legislative body determines that the proposed charter amendments are proposal is too long or unwieldy to be shown in the amended form, an official copy of the proposed charter amendments shall be maintained conspicuously in each ballot booth for inspection by the voters during the balloting and voters shall be permitted to vote upon the charter amendments each separate proposal in their its entirety in the form of a yes or no proposition.

(C) An official copy of the charter proposal shall be posted conspicuously in each ballot booth for inspection by the voters during the balloting.

(b)(1) The clerk of the municipality, under the direction of the legislative body, shall announce and post the results of the vote immediately after the vote is counted.

(2) The clerk, within 10 days after the day of the election meeting, shall certify to the secretary of state Secretary of State each separate proposal of amendment contained within the charter proposal, showing the facts as to its origin and the procedure followed, which shall include:

(A)(i) If the charter proposal was made by the legislative body, the minutes recorded by the legislative body that detail the origins and intent of each separate proposal;

(ii) If the charter proposal was made by voter petition, the body of the petition and evidence of the required number of petition signatures;

(B) A copy of the official certified copy of the charter proposal filed with the clerk of the municipality pursuant to subdivision (a)(2) of this section;

(C) Copies of the warnings and published notices for each of the public hearings held pursuant to subdivision (a)(3) of this section;

(D) Minutes recorded by the legislative body that detail each of the public hearings held pursuant to subdivision (a)(3) of this section;

(E) Copies of warnings and published notices for the meeting to vote on the charter proposal; and

(F) A copy of the ballot and the results of the vote or votes on the charter proposal.

(c) The secretary of state After confirming that the clerk of the municipality has certified each of the documents listed in subdivision (b)(2) of this section, the Secretary of State shall file the certificate and deliver copies of it to the attorney general and clerk of the house of representatives Attorney

~~General, the Clerk of the House, the secretary of the senate~~ Secretary of the Senate, and the chairman chairs of the committees concerned with municipal charters of both houses of the ~~general assembly~~ General Assembly.

(d) The ~~amendment charter proposal~~ shall become effective upon affirmative enactment of the proposal, either as proposed or as amended by the ~~general assembly~~ General Assembly. ~~A proposal for a charter amendment may be enacted by reference to the amendment as approved by the voters of the municipality.~~

Which was agreed to. Thereupon third reading was ordered.

**Favorable Report; Second Reading;
Third Reading Ordered**

H. 522

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the City of Burlington

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 513

The Senate proposed to the House to amend House bill, entitled
An act relating to making miscellaneous changes to education law

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

* * * Approved Independent Schools Study Committee * * *

Sec. 1. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

(a) Legislative intent. It is the intent of the General Assembly to resolve the issues raised by the State Board of Education's proposed amendments to the 2200 Series of the Rules and Practices of the State Board of Education, initiated by the State Board on November 13, 2015, after taking into account the report of the Approved Independent Schools Study Committee required under subsection (f) of this section.

(b) Creation. There is created the Approved Independent Schools Study

Committee to consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school.

(c) Membership. The Committee shall be composed of the following ten members:

(1) one current member of the House of Representatives who shall be appointed by the Speaker of the House;

(2) one current member of the Senate who shall be appointed by the Committee on Committees;

(3) the Chair of the State Board of Education or designee;

(4) the Secretary of Education or designee;

(5) the Executive Director of the Vermont Superintendent’s Association or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) the Executive Director of the Vermont Independent Schools Association or designee;

(8) two representatives of approved independent schools, who shall be chosen by the Executive Director of the Vermont Independent Schools Association; and

(9) the Executive Director of the Vermont Council of Special Education Administrators or designee.

(d) Powers and duties. The Committee shall consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school, including the following criteria:

(1) the school’s enrollment policy and any limitation on a student’s ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

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

(f) Report. On or before December 1, 2017, the Committee shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and any recommendations, including recommendations for any amendments to legislation.

(g) Initiation of Rulemaking. Notwithstanding any provision to the contrary under 16 V.S.A. § 164, the State Board of Education's proposed amendments to the 2200 Series of the Rules and Practices of the State Board of Education, initiated by the State Board on November 13, 2015, shall be null, void, and of no effect. On or before March 1, 2018, and prior to prefiling of rule amendments under 3 V.S.A. § 837, the State Board shall consider the Committee's report required under subsection (f) of this section and submit to the House and Senate Committees on Education new draft amendments to the 2200 Series of its Rules and Practices.

(h) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before May 30, 2017.

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

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

(4) The Committee shall cease to exist on January 16, 2018.

(i) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than seven meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than seven meetings.

* * * Educational and Training Programs for College Credit * * *

Sec. 2. APPROPRIATION TO THE VERMONT STATE COLLEGES
TO EXPAND EDUCATION AND TRAINING EVALUATION
SERVICES PROGRAM

The sum of \$20,000.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for the purpose of providing funding for the Colleges' Education and Training Evaluation Services Program. The Vermont State Colleges shall use the

appropriation to evaluate or reevaluate educational and training programs for college credit at no cost or at a reduced cost to the programs being evaluated. The Vermont State Colleges shall identify training programs in the skilled trades, including the plumbing and electrical trades, to receive these evaluation services. The Vermont State Colleges shall, on or before January 15, 2018, issue a report to the House and Senate Committees on Education describing how the funds appropriated pursuant to this section have been spent, how any remaining funds appropriated pursuant to this section will be spent, and the number and nature of the programs evaluated or reevaluated and the results of the evaluations.

* * * Student Enrollment; Small School Grant * * *

Sec. 3. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district that operates at least one school; and

(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or

(B) has an average grade size of 20 or fewer.

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

(3) “Two-year average enrollment” means the average enrollment of the two most recently completed school years.

(4) “Average grade size” means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, kindergarten and prekindergarten programs shall be counted together as one grade.

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* * * Vermont Standards Board for Professional Educators * * *

Sec. 4. 16 V.S.A. § 1693 is amended to read:

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one of whom shall be a school superintendent, one public

member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

* * *

Sec. 5. TRANSITIONAL PROVISION

A superintendent shall be appointed to the Vermont Standards Board for Professional Educators upon the next expiration of the term of a member who is serving on the Board as an administrator.

Sec. 6. [Deleted.]

Sec. 7. [Deleted.]

Sec. 8. [Deleted.]

* * * Renewal of Principal's Contracts * * *

Sec. 9. 16 V.S.A. § 243(c) is amended to read:

(c) Renewal and nonrenewal. A principal who has been continuously employed for more than two years in the same position has the right either to have his or her contract renewed, or to receive written notice of nonrenewal ~~at least 90 days before~~ on or before February 1 of the year in which the existing contract expires. Nonrenewal may be based upon elimination of the position, performance deficiencies, or other reasons. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion, the school board may allow a period of remediation of performance deficiencies prior to issuance of the written notice. After receiving such a notice, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within 15 days of delivery of notice of nonrenewal, and the meeting shall be held within 15 days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

* * * Postsecondary Schools * * *

Sec. 10. 16 V.S.A § 176(d) is amended to read:

(d) Exemptions. The following are exempt from the requirements of this section except for the requirements of subdivision (c)(1)(C) of this section:

* * *

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, ~~Burlington College~~, Champlain College, College of St. Joseph, Goddard College, Green Mountain College, Landmark College, Marlboro College, Middlebury College, New England Culinary Institute, Norwich University, Saint Michael's College, SIT Graduate Institute, Southern Vermont College, Sterling College, Vermont College of Fine Arts, and Vermont Law School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

* * *

* * * Educational Opportunities * * *

Sec. 11. 16 V.S.A § 165(b) is amended to read:

(b) ~~Every two years~~ Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress ~~by the end of the next two year period~~ within two years of the determination, the Secretary shall recommend to the State Board one or more of the following actions:

* * *

* * * Local Education Agency * * *

Sec. 12. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and

authority specifically assigned by law:

* * *

(26) ~~Shall carry out the duties of a local education agency, as that term is defined in 20 U.S.C. § 7801(26), for purposes of determining student performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318. [Repealed.]~~

* * *

* * * State-placed and Homeless Students * * *

Sec. 13. 16 V.S.A § 1075 is amended to read:

§ 1075. LEGAL RESIDENCE DEFINED; RESPONSIBILITY AND
PAYMENT OF EDUCATION OF STUDENT

* * *

(c) State-placed students.

(1) A State-placed student in the legal custody of the Commissioner for Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living the student's school of origin, unless an alternative plan or facility for the education of the student is agreed upon by Secretary the student's education team determines that it is not in the student's best interest to attend the school of origin. The student's education team shall include, as applicable, the student, the student's parents and foster parents, the student's guardian ad litem and educational surrogate parent, representatives of both the school of origin and potential new school, and a representative of the Family Services Division of the Department for Children and Families. In the case of a dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final about whether it is in the student's best interest to attend the school of origin, the Commissioner for Children and Families shall make the final decision. As used in this section, "school of origin" means the school in which the child was enrolled at the time of placement into custody of the Commissioner for Children and Families, or in the case of a student already in the custody of the Commissioner for Children and Families, the school the student most recently attended.

(2) If a student is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the Department for Children and Families shall assume responsibility be responsible for the student's transportation to

and from school, unless the receiving district chooses to provide transportation.

(3) A State-placed student not in the legal custody of the Commissioner for Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living unless an alternative plan or facility for the education of the student is agreed upon by the Secretary. In the case of dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final.

(4) A student who is in temporary legal custody pursuant to 33 V.S.A. § 5308(b)(3) or (4) and is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the student's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the student's legal guardian resides, or the district in which the temporary legal custodian resides. If the student enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

~~(4)~~(5) If a student who had been a State-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the student's parents or legal guardians reside, then, at the request of the student's parent or legal guardian, the Secretary may order the student to continue his or her enrollment for the remainder of the academic year in the district in which the student resided prior to returning to the parent's or guardian's district and the student will continue to be funded as a State-placed student. Unless the receiving district chooses to provide transportation:

* * *

(e) For the purposes of this title, the legal residence or residence of a child of homeless parents is ~~where the child temporarily resides~~ the child's school of origin, as defined in subdivision (c)(1) of this section, unless the parents and another school district agree that the child's attendance in school in that school district will be in the best interests of the child ~~in that continuity of education will be provided and transportation will not be unduly burdensome to the school district.~~ A "child of homeless parents" means a child whose parents:

* * *

* * * Early College * * *

Sec. 14. REPEAL

16 V.S.A § 4011(e) (early college) is repealed.

Sec. 15. 16 V.S.A § 946 is added to read:

§ 946. EARLY COLLEGE

(a) For each grade 12 Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(1) the Vermont Academy of Science and Technology (VAST); and

(2) an early college program other than the VAST program that is developed and operated or overseen by the University of Vermont, by one of the Vermont State Colleges, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (2), the Secretary shall not pay more than the tuition charged by the institution.

(b) The Secretary shall make the payment pursuant to subsection (a) of this section directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(c) A student on whose behalf the Secretary makes a payment pursuant to subsection (a) of this subsection:

(1) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(2) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(3) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however, that if more than five percent of the grade 12 students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a student in grade 12 enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(d) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element

of the student's personalized learning plan.

Sec. 16. REPEAL

16 V.S.A § 4011a (early college program; report; appropriations) is repealed.

Sec. 17. 16 V.S.A § 947 is added to read:

§ 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to section 946 of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific results for participating students relating to programmatic goals.

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to section 946 of this title, including the VAST program, as a distinct amount.

* * * Advisory Council on Special Education * * *

Sec. 18. 16 V.S.A § 2945(c) is amended to read:

(c) The members of the Council who are employees of the State shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed State employees, and shall be charged to their departments or institutions. The members of the Council who are not employees of the State shall receive a per diem compensation of ~~\$30.00 per day~~ as provided under 32 V.S.A. § 1010 for each day of official business and reimbursement for actual and necessary expenses at the rate allowed State employees.

* * *

* * * Criminal Record Checks * * *

Sec. 19. 16 V.S.A. § 255(k) is added to read:

(k) The requirements of this section shall not apply to superintendents and headmasters with respect to persons operating or employed by a child care facility, as defined under 33 V.S.A. § 3511, that provides prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A.

§ 3502. Superintendents and headmasters are not prohibited from conducting a criminal record check as a condition of hiring an employee to work in a child care facility that provides prekindergarten education operated by the school.

* * * Agency Of Education Report; English Language Learners * * *

Sec. 20. AGENCY OF EDUCATION REPORT; ENGLISH LANGUAGE LEARNERS

As part of the management of federal funds for students for whom English is not the primary language, the Agency of Education shall convene at least one meeting of representatives from the supervisory unions and supervisory districts that receive these funds, including those responsible for the administration of these funds, which shall take place prior to the creation of budgets for the next school year. The meeting participants shall explore ways to reduce barriers to the use of funds available under the federal Elementary and Secondary Education Act and help the supervisory unions and supervisory districts develop strategies for best meeting the needs of students for whom English is not the primary language as permitted under federal and State law. In addition, the meeting participants shall discuss the weighting formulas for students from economically deprived backgrounds and students for whom English is not the primary language, and whether these formulas should be revised. The Agency of Education shall report the results of these discussions to the Senate and House Committees on Education on or before January 15, 2018.

* * * Prekindergarten Programs; STARS ratings * * *

Sec. 21. 16 V.S.A. § 829(c) is amended to read:

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:

(A) National Association for the Education of Young Children (NAEYC) accreditation; or

(B) at least four stars in the Department for Children and Families'

STARS system with at least two points in each of the five arenas; or

(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars in no more than two years with at least two points in each of the five arenas, and the provider has met intermediate milestones.

* * *

* * * Act 46 Findings * * *

Sec. 22. ACT 46 FINDINGS

(a) 2015 Acts and Resolves No. 46 established a multi-year, phased process that provides multiple opportunities for school districts to unify existing governance units into more “sustainable governance structures” designed to meet the General Assembly’s identified educational and fiscal goals while recognizing and reflecting local priorities. It has been the General Assembly’s intent to revitalize Vermont’s small schools – to promote equity in their offerings and stability in their finances – through these changes in governance.

(b) As of Town Meeting Day 2017, voters in 96 Vermont towns have voted to merge 104 school districts into these slightly larger, more sustainable governance structures, resulting in the creation of 20 new unified union districts (serving prekindergarten–grade 12 students). As a result, approximately 60 percent of Vermont’s school-age children live or will soon live in districts that satisfy the goals of Act 46.

(c) These slightly larger, more flexible unified union districts have begun to realize distinct benefits, including the ability to offer kindergarten–grade 8 choice among elementary schools within the new district boundaries; greater flexibility in sharing students, staff, and resources among individual schools; the elimination of bureaucratic redundancies; and the flexibility to create magnet academies, focusing on a particular area of specialization by school.

(d) Significant areas of the State, however, have experienced difficulty satisfying the goals of Act 46. The range of complications is varied, including operating or tuitioning models that differ among adjoining districts, geographic isolation due to lengthy driving times or inhospitable travel routes between proposed merger partners, and greatly differing levels of debt per equalized pupil between districts involved in merger study committees. This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act’s fundamental phased merger and incentive structures and requirements.

* * * Side-by-Side Structures * * *

Sec. 23. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional education district (“RED”) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in Sec. 4 of No. 153, Sec. 4 if:

* * *

(3) one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades; each new district has a model of operating schools or paying tuition that is different from the model of the other, which may include:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12;

* * *

(b) This section is repealed on July 1, 2017 2019.

Sec. 24. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, a new district shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with an existing district (Existing District), are members of the same supervisory union following the merger (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is

either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) The Merged District and the Existing District each has a model of operating schools or paying tuition that is different from the model of the other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Three-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Three-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that Act.

(6) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to the Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's plan.

Sec. 25. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an existing (Existing District), are members of the same supervisory union following the merger (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) Each Merged District and the Existing District has a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students

in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Two-by-Two-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that act.

(6) Each Merged District has the same effective date of merger.

(7) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's plan.

* * * Withdrawal from Union School District * * *

Sec. 26. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a school district may withdraw from a union high school district without approval by the remaining members of the union high school district upon the following conditions:

(1) The school district proposing to withdraw from the union high school district operates a school or schools for all resident students in prekindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12.

(2) At least one year has elapsed since the union high school district became a body politic and corporate as provided in 16 V.S.A. § 706g.

(3) A majority of the voters of the school district proposing to withdraw from the union high school district present and voting at a school district

meeting duly warned for that purpose votes to withdraw from the union high school district. The clerk of the school district shall certify the vote to the Secretary of State, who shall record the certificate in his or her office and shall give notice of the vote to the Secretary of Education and to the other members of the union high school district.

(4) The State Board approves the withdrawal based on a recommendation from the Secretary of Education.

(5) The withdrawal process is completed on or before July 1, 2019.

(b) In making his or her recommendation, the Secretary of Education shall assess whether:

(1) students in the withdrawing school district would attend a school that complies with the rules adopted by the State Board pertaining to educational programs; and

(2) it is in the best interests of the State, the students, and the districts remaining in the union high school district for the union to continue to exist.

(c) The State Board shall:

(1) consider the recommendation of the Secretary and any other information it deems appropriate;

(2) hold a public meeting within 60 days of receiving the recommendation of the Secretary, and provide due notice of this meeting to the Secretary and all members of the union high school district;

(3) within 10 days of the meeting, notify the Secretary and all members of the union high school district of its decision;

(4) if it approves the withdrawal, declare the membership of the withdrawing school district in the union high school district terminated as of July 1 immediately following, or as soon after July 1 as the financial obligations of the withdrawing school district have been paid to, or an agreement has been made with, the union high school district in an amount to satisfy those obligations; and

(5) file the declaration with the Secretary of State, the clerk of the withdrawing school district, and the clerk of the union high school district concerned.

Sec. 27. REPEAL

Sec. 26 of this act is repealed on July 2, 2019.

* * * Time Extension for Qualifying Districts * * *

Sec. 28. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) ~~On~~ Subject to subsection (b) of this section, on or before November 30, 2017, the board of each school district in the State that:

(1) has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019; or

(2) does not qualify for an exemption under Sec. 10(c) of this act, shall perform each of the following actions-:

~~(1)~~(A) Self-evaluation. The board shall evaluate its current ability to meet or exceed each of the goals set forth in Sec. 2 of this act.

~~(2)~~(B) Meetings.

~~(A)~~(i) The board shall meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with the goals set forth in Sec. 2 of this act.

~~(B)~~(ii) The districts do not need to be contiguous and do not need to be within the same supervisory union.

~~(3)~~(C) Proposal. The board of the district, solely on behalf of its own district or jointly with the boards of other districts, shall submit a proposal to the Secretary of Education and the State Board of Education in which the district:

~~(A)~~(i) proposes to retain its current governance structure, to work with other districts to form a different governance structure, or to enter into another model of joint activity;

~~(B)~~(ii) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the proposal in subdivision ~~(A)~~(i) of this subdivision ~~(3)~~(C) supports the district's or districts' ability to meet or exceed each of the goals set forth in Sec. 2 of this act; ~~and~~

~~(C)~~(iii) identifies detailed actions it proposes to take to continue to improve its performance in connection with each of the goals set forth in Sec. 2 of this act; and

(iv) describes its history of merger, consolidation, or other models of joint activity with other school districts before the enactment of this act, and its consideration of merger, consolidation, or other models of joint activity

with other school districts on or after the enactment of this act.

(b) The date by which a qualifying district must take the actions required by subsection (a) of this section is extended from November 30, 2017 to January 31, 2018. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

Sec. 29. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a qualifying district must receive final approval from the electorate for its merger proposal is extended from July 1, 2017 to November 30, 2017. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

* * * Grants and Fee Reimbursement * * *

Sec. 30. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

* * *

(b) A newly formed school district that meets the criteria set forth in subsection (a) of this section shall receive the following:

* * *

(3) Transition Facilitation Grant.

(A) After voter approval of the plan of merger, notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the transitional board of the new district a Transition Facilitation Grant from the Education Fund equal to the lesser of:

(i) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(ii) \$150,000.00.

(B) A Transition Facilitation Grant awarded under this subdivision (3) shall be reduced by the total amount of reimbursement paid for consulting services, analysis, and transition costs pursuant to 2012 Acts and Resolves No. 156, Secs. 2, 4, and 9.

* * *

(e) Notwithstanding the requirement in subdivision (a)(3) of this section that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

Sec. 31. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;
MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district and, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

* * *

Sec. 32. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE
STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(d)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of \$10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

* * * Applications for Adjustments to Supervisory Union Boundaries * * *

Sec. 33. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY
UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may request that the State Board adjust the existing boundaries of the supervisory union of which it is a member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members

of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall ~~give timely consideration to requests~~ act on a request made pursuant to this subsection within 75 days of receipt of the request and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

* * *

* * * Technical Corrections; Clarifications * * *

Sec. 34. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL EDUCATION DISTRICT INCENTIVES

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 35. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

* * *

(d) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 36. AVAILABILITY OF TAX AND OTHER INCENTIVES

The tax and other incentives under 2010 Acts and Resolves No. 153, as amended, and 2012 Acts and Resolves No. 156, as amended, shall be available only if the new governance structure formed under those acts becomes fully operational on or before July 1, 2019.

Sec. 37. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. DECLINING ENROLLMENT; TRANSITION

(a) If a district's equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 22 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district's equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district's equalized pupils shall in no case be

less than 90 percent of the district's equalized pupils in the previous year; and

(2) in fiscal year 2018, the district's equalized pupils shall in no case be less than 80 percent of the district's equalized pupils in the previous year.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016, it has formed a study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

* * * Student Rights; Freedom of Expression * * *

Sec. 38. 16 V.S.A. chapter 42 is added to read:

CHAPTER 42. STUDENT RIGHTS

§ 1623. FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) "Media adviser" means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) "School" means a public school operating in the State.

(3) "School-sponsored media" means any material that is prepared,

written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) "Student journalist" means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) "Student supervisor" is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) A school is prohibited from subjecting school-sponsored media, other

than that listed in subsection (e) of this section, to prior restraint. A school may restrain the distribution of content in student media described in subsection (e), provided that the school's administration shall have the burden of providing lawful justification without undue delay. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 39. 16 V.S.A. § 180 is added to read:

§ 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) "Media adviser" means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) "School" means a public postsecondary school operating in the State.

(3) "School-sponsored media" means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) "Student journalist" means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) "Student supervisor" is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) Absent a showing that a particular publication will cause direct, immediate, and irreparable harm that would warrant the issuance of a prior restraint order against the private media, school officials are not authorized to censor or subject to prior restraint the content of school-sponsored media. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

* * * Effective Dates * * *

Sec. 40. EFFECTIVE DATES

(a) This section and Secs. 1–5, 9–12, and 14–39 shall take effect on passage.

(b) Sec. 13 (State-placed students) shall take effect beginning with the 2017–2018 school year.

Pending the question Will the House concur in the Senate proposal of amendment? Rep. Conlon of Cornwall, moved to concur in the Senate proposal of amendment with a further amendment thereto by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Criminal Record Checks * * *

Sec. 1. 16 V.S.A. § 255(k) and (l) are added to read:

(k) The requirements of this section shall not apply to persons operating or employed by a child care facility that is prequalified to provide

prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A § 3502.

(l) The requirements of this section shall not apply with respect to a school district's partners in any program authorized or student placement created by chapter 23, subchapter 2 of this title. It is provided, however, that superintendents are not prohibited from requiring a fingerprint supported record check pursuant to district policy with respect to its partners in such programs.

* * * Education Weighting Report * * *

Sec. 2. EDUCATION WEIGHTING REPORT

(a) The Agency of Education, the Joint Fiscal Office, and the Office of Legislative Council, in consultation with the Secretary of Human Services, the Vermont Superintendent's Association, the Vermont School Boards Association, and the Vermont National Education Association, shall consider and make recommendations on the criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including the following.

(1) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(2) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(3) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and if the modification would further the quality and equity of educational outcomes for students.

(4) Whether to add any weighting factors, including a school district population density factor, and if so, why the weighting factor should be added and if the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National Council for State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) In addition to considering and making recommendations on the criteria used for the determining weighted long-term membership of a school district under subsection (a) of this section, the Agency of Education may consider and

make recommendations on other methods that would further the quality and equity of educational outcomes for students.

(c) Report. On or before December 15, 2017, the Agency of Education 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 findings and any recommendations.

* * * Surety Bond; Postsecondary Institutions * * *

Sec. 3. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the State Board;

(2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and

(3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

* * *

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

* * *

(g)(1) Each institution of higher education accredited in Vermont, except institutions that are members of the Association of Vermont Independent Colleges (AVIC), the University of Vermont, and the Vermont State Colleges, shall acquire and maintain a bond from a corporate surety licensed to do business in Vermont in the amount of \$50,000.00 to cover costs that may be

incurred by the State under subsection (e) of this section due to the institution's failure to comply with the requirements of subsection (a) of this section, and the institution shall provide evidence of the bond to the Secretary within 30 days of receipt. The State shall be entitled to recover up to the full amount of the bond in addition to the other remedies provided in subsection (e) of this section.

(2) AVIC shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:

(A) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and

(B) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.

* * * Prekindergarten Education Recommendations * * *

Sec. 4. PREKINDERGARTEN EDUCATION RECOMMENDATIONS

On or before November 1, 2017, the Secretaries of Human Services and of Education shall jointly present recommendations to the House and Senate Committees on Education, House Committee on Human Services, and Senate Committee on Health and Welfare that will ensure equity, quality, and affordability, and reduce duplication and complexity, in the current delivery of prekindergarten services.

* * * High School Completion Program * * *

Sec. 5. 16 V.S.A. § 942(6) is amended to read:

(6) ~~“Contracting agency”~~ “Local adult education and literacy provider” means an entity that enters into a contract with the Agency to provide “flexible pathways to graduation” services itself or in conjunction with one or more approved providers in Vermont is awarded Federal or State grant funds to conduct adult education and literacy activities.

Sec. 6. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years ~~old~~ of age, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a nonenrolled student is assigned shall work with the ~~contracting agency~~ local adult education and literacy provider that serves the high school district and the student to develop a personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a personalized learning plan developed under this section in an amount:

(1) established by the Secretary for the development and ongoing evaluation and revision of the personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the Secretary and the ~~contracting agency~~ local adult education and literacy provider, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the personalized learning plan.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 2 and 4–6 shall take effect on passage.

(b) Sec. 1 (criminal record checks) shall take effect on passage and shall apply to persons hired or contracted with after June 30, 2017 and to persons who apply for or renew child care provider license after June 30, 2017.

(c) Sec. 3 (surety bond; postsecondary institutions) shall take effect on October 1, 2017.

Pending the question, Will the House concur in the Senate proposal of amendment with a further amendment thereto as offered by Rep. Conlon of Cornwall? **Rep. Sharpe of Bristol** moved to amend the amendment offered by Rep. Conlon of Cornwall as follows:

First: By striking Sec. 7 (Effective Dates), with its reader assistance, in its entirety.

Second: By adding 25 new sections, to be Secs. 7–31, with reader assistances, to read:

* * * Act 46 Findings and Purpose * * *

Sec. 7. FINDINGS AND PURPOSE

(a) 2015 Acts and Resolves No. 46 established a multi-year, phased process that provides multiple opportunities for school districts to unify existing governance units into more “sustainable governance structures” designed to meet the General Assembly’s identified educational and fiscal goals while recognizing and reflecting local priorities. It has been the General Assembly’s intent to revitalize Vermont’s small schools – to promote equity in their offerings and stability in their finances – through these changes in governance.

(b) While Vermont generally does an excellent job educating our children, we fall short in two critical areas. First, we are not as successful as we need to be in educating children from families with low income, and second, while we have a very high graduation rate from our high schools, not enough of our graduates continue their education. Fulfilling the goals of Act 46 is a critical step in addressing these shortcomings.

(c) As of Town Meeting Day 2017, voters in 96 Vermont towns have voted to merge 104 school districts into these slightly larger, more sustainable governance structures, resulting in the creation of 20 new unified union districts (serving prekindergarten–grade 12 students). As a result, approximately 60 percent of Vermont’s school-age children live or will soon live in districts that satisfy the goals of Act 46.

(d) These slightly larger, more flexible unified union districts have begun to realize distinct benefits, including the ability to offer kindergarten–grade 8 choice among elementary schools within the new district boundaries; greater flexibility in sharing students, staff, and resources among individual schools; the elimination of bureaucratic redundancies; and the flexibility to create magnet academies, focusing on a particular area of specialization by school.

(e) Significant areas of the State, however, have experienced difficulty satisfying the goals of Act 46. The range of complications is varied, including operating or tuitioning models that differ among adjoining districts, geographic isolation due to lengthy driving times or inhospitable travel routes between proposed merger partners, and greatly differing levels of debt per equalized pupil between districts involved in merger study committees.

(f) This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act’s fundamental phased merger and incentive structures and requirements. Nothing in this act should suggest that it is acceptable for a

school district to fail to take reasonable and robust action to seek to meet the goals of Act 46.

* * * Side-by-Side Structures * * *

Sec. 8. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional education district ("RED") to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in Sec. 4 of No. 153, Sec. 4 if:

* * *

(3) one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades; each new district has a model of operating schools or paying tuition that is different from the model of the other, which may include:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12;

* * *

(b) The incentives provided under this act shall be available only if the new districts receive final approval of their electorate on or before November 30, 2017. This section is repealed on July 1, 2017 2019.

Sec. 9. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; EXEMPTION FROM STATEWIDE PLAN

(a) If the conditions of this section are met, the Merged District and the Existing District or Districts shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan.

(1) The new district is formed by the merger of at least three existing

districts (Merged District) and, together with one or two existing districts (each an Existing District), are, following the receipt of all approvals required under this section, members of the same supervisory union (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, each Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) The Merged District and each Existing District have, following the receipt of all approvals required under this section, a model of operating schools or paying tuition that is different from the model of each other; provided, however, that if two Existing Districts are members of the Three-by-One Side-by-Side Structure, the Existing Districts may have the same model of operating schools or paying tuition if they are geographically isolated from each other, within the meaning of subdivision (2)(A) of this subsection. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) Each Existing District and the districts proposing to merge into the Merged District jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Three-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) each Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a);

(C) each Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(5) Each Existing District and the districts proposing to merge into the Merged District obtain State Board approval of their proposal to form the proposed Three-by-One Side-by-Side Structure.

(6) Each Existing District obtains the approval of its electorate to be an Existing District in the proposed Three-by-One Side-by-Side Structure on or before November 30, 2017.

(7) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(8) The Three-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged District may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) The formation of a Three-by-One Side-by-Side Structure shall not entitle the Merged District or an Existing District to qualify for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4. However, a Merged District that is otherwise entitled to incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, shall not lose these incentives due to its participation as a member of a Three-by-One Side-by-Side Structure.

Sec. 10. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided

in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an Existing District, are, following the receipt of all approvals required under this section, members of the same supervisory union (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017, town meeting day, the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education; or

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District.

(3) Each Merged District and the Existing District, following the receipt of all approvals required under this section, have a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The Existing District and the districts proposing to merge into the Merged Districts jointly submit a proposal to the State Board after the effective date of this section and demonstrate in their proposal that:

(A) the Two-by-Two-by-One Side-by-Side Structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6 and will meet the goals set forth in Sec. 2 of that act;

(B) the Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection (a); and

(C) the Existing District has a detailed action plan it proposes to take to continue to improve its performance in connection with each of the goals set forth in 2015 Acts and Resolves No. 46, Sec. 2.

(6) The Existing District and the districts proposing to merge into the Merged Districts obtain State Board approval of their proposal to form the proposed Two-by-Two-by-One Side-by-Side Structure.

(7) The Existing District obtains the approval of its electorate to be an Existing District in the proposed Two-by-Two-by-One Side-by-Side Structure on or before November 30, 2017.

(8) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(9) Each Merged District has the same effective date of merger.

(10) The Two-by-Two-by-One Side-by-Side Structure is formed on or before November 30, 2019 in the manner approved by the State Board.

(b) The districts that are proposing to merge into the Merged Districts may include:

(1) districts that have not received, as of the effective date of this section, approval from their electorate to merge, regardless of whether the Merged District will be eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended; and

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section, regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

(c) If the conditions of this section are met, the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District, unless the Merged District has already received incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended. These incentives shall not be available to the Existing District.

(d) If the conditions of this section are met, the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and

State Board of Education and exempt from the State Board's statewide plan.

* * * Withdrawal from Union School District * * *

Sec. 11. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a school district may withdraw from a union high school district without approval by the remaining members of the union high school district upon the following conditions:

(1) The school district proposing to withdraw from the union high school district operates a school or schools for all resident students in prekindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12.

(2) At least one year has elapsed since the union high school district became a body politic and corporate as provided in 16 V.S.A. § 706g.

(3) A majority of the voters of the school district proposing to withdraw from the union high school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from the union high school district. The clerk of the school district shall certify the vote to the Secretary of State, who shall record the certificate in his or her office and shall give notice of the vote to the Secretary of Education and to the other members of the union high school district.

(4) The State Board approves the withdrawal based on a recommendation from the Secretary of Education.

(5) The withdrawal process is completed on or before July 1, 2019.

(b) In making his or her recommendation, the Secretary of Education shall assess whether:

(1) students in the withdrawing school district would attend a school that complies with the rules adopted by the State Board pertaining to educational programs; and

(2) it is in the best interests of the State, the students, and the districts remaining in the union high school district for the union to continue to exist.

(c) The State Board shall:

(1) consider the recommendation of the Secretary and any other information it deems appropriate;

(2) hold a public meeting within 60 days of receiving the recommendation of the Secretary, and provide due notice of this meeting to the

Secretary and all members of the union high school district;

(3) within 10 days of the meeting, notify the Secretary and all members of the union high school district of its decision;

(4) if it approves the withdrawal, declare the membership of the withdrawing school district in the union high school district terminated as of July 1 immediately following, or as soon after July 1 as the financial obligations of the withdrawing school district have been paid to, or an agreement has been made with, the union high school district in an amount to satisfy those obligations; and

(5) file the declaration with the Secretary of State, the clerk of the withdrawing school district, and the clerk of the union high school district concerned.

Sec. 12. REPEAL

Sec. 11 of this act is repealed on July 2, 2019.

* * * Reduction of Average Daily Membership; Guidelines for Alternative Structures * * *

Sec. 13. 2015 Acts and Resolves No. 46, Sec. 5 is amended to read:

Sec. 5. PREFERRED EDUCATION GOVERNANCE STRUCTURE;
ALTERNATIVE STRUCTURE GUIDELINES

* * *

(c) Alternative structure: supervisory union with member districts. An Education District as envisioned in subsection (b) of this section may not be possible or the best model to achieve Vermont's education goals in all regions of the State. In such situations, a supervisory union composed of multiple member districts, each with its separate school board, ~~can~~ may meet the State's goals, particularly if:

(1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

(2) the supervisory union operates in a manner that complies with its obligations under 16 V.S.A. § 261a and that maximizes efficiencies through economies of scale and the flexible management, transfer, and sharing of ~~nonfinancial~~ resources among the member districts, which may include a common personnel system, with the goal of increasing the ratio of students to full-time equivalent staff;

(3) the supervisory union has the smallest number of member school

districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns; ~~and~~

(4) the supervisory union has the smallest number of member school districts practicable after consideration of greatly differing levels of indebtedness among the member districts; and

~~(4)~~(5) the combined average daily membership of all member districts is not less than 1,100 900.

* * * Secretary and State Board; Consideration of Alternative Structure Proposals * * *

Sec. 14. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE
STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(c) Process. On and after October 1, 2017, the Secretary and State Board shall consider any proposals submitted by districts or groups of districts under Sec. 9 of this act. Districts that submit such a proposal shall have the opportunity to add to or otherwise amend their proposal in connection with the Secretary's consideration of the proposal and conversations with the district or districts under subsection (a) of this section, and in connection with testimony presented to the State Board under subsection (b) of this section. The State Board may, in its discretion, approve an alternative governance proposal at any time on or before November 30, 2018.

(d) The statewide plan required by subsection (b) of this section shall include default Articles of Agreement to be used by all new unified union school districts created under the plan until the board of the new district votes to approve new or amended articles.

(e) After the State Board of Education issues the statewide plan under subsection (b) of this section, districts subject to merger shall have 90 days to form a study committee under 16 V.S.A. § 706b and to draft Articles of Agreement for the new district. During this period, the study committee shall hold at least one public hearing to consider and take comments on the draft Articles of Agreement.

(f) If the study committee formed under subsection (e) of this section does not approve Articles of Agreement within the 90-day period provided in that subsection, the provisions in the default Articles of Agreement included in the statewide plan shall apply to the new district.

~~(e)~~(g) Applicability. This section shall not apply to:

-
- (1) an interstate school district;
 - (2) a regional career technical center school district formed under 16 V.S.A. chapter 37, subchapter 5A; or
 - (3) a district that, between June 30, 2013 and July 2, 2019, began to operate as a unified union school district and:
 - (A) voluntarily merged into the preferred education governance structure, an Education District, as set forth Sec. 5(b) of this act; or
 - (B) is a regional education district or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156.

* * * Deadline for Small School Support Metrics * * *

Sec. 15. 2015 Acts and Resolves No. 46, Sec. 21 is amended to read:

Sec. 21. SMALL SCHOOL SUPPORT; METRICS

On or before July 1, 2018, the State Board of Education shall adopt and publish metrics by which it will make determinations whether to award small school support grants pursuant to 16 V.S.A. § 4015 on and after July 1, 2019, as amended by Sec. 20 of this act; provided, however, that on or before September 30, 2017, the State Board shall publish a list of districts that it determines to be geographically isolated pursuant to that section as amended by Sec. 20 of this act.

* * * Time Extension for Qualifying Districts * * *

Sec. 16. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) On or before ~~November 30, 2017~~ the date that is the earlier of six months after the date the State Board's rules on the process for submitting alternative governance proposals take effect or January 31, 2018, the board of each school district in the State that has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019, shall perform each of the following actions, unless the district qualifies for an exemption under Sec. 10(g) of this act.

Sec. 17. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a qualifying district must receive final approval from the electorate for its merger proposal is extended from July 1, 2017 to November 30, 2017. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district’s study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

* * * Grants and Fee Reimbursement * * *

Sec. 18. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

* * *

(b) A newly formed school district that meets the criteria set forth in subsection (a) of this section shall receive the following:

* * *

(3) Transition Facilitation Grant.

(A) After voter approval of the plan of merger, notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the transitional board of the new district a Transition Facilitation Grant from the Education Fund equal to the lesser of:

(i) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(ii) \$150,000.00.

(B) A Transition Facilitation Grant awarded under this subdivision (3) shall be reduced by the total amount of reimbursement paid for consulting services, analysis, and transition costs pursuant to 2012 Acts and Resolves No. 156, Secs. 2, 4, and 9.

* * *

Sec. 19. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;

 MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

* * *

Sec. 20. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE
STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(d)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of \$10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

* * * Applications for Adjustments to Supervisory Union Boundaries * * *

Sec. 21. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may request that the State Board adjust the existing boundaries of the supervisory union of which it is a member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall ~~give timely consideration to requests~~ act on a request made pursuant to this subsection within 75 days of receipt of the request and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

* * *

* * * Technical Corrections; Clarifications * * *

Sec. 22. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL EDUCATION DISTRICT INCENTIVES

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 23. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

* * *

(d) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 24. AVAILABILITY OF TAX AND OTHER INCENTIVES

The tax and other incentives under 2010 Acts and Resolves No. 153, as amended, and 2012 Acts and Resolves No. 156, as amended, shall be available only if the new governance structure formed under those acts becomes fully operational on or before July 1, 2019.

Sec. 25. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. DECLINING ENROLLMENT; TRANSITION

(a) If a district's equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 22 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district's equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district's equalized pupils shall in no case be less than 90 percent of the district's equalized pupils in the previous year; and

(2) in fiscal year 2018, the district's equalized pupils shall in no case be less than 80 percent of the district's equalized pupils in the previous year.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016, it has formed a study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

Sec. 26. QUALIFICATION FOR INCENTIVES; ASSIGNMENT TO A SUPERVISORY UNION BY THE STATE BOARD

Notwithstanding any requirement under 2015 Acts and Resolves No. 46, Secs. 6 and 7 that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

* * * State Board Rulemaking Authority * * *

Sec. 27. 2015 Acts and Resolves No. 46, Sec. 8 is amended to read:

Sec. 8. EVALUATION BY THE STATE BOARD OF EDUCATION

* * *

(c) The State Board may adopt rules designed to assist districts in submitting alternative structure proposals, but shall not by rule or otherwise impose more stringent requirements than those in this act.

* * * Tax Provisions * * *

Sec. 28. CALCULATION OF EDUCATION PROPERTY TAX SPENDING
ADJUSTMENT AND EDUCATION INCOME TAX SPENDING
ADJUSTMENT FOR CERTAIN SCHOOL DISTRICTS

(a) Under this section, a qualifying school district is a school district:

(1) that operates no schools and pays tuition for all resident students in prekindergarten through grade 12;

(2) that, on or before November 15, 2017, obtains final approval from its electorate to consolidate with an existing unified union school district that is eligible to receive incentives under 2010 Acts and Resolves No. 153 (consolidated district), as amended; and

(3) for which either:

(A) the education property tax spending adjustment under 32 V.S.A. § 5401(13)(A) for the district's fiscal year 2017 exceeded the district's education property tax spending adjustment for the district's 2015 fiscal year by more than 100 percent; or

(B) the education income tax spending adjustment under 32 V.S.A. § 5401(13)(B) for the district's fiscal year 2017 exceeded the district's education income tax spending adjustment for the district's 2015 fiscal year by more than 100 percent.

(b) Notwithstanding any provision of law to the contrary:

(1) for the first year in which the consolidated district's equalized homestead tax rate or household income percentage is reduced under 2010 Acts and Resolves No. 153, as amended, the equalized homestead tax rate and household income percentage for the town associated with the qualifying district shall be set at the average equalized homestead tax rate and household income percentage of the towns associated with the other districts that merge into the consolidated district; and

(2) 2010 Acts and Resolves No. 153, Sec. 4(a)(2), which limits the

amount by which tax rates are permitted to change, shall not apply to the town associated with the qualifying district for the first year for which the consolidated district's equalized homestead tax rate or household income percentage is reduced under that act.

Sec. 29. MODIFIED UNIFIED UNION SCHOOL DISTRICTS; TAX RATE CALCULATIONS

The tax rate provisions in 2010 Acts and Resolves No. 155, Sec. 13(a)(1), as amended, shall not apply to the calculation of tax rates in a member of a modified unified union school district (MUUSD) formed under 2012 Acts and Resolves No. 156, Sec. 17, as amended, if that member is a member for fewer than all grades, prekindergarten through grade 12. This section shall apply to the calculation of taxes in any MUUSD that began full operation after July 1, 2015.

* * * Elections to Unified Union School District Board * * *

Sec. 30. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

(a) Notwithstanding any provision to the contrary under 16 V.S.A. § 706k, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting in accordance with the district's articles of agreement.

(b) Notwithstanding any provision to the contrary under 16 V.S.A. § 706l, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk shall immediately notify the selectboard of the town. Within 30 days of the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held in accordance with the unified union school district's articles of agreement.

(c) This section is repealed on July 1, 2018.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 2 and 4–30 shall take effect on passage.

(b) Sec. 1 (criminal record checks) shall take effect on passage and shall apply to persons hired or contracted with after June 30, 2017 and to persons who apply for or renew child care provider license after June 30, 2017.

(c) Sec. 3 (surety bond; postsecondary institutions) shall take effect on October 1, 2017.

Pending the question, Shall the proposal of amendment offered by Rep. Conlon of Cornwall be amended as offered by Rep. Sharpe of Bristol? **Rep. Giambatista of Essex** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the proposal of amendment offered by Rep. Conlon of Cornwall be amended as offered by Rep. Sharpe of Bristol? was decided in the affirmative. Yeas, 136. Nays, 0.

Those who voted in the affirmative are:

Ainsworth of Royalton	Gonzalez of Winooski	Ode of Burlington
Ancel of Calais	Grad of Moretown	Olsen of Londonderry
Bancroft of Westford	Graham of Williamstown	O'Sullivan of Burlington
Bartholomew of Hartland	Greshin of Warren	Parent of St. Albans Town
Baser of Bristol	Haas of Rochester	Partridge of Windham
Batchelor of Derby	Harrison of Chittenden	Pearce of Richford
Beck of St. Johnsbury	Head of South Burlington	Potter of Clarendon
Belaski of Windsor	Hebert of Vernon	Pugh of South Burlington
Beyor of Highgate	Helm of Fair Haven	Quimby of Concord
Bissonnette of Winooski	Higley of Lowell	Rachelson of Burlington
Bock of Chester	Hill of Wolcott	Rosenquist of Georgia
Botzow of Pownal	Hooper of Montpelier	Scheu of Middlebury
Browning of Arlington	Hooper of Brookfield	Scheuermann of Stowe
Brumsted of Shelburne	Howard of Rutland City	Sharpe of Bristol
Buckholz of Hartford	Hubert of Milton	Shaw of Pittsford
Burditt of West Rutland	Jessup of Middlesex	Sheldon of Middlebury
Burke of Brattleboro	Jickling of Brookfield	Sibilia of Dover
Canfield of Fair Haven	Joseph of North Hero	Smith of Derby
Carr of Brandon	Juskiewicz of Cambridge	Smith of New Haven
Chesnut-Tangerman of Middletown Springs	Keenan of St. Albans City	Squirrell of Underhill
Christensen of Weathersfield	Kimbell of Woodstock	Stevens of Waterbury
Christie of Hartford	Kitzmiller of Montpelier	Strong of Albany
Cina of Burlington	Krowinski of Burlington	Stuart of Brattleboro
Colburn of Burlington	LaClair of Barre Town	Sullivan of Dorset
Conlon of Cornwall	Lalonde of South Burlington	Sullivan of Burlington
Connor of Fairfield	Lanpher of Vergennes	Taylor of Colchester
Copeland-Hanzas of Bradford	Lawrence of Lyndon	Terenzini of Rutland Town
Corcoran of Bennington	Lefebvre of Newark	Till of Jericho
Cupoli of Rutland City	Lewis of Berlin	Toleno of Brattleboro
Dakin of Colchester	Long of Newfane	Toll of Danville
Deen of Westminster	Lucke of Hartford	Townsend of South Burlington
Devereux of Mount Holly	Macaig of Williston	Trieber of Rockingham
Donahue of Northfield	Marcotte of Coventry	Turner of Milton
Donovan of Burlington	Martel of Waterford	Van Wyck of Ferrisburgh
Dunn of Essex	Masland of Thetford	Viens of Newport City
	McCormack of Burlington	Walz of Barre City
	McCoy of Poultney	

Emmons of Springfield	McCullough of Williston	Webb of Shelburne
Fagan of Rutland City	McFaun of Barre Town	Weed of Enosburgh
Feltus of Lyndon	Miller of Shaftsbury	Willhoit of St. Johnsbury
Forguites of Springfield	Morris of Bennington	Wood of Waterbury
Frenier of Chelsea	Morrissey of Bennington	Wright of Burlington
Gage of Rutland City	Mrowicki of Putney	Yacovone of Morristown
Gamache of Swanton	Murphy of Fairfax	Yantachka of Charlotte
Gannon of Wilmington	Myers of Essex	Young of Glover
Gardner of Richmond	Norris of Shoreham	
Giambatista of Essex	Noyes of Wolcott	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Brennan of Colchester	Town	Nolan of Morristown
Briglin of Thetford	Fields of Bennington	Poirier of Barre City
Condon of Colchester	Houghton of Essex	Savage of Swanton
Conquest of Newbury	Keefe of Manchester	Troiano of Stannard
Dickinson of St. Albans	Lippert of Hinesburg	

Pending the question, Will the House concur in Senate proposal of amendment with a further proposal of amendment as offered by Rep. Conlon of Cornwall, as amended? **Rep. Sibilia of Dover** moved to amend the amendment as offered by Rep. Conlon of Cornwall, as amended, as follows:

By striking out Sec. 31 in its entirety and adding two new sections, to be Secs. 31–32, with reader assistances, to read:

* * * Extraordinary Small School Grants * * *

Sec. 31. EXTRAORDINARY SMALL SCHOOL GRANTS

(a) Findings.

(1) Vermont's kindergarten through grade 12 student population has declined from 103,000 in fiscal year 1997 to 76,300 in fiscal year 2017.

(2) Vermont recognizes the important role that a small school plays in the social and educational fabric of its community. However, rural school districts have found it particularly challenging to maintain their small schools and provide high quality education to their students because of the decline in Vermont's student population.

(3) The General Assembly has encouraged, through incentive programs established in 2010, 2012, and 2015, school districts to unify existing governance units into more "sustainable governance structures" designed to meet the General Assembly's identified educational and fiscal goals.

(4) Certain rural districts were early in recognizing their challenges and, on their own initiative and without receiving incentives from the State, joined

with other districts to form joint contract schools or to become members of union school districts. As a consequence, these districts received less in small school grant support than they would have received had they not taken these actions.

(b) Definition. As used in this section, a “qualifying merger” means the merger of a school district identified in subsection (c) of this section with one or more other school districts that results in a newly merged district that is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, provided, however, that all merging districts receive final approval of their electorate for the merger on or before November 30, 2017, and the newly merged district becomes fully operational on or before July 1, 2019.

(c) Merger support grants. Notwithstanding any provision of law to the contrary, if a school district identified in this subsection (qualifying district) merges in a qualifying merger, the Secretary shall award an annual merger support grant to the newly merged district in an amount equal to the small school support grant the qualifying district received in the fiscal year immediately prior to the year in which the qualifying district formed a joint contract school or became a member of a union school district. The amount of annual merger support grants for the qualifying districts, if a qualifying district merges in a qualifying merger, shall be:

- (1) Elmore: \$40,000.00
- (2) Fairlee: \$69,885.00
- (3) Newfane: \$72,466.00
- (4) Pomfret: \$85,525.00
- (5) West Fairlee: \$56,355.00
- (6) Whitingham: \$54,900.00

(d) Combined grants. If more than one qualifying district is part of a qualifying merger, then the merger support grant shall be in an amount equal to the total combined small school support grants each qualifying district received in the fiscal year immediately prior to the year in which the qualifying district formed a joint contract school or became a member of a union school district.

(e) Continuation of grants. Payment of the merger support grants under this section shall continue annually unless explicitly repealed by the General Assembly; provided, however, that the Secretary shall discontinue payment of a grant in the fiscal year following closure by a merged district of a school located in what had been a “qualifying district” prior to merger; and further

provided that if a school building located in a formerly “qualifying district” is closed in order to consolidate with another school into a renovated or new school building, then the Secretary shall continue to pay the grant during the repayment term of any bonded indebtedness incurred in connection with the consolidation-related renovation or construction.

(f) Funding. Notwithstanding any provision to the contrary of 16 V.S.A. § 4025(d), the merger support grants awarded under this section shall be funded by appropriations from the Education Fund, which shall be paid to the Secretary of Education for administration under this section.

* * * Effective Dates * * *

Sec. 32. EFFECTIVE DATES

(a) This section and Secs. 2 and 4–31 shall take effect on passage.

(b) Sec. 1 (criminal record checks) shall take effect on passage and shall apply to persons hired or contracted with after June 30, 2017 and to persons who apply for or renew child care provider license after June 30, 2017.

(c) Sec. 3 (surety bond; postsecondary institutions) shall take effect on October 1, 2017.

Pending the question, Shall the proposal of amendment offered by Rep. Conlon of Cornwall be amended as recommended by Rep. Sibilias of Dover? **Rep. Yacovone of Morristown** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the proposal of amendment offered by Rep. Conlon of Cornwall be amended as recommended by Rep. Sibilias of Dover? was decided in the negative. Yeas, 24. Nays, 107.

Those who voted in the affirmative are:

Buckholz of Hartford	Donahue of Northfield	Lucke of Hartford
Burke of Brattleboro	Dunn of Essex	McCormack of Burlington
Chesnut-Tangerman of Middletown Springs	Feltus of Lyndon	Morris of Bennington
Cina of Burlington	Gannon of Wilmington	Noyes of Wolcott
Colburn of Burlington	Gardner of Richmond	Olsen of Londonderry
Copeland-Hanzas of Bradford	Gonzalez of Winooski	Sibilias of Dover
Devereux of Mount Holly	Haas of Rochester	Yacovone of Morristown
	Harrison of Chittenden	Young of Glover
	Long of Newfane	

Those who voted in the negative are:

Ainsworth of Royalton	Greshin of Warren	Partridge of Windham
Ancel of Calais	Head of South Burlington	Pearce of Richford
Bancroft of Westford	Hebert of Vernon	Potter of Clarendon
Bartholomew of Hartland	Helm of Fair Haven	Pugh of South Burlington

Baser of Bristol	Higley of Lowell	Quimby of Concord
Batchelor of Derby	Hill of Wolcott	Rachelson of Burlington
Beck of St. Johnsbury	Hooper of Montpelier	Rosenquist of Georgia
Belaski of Windsor	Hooper of Brookfield	Scheu of Middlebury
Beyor of Highgate	Howard of Rutland City	Scheuermann of Stowe
Bock of Chester	Hubert of Milton	Sharpe of Bristol
Botzow of Pownal	Jickling of Brookfield	Shaw of Pittsford
Browning of Arlington	Joseph of North Hero	Sheldon of Middlebury
Brumsted of Shelburne	Juskiewicz of Cambridge	Smith of Derby
Burditt of West Rutland	Keenan of St. Albans City	Smith of New Haven
Canfield of Fair Haven	Kitzmiller of Montpelier	Squirrell of Underhill
Carr of Brandon	Krowinski of Burlington	Strong of Albany
Christensen of Weathersfield	LaClair of Barre Town	Stuart of Brattleboro
Christie of Hartford	Lalonde of South Burlington	Sullivan of Dorset
Condon of Colchester	Lanpher of Vergennes	Sullivan of Burlington
Conlon of Cornwall	Lawrence of Lyndon	Taylor of Colchester
Connor of Fairfield	Lefebvre of Newark	Terenzini of Rutland Town
Corcoran of Bennington	Lewis of Berlin	Toleno of Brattleboro
Cupoli of Rutland City	Lippert of Hinesburg	Toll of Danville
Dakin of Colchester	Macaig of Williston	Townsend of South Burlington
Deen of Westminster	Marcotte of Coventry	Trieber of Rockingham
Dickinson of St. Albans Town	Martel of Waterford	Turner of Milton
Donovan of Burlington	Masland of Thetford	Van Wyck of Ferrisburgh
Emmons of Springfield	McCoy of Poultney	Viens of Newport City
Fagan of Rutland City	McCullough of Williston	Walz of Barre City
Forguites of Springfield	McFaun of Barre Town	Webb of Shelburne
Frenier of Chelsea	Miller of Shaftsbury	Weed of Enosburgh
Gage of Rutland City	Morrissey of Bennington	Wood of Waterbury
Gamache of Swanton	Murphy of Fairfax	Wright of Burlington
Giambatista of Essex	Myers of Essex	Yantachka of Charlotte
Grad of Moretown	Norris of Shoreham	
Graham of Williamstown	Ode of Burlington	
	Parent of St. Albans Town	

Those members absent with leave of the House and not voting are:

Bissonnette of Winooski	Jessup of Middlesex	Poirier of Barre City
Brennan of Colchester	Keefe of Manchester	Savage of Swanton
Briglin of Thetford	Kimbell of Woodstock	Stevens of Waterbury
Conquest of Newbury	Mrowicki of Putney	Till of Jericho
Fields of Bennington	Nolan of Morristown	Troiano of Stannard
Houghton of Essex	O'Sullivan of Burlington	Willhoit of St. Johnsbury

Pending the question, Will the House concur in the Senate proposal with a further proposal of amendment as offered by Rep. Conlon of Cornwall, as amended? **Rep. Haas of Rochester** moved to amend the amendment as offered by Rep. Conlon of Cornwall, as amended, as follows:

By striking out Sec. 25 in its entirety and adding two new sections, to be Secs. 25 and 25a, to read:

Sec. 25. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. DECLINING ENROLLMENT; TRANSITION

(a) If a district's equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 22 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district's equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district's equalized pupils shall in no case be less than 90 percent of the district's equalized pupils in the previous year; and

(2) in fiscal year 2018, the district's equalized pupils shall in no case be less than 80 percent of the district's equalized pupils in the previous year.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 22 of this act shall apply to the district in fiscal year ~~2018~~ 2019 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection ~~(e)~~ if, on or before July 1, 2016, it has formed a study committee pursuant to 16 V.S.A. chapter 11; provided, however, that a district shall also be considered to be "actively engaged in merger discussions" pursuant to this subsection if, on or before July 1, 2017, it has formed a study committee pursuant to 16 V.S.A. chapter 11 and is a member of a supervisory union that was formed by the combination of two or more supervisory unions on July 1, 2016. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

Sec. 25a. 2015 Acts and Resolves No. 46, Sec. 24 is amended to read:

Sec. 24. REPEAL

16 V.S.A. § 4010(f) (declining enrollment; hold-harmless provision) is repealed on July 1, ~~2020~~ 2021.

Which was disagreed to.

Pending the question, Shall the House concur with the Senate proposal of amendment with further amendment thereto, as offered by Rep. Conlon of Cornwall? **Rep. Sharpe of Bristol** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to

call the roll and the question, Shall the House concur with the Senate proposal of amendment with further amendment thereto, as offered by Rep. Conlon of Cornwall? was decided in the affirmative. Yeas, 128. Nays, 1.

Those who voted in the affirmative are:

Ainsworth of Royalton	Gardner of Richmond	Murphy of Fairfax
Ancel of Calais	Giambatista of Essex	Myers of Essex
Bancroft of Westford	Gonzalez of Winooski	Norris of Shoreham
Bartholomew of Hartland	Grad of Moretown	Noyes of Wolcott
Baser of Bristol	Graham of Williamstown	Ode of Burlington
Batchelor of Derby	Greshin of Warren	Parent of St. Albans Town
Beck of St. Johnsbury	Haas of Rochester	Partridge of Windham
Belaski of Windsor	Harrison of Chittenden	Pearce of Richford
Beyor of Highgate	Head of South Burlington	Potter of Clarendon
Bock of Chester	Hebert of Vernon	Pugh of South Burlington
Botzow of Pownal	Helm of Fair Haven	Quimby of Concord
Browning of Arlington	Higley of Lowell	Rachelson of Burlington
Brumsted of Shelburne	Hill of Wolcott	Rosenquist of Georgia
Buckholz of Hartford	Hooper of Montpelier	Scheu of Middlebury
Burditt of West Rutland	Hooper of Brookfield	Scheuermann of Stowe
Burke of Brattleboro	Howard of Rutland City	Sharpe of Bristol *
Canfield of Fair Haven	Hubert of Milton	Shaw of Pittsford
Carr of Brandon	Jessup of Middlesex	Sheldon of Middlebury
Chesnut-Tangerman of Middletown Springs	Jickling of Brookfield	Sibilia of Dover *
Christensen of Weathersfield	Joseph of North Hero	Smith of Derby
Cina of Burlington	Juskiewicz of Cambridge	Smith of New Haven
Colburn of Burlington	Keenan of St. Albans City	Squirrell of Underhill
Conlon of Cornwall	Kitzmiller of Montpelier	Strong of Albany
Connor of Fairfield	LaClair of Barre Town	Stuart of Brattleboro
Copeland-Hanzas of Bradford	Lalonde of South Burlington	Sullivan of Dorset
Corcoran of Bennington	Lanpher of Vergennes	Sullivan of Burlington
Cupoli of Rutland City	Lawrence of Lyndon	Taylor of Colchester
Dakin of Colchester	Lefebvre of Newark	Terenzini of Rutland Town
Deen of Westminster	Lewis of Berlin	Toleno of Brattleboro
Devereux of Mount Holly	Lippert of Hinesburg	Toll of Danville
Dickinson of St. Albans Town	Long of Newfane	Townsend of South Burlington
Donahue of Northfield	Lucke of Hartford	Trieber of Rockingham
Dunn of Essex	Macaig of Williston	Turner of Milton
Emmons of Springfield	Marcotte of Coventry	Van Wyck of Ferrisburgh
Fagan of Rutland City	Martel of Waterford	Viens of Newport City
Feltus of Lyndon	Masland of Thetford	Walz of Barre City
Forguites of Springfield	McCormack of Burlington	Webb of Shelburne
Frenier of Chelsea	McCoy of Poultney	Weed of Enosburgh
Gage of Rutland City	McCullough of Williston	Wood of Waterbury
Gamache of Swanton	McFaun of Barre Town	Wright of Burlington
Gannon of Wilmington	Miller of Shaftsbury	Yacovone of Morristown
	Morris of Bennington	Yantachka of Charlotte
	Morrissey of Bennington	Young of Glover
	Mrowicki of Putney	

Those who voted in the negative are:

Olsen of Londonderry

Those members absent with leave of the House and not voting are:

Bissonnette of Winooski	Fields of Bennington	Poirier of Barre City
Brennan of Colchester	Houghton of Essex	Savage of Swanton
Briglin of Thetford	Johnson of South Hero	Stevens of Waterbury
Christie of Hartford	Keefe of Manchester	Till of Jericho
Condon of Colchester	Kimbell of Woodstock	Troiano of Stannard
Conquest of Newbury	Nolan of Morristown	Willhoit of St. Johnsbury
Donovan of Burlington	O'Sullivan of Burlington	

Rep. Sharpe of Bristol explained his vote as follows:

“Madam Speaker:

I want to thank the body for their strong support of the work your Education Committee has put in to modernize our school system in order to protect our small community elementary schools and improve opportunities for students as they move to high school graduation and beyond, all within property taxes that Vermont communities support in response to declining student populations.”

Rep. Sibilia of Dover explained her vote as follows:

“Madam Speaker:

I appreciate the significant efforts of both bodies to provide more flexibility in complying with Act 46. There is much more work to be done. We will need to maintain that sense of flexibility in the coming years as we seek to right size and right finance education in Vermont, while not abandoning students in rural Vermont.”

Recess

At one o'clock and five minutes, the Speaker declared a recess until the fall of the gavel.

At three o'clock and twenty-five minutes, the Speaker called the House to order.

Message from the Senate No. 54

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

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

H. 509. An act relating to calculating statewide education tax rates.

H. 515. An act relating to Executive Branch and Judiciary fees.

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

Message from the Senate No. 55

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

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

S. 127. An act relating to miscellaneous changes to laws related to vehicles and vessels.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Mazza
Senator Flory
Senator Degree

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 518. An act relating to making appropriations for the support of government.

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Kitchel
Senator Sears
Senator Westman

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

H. 494. An act relating to the Transportation Program and miscellaneous

changes to transportation-related law.

And has accepted and adopted the same on its part.

Action on Bill Postponed

S. 122

House bill, entitled

An act relating to increased flexibility for school district mergers

Was taken up and pending the reading of the report of the committee on Education, on motion of **Rep. Sharpe of Bristol**, action on the bill was postponed until April 29, 2017.

**Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 134

Rep. Colburn of Burlington, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to court diversion and pretrial services

Reported in favor of its passage in concurrence with proposal of amendment as follows by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; INTENT

(a) The General Assembly finds:

(1) According to numerous studies over many years, pretrial diversion programs result in outcomes for participants that are better than incarceration, including reducing the likelihood that participants commit future crimes and improving substance abuse and mental health outcomes. For example, according to a study of the New York City Jail Diversion Project, 12 months after their offense, offenders who go through a diversion program are less likely to reoffend, spend less time in prison, have received more treatment, and are less likely to suffer drug relapses. In addition, a study in the Journal of the American Academy of Psychiatry and the Law indicates that diversion programs reduce the amount of time participants spend in jail for future offenses from an average of 173 days to an average of 40 days during the year after the offense. Research also demonstrates that offenders who have participated in diversion programs are better able to find employment.

(2) Diversion programs benefit the criminal justice system by reducing costs and allowing resources to be allocated more efficiently for more serious offenders. According to studies by the Urban Institute and the National

Alliance on Mental Illness, diversion programs reduce costs and improve outcomes by allowing offenders with mental illness to receive more appropriate treatment outside the criminal justice system. As reported in the Psychiatric Rehabilitation Journal, diversion programs reduce costs by decreasing the need for and use of hospitalization and crisis services by offenders.

(b) It is the intent of the General Assembly that:

(1) Sec. 2 of this act result in an increased use of the Diversion Program throughout the State and a more consistent use of the program between different regions of the State;

(2) the Office of the Attorney General collect data pursuant to 3 V.S.A. § 164(d) on Diversion Program use, including the effect of this act on use of the Program statewide and in particular regions of the State; and

(3) consideration be given to further amending the Diversion Program statutes before Sec. 2 of this act sunsets on July 1, 2020, if it is determined that Sec. 2 of this act did not produce the intended increases in Diversion Program usage.

Sec. 2. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROJECT PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion project program in all counties. The project program shall be operated through the juvenile diversion project and shall be designed to assist adults who have been charged with a first or second misdemeanor or a first nonviolent felony. The Attorney General shall adopt only such rules as are necessary to establish an adult court diversion project program for adults, in compliance with this section.

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

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

(2) To assist adults with substance abuse or mental health treatment needs regardless of the person's prior criminal history record. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system. A person charged with a felony offense that is a listed crime pursuant to 13 V.S.A. § 5301 shall not be eligible under this section.

(c) The adult court diversion project administered by the Attorney General

program shall encourage the development of diversion projects programs in local communities through grants of financial assistance to municipalities, private groups or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project program grants.

(d) The Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators.

(e)(e) All adult court diversion projects programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion project program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A), the prosecutor shall provide the person with the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the Program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the Board declines to accept the case;
- (B) the person declines to participate in diversion;
- (C) the Board accepts the case, but the person does not successfully complete diversion;
- (D) the prosecuting attorney recalls the referral to diversion.

(2) Alleged offenders shall be informed of their right to the advice and assistance of private counsel or the public defender at all stages of the diversion process, including the initial decision to participate, and the decision to accept the adult diversion contract, so that the candidate may give informed

consent.

(3) The participant shall be informed that his or her selection of the adult diversion contract is voluntary.

(4) Each State's Attorney, in cooperation with the Office of the Attorney General and the adult court diversion project program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion.

(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not require or establish the identity of individual participants are allowed).

(6) Information related to the present offense that is divulged during the adult diversion program shall not be used ~~in the prosecutor's case against the person in the person's criminal or juvenile case for any purpose, including impeachment or cross-examination.~~ However, the fact of participation and success, or reasons for failure may become part of the prosecutor's records.

(7)(A) The adult court diversion ~~project~~ program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

- (i) name and date of birth;
- (ii) offense charged and date of offense;
- (iii) place of residence;
- (iv) county where diversion process took place; and
- (v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General and directors of adult court diversion projects.

(8) Adult court diversion ~~projects~~ programs shall be set up to respect the rights of participants.

(9) Each participant shall pay a fee to the local adult court diversion project. The amount of the fee shall be determined by project officers or employees based upon the financial capabilities of the participant. The fee

shall not exceed \$300.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the program. Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be retained and used solely for the purpose of the court diversion program.

~~(d)~~(f) The Attorney General is authorized to accept grants and gifts for the purposes of this section, such acceptance being pursuant to 32 V.S.A. § 5.

~~(e)~~(g) Within 30 days of the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the sealing of all court files and records, law enforcement records other than entries in the adult court diversion project's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the sealing of the records. The court shall seal the records if it finds:

(1) two years have elapsed since the successful completion of the adult diversion program by the participant and the dismissal of the case by the State's Attorney; and

(2) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; and

(3) rehabilitation of the participant has been attained to the satisfaction of the court.

~~(f)~~(h) Upon the entry of an order sealing such files and records under this section, the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

~~(g)~~(i) Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein.

~~(h)~~(j) The process of automatically sealing records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records sealed. Sealing shall occur if the requirements of subsection ~~(e)~~(g) of this section are met.

~~(i)~~(k) Subject to the approval of the Attorney General, the Vermont

Association of Court Diversion Programs may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

Sec. 3. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) The objective of a pretrial risk assessment is to provide information to the ~~Court~~ court for the purpose of determining whether a person presents a risk of nonappearance ~~or a threat to public safety~~ or a risk of re-offense so the ~~Court~~ court can make an appropriate order concerning bail and conditions of pretrial release. The assessment shall not assess victim safety or risk of lethality in domestic assaults.

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

(3) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.

(b)(1) ~~A~~ Except as provided in subdivision (2) of this subsection, a person whose offense or status falls into any of the following categories shall be offered a risk assessment and, if deemed appropriate by the pretrial monitor, a needs screening prior to arraignment:

~~(A) misdemeanors and felonies, excluding listed crimes and drug trafficking, cited into court; and~~

~~(B) persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment who is arrested, lodged, and unable to post bail within 24 hours of lodging shall be offered a risk assessment and, if deemed appropriate by the pretrial services coordinator, a needs screening prior to arraignment.~~

~~(2) As used in this section, “listed crime” shall have the same meaning as provided in section 5301 of this title and “drug trafficking” means offenses listed as such in Title 18. A person charged with an offense for which registration as a sex offender is required pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by a term of life imprisonment shall not be eligible under this section.~~

~~(3) Unless ordered as a condition of release under section 7554 of this title, participation~~ Participation in risk assessment or needs screening shall be

voluntary and a person's refusal to participate shall not result in any criminal legal liability to the person.

(4) In the event an assessment or screening cannot be obtained prior to arraignment, the risk assessment and needs screening shall be conducted as soon as practicable.

(5) A person who qualifies pursuant to ~~subdivisions (1)(A)-(D)~~ subdivision (1) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a risk assessment or needs screening unless the other charge is a listed crime.

~~(6)(A) — The Administrative Judge and Court Administrator, in consultation with the Secretary of Human Services and the Commissioner of Corrections, shall develop a statewide plan for the phased, consistent rollout of the categories identified in subdivisions (1)(A) through (D) of this subsection, in the order in which they appear in this subsection. The Administrative Judge and Court Administrator shall present the plan to the Joint Legislative Corrections Oversight Committee on or before October 15, 2014. Any person charged with a criminal offense, except those persons identified in subdivision (b)(2) of this section, may choose to engage with a pretrial services coordinator.~~

~~(B) — All persons whose offense or status falls into one of the categories shall be eligible for a risk assessment or needs screening on or after October 15, 2015. Prior to that date, a person shall not be guaranteed the offer of a risk assessment or needs screening solely because the person's offense or status falls into one of the categories. Criminal justice professionals charged with implementation shall adhere to the plan.~~

(c) The results of the risk assessment and needs screening shall be provided to the person and his or her attorney, the prosecutor, and the Court court. Pretrial services coordinators may share information only within the limitations of subsection (e) of this section.

(d)(1) At arraignment, ~~in consideration of the risk assessment and needs screening,~~ the Court court may order the a person to ~~comply with~~ do the following conditions:

(A) meet with a pretrial ~~monitor~~ services coordinator on a schedule set by the Court court; and

(B) participate in a needs screening with a pretrial services coordinator; and

(C) participate in a clinical assessment by a substance abuse or mental health treatment provider and follow the recommendations of the

provider.

(2) ~~The Court~~ court may order the person to ~~follow the recommendation of the pretrial monitor if the person has completed a risk assessment or needs screening engage in pretrial services.~~ Pretrial services may include the pretrial services coordinator:

(A) supporting the person in meeting conditions of release imposed by the court, including the condition to appear for judicial proceedings; and

(B) connecting the person with community-based treatment programs, rehabilitative services, recovery supports, and restorative justice programs.

(3) If possible, the ~~Court~~ court shall set the date and time for the clinical assessment at arraignment. In the alternative, the ~~pretrial monitor~~ services coordinator shall coordinate the date, time, and location of the clinical assessment and advise the ~~Court~~ court, the person and his or her attorney, and the prosecutor.

(4) ~~The conditions~~ An order authorized in subdivision (1) or (2) of this subsection shall be in addition to any ~~other~~ conditions of release permitted by law and shall not limit the ~~Court~~ court in any way. Failure to comply with a court order authorized by subdivision (1) or (2) of this subsection shall not constitute a violation of section 7559 of this title.

(5) This section shall not be construed to limit a court's authority to impose conditions pursuant to section 7554 of this title.

(e)(1) Information obtained from the person during the risk assessment or needs screening shall be exempt from public inspection and copying under the Public Records Act and, except as provided in subdivision (2) of this subsection, only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. The information a pretrial services coordinator may report is limited to whether a risk assessment indicates risk of nonappearance, whether further substance use assessment or treatment is indicated, whether mental health assessment or treatment is indicated, whether a person participated in a clinical assessment, and whether further engagement with pretrial services is recommended unless the person provides written permission to release additional information. Information related to the present offense directly or indirectly derived from the risk assessment, needs screening, or other conversation with the pretrial services coordinator shall not be used against the person in the person's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation or nonparticipation in risk assessment or needs screening may be used in subsequent proceedings. The

immunity provisions of this subsection apply only to the use and derivative use of information gained as a proximate result of the risk assessment or, needs screening, or other conversation with the pretrial services coordinator.

(2) The person shall retain all of his or her due process rights throughout the risk assessment and needs screening process and may release his or her records at his or her discretion.

(3) ~~The Vermont Supreme Court in accordance with judicial rulemaking as provided in 12 V.S.A. § 1 shall promulgate and the Department of Corrections in accordance with the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section. Emergency rules adopted prior to January 1, 2015 pursuant to this section shall be considered to meet the “imminent peril” standard under 3 V.S.A. § 844(a)~~ All records of information obtained during risk assessment or needs screening shall be stored in a manner making them accessible only to the Director of Pretrial Services and Pretrial Service Coordinators for a period of three years, after which the records shall be maintained as required by sections 117 and 218 of this title and any other State law. The Director of Pretrial Services shall be responsible for the destruction of records when ordered by the court.

(f) The Attorney General’s Office shall:

(1) contract for or otherwise provide the pretrial services described in this section, including performance of risk assessments, needs screenings, and pretrial monitoring services, and

(2) develop pretrial services outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State’s Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators.

Sec. 4. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES

(a) It is the intent of the General Assembly to encourage persons cited or arrested for a misdemeanor drug possession charge the opportunity to engage with pretrial services, and, if appropriate, enter treatment, and that, in turn, a person who complies with such conditions will be eligible for dismissal of the charge.

(b) The Attorney General, the Defender General, and the Executive

Director of the Department of State's Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

Sec. 5. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

(a) Upon an adjudication of guilt and after the filing of a presentence investigation report, the court may defer sentencing and place the respondent on probation upon such terms and conditions as it may require if a written agreement concerning the deferring of sentence is entered into between the ~~state's attorney~~ State's Attorney and the respondent and filed with the clerk of the court.

(b) Notwithstanding subsection (a) of this section, the court may defer sentencing and place the respondent on probation without a written agreement between the ~~state's attorney~~ State's Attorney and the respondent if the following conditions are met:

(1)(A) the respondent is 28 years old of age or younger; or

(B) the respondent is 29 years of age or older and has not previously been convicted of a crime;

(2) the crime for which the respondent is being sentenced is not a listed crime as defined in subdivision 5301(7) of this title;

(3) the court orders, unless waived by the State's Attorney:

(A) a presentence investigation in accordance with the procedures set forth in Rule 32 of the Vermont Rules of Criminal Procedure, unless the state's attorney agrees to waive the presentence investigation; or

(B) an abbreviated presentence investigation in a form approved by the Commissioner of Corrections;

(4) the court permits the victim to submit a written or oral statement concerning the consideration of deferment of sentence;

(5) the court reviews the presentence investigation and the victim's impact statement with the parties; and

(6) the court determines that deferring sentence is in the interest of justice.

(c) Notwithstanding subsections (a) and (b) of this section, the court may

not defer a sentence for a violation of section 3253a (aggravated sexual assault of a child), section 2602 (lewd and lascivious conduct with a child unless the victim and the defendant were within five years of age and the act was consensual), 3252(c) (sexual assault of a child under 16 years of age unless the victim and the defendant were within five years of age and the act was consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated sexual assault), or 3253a (aggravated sexual assault of a child) of this title.

* * *

Sec. 6. 13 V.S.A. § 5231 is amended to read:

§ 5231. RIGHT TO REPRESENTATION, SERVICES AND FACILITIES

(a) A needy person who is being detained by a law enforcement officer without charge or judicial process, ~~or~~ who is charged with having committed or is being detained under a conviction of a serious crime, or who is charged with having committed or is being detained under a conviction of any criminal offense if the person was 25 years of age or less at the time the alleged offense was committed, is entitled:

(1) To be represented by an attorney to the same extent as a person having his or her own counsel; ~~and~~

(2) To be provided with the necessary services and facilities of representation. Any such necessary services and facilities of representation that exceed \$1,500.00 per item must receive prior approval from the court after a hearing involving the parties. The court may conduct the hearing outside the presence of the ~~state~~ State, but only to the extent necessary to preserve privileged or confidential information. This obligation and requirement to obtain prior court approval shall also be imposed in like manner upon the ~~attorney general~~ Attorney General or a ~~state's attorney~~ State's Attorney prosecuting a violation of the law.

(b) The attorney, services and facilities, and court costs shall be provided at public expense to the extent that the person, at the time the court determines need, is unable to provide for the person's payment without undue hardship.

Sec. 7. 13 V.S.A. § 5232 is amended to read:

§ 5232. PARTICULAR PROCEEDINGS

Counsel shall be assigned under section 5231 of this title to represent needy persons in any of the following:

* * *

(3) ~~Proceedings~~ For proceedings arising out of a petition brought in a juvenile court, including any subsequent proceedings arising from an order

issued in the juvenile proceeding:

(A) the child; and

(B) when the court deems the interests of justice require representation, of either the child or his or her the child's parents or guardian, or both, including any subsequent proceedings arising from an order therein.

Sec. 8. 13 V.S.A. § 5234 is amended to read:

§ 5234. NOTICE OF RIGHTS; REPRESENTATION PROVIDED

(a) If a person who is being detained by a law enforcement officer without charge or judicial process, ~~or~~ who is charged with having committed or is being detained under a conviction of a serious crime, or who is charged with having committed or is being detained under a conviction of any criminal offense if the person was 25 years of age or less at the time the alleged offense was committed, is not represented by an attorney under conditions in which a person having his or her own counsel would be entitled to be so represented, the law enforcement officer, magistrate, or court concerned shall:

(1) Clearly inform him or her of the right of a person to be represented by an attorney and of a needy person to be represented at public expense; ~~and.~~

(2) If the person detained or charged does not have an attorney and does not knowingly, voluntarily and intelligently waive his or her right to have an attorney when detained or charged, notify the appropriate public defender that he or she is not so represented. This shall be done upon commencement of detention, formal charge, or post-conviction proceeding, as the case may be. As used in this subsection, the term "commencement of detention" includes the taking into custody of a probationer or parolee.

(b) Upon commencement of any later judicial proceeding relating to the same matter, the presiding officer shall clearly inform the person so detained or charged of the right of a needy person to be represented by an attorney at public expense.

(c) Information given to a person by a law enforcement officer under this section is effective only if it is communicated to a person in a manner meeting standards under the ~~constitution~~ Constitution of the United States relating to admissibility in evidence against him or her of statements of a detained person.

(d) Information meeting the standards of subsection (c) of this section and given to a person by a law enforcement officer under this section gives rise to a rebuttable presumption that the information was effectively communicated if:

(1) ~~It~~ it is in writing or otherwise recorded;

(2) ~~The~~ the recipient records his or her acknowledgment of receipt and time of receipt of the information; and

(3) ~~The~~ the material so recorded under subdivisions (1) and (2) of this subsection is filed with the court next concerned.

Sec. 9. LEGISLATIVE FINDINGS

The General Assembly finds that:

(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating “addiction as a public health issue, not a crime.” Further, the strategy “rejects the notion that we can arrest and incarcerate our way out of the nation’s drug problem.”

(2) Vermont Chief Justice Paul Reiber has declared that “the classic approach of ‘tough on crime’ is not working in [the] area of drug policy” and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.

(3) A felony conviction record is a significant impediment to gaining and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion: State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability, removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to reduce the effects of addiction and addiction-related crime in this State.

Sec. 10. STUDY

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit drugs in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before November 15, 2017.

Sec. 11. SUNSET

Sec. 2 of this act shall be repealed on July 1, 2020.

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Judiciary agreed to and third reading ordered.

Action on Bill Postponed

H. 167

House bill, entitled

An act relating to alternative approaches to addressing low-level illicit drug use

Was taken up and pending the question Will the House concur in the Senate proposal of amendment? on motion of **Rep. Grad of Moretown**, action on the bill was postponed until April 29, 2017.

**Senate Proposal of Amendment to House Proposal of Amendment
Concurred in with Further Amendment Thereto**

S. 22

The Senate concurred in House proposal of amendment with further proposal of amendment on Senate bill, entitled

An act relating to increased penalties for possession, sale, and dispensation of fentanyl

The Senate has concurred in the House proposal of amendment with further proposal of amendment as follows:

By striking out Secs. 1 and 2 in their entirety and inserting in lieu thereof four new sections to be Secs. 1a, 1b, 2a, and 2b to read as follows:

Sec. 1a. 18 V.S.A. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or

both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 1b. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or

narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 2a. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) murder in the first or second degree;
- (2) arson under sections 501-504 and 506 of this title;
- (3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;
- (4) receiving stolen property under sections 2561-2564 of this title; or
- (5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:
 - (A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;

-
- (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;
 - (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;
 - (D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine; or
 - (E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or
 - (F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 2b. USE OF U.S. FOOD AND DRUG ADMINISTRATION-APPROVED DRUGS CONTAINING CANNABIDIOL

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing cannabidiol by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing cannabidiol to a patient or a patient's authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued or by the patient's authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing cannabidiol, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

Pending the question, Will the House concur in the Senate proposal of amendment to the House proposal of amendment? Rep. Colburn of Burlington, moved to concur in the Senate proposal of amendment to the House proposal of amendment with a further amendment thereto, as follows:

First: By adding a new section to be Sec. 4 to read as follows:

Sec. 4. CRIMINAL CODE RECLASSIFICATION IMPLEMENTATION
COMMITTEE

(a) Creation. There is created the Criminal Code Reclassification Committee to develop and propose a classification system for purposes of structuring Vermont's criminal offenses.

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

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees;

(c) Powers and duties.

(1) The Committee shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Committee shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies. If the Committee is unable to determine an appropriate classification for a particular offense, the Committee shall indicate multiple classification possibilities for that offense.

(2) For purposes of the classification system developed pursuant to this section, the Committee shall consider the recommendations of the Criminal Code Reclassification Study Committee, and may consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mental element terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal

Office, and may consult with the Vermont Crime Research Group, the Vermont Law School Center for Justice Reform, and any other person who would be of assistance to the Committee.

(e) Report. On or before December 31, 2017, the Committee shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

(f) Meetings.

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

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

(3) The Committee shall cease to exist on January 15, 2018.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Second: In Sec. 5, effective dates, after the words “This section” by adding the following: , Sec. 4 (Criminal Code Reclassification Implementation Committee).

And that after passage the title of the bill be amended to read: “An act relating to fentanyl, a committee to reorganize and reclassify Vermont’s criminal statutes, and the ephedrine and pseudoephedrine registry”

Which was agreed to.

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 503

The bill appearing on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to bail

Was taken up for immediate consideration.

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

* * *Release Prior to Trial * * *

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. APPEARANCE BONDS; GENERALLY

(a) A bond given by a person charged with a criminal offense or by a

witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the ~~district or superior court~~ Criminal Division of the Superior Court where the prosecution is pending, and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) No bond may be imposed at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure. This subsection shall not be construed to restrict the court's ability to impose conditions on an individual reasonably to ensure his or her appearance at future proceedings or reasonably to protect the public in accordance with section 7554 of this title.

Sec. 2. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

* * *

(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

(4) A judicial officer may order that a defendant not possess firearms or other weapons. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

Sec. 3. 28 V.S.A. § 301 is amended to read:

§ 301. SUMMONS OR ARREST OF PROBATIONER

* * *

(2) Arrest or citation of person on probation. Any correctional officer may arrest a probationer without a warrant if, in the judgment of the correctional officer, the probationer has violated a condition or conditions of his or her probation other than a condition that the probationer pay restitution; or may deputize any other law enforcement officer to arrest a probationer without a warrant by giving him or her a written statement setting forth that the probationer has, in the judgment of the correctional officer, violated a

condition or conditions of his or her probation other than a condition that the probationer pay restitution. The written statement delivered with the person by the arresting officer to the supervising officer of the correctional facility to which the person is brought for detention shall be sufficient warrant for detaining him or her. In lieu of arrest, a correctional officer may issue a probationer a citation to appear for arraignment. In deciding whether to arrest or issue a citation, an officer shall consider whether issuance of a citation will reasonably ensure the probationer's appearance at future proceedings and reasonably protect the public.

* * *

(4) Detention pending hearing for probationer. Pending arraignment for any charge of violation, the probationer shall ~~continue to be detained at a correctional facility unless issued a citation by a correctional officer.~~ Thereafter, the court may release the probationer pursuant to 13 V.S.A. § 7554. There shall be no right to bail or release, unless the person is on probation for a nonviolent misdemeanor or nonviolent felony ~~and the probation violation did not constitute a new crime.~~ As used in this subdivision:

(A) "Nonviolent felony" means a felony offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(B) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64 or 13 V.S.A. § 1030.

* * * Regulated Drugs * * *

Sec. 4. 18 V.S.A. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in

an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 5. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin₂ or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine₂, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin₂ or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 6. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) murder in the first or second degree;
- (2) arson under sections 501-504 and 506 of this title;
- (3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;
- (4) receiving stolen property under sections 2561-2564 of this title; or
- (5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:
 - (A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;
 - (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;
 - (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;
 - (D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine; ~~or~~
 - (E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or

(F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 7. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer which that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) “Wholesaler” means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 8. USE OF U.S. FOOD AND DRUG ADMINISTRATION-
APPROVED DRUGS CONTAINING CANNABIDIOL

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing cannabidiol by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing cannabidiol to a patient or a patient’s authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued or by the patient’s authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing cannabidiol, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

* * * Impaired Driving * * *

Sec. 9. 23 V.S.A. § 1202 is amended to read:

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

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is

deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

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

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

~~(b) If the person refuses to submit to an evidentiary test it shall not be given, except as provided in subsection (f) of this section, but the A refusal to take a breath test may be introduced as evidence in a criminal proceeding.~~

* * *

(f) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary breath sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not

apply to search warrants authorized by this section.

* * *

* * * Electronic Monitoring * * *

Sec. 10. ELECTRONIC MONITORING

(a) The Commissioner of Corrections shall establish an active electronic monitoring program with real-time enforcement. The Electronic Monitoring Program shall be administered by the Department of State's Attorneys and Sheriffs and enforced by the Department of Corrections.

(b) The Electronic Monitoring Program described in subsection (a) of this section may be used to monitor, in lieu of incarcerating in a facility, the following populations:

(1) offenders in the custody of the Commissioner who are eligible for the Home Detention Program described in 13 V.S.A. § 7554b; and

(2) offenders in the custody of the Commissioner, including the following target populations:

(A) offenders who are eligible for home confinement furlough, as described in 28 V.S.A. § 808b;

(B) offenders who are past their minimum sentence and are deemed appropriate for the Program by the Commissioner of Corrections; or

(C) offenders who are eligible for reintegration furlough, as described in 28 V.S.A. § 808c.

(c) An offender shall only be eligible for the Electronic Monitoring Program described in subsection (a) of this section if electronic monitoring equipment is fully functional in the geographic area where the offender will be located.

* * * Humane and Proper Treatment of Animals * * *

Sec. 10a. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS

Subchapter 1. Cruelty to Animals

* * *

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than ~~three~~ five years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than ~~five~~ ten years or a fine of not more than \$7,500.00, or both.

* * *

Sec. 11. EFFECTIVE DATES

This section and Secs. 7 (ephedrine and pseudoephedrine), 9 (impaired driving), and 10 (electronic monitoring) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

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

An act relating to criminal justice.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Lalonde of South Burlington** moved that the House refuse to concur and ask for a Committee of Conference which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Lalonde of South Burlington

Rep. Conquest of Newbury

Rep. Shaw of Pittsford

Rules Suspended; Senate Proposal of Amendment to House Proposal of Amendment Concurred in

On Motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to life insurance policies and the Vermont Uniform Securities Act

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By striking out Sec. 23 and Sec. 24 and the accompanying reader assistance (unemployment compensation) in their entirety and inserting in lieu thereof a new Sec. 23 and a new Sec. 24 to read as follows:

Sec. 23. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(11) “Personal injury by accident arising out of and in the course of employment” includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(I)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) “Firefighter” means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) “Mental health professional” means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed to

provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) "Police officer" means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151.

(IV) "Rescue or ambulance worker" means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

(J)(i) A mental condition resulting from a work-related event or work-related stress shall be considered a personal injury by accident arising out of and in the course of employment and be compensable if it is demonstrated by the preponderance of the evidence that:

(I) the work-related event or work-related stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations; and

(II) the work-related event or work-related stress, and not some other event or source of stress, was the predominant cause of the mental condition.

(ii) A mental condition shall not be considered a personal injury by accident arising out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer.

* * *

Sec. 24. EMERGENCY PERSONNEL POST-TRAUMATIC STRESS DISORDER; STUDY OF EXPERIENCE AND COSTS; REPORT

(a) The Commissioner of Labor, in consultation with the Secretary of Administration, the Commissioner of Financial Regulation, the Vermont League of Cities and Towns, and the National Council on Compensation Insurance, shall examine claims for workers' compensation made pursuant to 21 V.S.A. § 601(11)(I) and (J) between July 1, 2017 and January 1, 2020, including:

(1) the number of claims made;

(2) the cost of the workers compensation benefits provided for those claims; and

(3) any changes in administrative and premium costs associated with

those claims.

(b) On or before January 15 of each year from 2018 through 2020, the Commissioner shall report to the House Committees on Appropriations, on Commerce and Economic Development, and on Health Care, and the Senate Committees on Appropriations, on Finance, and on Health and Welfare regarding its findings and any recommendations for legislative changes.

Which proposal of amendment was considered and concurred in.

Rules Suspended; Report of Committee of Conference Adopted

H. 42

Appearing on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to appointing municipal clerks and treasurers and to municipal audit penalties

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

Report of Committee of Conference

H. 42

An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

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

H.42. An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be further amended by striking out Sec. 4, 24 V.S.A. § 1686 (penalty) in its entirety and inserting in lieu thereof the following:

Sec. 4. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.

(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.

(c)(1) Any If, after at least five business days following his or her receipt by certified mail of a written request by the auditors or public accountant that is approved and signed by the legislative body, a town officer who willfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, that town officer shall be ineligible to reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.

(2) A town officer who violates subdivision (1) of this subsection (c) shall be personally liable to the town for a civil penalty in the amount of \$100.00 per day until he or she submits or furnishes the requested materials or information. A town may bring an action in the Civil Division of the Superior Court to enforce this subdivision.

(d) As used in this section, the term “town officer” shall not include an officer subject to the provisions of 16 V.S.A. § 323.

*BRIAN P. COLLAMORE
CLAIRE D. AYER
CHRISTOPHER A. PEARSON*

Committee on the part of the Senate

*MARCIA L. GARDNER
RONALD E. HUBERT
PATTI J. LEWIS*

Committee on the part of the House

Which was considered and adopted on the part of the House

**Proposal of Amendment agreed to; Third Reading;
Bill Passed in Concurrence with Proposal of Amendment**

S. 133

Senate bill, entitled

An act relating to examining mental health care and care coordination

Was taken up and pending third reading of the bill, **Rep. Lippert of Hinesburg** moved to propose to the Senate to amend the bill as follows:

First: In Sec. 1, in subdivision (3), in the last sentence, by striking out “recovery-oriented” and inserting in lieu thereof “recovery- and resiliency-

oriented”

Second: In Sec. 1, in subdivision (18), by striking out “recovery-oriented” and inserting in lieu thereof “recovery- and resiliency-oriented”

Third: In Sec. 3, in subdivision (a)(1)(A), by striking out “recovery-oriented” and inserting in lieu thereof “recovery- and resiliency-oriented”

Fourth: In Sec. 3, in subdivision (a)(1)(C), by striking out the phrase “for emergency services” and inserting in lieu thereof “to emergency departments”

Fifth: In Sec. 3, in subdivision (a)(1), by striking out subdivisions (D)–(G) in their entirety and inserting in lieu thereof a new subdivision (D) to read as follows:

(D) determine the availability, regional accessibility, and gaps in services that are barriers to efficient, medically necessary, recovery- and resiliency-oriented patient care at levels of support that are least restrictive and most integrated with regard to voluntary and involuntary hospital admissions, emergency departments, intensive residential recovery facilities, secure residential recovery facilities, crisis beds, and other diversion capacities; crisis intervention services; peer respite and support services; intensive and other outpatient services; services for transition age youths; and stable housing;

and by relettering the remaining subdivisions to be alphabetically correct.

Sixth: In Sec. 3, in subsection (b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(b)(1) The Commissioner shall collect data to inform the analysis and action plan described in subsection (a) of this section regarding emergency services for persons with psychiatric symptoms or complaints in the emergency department. The data collected regarding persons presenting in emergency departments with psychiatric symptoms shall include:

(A) the circumstances under which and reasons why a person is being referred or self-referred to an emergency department;

(B) measurements shown by research to affect length of waits; and

(C) rates at which persons brought to emergency departments for emergency examinations pursuant to 18 V.S.A. §§ 7504 and 7505 are found not to be in need of inpatient hospitalization.

Seventh: In Sec. 3, in subsection (b), in subdivision (2), following “inform the” by inserting the words “analysis and”, and following the words “action plan” by striking out “and preliminary analysis”

Eighth: In Sec. 4, in subdivision (1), in the second to last sentence, by

striking out “recovery-oriented” and inserting in lieu thereof “recovery- and resiliency-oriented” and in the last sentence, after the words “during the” by striking out the word “preliminary”

Ninth: In Sec. 4, in subdivision (4), in the last sentence, after the words “necessary in the” by striking out the word “preliminary”

Tenth: In Sec. 4, in subdivision (6), in the second to last sentence, after the words “If the” by striking out the word “preliminary”

Eleventh: In Sec. 4, in subdivision (7), in the last sentence, following the word “The” by inserting “analysis and” and following “action plan” by striking out the words “and preliminary analysis”

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

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

H. 503

House bill, entitled
An act relating to bail

H. 513

House bill, entitled
An act relating to making miscellaneous changes to education law

H. 529

House bill, entitled
An act relating to approval of amendments to the charter of the City of Barre

H. 534

House bill, entitled
An act relating to approval of the adoption and codification of the charter of the Town of Calais

S. 3

Senate bill, entitled
An act relating to mental health professionals’ duty to warn

S. 4

Senate bill, entitled

An act relating to publicly accessible meetings of an accountable care organization's governing body

S. 22

Senate bill, entitled

An act relating to increased penalties for possession, sale, and dispensation of fentanyl

S. 133

Senate bill, entitled

An act relating to examining mental health care and care coordination

Committee of Conference Appointed

S. 127

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to miscellaneous changes to laws related to vehicles and vessels

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Brennan of Colchester

Rep. Corcoran of Bennington

Rep. Burke of Brattleboro

Adjournment

At four o'clock and ten minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Saturday, April 29, 2017, at eight o'clock in the forenoon, pursuant to the provisions of J.R.S.32.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 140

House concurrent resolution congratulating the 2016 Lake Region Union High School Rangers Division II championship boys' soccer team;

H.C.R. 141

House concurrent resolution in memory of former Representative Sam Lloyd of Weston;

H.C.R. 142

House concurrent resolution honoring skiing photographer and photojournalist extraordinaire Hubert Schriebl;

H.C.R. 143

House concurrent resolution in memory of Leland Kinsey, the poet laureate of the Northeast Kingdom;

H.C.R. 144

House concurrent resolution designating the second full week of May 2017 as Women's Lung Health Week in Vermont;

H.C.R. 145

House concurrent resolution congratulating the New England Center for Circus Arts on its 10th anniversary and its cofounders, Elsie Smith and Serenity Smith Forchion, on winning the 2016 Walter Cerf Medal for Outstanding Achievement in the Arts;

H.C.R. 146

House concurrent resolution congratulating the Champlain Valley Union High School Redhawks on a winning a fourth consecutive girls' volleyball State championship;

H.C.R. 147

House concurrent resolution commemorating the 100th anniversary of the occupational therapy profession;

H.C.R. 148

House concurrent resolution in memory of Edward E. Steele of Waterbury;

H.C.R. 149

House concurrent resolution honoring Capitol Police Chief Leslie Robert Dimick for his outstanding public safety career achievements;

H.C.R. 150

House concurrent resolution congratulating Helmut Lenes on being named the 2017 David K. Hakins Inductee into the Vermont Sports Hall of Fame;

H.C.R. 151

House concurrent resolution honoring Tom Connor for his dynamic educational leadership and as director of the Journey East curriculum at Leland & Gray Middle and High School;

H.C.R. 152

House concurrent resolution congratulating Erwin Mattison on the 60th anniversary of his exemplary Bennington Fire Department service;

H.C.R. 153

House concurrent resolution congratulating Richard Knapp on a half-century of outstanding firefighting service and leadership with the Bennington Fire Department;

H.C.R. 154

House concurrent resolution congratulating the 2017 Vermont Prudential Spirit of Community Award honorees and distinguished finalists;

H.C.R. 155

House concurrent resolution honoring Henry Broughton of Vergennes for his half-century of outstanding leadership of the Vergennes Memorial Day Parade;

H.C.R. 156

House concurrent resolution honoring the invaluable public safety service of K9 Casco and Vermont State Police Corporal Michelle LeBlanc;

H.C.R. 157

House concurrent resolution congratulating the University of Vermont's 2017 Race to Zero participating teams;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2017, seventy-fourth Biennial session.]