

Journal of the House

Friday, May 5, 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 Rep. Christie of Hartford.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the Speaker recognized the following named Pages who are completing their service today and presented them with commemorative pins:

Eusebio Aja, III of Barre
Hannah Cawley of Colchester
Summer Chabot of Vergennes
Aine Fannon of Adamant
Isabella Gaffney of Starksboro
Megan Humphrey of Milton
Owen Kemerer of Essex Junction
Charlotte Mays of Warren
Rileigh Steinhour of Richford

House Bill Introduced

H. 539

By Rep. Chesnut-Tangerman of Middletown Springs,
House bill, entitled

An act relating to mandatory incarceration for a third DUI offense;
To the committee on Judiciary.

Remarks Journalized

On motion of **Rep. Lucke of Hartford**, the following remarks by **Rep. Gonzalez of Winooski** were ordered printed in the Journal:

“Madam Speaker,

Today is May 5th. Or, if we say it in Spanish “Cinco de Mayo.” This is a historic day celebrating the resilience of Mexicans and Mexican-Americans. In 1862 France attempted to invade Mexico. France at the time was the most

powerful army in the world. Mexican fighters, most untrained and many indigenous or mestizo, fought off the French in an epic battle in the town of Puebla. While 1 year later the French returned and ultimately it took 4 more years to fully defeat the French, Mexican-Americans took pride in winning this battle. As we know, the US was in our civil war at the time, with the French signaling they would support the Confederacy. Mexican-Americans overall and particularly those living in the free state of CA, those with African heritage, and those fighting alongside the Union, celebrated the Mexican win and gave them renewed confidence to fight for the Union.

Mexican-Americans continued to celebrate Cinco de Mayo as a low key holiday. That is, until the 1960s when the Chicana movement began. This movement fought for civil rights for Mexican Americans. At that time this holiday rose to greater significance. The significance of celebrating yourself and others winning your liberation against terrible odds.

Many of you may be seeing the parallels between Cinco de Mayo and St. Patrick's day. Both come from an ethnic group in the US who celebrate an event of perseverance and triumph from their home country. And neither holiday is celebrated in their home country.

Both ethnic groups have experienced systematic exclusion from many aspects of American life, fueled in part by stereotypes such as being heavy drinkers. And while Irish-Americans have long ago been accepted into mainstream, the stereotype has persisted. The alcohol industry took these uniquely American holidays of liberation, played off of stereotypes and turned them into days of libations.

As a Mexican-American with Irish-American heritage, I am proud my family includes generations of fighters for liberation. Currently on the national level Mexican and Mexican-Americans are once again being scapegoated and targeted. Here in VT we continue to renew our dedication to supporting all Vermonters.

So, if you celebrate Cinco de Mayo today you will be celebrating a uniquely American holiday that celebrates Mexican-Americans (including our indigenous, African, and European heritage), Celebrating Mexican-Americans fighting for liberation against tough odds. If you celebrate today, I encourage you to celebrate the people who fought and are still fighting, and who are defying stereotypes while doing so.”

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

S. 131

Senate bill, entitled

An act relating to State's Attorneys and sheriffs

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

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 495

Appearing on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to miscellaneous agriculture subjects

Was taken up for immediate consideration.

An act relating to miscellaneous agriculture subjects

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:

* * * Administrative Penalty Process * * *

Sec. 1. 6 V.S.A. § 13 is amended to read:

§ 13. ASSURANCES OF DISCONTINUANCE

(a) As an alternative to administrative or judicial proceedings, the ~~secretary~~ Secretary may accept an assurance of discontinuance of any violation. An assurance of discontinuance may include, ~~but need not be limited to:~~

- (1) specific actions to be taken;
- (2) abatement or mitigation schedules;
- (3) payment of a civil or administrative penalty and the costs of investigation; or
- (4) payment of an amount to be held in escrow pending the outcome of an action, or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing, and may by its terms be filed with the ~~superior court~~ Superior Court having jurisdiction over the subject matter and become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.

(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying regulatory program and shall be subject to the applicable general penalties for violations of the law under that program, in addition to any other applicable penalties.

(d) Costs of investigations collected under subsection (a) of this section

shall be credited to a special fund and shall be available to the ~~agency~~ Agency to offset these costs.

Sec. 2. 6 V.S.A. § 16 is amended to read:

§ 16. NOTICE AND FAIR HEARING REQUIREMENTS

(a) The ~~secretary~~ Secretary shall use the following procedures in assessing the penalty under section 15 of this title: the alleged violator shall be given an opportunity for hearing after reasonable notice and the notice shall be served by personal service or by certified mail, ~~return receipt requested~~ sent to the last address of record on file with the Agency. If the alleged violator is not an applicant for or holder of a license, permit, registration, or certification issued by the Agency, the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

(1) a A statement of the legal authority and jurisdiction under which the hearing is to be held;

(2) a A statement of the matter at issue, including reference to the particular statute or administrative rule allegedly violated and a factual description of the alleged violation;

(3) ~~the~~ The amount of the proposed administrative penalty; and required corrective action, abatement, or mitigation.

(4) a A warning that the decision shall become final and the penalty shall be imposed if no hearing is requested within 15 days of receipt service of the notice. The notice shall specify the requirements ~~which~~ that must be met in order to avoid being deemed to have waived the right to a hearing, or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the ~~secretary~~ Secretary shall issue a final order finding the person in default and imposing the penalty and any required corrective action, abatement, or mitigation. A copy of the final default order shall be ~~sent to~~ served upon the violator by certified mail, return receipt requested, or by personal service.

(c) When an alleged violator requests a hearing in a timely fashion, the ~~secretary~~ Secretary shall hold the hearing pursuant to 3 V.S.A. chapter 25.

Sec. 3. 6 V.S.A. § 17 is amended to read:

§ 17. COLLECTIONS

(a) The ~~secretary~~ Secretary may collect an unpaid administrative or civil

penalty by filing a civil collection action in any ~~district or superior court,~~ Superior Court or through any other means available to ~~state~~ State agencies.

(b) The ~~secretary~~ Secretary may, subject to 3 V.S.A. chapter 25, suspend any license, certificate, registration, or permit issued pursuant to his or her authority for failure to pay a penalty under this chapter more than ~~60~~ 45 days after the penalty was ~~issued~~ imposed by order and served.

* * * Acceptance of Gifts of Real Property * * *

Sec. 4. 6 V.S.A. § 14 is amended to read:

§ 14. ACCEPTANCE OF GIFTS OF REAL PROPERTY

The ~~secretary~~ Secretary, with the approval of the ~~governor~~ Governor, may accept gifts of the rights and interests in real property in the manner provided by 10 V.S.A. chapter 155. Rights or interests in real property acquired by the Secretary through transactions funded in whole or in part by the Vermont Housing and Conservation Board are deemed as accepted by the Governor.

* * * Meat Inspection * * *

Sec. 5. 6 V.S.A. § 3306(i) is amended to read:

(i) All applicants for licensure or relicensure as a commercial slaughter facility shall submit a written humane livestock handling plan or a good commercial practices plan for poultry for review and approval by the Secretary of Agriculture, Food and Markets or designee. The Secretary may suspend, revoke, or condition any commercial slaughter facility license, after notice and opportunity for hearing, for a licensee's failure to adhere to the written plan.

* * * Weights and Measures * * *

Sec. 6. 9 V.S.A. § 2730(c) is amended to read:

(c) Any person wishing to obtain a license to operate a weighing or measuring device shall annually apply to the Secretary, on forms provided by the Secretary, on or before January 1. Each application shall be accompanied by a fee as specified in this section. Except for new applicants, any applicant who applies for a license after January 1 shall pay ~~an additional late fee equal to 10 percent of the specified fee~~ a late fee as provided for under 6 V.S.A. § 1(a)(13).

* * * Working Lands * * *

Sec. 7. 6 V.S.A. § 4607(b) is amended to read:

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

* * *

(6) to establish an application process and, eligibility criteria, and criteria for prioritizing assistance for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems, ~~provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry;~~

* * *

Sec. 8. WORKING LANDS ENTERPRISE BOARD; CRITERIA FOR PRIORITIZING AWARDS

On or before January 15, 2018, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry the guidelines that the Working Lands Enterprise Board shall use in prioritizing awards of assistance under 10 V.S.A. § 4607(b)(6).

* * * Multi-year Licensing * * *

Sec. 9. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Agency of Agriculture, Food and Markets shall be administered by a Secretary of Agriculture, Food and Markets. The Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The Secretary may:

* * *

(13) Notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such ~~the~~ the multiyear licensure, permit, registration, or certificate on a pro-rated basis, which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the Secretary ~~where~~ for which the annual fee is more than ~~\$125.00~~ \$175.00. The Secretary shall only provide refunds for overpayments of \$25.00 or more on a license, permit, registration, or

certificate issued by the Secretary. The Secretary may assess a late fee of \$27.00, provided that the late fee is no greater than the fee due, in which case the late fee shall equal the fee due, for any license, registration, permit, or certification renewal that is received more than 30 days past expiration, unless a higher late renewal fee is otherwise prescribed by statute.

* * *

* * * Subsurface Tile Drainage * * *

Sec. 10. 6 V.S.A. § 4810a(b) is amended to read:

(b)(1) On or before December 1, 2019, and prior to prefiling a rule under 3 V.S.A. § 837, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry draft rules amending the required agricultural practices, in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. On or before January 15, 2018 July 1, 2020, the Secretary of Agriculture, Food and Markets shall amend by rule initiate rulemaking to amend the required agricultural practices, in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage, upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

(2)(A) Beginning on July 1, 2017, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall establish a program to map the location of subsurface tile drainage on farms in the State and to monitor, to the extent possible, the water quality effects of subsurface tile drainage on State waters. Beginning on January 1, 2018, and annually thereafter, the Secretary of Natural Resources shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and the House Committees on Natural Resources, Fish and Wildlife and on Agriculture and Forestry a report that includes:

(i) a map of identified subsurface tile drainage in the State; and

(ii) a list of the specific response or enforcement actions taken by the Agency of Natural Resources or the Agency of Agriculture, Food and Markets to address the effects of subsurface tile drainage on the waters of the State.

(B) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

* * * Use Value Appraisal; Agricultural Lands * * *

Sec. 11. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

As used in this subchapter:

(1) “Agricultural land” means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock ~~or to~~, cultivate trees bearing edible fruit, or produce an annual maple product, and ~~which~~ that is 25 acres or more in size, except as provided in this subdivision (1). Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets’ Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit; or

(B) it is used by a farmer as part of his or her farming operation under written lease for at least three years; or

(C) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:

(i) \$2,000.00 for parcels of up to 25 acres; and

(ii) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00.

(iii) Exceptions to these income requirements may be made in cases of orchard lands planted to ~~fruit-producing~~ fruit-producing trees, bushes, or vines ~~which~~ that are not yet of bearing age. As used in this section, the term “farm crops” also includes animal fiber, cider, wine, and cheese, produced on the enrolled land or on a housesite adjoining the enrolled land, from agricultural products grown on the enrolled land.

* * *

(14) “Farm buildings” means all farm buildings and other farm improvements ~~which~~ that are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under a written lease for a term of three years or more, and are situated on land that is enrolled in a use value appraisal program or on a housesite adjoining enrolled land. “Farm buildings” shall include up to \$100,000.00 of the value of a farm facility processing farm crops, a minimum of 75 percent of which are produced on the farm and shall not include any dwelling, other than a dwelling in use during ~~the preceding tax year~~ prior 12 months exclusively to house one or more farm employees, as defined in 9 V.S.A. § 4469a, and their families, as a

nonmonetary benefit of the farm employment. This subdivision shall not affect the application of the definition of “farming” in 10 V.S.A. § 6001(22) or the definition of “farm structure” in 24 V.S.A. § 4413(d)(1).

* * *

Sec. 12. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings ~~which~~ that meet the criteria contained in this subchapter and in the ~~regulations~~ rules adopted by the Board shall be eligible for use value appraisal.

* * *

(d) After ~~a parcel~~ of managed forestland has been removed from use value appraisal due to an adverse inspection report under subdivision 3756(i)(1) of this title, a new application for use value appraisal ~~will~~ shall not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * *

(f) On or before ~~September~~ November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

* * * Raw Milk * * *

Sec. 13. 6 V.S.A. § 2776 is amended to read:

§ 2776. DEFINITIONS

In this chapter:

(1) “Consumer” means a customer who purchases, barter for, receives delivery of, or otherwise acquires unpasteurized milk according to the requirements of this chapter.

(2) “Milk” shall have the same meaning as set forth in section 2672 of this title.

(3) “Personal consumption” means the use by a consumer of unpasteurized milk for food or to create a food product made with or from unpasteurized milk that is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.

~~(3)~~(4) “Unpasteurized milk” or “unpasteurized (raw) milk” means milk that is unprocessed.

~~(4)~~(5) “Unprocessed” means milk that has not been modified from the natural state it was in as it left the animal, other than filtering, packaging, and cooling.

* * * Department of Forests, Parks and Recreation;

Water Quality Assistance * * *

Sec. 14. 10 V.S.A. § 2622a is added to read:

§ 2622a. WATER QUALITY ASSISTANCE PROGRAM

(a) Creation of program. There is established the Water Quality Assistance Program under which the Commissioner of Forests, Parks and Recreation shall provide technical and financial assistance to timber harvesters and others for compliance with water quality requirements in the State. The Commissioner of Forests, Parks and Recreation shall coordinate with natural resources conservation districts in the implementation of the Program.

(b) Eligible assistance. Under the Program, the Commissioner of Forests, Parks and Recreation is authorized to expend monies for the following activities in order to facilitate compliance with water quality requirements:

(1) Award financial assistance in the form of grants to timber harvesters and others to purchase or construct skidder bridges and other equipment.

(2) Purchase premade skidder bridges and other equipment to loan or lease to timber harvesters and others.

(3) Purchase available, premade skidder bridges and other equipment and provide those bridges or equipment to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees.

(4) If premade skidder bridges are not available on the commercial market, issue in a calendar year two requests for proposal for the construction of skidder bridges for delivery to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees. The Commissioner shall issue one request for proposal for the northern part of the State and one request for proposal for the southern part of the State.

(c) Financial assistance. An applicant for a grant under this section shall pay at least 10 percent of the total cost of the equipment. The dollar amount of a State grant shall be equal to the total cost of the equipment, less 10 percent of the total as paid by the applicant. A grant awarded under this section shall be awarded in accordance with terms and conditions established by the Commissioner.

(d) Spill kit. The Commissioner shall provide a person who purchases, constructs, or loans out a skidder bridge under subsection (b) of this section with a spill kit for containing or absorbing fluids released during timber harvesting activities.

Sec. 15. APPROPRIATIONS

Of the capital funds appropriated to the Agency of Natural Resources in FY 2018 for ecosystem restoration and protection, up to \$50,000.00 shall be used by the Department of Forests, Parks and Recreation for implementation of the Water Quality Assistance Program under 10 V.S.A. § 2622a.

* * * Forestry Equipment; Sales Tax; Gasoline Tax; Diesel Tax * * *

Sec. 16. 23 V.S.A. chapter 28, subchapter 1 is amended to read:

Subchapter 1: General Gasoline Tax

§ 3101. DEFINITIONS

As used in this chapter:

* * *

(3) As used in this subchapter, “gasoline or other motor fuel” or “motor fuel” shall not include the following: kerosene, ~~diesel oil~~ clear or undyed diesel “fuel” as defined in section 3002 of this title, “railroad fuel” as defined in section 3002 of this title, aircraft jet fuel, or natural gas in any form. Except for “railroad fuel” taxed under section 3003 of this title, the taxation or exemption from taxation of dyed diesel fuel is not addressed under this title.

* * *

Sec. 17. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(7)(A) Sales Except as provided in subdivision (B) of this subdivision

(7), sales of:

- (i) motor fuels taxed or exempted under 23 V.S.A. chapter 28;
- (ii) dyed diesel used to power machinery described in subdivision (51) of this section; and
- (iii) dyed diesel used to propel a vehicle off the highways of the State.

~~(B) provided, however, that aviation~~ Aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the ~~transportation fund~~ Transportation Fund in accordance with 19 V.S.A. § 11.

* * *

(51) The following machinery, including repair parts, used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimiters, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes shall publish guidance relating to the application of this exemption.

Sec. 18. 32 V.S.A. § 9706 is amended to read:

§ 9706. STATUTORY PURPOSES

* * *

(d) The statutory purpose of the exemption for fuels for railroads and boats, to propel vehicles, and to power machinery used in the timber industry, in subdivision 9741(7) of this title is to avoid the taxation of fuels:

(1) for the types of transportation for which public expenditure on infrastructure is unnecessary;

(2) that are already subject to taxation under 23 V.S.A. chapter 27 or 28 in support of public expenditure on infrastructure or are specifically exempt from taxation under either of those chapters; and

(3) in order to promote Vermont's commercial timber and forest products economy.

* * *

(kk) The statutory purpose of the exemption for timber cutting, removal, and processing machinery in subdivision 9741(51) of this title is to promote Vermont's commercial timber and forest products economy.

* * *Nutrient Management Plans* * *

Sec. 18a. 6 V.S.A. § 61 is amended to read:

§ 61. INFORMATION COLLECTION AND CONFIDENTIALITY

(a) The ~~secretary~~ Secretary may collect information on subjects within the jurisdiction of the ~~agency~~ Agency, including data obtained from questionnaires, surveys, physical samples, and laboratory analyses conducted by the ~~agency~~ Agency. Such information shall be available upon request to the public, provided that it is presented in a form ~~which~~ that does not disclose the identity of individual persons, households, or businesses from whom the information was obtained, or whose characteristics, activities, or products the information is about.

(b) Nutrient management plans or nutrient management plan data produced or acquired by the Agency under chapter 215 of this title are exempt from public inspection and copying under the Public Records Act. The Agency may release to the public nutrient management data compiled in aggregate form, provided that the Agency does not disclose the identity of individual persons, households, or businesses from whom the information was obtained.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 13 (raw milk) and 14 (Forestry Water Quality Assistance Program) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2017.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Bock of Chester** 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. Smith of New Haven

Rep. Bock of Chester

Rep. Higley of Lowell

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

H. 495

House bill, entitled

An act relating to miscellaneous agriculture subjects

Rules Suspended; Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered; Rules Suspended and Bill Placed in All Remaining Stages of Passage; Third Reading; Bill Passed; Rules Suspended; Bill Messaged to Senate Forthwith

S. 95

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to sexual assault nurse examiners

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Wood of Waterbury, for the committee on Human Services, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. chapter 167, subchapter 5 is amended to read:

Subchapter 5. Sexual Assault Nurse Examiners

§ 5431. DEFINITION; CERTIFICATION

(a) As used in this subchapter, “SANE” means a sexual assault nurse examiner.

(b) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification from the SANE Program as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board.

§ 5432. SANE BOARD

(a) The SANE Board is created for the purpose of ~~regulating sexual assault nurse examiners~~ advising the Sexual Assault Nurse Examiners Program.

(b) The SANE Board shall be composed of the following members:

(1) the Executive Director of the Vermont State Nurses Association or designee;

(2) the President of the Vermont Association of Hospitals and Health Systems;

(3) the Director of the Vermont Forensic Laboratory or designee;

(4) the Director of the Vermont Network Against Domestic and Sexual Violence or designee;

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- (5) an attorney with experience prosecuting sexual assault crimes, appointed by the Attorney General;
- (6) the Executive Director of the Vermont Center for Crime Victim Services or designee;
- (7) a law enforcement officer assigned to one of Vermont's special units of investigation, appointed by the Commissioner of Public Safety;
- (8) a law enforcement officer employed by a municipal police department, appointed by the Executive Director of the Vermont Criminal Justice Training Council;
- (9) three sexual assault nurse examiners, appointed by the Attorney General;
- (10) a ~~physician~~ health care provider as defined in 18 V.S.A. § 9402 whose practice includes the care of victims of sexual assault, appointed by the Vermont Medical Society Commissioner of Health;
- (11) a pediatrician whose practice includes the care of victims of sexual assault, appointed by the Vermont Chapter of the American Academy of Pediatrics;
- (12) the Coordinator of the Vermont Victim Assistance Program or designee;
- (13) the President of the Vermont Alliance of Child Advocacy Centers or designee;
- (14) the Chair of the Vermont State Board of Nursing or designee; ~~and~~
- (15) the Commissioner for Children and Families or designee; ~~and~~
- (16) the Commissioner of Health or designee.
- (c) The SANE Board shall advise the SANE Program on the following:
- (1) statewide program priorities;
- (2) training and educational requirements;
- (3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses; and
- (4) statewide policy development related to sexual assault nurse examiner programs.

§ 5433. SANE PROGRAM CLINICAL COORDINATOR

~~A grant program shall be established by~~ A clinical coordinator position

~~shall be funded by either the Vermont Center for Crime Victim Services, subject to available funding, to fund a clinical coordinator position or through other identified State funding options~~ for the purpose of staffing the SANE program Program. The position shall be contracted through the Vermont Network Against Domestic and Sexual Violence. The Clinical Coordinator shall consult with the SANE Board in performing the following duties:

- (1) overseeing the recruitment and retention of SANEs in the State of Vermont;
- (2) administering a statewide ~~training~~ educational program, including:
 - (A) the initial SANE certification training;
 - (B) ongoing training to ensure currency of practice for SANEs; and
 - (C) advanced training programs as needed;
- (3) providing consultation and, technical assistance, and training to SANEs and acute care hospitals regarding the ~~standardized sexual assault protocol~~ standards of care for sexual assault patients; and
- (4) providing training and outreach to criminal justice and community-based agencies as needed; and
- (5) coordinating and managing a system for ensuring best practices;
- (6) granting certifications, pursuant to section 5431 of this title, to candidates who demonstrate compliance with the requirements for specialized certification as established by the SANE Board.

§ 5434. SANE BOARD DUTIES

~~(a) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board by rule.~~

~~(b) The SANE Board shall adopt the following by rule:~~

- ~~(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;~~
- ~~(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;~~
- ~~(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;~~

~~(4) a system of monitoring for compliance; and~~

~~(5) processes for investigating complaints, revoking certification, and appealing decisions of the Board.~~

~~(c) The SANE Board may investigate complaints against a sexual assault nurse examiner and may revoke certification as appropriate. [Repealed.]~~

§ 5435. ACCESS TO A SEXUAL ASSAULT NURSE EXAMINER

(a) On or before September 1, 2017, the Vermont Association of Hospitals and Health Systems (VAHHS) and the Vermont SANE Program shall enter into a memorandum of understanding (MOU) to ensure improved access to sexual assault nurse examiners (SANE) for victims of sexual assault in underserved regions. Improved access may include all acute care hospitals to provide patients with care from a paid employee who is also a certified sexual assault nurse examiner or access to a shared regional staffing pool that includes certified sexual assault nurse examiners.

(b) The Vermont SANE Program shall develop and offer an annual training regarding standards of care and forensic evidence collection to emergency department appropriate health care providers at acute care hospitals in Vermont. Personnel who are certified sexual assault nurse examiners shall not be subject to this subsection.

(c) On or before January 1, 2018, the SANE Program shall report to the General Assembly on training participation rates pursuant to subsection (b) of this section.

Sec. 2. SEXUAL ASSAULT EVIDENCE KITS; STUDY COMMITTEE

(a) Creation. There is created the Sexual Assault Evidence Kit Study Committee for the purpose of conducting a comprehensive examination of issues related to sexual assault evidence kits.

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

(1) the Director of the Vermont Forensic Laboratory or designee;

(2) the Executive Director of the Vermont Center for Crime Victims Services or designee;

(3) the Commissioner of Health or designee;

(4) a representative of the Vermont Sexual Assault Nurse Examiners (SANE) Program;

(5) a representative of the county special investigative units appointed by the Executive Director of the State's Attorneys and Sheriffs; and

(6) a law enforcement professional appointed by the Commissioner of Public Safety.

(c) Powers and duties. The Committee shall address the following issues:

(1) the current practices for kit tracking;

(2) the effectiveness and cost of a system allowing for the online completion of sexual assault evidence kit documentation with electronic notification after reports are submitted;

(3) the feasibility and cost of a web-based tracking system to allow agencies involved in the response and prosecution of sexual assault to track sexual assault evidence kits, pediatric sexual assault evidence kits, and toxicology kits using a bar code number uniquely assigned to each kit;

(4) the effectiveness and challenges of the current system of police transport of evidence kits from hospitals to the Vermont Forensic Laboratory; and

(5) the feasibility and cost of alternative methods of transport of sexual assault evidence kits such as mail, delivery service, or courier.

(d) Assistance. The Center for Crime Victim Services shall convene the first meeting of the Committee and provide support services.

(e) Report. On or before November 1, 2017, the SANE Program, on behalf of the Committee, shall submit a written report to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Center for Crime Victim Services shall call the first meeting of the Committee to occur on or before August 1, 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 15, 2018.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

Thereupon, the bill was read the second time, the report of the committee on Human Services was agreed to and third reading was ordered.

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time

and passed

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Rules Suspended; Report of Committee of Conference Adopted

H. 171

Appearing on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to expungement

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

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.171. An act relating to expungement.

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

Sec. 1. 13 V.S.A. § 8005 is amended to read:

§ 8005. NOTICE OF COLLATERAL CONSEQUENCES AND
ELIGIBILITY FOR EXPUNGEMENT IN PRETRIAL
PROCEEDING

* * *

(b) Before the ~~Court~~ court accepts a plea of guilty or nolo contendere from an individual, the ~~Court~~ court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

(C) that there may be ways to obtain relief from collateral consequences;

(D) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(E) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(E)~~(F) that conviction of a crime in this State does not prohibit an individual from voting in this State.

Sec. 2. 13 V.S.A. § 8006 is amended to read:

§ 8006. NOTICE OF COLLATERAL CONSEQUENCES AND
ELIGIBILITY FOR EXPUNGEMENT UPON RELEASE

(a) Prior to the completion of a sentence, an individual in the custody of the Commissioner of Corrections shall be given written notice of the following:

(1) that collateral consequences may apply because of the conviction;

(2) the Internet address of the collection of laws published under this chapter;

(3) that there may be ways to obtain relief from collateral consequences;

(4) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(5) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(5)~~(6) that conviction of a crime in this State does not prohibit an individual from voting in this State.

(b) For persons sentenced to incarceration, the notice shall be provided not more than 30 days and at least 10 days before completion of the sentence. If the sentence is for a term of less than 30 days then notice shall be provided when the sentence is completed.

(c) For persons receiving a sentence involving community supervision, such as probation, furlough, home confinement, conditional reentry, or parole, the notice shall be provided by the Department of Corrections in keeping with

its mission of ensuring rehabilitation and public safety.

(d) For persons receiving a penalty involving a fine only, the court shall, at the time of the judgment, provide either oral or written notice that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title.

Sec. 3. 13 V.S.A. § 7601(4) is amended to read:

(4) "Qualifying crime" means:

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

(i) a listed crime as defined in subdivision 5301(7) of this title;₂

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;₂

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;₂

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

(v) a predicate offense;

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

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

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

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

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

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

* * *

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

(A) At least ~~10~~ five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and

conditions of an indeterminate term of probation that commenced at least ~~10~~ five years previously.

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

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

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

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

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

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

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

(A) At least ~~20~~ 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(C) The person has not been convicted of a misdemeanor during the past ~~15~~ five years.

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

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

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

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

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

(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

~~(1) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.~~

~~(2) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously.~~

~~(3) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.~~

~~(4) The person successfully completed a term of regular employment or public service, independent of any service ordered as a part of the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:~~

~~(A) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;~~

~~(B) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing;~~

~~(C) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing; or~~

~~(D) at least one year of regular employment.~~

~~(5) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.~~

~~(6) The Court finds that expungement of the criminal history record serves the interest of justice.~~

(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interest of justice, the Court shall grant the petition and order that the criminal history

record be expunged in accordance with section 7606 of this title if the following conditions are met:

(1) ~~At least one year has elapsed since the completion of~~ The petitioner has completed any sentence or supervision for the offense, ~~whichever is later.~~

(2) Any restitution ordered by the ~~Court~~ court has been paid in full.

(3) ~~The Court finds that expungement of the criminal history record serves the interest of justice.~~

* * *

Sec. 5. 13 V.S.A. § 7605 is amended to read:

§ 7605. DENIAL OF PETITION

If a petition for expungement is denied by the ~~Court~~ court pursuant to this chapter, no further petition shall be brought for at least ~~five~~ two years, unless a shorter duration is authorized by the court.

Sec. 6. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The ~~Court~~ court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The ~~Court~~ court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 7. SECRETARY OF STATE; ATTORNEY GENERAL; REPORT

The Secretary of State, in consultation with the Attorney General, shall evaluate how to comply with the requirements of 13 V.S.A. chapter 230 and, on or before January 15, 2018, report to the House and Senate Committees on Judiciary to confirm such compliance.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 3 (13 V.S.A. § 7601(4)), subdivision (E), which shall take effect on January 1, 2018.

*ALICE W. NITKA
RICHARD W. SEARS
JOSEPH C. BENNING*

*Committee on the part of the
Senate*

*MARTIN J. LALONDE
CHARLES W. CONQUEST
JANSSEN D. WILLHOIT*

Committee on the part of the House

Which was considered and adopted on the part of the House

Rules Suspended; Report of Committee of Conference Adopted

S. 16

Appearing on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to expanding patient access to the Medical Marijuana Registry

Was taken up for immediate consideration.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

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

S.16. An act relating to expanding patient access to the Medical Marijuana Registry.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

As used in this subchapter:

(1)(A) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than three months’ duration, in the course of which a health care professional has completed a full assessment

of the registered patient's medical history and current medical condition, including a personal physical examination.

(B) The three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

(I) a terminal illness;

(II) cancer; or

(III) acquired immune deficiency syndrome; ~~or~~

~~(IV) is currently under hospice care.~~

(ii) a patient is currently under hospice care;

~~(ii)(iii)~~ (iii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

~~(iii)(iv)~~ (iv) a patient who is already on the ~~registry~~ Registry changes health care professionals three months or less prior to the annual renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination;

(v) a patient is referred by his or her health care professional to another health care professional who has completed advanced education and clinical training in specific debilitating medical conditions, and that health care professional conducts a full assessment of the patient's medical history and current medical condition, including a personal physical examination; or

(vi) a patient's debilitating medical condition is of recent or sudden onset.

* * *

(4) "Debilitating medical condition," ~~provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (4), reasonable medical efforts have been made over a reasonable amount of time to relieve the symptoms,~~ means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma,

Crohn's disease, Parkinson's disease, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or

(C) a disease, or medical condition, or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome; chronic pain; severe nausea; or seizures.

(5) "Dispensary" means a ~~nonprofit entity~~ business organization registered under section 4474e of this title ~~which that~~ acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient's use for symptom relief. A dispensary may provide marijuana for symptom relief to registered patients at only one facility or location, but may have a second location associated with the dispensary where the marijuana is cultivated or processed. Both locations are considered to be part of the same dispensary. A dispensary may serve patients and caregivers at not more than two locations, as approved by the Department in consideration of factors provided in subsection 4474f(e) of this title, and may cultivate and process marijuana at a separate location from where patients and caregivers are served. All locations shall be considered part of the same dispensary operation under one registration.

(6) "Financier" means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an investment in, or a gift, loan, or other financing to, another person with the expectation of a financial return. If a financier is a business organization, as used in this chapter, the term "financier" includes each owner and principal of that organization.

~~(6)~~(7)(A) "Health care professional" means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

~~(7)~~(8) "Immature marijuana plant" means a female marijuana plant that

has not flowered and which does not have buds that may be observed by visual examination.

~~(8)~~(9) “Marijuana” shall have the same meaning as provided in subdivision 4201(15) of this title.

~~(9)~~(10) “Mature marijuana plant” means a female marijuana plant that has flowered and ~~which~~ that has buds that may be observed by visual examination.

(11) “Mental health care provider” means a person licensed to practice medicine who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; or a clinical mental health counselor as defined in 26 V.S.A. § 3261.

(12) “Ounce” means 28.35 grams.

(13) “Owner” means:

(A) a person that has a direct or beneficial ownership interest of ten percent or more in a business organization, including attribution of the ownership interests of a spouse or domestic partner, parent, spouse’s or domestic partner’s parent, sibling, and children; or

(B) a person that has the power to direct, or cause the direction of, the management and policies of a business organization, including through the ownership of voting securities, by contract, or otherwise.

~~(10)~~(14) “Possession limit” means the amount of marijuana collectively possessed between the registered patient and the patient’s registered caregiver ~~which~~ that is no more than two mature marijuana plants, seven immature plants, and two ounces of usable marijuana.

(15) “Principal” means a person that has the authority to conduct, manage, or supervise the operation of a business organization, and includes the president, vice president, secretary, treasurer, manager, or similar executive officer of a business organization; a director of a business corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; a manager of a manager-managed limited liability company; and a general partner of a partnership, limited partnership, or limited liability partnership.

~~(11)~~(16) “Registered caregiver” means a person who is at least 21 years of age, has met eligibility requirements as determined by the Department in accordance with this chapter, and ~~who~~ has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

~~(12)~~(17) “Registered patient” means a resident of Vermont who has been issued a registration card by the Department of Public Safety, identifying the person as having a debilitating medical condition pursuant to the provisions of this subchapter. “Resident of Vermont” means a person whose domicile is Vermont.

~~(13)~~(18) “Secure indoor facility” means a building or room equipped with locks or other security devices that permit access only by a registered caregiver, or registered patient, ~~or a principal officer or employee of a dispensary.~~

~~(14)~~(19) “Transport” means the movement of marijuana and marijuana-infused products from registered growing locations to their associated dispensaries, between dispensaries, to registered patients and registered caregivers in accordance with delivery protocols, or as otherwise allowed under this subchapter.

~~(15)~~(20) “Usable marijuana” means the dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant.

~~(16)~~(21) “Use for symptom relief” means the acquisition, possession, cultivation, use, transfer, or transportation of marijuana, or of paraphernalia relating to the administration of marijuana to alleviate the symptoms or effects of a registered patient’s debilitating medical condition ~~which~~ that is in compliance with all the limitations and restrictions of this subchapter.

Sec. 2. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

(1) A patient with a debilitating medical condition shall submit a signed application for registration to the Department. ~~A patient’s initial application to the registry shall be notarized, but subsequent renewals shall not require notarization.~~ If the patient is under 18 years of age, the application must be signed by both the patient and a parent or guardian. The application shall require identification and contact information for the patient and the patient’s registered caregiver applying for authorization under section 4474 of this title, if any, and the patient’s designated dispensary under section 4474e of this title, if any. The applicant shall attach to the application a medical verification form developed by the Department pursuant to subdivision (2) of this subsection.

(2) The Department of Public Safety shall develop a medical verification form to be completed by a health care professional and submitted by a patient applying for registration in the program. The form shall include:

(A) A cover sheet ~~which~~ that includes the following:

(i) A statement of the penalties for providing false information.

(ii) Definitions of the following statutory terms:

(I) “Bona fide health care professional-patient relationship” as defined in section 4472 of this title.

(II) “Debilitating medical condition” as defined in section 4472 of this title.

(III) “Health care professional” as defined in section 4472 of this title.

(iii) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

(B) A verification sheet ~~which~~ that includes the following:

(i) A statement that a bona fide health care professional-patient relationship exists under section 4472 of this title, or that, under subdivision (3)(A) of this subsection (b), the debilitating medical condition is of recent or sudden onset, ~~and the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

~~(ii) A statement that reasonable medical efforts have been made over a reasonable amount of time without success to relieve the symptoms.~~
[Repealed.]

(iii) A statement that the patient has a debilitating medical condition as defined in section 4472 of this title, including the specific disease or condition ~~which~~ that the patient has and whether the patient meets the criteria under section 4472.

(iv) A signature line ~~which~~ that provides in substantial part: “I certify that I meet the definition of ‘health care professional’ under 18 V.S.A. § 4472, that I am a health care professional in good standing in the State of , and that the facts stated above are accurate to the best of my knowledge and belief.”

(v) The health care professional’s contact information, license number, category of his or her health care profession as defined in subdivision

4472(6) of this title, and contact information for the out-of-state licensing agency, if applicable. The Department of Public Safety shall adopt rules for verifying the goodstanding of out-of-state health care professionals.

(vi) A statement that the medical verification form is not considered a prescription and that the only purpose of the medical verification form is to confirm that the applicant patient has a debilitating medical condition.

~~(3)(A) The Department of Public Safety shall transmit the completed medical verification form to the health care professional and contact him or her for purposes of confirming the accuracy of the information contained in the form. The Department may approve an application, notwithstanding the six-month requirement in section 4472 of this title, if the Department is satisfied that the medical verification form confirms that the debilitating medical condition is of recent or sudden onset, and that the patient has not had a previous health care professional who is able to verify the nature of the disease and its symptoms.~~

(B) If the health care professional is licensed in another state as provided section 4472 of this title, the Department shall verify that the health care professional is in good standing in that state.

* * *

Sec. 3. 18 V.S.A. § 4474(c)(1) is amended to read:

(c)(1) Except as provided in subdivision (2) of this subsection, a registered caregiver may serve only one registered patient at a time, and a registered patient may have only one registered caregiver at a time. A registered patient may serve as a registered caregiver for one other registered patient.

Sec. 4. 18 V.S.A. § 4474d is amended to read:

§ 4474d. LAW ENFORCEMENT VERIFICATION OF INFORMATION;
RULEMAKING

* * *

(b) In response to a person-specific or property-specific inquiry by a law enforcement officer or agency made in the course of a bona fide investigation or prosecution, the Department may verify the identities and registered property addresses of the registered patient and the patient's registered caregiver, a dispensary, and the principal officer, the Board members, and an owner, a principal, a financier, and the employees of a dispensary.

(c) The Department shall maintain a separate secure electronic database accessible to law enforcement personnel 24 hours a day that uses a unique

identifier system to allow law enforcement to verify that a person or entity is a registered patient, a registered caregiver, a dispensary, ~~or the principal officer, a board member~~ an owner, a principal, a financier, or an employee of a dispensary.

* * *

Sec. 5. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

* * *

~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax-exempt organization by the Internal Revenue Service.~~

~~(2)~~ A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed a secure, locked facility which is either indoors or otherwise outdoors, but not visible to the public and which that can only be accessed by principal officers and the owners, principals, financiers, and employees of the dispensary who have valid registry identification cards. An outdoor facility is not required to have a roof, provided all other requirements are met. The Department of Public Safety shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' ~~registry~~ Registry identification numbers to protect their confidentiality.

* * *

(f) A person may be denied the right to serve as an owner, a principal officer, board member, financier, or employee of a dispensary because of the person's criminal history record in accordance with section 4474g of this title and rules adopted by the Department of Public Safety pursuant to that section.

(g)(1) A dispensary shall notify the Department of ~~Public Safety~~ within 10

days of when a ~~principal officer, board member, an owner, principal, financier,~~ or employee ceases to be associated with or work at the dispensary. His or her ~~registry~~ Registry identification card shall be deemed null and void, and the person shall be liable for any penalties that may apply.

(2) A dispensary shall notify the Department of ~~Public Safety~~ in writing of the name, address, and date of birth of any proposed new ~~principal officer, board member~~ owner, principal, financier, or employee and shall submit a fee for a new ~~registry~~ Registry identification card before a new ~~principal officer, board member~~ owner, principal, financier, or employee begins his or her official duties related to the dispensary and shall submit a complete set of fingerprints for ~~the each~~ prospective ~~principal officer, board member~~ owner, principal, financier, or employee who is a natural person.

* * *

(k)(1) No dispensary, ~~principal officer, board member~~ or owner, principal, or financier of a dispensary shall:

* * *

(B) acquire usable marijuana or marijuana plants from any source other than registered dispensary ~~principal officers, board members~~ owners, principals, financiers, or employees who cultivate marijuana in accordance with this subchapter;

(C) dispense more than two ounces of usable marijuana to a registered patient directly or through the qualifying patient's registered caregiver during a 30-day period;

(D) dispense an amount of usable marijuana to a qualifying patient or a designated caregiver that the ~~principal officer, board member~~ owner, principal, financier, or employee knows would cause the recipient to possess more marijuana than is permitted under this subchapter;

(E) dispense marijuana to a person other than a registered patient who has designated the dispensary to provide for his or her needs or other than the patient's registered caregiver.

(2) A person found to have violated subdivision (1) of this subsection may no longer serve as a ~~principal officer, board member~~ an owner, principal, financier, or employee of any dispensary, and such person's ~~registry~~ Registry identification card shall be immediately revoked by the Department of ~~Public Safety~~.

(l)(1) A registered dispensary shall not be subject to the following, provided that it is in compliance with this subchapter:

(A) prosecution for the acquisition, possession, cultivation, manufacture, transfer, transport, supply, sale, or dispensing of marijuana, marijuana-infused products, or marijuana-related supplies for symptom relief in accordance with the provisions of this subchapter and any rule adopted by the Department of Public Safety pursuant to this subchapter;

(B) inspection and search, except pursuant to this subchapter or upon a search warrant issued by a court or judicial officer;

(C) seizure of marijuana, marijuana-infused products, and marijuana-related supplies, except upon a valid order issued by a court;

(D) imposition of any penalty or ~~denied~~ denial of any right or privilege, including imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in accordance with this subchapter to assist registered patients or registered caregivers.

(2) No ~~principal officer, board member~~ owner, principal, financier, or employee of a dispensary shall be subject to arrest, prosecution, search, seizure, or penalty in any manner or ~~denied~~ denial of any right or privilege, including civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for working for or with a dispensary to engage in acts permitted by this subchapter.

* * *

Sec. 6. 18 V.S.A. § 4474f is amended to read:

§ 4474f. DISPENSARY APPLICATION, APPROVAL, AND
REGISTRATION

* * *

~~(b)(1) Within 30 days of the adoption of rules, the Department shall begin accepting applications for the operation of dispensaries. Within 365 days of the effective date of this section, the Department shall grant registration certificates to four dispensaries, provided at least four applicants apply and meet the requirements of this section. No~~ Except as provided in subdivision (2) of this subsection, no more than four ~~five~~ five dispensaries shall hold valid registration certificates at one time. Any time a dispensary registration certificate is revoked, is relinquished, or expires, the Department shall accept applications for a new dispensary. ~~If at any time after one year after the effective date of this section fewer than four dispensaries hold valid registration certificates in Vermont, the Department of Public Safety shall accept applications for a new dispensary.~~

(2) Once the Registry reaches 7,000 registered patients, the number of dispensary registrations shall expand to six and the Department shall begin accepting applications forthwith.

* * *

(c) Each application for a dispensary registration certificate shall include all of the following:

(1) a nonrefundable application fee in the amount of \$2,500.00 paid to the Department of ~~Public Safety~~;

(2) the legal name, articles of incorporation, and bylaws of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(3) the proposed physical address of the dispensary, if a precise address has been determined or, if not, the general location where it would be located;

(4) a description of the ~~enclosed~~ secure, locked facility where marijuana will be grown, cultivated, harvested, or otherwise prepared for distribution by the dispensary;

(5) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary who is a natural person and a complete set of fingerprints for each of them;

(6) proposed security and safety measures, which shall include at least one security alarm system for each location and planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana;

(7) proposed procedures to ensure accurate record-keeping.

(d) Any time one or more dispensary registration applications are being considered, the Department of ~~Public Safety~~ shall solicit input from registered patients and registered caregivers.

(e) Each time a dispensary certificate is granted, the decision shall be based on the overall health needs of qualified patients. The following factors shall weigh heavily in the consideration of an application:

(1) geographic convenience to patients from throughout the State of Vermont to a dispensary if the applicant were approved;

(2) the entity's ability to provide an adequate supply to the registered patients in the State;

(3) the entity's ability to demonstrate ~~its board members'~~ that its

~~owners, principals, and financiers have sufficient~~ experience running a ~~nonprofit organization or business;~~

(4) the comments, if any, of registered patients and registered caregivers regarding which applicant should be granted a registration certificate;

(5) the sufficiency of the applicant's plans for record-keeping, which records shall be considered confidential health care information under Vermont law and are intended to be deemed protected health care information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, as amended;

(6) the sufficiency of the applicant's plans for safety and security, including the proposed location and security devices employed.

(f) The Department of ~~Public Safety~~ may deny an application for a dispensary if it determines that an applicant's criminal history record indicates that the ~~person's~~ association of an owner, principal, or financier with a dispensary would pose a demonstrable threat to public safety.

(g) After a dispensary is approved but before it begins operations, it shall submit the following to the Department:

(1) the legal name and articles of incorporation of the dispensary and the organizational documents that create the dispensary, govern its operation and internal affairs, and govern relations between and among its owners;

(2) the physical address of the dispensary;

(3) the name, address, and date of birth of each ~~principal officer and board member~~ owner, principal, and financier of the dispensary along with a complete set of fingerprints for each;

(4) a registration fee of \$20,000.00 for the first year of operation, and an annual fee of \$25,000.00 in subsequent years.

Sec. 7. 18 V.S.A. § 4474g is amended to read:

§ 4474g. **DISPENSARY REGISTRY IDENTIFICATION CARD;**

CRIMINAL BACKGROUND CHECK

(a) Except as provided in subsection (b) of this section, the Department of ~~Public Safety~~ shall issue each ~~principal officer, Board member~~ owner, principal, financier, and employee of a dispensary a ~~registry~~ Registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to a ~~principal officer, Board member~~ an owner, principal, financier, or employee. A person shall not serve

as ~~principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary until that person has received a ~~registry~~ Registry identification card issued under this section. Each card shall specify whether the cardholder is a ~~principal officer, Board member~~ an owner, principal, financier, or employee of a dispensary and shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the dispensary with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the ~~registry~~ Registry identification card; and
- (5) a photograph of the person.

(b) Prior to acting on an application for a ~~registry~~ Registry identification card, the Department of ~~Public Safety~~ shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department of ~~Public Safety~~ obtains a criminal history record, the Department shall promptly provide a copy of the record to the applicant and to the ~~principal officer and Board~~ owner, principal, or financier of the dispensary if the applicant is to be an employee. The Department shall inform the applicant of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department of ~~Public Safety~~ shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this subchapter.

(e) The Department of ~~Public Safety~~ shall not issue a ~~registry~~ Registry identification card to any applicant who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. For purposes of As used in this subchapter, "violent felony" means 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.

(f) The Department of ~~Public Safety~~ shall adopt rules for the issuance of a ~~registry~~ Registry identification card and shall set forth standards for determining whether an applicant should be denied a ~~registry~~ Registry identification card because his or her criminal history record indicates that the

person's association with a dispensary would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in subsection (e) of this section shall not automatically disqualify a person for a ~~registry~~ Registry identification card. A dispensary may deny a person the opportunity to serve as a ~~Board~~ board member or an employee based on his or her criminal history record. An applicant who is denied a ~~registry~~ Registry identification card may appeal the ~~Department of Public Safety's~~ Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) A ~~registration~~ Registry identification card of a ~~principal officer, Board member~~ an owner, principal, or financier, or employee shall expire one year after its issuance or upon the expiration of the registered organization's registration certificate, whichever occurs first.

Sec. 8. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient ~~or his or her caregiver~~ may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. ~~If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary.~~ A registered patient who wishes to change his or her dispensary shall notify the ~~Department of Public Safety~~ in writing on a form issued by the Department and shall submit with the form a fee of \$25.00. The Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any 30-day period.

* * *

Sec. 9. 6 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CENTRAL TESTING LABORATORY

§ 121. CREATION AND PURPOSE

There is created within the Agency of Agriculture, Food and Markets a central testing laboratory for the purpose of providing agricultural ~~and~~ environmental, and other necessary testing services.

§ 122. FEES

Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for providing agricultural ~~and~~, environmental, and other necessary testing services at the request of private individuals and State agencies. The fees shall be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

§ 123. REGULATED DRUGS

(a) Except as provided in subsection (b) of this section, the provisions of 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the otherwise lawful performance of his or her official duties requiring the possession or control of regulated drugs.

(b) The central testing laboratory shall obtain a certificate of approval from the Department of Health pursuant to 18 V.S.A. § 4207.

(c) As used in this section, “regulated drug” shall have the same meaning as in 18 V.S.A. § 4201.

Sec. 10. MARIJUANA-INFUSED PRODUCT TESTING; REPORT

The General Assembly recognizes the importance of independent testing of marijuana-infused products sold by dispensaries to determine proper labeling of products in compliance with 18 V.S.A. § 4474e. Therefore, the Agency of Agriculture, Food and Markets and the Department of Public Safety, in consultation with registered dispensaries, shall report their recommendations to the Joint Legislative Justice Oversight Committee and the General Assembly no later than October 15, 2017 on the following:

- (1) Who should be responsible for testing marijuana-infused products.
- (2) The approved methods and frequency of testing.
- (3) Estimated costs associated with such testing and how these costs should be funded.
- (4) If testing will be done through an independent testing entity, the process by which the State will certify such entities and oversee such testing.
- (5) How to implement a weights and measures program for medical marijuana dispensaries.

Sec. 11. AUTHORITY FOR CURRENTLY REGISTERED DISPENSARY ORGANIZED AS A NONPROFIT CORPORATION TO CONVERT TO FOR-PROFIT ENTITY.

(a) Notwithstanding the provisions of Title 11B and any other rule to the contrary, a dispensary organized as a nonprofit corporation and registered pursuant to 18 V.S.A. chapter 86 may convert to any type of domestic organization pursuant to and in accordance with 11A V.S.A. chapter 11 as if the dispensary were a domestic organization, except that the dispensary shall approve a plan of conversion pursuant to 11A V.S.A. § 11.04 by a majority vote of its board of directors and may otherwise disregard any provision of 11A V.S.A. chapter 11 that relates to shareholders.

(b) Notwithstanding 18 V.S.A. § 4474e or any rule to the contrary, the converted domestic corporation may continue to operate on a for-profit basis in accordance with the terms of its registration, 18 V.S.A. chapter 86, and any rules adopted pursuant to that chapter.

Sec. 12. MEDICAL MARIJUANA REGISTRY; WEB PAGE

The Department of Public Safety and the Agency of Digital Services shall develop an independent web page for the Medical Marijuana Registry, separate from any other registry or program administered by the Department, that is up-to-date and user-friendly on or before September 30, 2017 and shall report to the General Assembly on activation of the web page at such time.

Sec. 13. DEPARTMENT OF PUBLIC SAFETY

The Department of Public Safety shall begin to accept applications for the additional dispensary on July 1, 2017.

Sec. 14. EFFECTIVE DATES

(a) Secs. 9–13 shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2017.

*RICHARD W. SEARS
JOSEPH C. BENNING
JEANETTE K. WHITE*

*Committee on the part of the
Senate*

*ANN D. PUGH
SANDY J. HAAS
FRANCIS M. MCFAUN*

Committee on the part of the House

Which was considered and adopted on the part of the House

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Savage of Swanton**, the rules were suspended and the

bills were ordered messaged to the Senate forthwith.

S. 16

House bill, entitled

An act relating to expanding patient access to the Medical Marijuana Registry

S. 131

Senate bill, entitled

An act relating to State’s Attorneys and sheriffs

Third Reading;

Bill Passed in Concurrence with Proposal of Amendment

S. 103

Senate bill, entitled

An act relating to the regulation of toxic substances and hazardous materials

Was taken up and pending third reading of the bill, **Rep. Poirier of Barre City** moved that the House propose to the Senate to amend the bill as follows:

In Sec. 8, 18 V.S.A. § 1776, in subsection (d), in subdivision (1), after “The Commissioner” and before “the Chemicals of High Concern to Children Working Group” by striking out “~~upon the recommendation of after consultation with~~” and inserting in lieu thereof “upon the recommendation of”

Pending the question, Shall the House proposal of amendment be amended as offered by Rep. Poirier of Barre City? **Rep. Savage of Swanton** 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 proposal of amendment be amended as offered by Rep. Poirier of Barre City? was decided in the negative. Yeas, 62. Nays, 76.

Those who voted in the affirmative are:

- | | | |
|------------------------------|---------------------------|---------------------------|
| Ainsworth of Royalton | Harrison of Chittenden | Myers of Essex |
| Bancroft of Westford | Hebert of Vernon | Nolan of Morristown |
| Baser of Bristol | Helm of Fair Haven | Norris of Shoreham |
| Batchelor of Derby | Higley of Lowell | Parent of St. Albans Town |
| Beck of St. Johnsbury | Hill of Wolcott | Pearce of Richford |
| Bock of Chester | Houghton of Essex | Poirier of Barre City |
| Brennan of Colchester | Hubert of Milton | Quimby of Concord |
| Burditt of West Rutland | Joseph of North Hero | Savage of Swanton |
| Canfield of Fair Haven | Juskiewicz of Cambridge | Scheuermann of Stowe |
| Cupoli of Rutland City | Keefe of Manchester | Shaw of Pittsford |
| Devereux of Mount Holly | Keenan of St. Albans City | Sibilia of Dover |
| Dickinson of St. Albans Town | Kimbell of Woodstock | Smith of Derby |
| | LaClair of Barre Town | Smith of New Haven |

Donahue of Northfield	Lawrence of Lyndon	Strong of Albany
Feltus of Lyndon	Lewis of Berlin	Sullivan of Dorset
Forguites of Springfield	Marcotte of Coventry	Turner of Milton
Frenier of Chelsea	Martel of Waterford	Van Wyck of Ferrisburgh
Gage of Rutland City	McCoy of Poultney	Viens of Newport City
Gamache of Swanton	McFaun of Barre Town	Walz of Barre City
Giambatista of Essex	Morrissey of Bennington	Willhoit of St. Johnsbury
Graham of Williamstown	Murphy of Fairfax	Wright of Burlington

Those who voted in the negative are:

Ancel of Calais	Dunn of Essex	Noyes of Wolcott
Bartholomew of Hartland	Emmons of Springfield	Ode of Burlington
Belaski of Windsor	Fields of Bennington	O'Sullivan of Burlington
Beyor of Highgate	Gannon of Wilmington	Potter of Clarendon
Bissonnette of Winooski	Gardner of Richmond	Pugh of South Burlington
Botzow of Pownal	Greshin of Warren	Rachelson of Burlington
Briglin of Thetford	Haas of Rochester	Scheu of Middlebury
Browning of Arlington	Head of South Burlington	Sharpe of Bristol
Brumsted of Shelburne	Hooper of Brookfield	Sheldon of Middlebury
Buckholz of Hartford	Howard of Rutland City	Squirrell of Underhill
Burke of Brattleboro	Jessup of Middlesex	Stevens of Waterbury
Carr of Brandon	Jickling of Brookfield	Stuart of Brattleboro
Chesnut-Tangerman of Middletown Springs	Kitzmiller of Montpelier	Sullivan of Burlington
Christensen of Weathersfield	Krowinski of Burlington	Taylor of Colchester
Christie of Hartford	Lalonde of South Burlington	Till of Jericho *
Cina of Burlington	Lanpher of Vergennes	Toleno of Brattleboro
Colburn of Burlington	Lefebvre of Newark	Townsend of South Burlington
Conlon of Cornwall	Lippert of Hinesburg	Troiano of Stannard
Connor of Fairfield	Long of Newfane	Webb of Shelburne
Conquest of Newbury	Lucke of Hartford	Weed of Enosburgh
Copeland-Hanzas of Bradford	Macaig of Williston	Wood of Waterbury
Corcoran of Bennington	Masland of Thetford	Yacovone of Morristown
Dakin of Colchester	McCormack of Burlington	Yantachka of Charlotte
Deen of Westminster	McCullough of Williston	Young of Glover
Donovan of Burlington	Miller of Shaftsbury	
	Morris of Bennington	
	Mrowicki of Putney	

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

Condon of Colchester	Hooper of Montpelier	Terenzini of Rutland Town
Fagan of Rutland City	Olsen of Londonderry	Toll of Danville
Gonzalez of Winooski	Partridge of Windham	Trieber of Rockingham
Grad of Moretown	Rosenquist of Georgia	

Rep. Till of Jericho explained his vote as follows:

“Madam Speaker:

When a chemical in children’s products is found to be toxic I do not want unnecessary delays in adding that chemical to the list of chemicals banned

from children's products.”

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Message from the Senate No. 68

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:

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. 22. An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

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

Senator White
Senator Collamore
Senator Pearson

Message from the Senate No. 69

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 proposals of amendment to Senate bills of the following titles:

S. 52. An act relating to the Public Service Board and its proceedings.

S. 133. An act relating to examining mental health care and care coordination.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

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

H. 506. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 512. An act relating to the procedure for conducting recounts.

H. 519. An act relating to capital construction and State bonding.

And has concurred therein.

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. 508. An act relating to building resilience for individuals experiencing adverse childhood experiences.

And has accepted and adopted the same on its part.

Message from the Senate No. 70

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:

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. 495. An act relating to miscellaneous agriculture subjects.

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

Senator Collamore
Senator Pollina
Senator Starr

Message from the Senate No. 71

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 proposals of amendment to Senate bill of the following title:

S. 22. An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to Senate bill of

the following title:

S. 33. An act relating to the Rozo McLaughlin Farm-to-School Program.

And has concurred therein.

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. 513. An act relating to making miscellaneous changes to education law.

And has accepted and adopted the same on its part.

Message from the Senate No. 72

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 a bill originating in the House of the following title:

H. 29. An act relating to permitting Medicare supplemental plans to offer expense discounts.

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

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

S. 95. An act relating to sexual assault nurse examiners.

And has concurred therein.

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

S. 75. An act relating to aquatic nuisance species control.

And has accepted and adopted the same on its part.

Message from Governor

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

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the fourth day of May, 2017, he signed bills originating in the House of the following titles:

-
- H. 3** **An act relating to burial depth in cemeteries**
- H.35** **An act relating to adopting the Uniform Voidable Transactions Act**
- H.136** **An act relating to accommodations for pregnant employees**
- H.182** **An act relating to certain businesses regulated by the Department of Financial Regulation**
- H.265** **An act relating to the State Long-Term Care Ombudsman**
- H.290** **An act relating to clarifying ambiguities relating to real estate titles and conveyances**
- H.507** **An act relating to Next Generation Medicaid ACO pilot project reporting requirements**

Recess

At twelve o'clock and three minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At three o'clock and six minutes in the afternoon, the Speaker called the House to order.

Rules Suspended; Report of Committee of Conference Adopted

S. 134

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to court diversion and pretrial services

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

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

S.134. An act relating to court diversion and pretrial services

Respectfully report that they have met and considered the same and recommend that the House recede from its proposals of amendment, and that the bill be amended 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; or
- (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~~ programs.

(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~~ program. The amount of the fee shall be determined by ~~project~~ program 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~~ program'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; REPORT

(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 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. 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. 6. 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 December 15, 2017.

Sec. 7. SUNSET

Sec. 2 of this act shall be repealed on July 1, 2020.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

*JEANETTE K. WHITE
JOSEPH C. BENNING
ALICE W. NITKA*

*Committee on the part of the
Senate*

*CHARLES C. CONQUEST
THOMAS B. BURDITT
SELENE COLBURN*

Committee on the part of the House

Which was considered and adopted on the part of the House

Rules Suspended; Report of Committee of Conference Adopted**S. 9**

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to the preparation of poultry products

Was taken up for immediate consideration.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

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

S.9. An act relating to the preparation of poultry products.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment with further amendment thereto as follows:

First: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2)(B), after “may use” and before “plastic sheeting” by striking out “food-grade” and inserting in lieu thereof “heavy duty”

Second: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subdivision (K) in its entirety and inserting in lieu thereof the following:

(K) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable, and garments shall be cleaned or changed as often as necessary to prevent adulteration of poultry products or the creation of insanitary conditions.

Third: In Sec. 2, 6 V.S.A. § 3312, by adding a subsection (h) to read as follows:

(h) Approved label. Prior to selling poultry products slaughtered pursuant to the exemption in subsection (c) or (d) of this section, a poultry producer shall submit to the Secretary for approval a copy of the label that the poultry producer proposes to use for compliance with the requirements of subsection (e) of this section.

*ROBERT A. STAR
FRANCIS K. BROOKS
CAROLYN W. BRANAGAN*

*Committee on the part of the
Senate*

SUSAN M. BUCKHOLTZ

JOHN L. BARTHOLOMEW
TERRY E. NORRIS

Committee on the part of the House

Which was considered and adopted on the part of the House

**Rules Suspended; Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered; Rules Suspended; Third Reading; Bill Passed**

S. 100

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to promoting affordable and sustainable housing

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Baser of Bristol, for the committee on Ways and Means, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Housing and Conservation Board;

Housing Bond Proceeds for Affordable Housing * * *

Sec. 1. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) The General Assembly finds that investments are needed to help house the most vulnerable as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for, over the next five years, 368 new units for permanent supportive housing and 1,251 new homes affordable to families with income that is not more than 30 percent of the median; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households with income below 30 percent of median and households with income between 85 percent and 120 percent of median, and found a lack of housing availability

across the income spectrum.

(b) Purpose. The purpose of this act is to promote the development and improvement of housing for Vermonters.

Sec. 2. 10 V.S.A. § 314 is added to read:

§ 314. AFFORDABLE HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income, in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;

(2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and

(3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

Sec. 2a. 10 V.S.A. § 315 is added to read:

§ 315. AFFORDABLE HOUSING FUND

There is created the Affordable Housing Fund, the sole purpose of which shall be to serve as the depository of the first \$2,500,000.00 of revenues from the property transfer tax pursuant to 32 V.S.A. § 9610(d), which shall be distributed to the Vermont Housing Finance Agency to service the debt for bonds, notes, and other obligations pursuant to subdivision 621(22) of this title, the proceeds of which the Vermont Housing and Conservation Trust Fund shall use for the creation and improvement of affordable housing pursuant to section 314 of this title.

Sec. 3. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the ~~board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and ~~legislative committees on agriculture, natural resources and energy, appropriations, ways and means,~~

finance, and institutions to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include, but not be limited to, the following:

(1) a list and description of activities funded by the board Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Allocation of Property Transfer Tax Revenues * * *

Sec. 4. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF
RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper copy of that return to the ~~department~~ Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. § subdivision~~ subdivision 435(b)(10) of this title, one two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, \$2,500,000.00 of the revenue received from the property transfer tax shall be deposited in the Affordable Housing Fund created in 10 V.S.A. § 315 and distributed to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (1) of this subsection remain outstanding, the rate of tax imposed pursuant to section 9602 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least \$12,000,000.00.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for
Affordable Housing * * *

Sec. 5. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d).

Sec. 6. 10 V.S.A. § 631(1) is added to read:

(1)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(d) and shall mature on or before June 30, 2039.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed \$2,500,000.00 at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as

provided in section 314 of this title.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.

* * * Funding for Affordable Housing Bond Program;

Allocation of Revenues; Intent * * *

Sec. 7. INTENT; FUNDING FOR AFFORDABLE HOUSING BOND
PROGRAM; ALLOCATION OF PROPERTY TRANSFER TAX
REVENUES

(a) Revenues from the property transfer tax, before the passage of this act, were allocated pursuant to statute as follows:

(1) The first two percent is deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs pursuant to 32 V.S.A. § 9610(c).

(2) Of the remaining 98 percent of the revenues:

(A) 17 percent is deposited in the Municipal and Regional Planning Fund created in 24 V.S.A. § 4306.

(B) 50 percent is deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

(C) 33 percent is deposited in the General Fund created in 32 V.S.A. § 435.

(b) Pursuant to Sec. 4 of this act, in 32 V.S.A. § 9610(d), the first \$2,500,000.00 of revenue generated from the property transfer tax is deposited in the Affordable Housing Fund created in 10 V.S.A. § 315 and distributed to the Vermont Housing Finance Agency to service the bonds, notes, and other obligations incurred by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(c) Transferring the first \$2,500,000.00 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service reduces the amount of revenues available for allocation to the respective statutory recipients identified in subsection (a) of this section.

(d) To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for

the transfer of \$2,500,000.00 to the Vermont Housing and Conservation Trust Fund, as follows:

(1) Sec. D.100(a)(2) of H.518 (2017) appropriates \$11,304,840.00 in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Upon the effective date of this act, the amount of \$1,500,000.00 shall revert to the Vermont Housing and Conservation Trust Fund, resulting in a fiscal year 2018 total appropriation to the Board of \$9,804,840.00. In fiscal year 2018 only, the amount of \$1,500,000.00 shall be transferred from the Vermont Housing and Conservation Trust Fund to the General Fund.

(2) As provided in Sec. 9 of this act, from July 1, 2017 until July 1, 2039, pursuant to 32 V.S.A. § 9602a(d), the first \$1,000,000.00 in revenue generated by the clean water surcharge of 0.2 percent shall be transferred to the Vermont Housing and Conservation Trust Fund. In fiscal year 2018 only, the Commissioner shall transfer the amount of \$1,000,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

* * * Clean Water Surcharge; Repeal of 2018 Sunset * * *

Sec. 8. REPEAL; SUNSET OF CLEAN WATER SURCHARGE

2015 Acts and Resolves No. 64, Sec. 39 (sunset of clean water surcharge in 2018) is repealed.

* * * Clean Water Surcharge; Allocation of

First \$1 Million in Revenue until 2039 * * *

Sec. 9. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee or the first \$200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388, except for the first \$1,000,000.00 of revenue generated by the

surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Clean Water Surcharge; Allocation of
Revenue after 2039 * * *

Sec. 10. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee or the first \$200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388, ~~except for the first \$1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.~~

* * * Repeal of Affordable Housing Bond Provisions After Life of Bond * * *

Sec. 11. REPEAL

The following shall be repealed on July 1, 2039:

(1) 10 V.S.A. § 314 (Vermont Housing and Conservation Board; affordable housing bond and investments).

(2) 10 V.S.A. § 315 (Affordable Housing Fund).

(3) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(4) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

(5) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable housing debt repayment).

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 10 (entire clean water surcharge to clean water fund), which shall take effect on July 1, 2039.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Ways and Means? **Rep. Baser of Bristol** moved to substitute an amendment for the report on Ways and Means as follows by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Housing and Conservation Board;

Housing Bond Proceeds for Affordable Housing * * *

Sec. 1. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) The General Assembly finds that investments are needed to help house the most vulnerable as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for, over the next five years, 368 new units for permanent supportive housing and 1,251 new homes affordable to families with income that is not more than 30 percent of the median; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households with income below 30 percent of median and households with income between 85 percent and 120 percent of median, and found a lack of housing availability across the income spectrum.

(b) Purpose. The purpose of this act is to promote the development and improvement of housing for Vermonters.

Sec. 2. 10 V.S.A. § 314 is added to read:

§ 314. AFFORDABLE HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very

low to middle income, in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;

(2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and

(3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

Sec. 3. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

~~Prior to January 31 of each year, the board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and ~~legislative committees on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy.~~ The report shall include, but not be limited to, the following:

(1) a list and description of activities funded by the board Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Allocation of Property Transfer Tax Revenues * * *

Sec. 4. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper

copy of that return to the ~~department~~ Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. § subdivision~~ subdivision 435(b)(10) of this title, one two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, \$2,500,000.00 of the revenue received from the property transfer tax shall be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (1) of this subsection remain outstanding, the rate of tax imposed pursuant to section 9602 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least \$12,000,000.00.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for
Affordable Housing * * *

Sec. 5. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d).

Sec. 6. 10 V.S.A. § 631(1) is added to read:

(1)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(d) and shall mature on or before June 30, 2039.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed \$2,500,000.00 at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as provided in section 314 of this title.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.

* * * Funding for Affordable Housing Bond Program;

Allocation of Revenues; Intent * * *

Sec. 7. INTENT; FUNDING FOR AFFORDABLE HOUSING BOND PROGRAM; ALLOCATION OF PROPERTY TRANSFER TAX REVENUES

(a) Revenues from the property transfer tax, before the passage of this act, were allocated pursuant to statute as follows:

(1) The first two percent was deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs pursuant to 32 V.S.A. § 9610(c).

(2) Of the remaining 98 percent of the revenues:

(A) 17 percent was deposited in the Municipal and Regional Planning Fund created in 24 V.S.A. § 4306.

(B) 50 percent was deposited in the Vermont Housing and

Conservation Trust Fund created in 10 V.S.A. § 312.

(C) 33 percent was deposited in the General Fund created in 32 V.S.A. § 435.

(b) Pursuant to Sec. 4 of this act, in 32 V.S.A. § 9610(d), the first \$2,500,000.00 of revenue generated from the property transfer tax is transferred to the Vermont Housing Finance Agency to service the bonds, notes, and other obligations incurred by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(c) Transferring the first \$2,500,000.00 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service reduces the amount of revenues available for allocation to the respective statutory recipients identified in subsection (a) of this section.

(d) To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for the transfer of \$2,500,000.00 to the Vermont Housing and Conservation Trust Fund, as follows:

(1) Sec. D.100(a)(2) of H.518 (2017) appropriates \$11,304,840.00 in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Upon the effective date of this act, the Board shall transfer the amount of \$1,500,000.00 back to the Vermont Housing and Conservation Trust Fund, resulting in a fiscal year 2018 total appropriation to the Board of \$9,804,840.00. In fiscal year 2018 only, the Commissioner of Taxes shall transfer the amount of \$1,500,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

(2) As provided in Sec. 9 of this act, from July 1, 2017 until July 1, 2039, pursuant to 32 V.S.A. § 9602a, the first \$1,000,000.00 in revenue generated by the clean water surcharge of 0.2 percent shall be transferred to the Vermont Housing and Conservation Trust Fund. In fiscal year 2018 only, the Commissioner of Taxes shall transfer the amount of \$1,000,000.00 from the Vermont Housing and Conservation Trust Fund to the General Fund.

* * * Clean Water Surcharge; Repeal of 2018 Sunset * * *

Sec. 8. REPEAL; SUNSET OF CLEAN WATER SURCHARGE

2015 Acts and Resolves No. 64, Sec. 39 (sunset of clean water surcharge in 2018) is repealed.

* * * Clean Water Surcharge; Allocation of

First \$1 Million in Revenue until 2039 * * *

Sec. 9. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee or the first \$200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388, except for the first \$1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

* * * Clean Water Surcharge; Allocation of
Revenue after 2039 * * *

Sec. 10. 32 V.S.A. § 9602a is amended to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee or the first \$200,000.00 in value of property transferred if the purchaser obtains a purchase money mortgage funded in part with a homeland grant through the Vermont Housing and Conservation Trust Fund or which the Vermont Housing and Finance Agency or U.S. Department of Agriculture and Rural Development has committed to make or purchase. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388, ~~except for the first \$1,000,000.00 of revenue generated by the surcharge, which shall be deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.~~

* * * Repeal of Affordable Housing Bond Provisions After Life of Bond * * *

Sec. 11. REPEAL

The following shall be repealed on July 1, 2039:

(1) 10 V.S.A. § 314 (Vermont Housing and Conservation Board; affordable housing bond and investments).

(2) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(3) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

(4) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable housing debt repayment).

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 10 (allocating total clean water surcharge revenue to Clean Water Fund), which shall take effect on July 1, 2039.

Which was agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Ways & Means as substituted? **Rep. Ancel of Calais** 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 propose to the Senate to amend the bill as recommended by the Committee on Ways & Means as substituted? was decided in the affirmative. Yeas, 139. Nays, 8.

Those who voted in the affirmative are:

Ainsworth of Royalton	Gamache of Swanton	Norris of Shoreham
Ancel of Calais	Gannon of Wilmington	Noyes of Wolcott
Bancroft of Westford	Gardner of Richmond	Ode of Burlington
Bartholomew of Hartland	Giambatista of Essex	Olsen of Londonderry
Baser of Bristol	Gonzalez of Winooski	O'Sullivan of Burlington
Batchelor of Derby	Grad of Moretown	Parent of St. Albans Town
Beck of St. Johnsbury	Graham of Williamstown	Pearce of Richford
Belaski of Windsor	Greshin of Warren	Poirier of Barre City
Beyor of Highgate	Haas of Rochester	Potter of Clarendon
Bissonnette of Winooski	Harrison of Chittenden	Pugh of South Burlington
Bock of Chester	Head of South Burlington	Quimby of Concord
Botzow of Pownal	Hebert of Vernon	Rachelson of Burlington
Brennan of Colchester	Higley of Lowell	Rosenquist of Georgia
Briglin of Thetford	Hill of Wolcott	Savage of Swanton
Brumsted of Shelburne	Hooper of Montpelier	Scheu of Middlebury
Buckholz of Hartford	Hooper of Brookfield	Scheuermann of Stowe
Burditt of West Rutland	Houghton of Essex	Sharpe of Bristol

Burke of Brattleboro	Howard of Rutland City	Shaw of Pittsford
Carr of Brandon	Hubert of Milton	Sheldon of Middlebury
Chesnut-Tangerman of Middletown Springs	Jessup of Middlesex	Sibilia of Dover
Christensen of Weathersfield	Jickling of Brookfield	Smith of Derby
Christie of Hartford	Juskiewicz of Cambridge	Smith of New Haven
Cina of Burlington	Keefe of Manchester	Squirrell of Underhill
Colburn of Burlington	Keenan of St. Albans City	Stevens of Waterbury
Condon of Colchester	Kitzmiller of Montpelier	Strong of Albany
Conlon of Cornwall	Krowinski of Burlington	Stuart of Brattleboro
Connor of Fairfield	LaClair of Barre Town	Sullivan of Dorset
Conquest of Newbury	Lalonde of South Burlington	Sullivan of Burlington
Copeland-Hanzas of Bradford	Lanpher of Vergennes	Taylor of Colchester
Corcoran of Bennington	Lewis of Berlin	Till of Jericho
Cupoli of Rutland City	Lippert of Hinesburg	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
Dickinson of St. Albans Town	Marcotte of Coventry	Troiano of Stannard
Donahue of Northfield	Martel of Waterford	Turner of Milton
Donovan of Burlington	Masland of Thetford	Viens of Newport City
Dunn of Essex	McCormack of Burlington	Walz of Barre City
Emmons of Springfield	McCoy of Poultney	Webb of Shelburne
Fagan of Rutland City	McCullough of Williston	Weed of Enosburgh
Feltus of Lyndon	McFaun of Barre Town	Willhoit of St. Johnsbury
Fields of Bennington	Miller of Shaftsbury *	Wood of Waterbury
Forguites of Springfield	Morris of Bennington	Wright of Burlington
Frenier of Chelsea	Morrissey of Bennington	Yacovone of Morristown
Gage of Rutland City	Mrowicki of Putney	Yantachka of Charlotte
	Murphy of Fairfax	Young of Glover
	Myers of Essex	
	Nolan of Morristown	

Those who voted in the negative are:

Browning of Arlington	Joseph of North Hero	Lefebvre of Newark
Canfield of Fair Haven	Kimbell of Woodstock	Van Wyck of Ferrisburgh
Helm of Fair Haven	Lawrence of Lyndon	

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

Partridge of Windham	Terenzini of Rutland Town
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Rep. Miller of Shaftsbury explained her vote as follows:

“Madam Speaker:

It will be very difficult for me to vote for any water project until the people in southwestern Vermont can turn the water on in their homes and barns without fear of drinking poisonous water or poisoning their livestock.”

Thereupon, third reading was ordered.

Thereupon, on motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed in concurrence with proposal of amendment.

Rules Suspended; Report of Committee of Conference Adopted

H. 508

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to building resilience for individuals experiencing adverse childhood experiences

Was taken up for immediate consideration.

Report of Committee of Conference

H. 508

An act relating to building resilience for individuals experiencing adverse childhood experiences.

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. 508. An act relating to building resilience for individuals experiencing adverse childhood experiences.

Respectfully reports that it has met and considered the same and recommends that the Senate recedes from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Adversity in childhood has a direct impact on an individual's health outcomes and social functioning. The cumulative effects of multiple adverse childhood experiences (ACEs) have even more profound public health and societal implications. ACEs include physical, emotional, and sexual abuse; neglect; food and financial insecurity; living with a person experiencing mental illness or substance use disorder, or both; experiencing or witnessing domestic violence; and having divorced parents or an incarcerated parent.

(2) The ACE questionnaire contains ten categories of questions for adults pertaining to abuse, neglect, and family dysfunction during childhood. It is used to measure an adult's exposure to traumatic stressors in childhood.

Based on a respondent's answers to the questionnaire, an ACE score is calculated, which is the total number of ACE categories reported as experienced by a respondent.

(3) ACEs are common in Vermont. One in eight Vermont children has experienced three or more ACEs, the most common being divorced or separated parents, food and housing insecurity, and having lived with someone with a substance use disorder or mental health condition. Children with three or more ACEs have higher odds of failing to engage and flourish in school.

(4) The impact of ACEs in Vermont is evident through the rise in caseloads in the Department for Children and Families, the acceleration of the opioid epidemic, which is both driving and affected by family dysfunction, and rising health care costs associated with adult chronic illness.

(5) The impact of ACEs is felt across all socioeconomic boundaries.

(6) The earlier in life an intervention occurs for an individual who has experienced ACEs, the more likely that intervention is to be successful.

(7) There are at least 17 nationally recognized models shown to be effective in lowering the risk for child abuse and neglect, improving maternal and child health, and promoting child development and school readiness.

(8) The General Assembly understands that people who have experienced adverse childhood experiences can build resilience and can succeed in leading happy, healthy lives.

Sec. 2. 33 V.S.A. chapter 34 is added to read:

CHAPTER 34. PROMOTION OF CHILD AND FAMILY RESILIENCE

§ 3401. PRINCIPLES FOR VERMONT'S TRAUMA-INFORMED SYSTEM OF CARE

The General Assembly adopts the following principles with regard to strengthening Vermont's response to trauma and toxic stress during childhood:

(1) Childhood trauma affects all aspects of society. Each of Vermont's systems addressing trauma, particularly social services; health care, including mental health; education; child care; and the justice system, shall collaborate to address the causes and symptoms of childhood trauma and to build resilience.

(2) Addressing trauma in Vermont requires building resilience in those individuals already affected and preventing childhood trauma within the next generation.

(3) Early childhood adversity is common and can be prevented. When adversity is not prevented, early intervention is essential to ameliorate the

impacts of adversity. A statewide, community-based, interconnected, public health and social service approach is necessary to address this effectively. This model shall include training for local leaders to facilitate a cultural change around the prevention and treatment of childhood trauma.

(4) Service systems shall be integrated at the local and regional levels to maximize resources and simplify how systems respond to individual and family needs. All programs and services shall be evidence-informed and research-based, adhering to best practices in addressing trauma and promoting resilience.

Sec. 3. ADVERSE CHILDHOOD EXPERIENCES; WORKING GROUP

(a) Creation. There is created the Adverse Childhood Experiences Working Group for the purpose of investigating, cataloguing, and analyzing existing resources to mitigate childhood trauma, identify populations served, and examine structures to build resiliency.

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

(1) three members of the House, who shall be appointed by the Speaker, including:

(A) the Chair of the House Committee on Human Services or designee;

(B) the Chair of the House Committee on Health Care or designee; and

(C) the Chair of the House Committee on Education or designee; and

(2) three members of the Senate, who shall be appointed by the Committee on Committees, including:

(A) the Chair of the Senate Committee on Health and Welfare or designee;

(B) the Chair of the Senate Committee on Education or designee; and

(C) one current member from the Senate at large.

(c)(1) Powers and duties. In light of current research and the fiscal environment, the Working Group shall analyze existing resources related to building resilience in early childhood and propose appropriate structures for advancing the most evidence-based or evidence-informed and cost-effective approaches to serve children experiencing trauma, including the following:

(A) identifying by service area existing intervention programs for children and families and those populations served by each program, including

the effectiveness of identified programs;

(B) determining whether there are any statewide or regional gaps in services for interventions on behalf of children and families;

(C) exploring previous and ongoing initiatives within the Agencies of Human Services and of Education that address trauma, including any gains achieved;

(D) considering, if necessary, a legislative proposal that targets the use of evidence-based or evidence-informed and cost-effective interventions for children and families based upon the strengths and weaknesses of existing services; and

(E) determining the fiscal impact and staffing needs related to any changes to State services proposed by the Working Group, including those that affect public schools.

(2) The Working Group shall take testimony from a diverse array of public and private stakeholders, including the Agency of Human Service's Child and Family Trauma Advisory Committee.

(d)(1) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of Legislative Council. The Joint Fiscal Office and the Agencies of Education and of Human Services shall provide assistance to the Working Group as necessary.

(2) On or before August 15, 2017, the Agency of Human Services, in consultation with the Agency of Education, shall provide data and background materials relevant to the responsibilities of the Working Group to the Office of Legislative Council, including:

(A) a spreadsheet by service area of those programs or services that receive State or federal funds to provide intervention services for children and families and the eligibility criteria for each program and service;

(B) a compilation of grants to organizations that address childhood trauma and resiliency from the grants inventory established pursuant to 3 V.S.A. § 3022a;

(C) a summary as to how the Agencies currently coordinate their work related to childhood trauma prevention, screening, and treatment efforts;

(D) any training materials currently disseminated to early child care and learning professionals by the Agencies regarding the identification of students exposed to adverse childhood experiences and strategies for referring families to community health teams and primary care medical homes; and

(E) a description of any existing programming within the Agencies

or conducted in partnership with local community groups that is aimed at addressing and reducing trauma and associated health risks to children.

(e) Proposed legislation. On or before November 1, 2017, the Working Group shall submit any recommended legislation to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Chair of the House Committee on Human Services or designee shall call the first meeting of the Working Group to occur on or before September 1, 2017.

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

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

(4) The Working Group shall cease to exist on December 1, 2017.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

(h) Appropriation. The sum of \$7,704.00 is appropriated to the General Assembly from the General Fund in fiscal year 2018 for per diem compensation and reimbursement of expenses for members of the Working Group.

Sec. 4. ADVERSE CHILDHOOD EXPERIENCES; RESPONSE PLAN

(a) On or before January 15, 2019, the Agency of Human Services shall present to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, in response to the work completed by the Adverse Childhood Experiences Working Group established pursuant to Sec. 3 of this act, a plan that specially addresses the integration of evidence-informed and family-focused prevention, intervention, treatment, and recovery services for individuals affected by adverse childhood experiences. The plan shall address the coordination of services throughout the Agency and shall propose mechanisms for:

(1) improving and engaging community providers in the systematic prevention of trauma;

(2) case detection and care of individuals affected by adverse childhood experiences; and

(3) ensuring that grants to the Agency of Human Services' community

partners related to children and families strive toward accountability and community resilience.

(b) On or before February 1, 2018, the Agency of Human Services shall update the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services on work being done in advance of the response plan required by subsection (a) of this section.

Sec. 5. CURRICULUM; ADVERSE CHILDHOOD EXPERIENCES

The General Assembly recommends that the State Colleges and University of Vermont's College of Medicine, College of Nursing and Health Sciences, and College of Education and Social Services expressly include information in their curricula pertaining to adverse childhood experiences and their impact on short- and long-term physical and mental health outcomes.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

*VIRGINIA V. LYONS
CLAIRE D. AYER
DEBORAH J. INGRAM*

*Committee on the part of the
Senate*

*ANN D. PUGH
MICHAEL MROWICKI
CARL J. ROSENQUIST*

Committee on the part of the House

Which was considered and adopted on the part of the House

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the bills were ordered messaged to the Senate forthwith.

S. 9

House bill, entitled

An act relating to the preparation of poultry products

S. 100

Senate bill, entitled

An act relating to promoting affordable and sustainable housing

S. 134

Senate bill, entitled

An act relating to court diversion and pretrial services

Recess

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

At five o'clock and thirty-eight minutes in the evening, the Speaker called the House to order.

Rules Suspended; Senate Proposal of Amendment to House Proposal of Amendment Concurred in

S. 133

Pending entry on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to examining mental health care and care coordination

Was taken up for immediate consideration.

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

First: In Sec. 3, in subsection (a), by striking out “systematic” and inserting in lieu thereof systemic

Second: In Sec. 4, in subdivision (3)(A), by striking out “evaluate” and inserting in lieu thereof assess

Third: In Sec. 4, in subdivision (7), in the first sentence, by striking out “evaluate” and inserting in lieu thereof assess

Fourth: In Sec. 4, in subdivision (8), by striking out “be utilized” and inserting in lieu thereof utilize

Fifth: In Sec. 4, by striking out subdivision (9) in its entirety and inserting in lieu thereof the following:

(9) Emergency services. The analysis, action plan, and long-term vision evaluation shall address how designated and specialized service agencies fund emergency services for the purpose of ensuring emergency services achieve maximum efficiency and are available to all individuals within a specific designated or specialized service agency’s catchment area and shall identify any funding gaps, including methodologies of payment, capacity of payment, third-party payers, and unfunded services. “Emergency services” means crisis response teams and crisis bed programs.

Sixth: In Sec. 5, in subsection (a), in the first sentence, by striking out “to” after “Welfare” and inserting in lieu thereof and

Seventh: In Sec. 5, in subdivision (c)(1), in the first sentence, by striking out “court-order” and inserting in lieu thereof court-ordered

Eighth: In Sec. 5, in subdivision (c)(1)(A), by inserting a semi-colon after the word “hospitalization”

Ninth: In Sec. 11, 18 V.S.A. § 8914, in subsections (a) and (b), by striking out “and the Alcohol and Drug Abuse Program’s preferred providers”

Tenth: In Sec. 11, 18 V.S.A. § 8914, in subdivision (a)(2), by striking out “cost” the second time in which appears and inserting in lieu thereof costs

Eleventh: In Sec. 12, by striking out “Blue Cross and Blue Shield” and by inserting in lieu thereof BlueCross BlueShield

Which the Senate proposal to the House proposal of amendment was considered and concurred in.

Rules Suspended; Senate Proposal of Amendment to House Proposal of Amendment Concurred in

S. 52

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 the Public Service Board and its proceedings

Was taken up for immediate consideration.

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

First: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application, ~~and provide~~. Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate

of public good, and proposed findings of fact to on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. ~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall ~~give~~ serve written notice of the proposed certificate to on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board within ~~21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application ~~filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within ~~45~~ 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 90 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the

legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~24~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

* * *

Second: After Sec. 15, by striking out Secs. 16 through 21 in their entirety and the reader assistance thereto and inserting in lieu thereof: Secs. 16-21. [Deleted.]

Third: After Sec. 23, by striking out Sec. 24 in its entirety and the reader assistance thereto and inserting in lieu thereof: Sec. 24. [Deleted.]

Fourth: In Sec. 25a, Report; Open Meeting Law; Public Service Board, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) On or before December 15, 2017, the Secretary of State shall submit a report on the exemption of the Public Service Board from the Vermont Open Meeting Law, 1 V.S.A. § 312(e). The report shall evaluate whether the Board should continue to have a complete exemption from the Open Meeting Law or whether its exemption should be limited, as with other administrative boards, to the Board's deliberations in connection with quasi-judicial proceedings. The report shall set out the reasons favoring and disfavoring each of these

outcomes and provide the Secretary of State's recommendation. In preparing the report, the Secretary of State shall consult with the Attorney General and the Public Service Board.

Fifth: In Sec. 26, effective dates, in the first sentence, by striking out "Secs. 14 through 25a" and inserting in lieu thereof Secs. 14, 15, 22, 23, 25, and 25a

Which the Senate proposal to the House proposal of amendment was considered and concurred in.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the bills were ordered messaged to the Senate forthwith.

S. 52

Senate bill, entitled

An act relating to the Public Service Board and its proceedings

S. 133

Senate bill, entitled

An act relating to examining mental health care and care coordination

Rules Suspended; Report of Committee of Conference Adopted

H. 513

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to making miscellaneous changes to education law

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

Report of Committee of Conference

H. 513

An act relating to making miscellaneous changes to education law.

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. 513. An act relating to making miscellaneous changes to education law.

Respectfully reports that it has met and considered the same and

recommends that the Senate accede to the House Proposal of Amendment to the Senate Proposal of Amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Act 46 Findings and Purpose * * *

Sec. 1. 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 May 1, 2017, voters in 105 Vermont towns have voted to merge 113 school districts into slightly larger, more sustainable governance structures, resulting in the creation of 23 new unified 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 be interpreted to 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. 2. 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. 3. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; EXEMPTION FROM STATEWIDE PLAN

If the conditions of this section are met, the Merged District and 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 statewide plan, and the Merged District shall be eligible for the

incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46.

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with one existing district (an Existing District) are members of the same supervisory union (Three-by-One Side-by-Side Structure) that is operational as a unit on the day on which the Merged District becomes operational.

(2) As of March 7, 2017, town meeting day, the Existing District was 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; provided, however, that an Existing District shall not be disqualified from being structurally isolated due to the fact that one or more adjoining school districts that have merged or reached final agreement to merge under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, have the same operating or tuitioning model as the Existing District.

(3) The Merged District and the Existing District have, following the receipt of all approvals required under this section, models of operating schools or paying tuition that are different from 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 Three-by-One Side-by-Side Structure meets all criteria, other than the size criterion (average daily membership of at least 1,250), for formation of a unified union school district under 2010 Acts and Resolves No. 153, Sec. 3 and otherwise as provided in this section.

(5) The Existing District and either the Merged District or the districts proposing to merge into the Merged District jointly submit a proposal to the State Board after the effective date of this section. The proposal may be made either by districts that have not yet presented a merger proposal to the

electorate or by a Merged District that received voter approval to merge on or after July 1, 2010. The proposal shall demonstrate 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) the Existing District meets one or more of the criteria set forth in subdivision (2) of this subsection;

(C) the Existing District has a detailed action plan 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 District obtain State Board approval of their proposal to form the proposed Three-by-One Side-by-Side Structure.

(7) The 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.

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

Sec. 4. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
REGIONAL EDUCATION DISTRICT INCENTIVES

(a) If the conditions of this section are met, each Merged District and 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 statewide plan, and, except as provided under subsection (b) of this section, each Merged District shall be eligible for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46.

(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 members of the same supervisory union (Two-by-Two-by-One Side-by-Side Structure) that is operational as a unit on the day on which the Merged Districts become operational.

(2) As of March 7, 2017, town meeting day, the Existing District was 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; provided, however, that an Existing District shall not be disqualified from being structurally isolated due to the fact that one or more adjoining school districts that have merged or reached final agreement to merge under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, have the same operating or tuitioning model as the Existing District.

(3) Each Merged District and the Existing District, following the receipt of all approvals required under this section, 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 Two-by-Two-by-One Side-by-Side Structure meets all criteria, other than the size criterion (average daily membership of at least 1,250), for formation of a unified union school district under 2010 Acts and Resolves No. 153, Sec. 3 and otherwise as provided in this section.

(5) The Existing District and either the Merged Districts or the districts proposing to merge into the Merged Districts jointly submit a proposal to the State Board after the effective date of this section. The proposal may be made either by districts that have not yet presented a merger proposal to the electorate or by Merged Districts that received voter approval to merge on or after July 1, 2010. The proposal shall demonstrate 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 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 electorates 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.

(b) Notwithstanding subsection (a) of this section, a Merged District shall not be eligible to receive incentives under this section if the District already received or 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.

* * * Withdrawal from Union School District * * *

Sec. 5. 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 historically both has been a member of the union high school district and also 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 (Termination Date); 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. 6. REPEAL

(a) Sec. 5 of this act is repealed on July 2, 2019.

(b) If a district withdraws from a union high school district under Sec. 5 of this act, then 2006 Acts and Resolves No.182, Sec. 28 is repealed on the Termination Date, as defined under Sec. 5 (c)(4) of this act.

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

Sec. 7. 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; Exemption from Statewide Plan; Supplemental Transitional Facilitation Grant * * *

Sec. 8. 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 unless and until new or amended articles are approved.

(1) 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 committee with members appointed in the same manner and number as required for a study committee under 16 V.S.A. chapter 11, and which shall draft Articles of Agreement for the new district. During this period, the committee shall hold at least one public hearing to consider and take comments on the draft Articles of Agreement.

(2) If the committee's draft Articles of Agreement are not approved within the 90-day period, then the provisions in the State Board's default Articles of Agreement included in the statewide plan shall apply to the new district.

(3) On or before January 15, 2018, the Vermont School Boards Association and the Vermont Superintendents Association, in consultation with the Agency of Education, shall develop and present to the House and Senate Committees on Education proposed legislation that:

(A) addresses which of the specific articles developed under subdivision (1) of this subsection must or should be approved only by the electorate and which can or should be approved by the committee created in that subdivision or another legal body; and

(B) amends 16 V.S.A. § 706n, which currently requires all later amendments to articles to be approved by either the electorate or the unified board based upon whether the provision was included in the Warning for the original merger vote.

(e) 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; or

(4) a supervisory district with a minimum average daily membership of 900.

(f)(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.

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

Sec. 9. 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. 10. 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 earlier of January 31, 2018 or the date that is six months after the date that the State Board's rules on the process for submitting alternative governance proposals take effect, 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. 11. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a district must receive final approval from its electorate for its proposal to merge under 2010 Acts and Resolves No. 153 or 2012 Acts and Resolves No. 156, each as amended, is extended from July 1, 2017 to November 30, 2017.

* * * Grants and Fee Reimbursement * * *

Sec. 12. 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. 13. 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.

* * *

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

Sec. 14. 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. 15. 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. 16. 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. 17. 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. 18. 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. 19. 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 those sections 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. 20. 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. 21. 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. 22. 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. 23. 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.

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

Sec. 24. 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. 25. 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. 26. 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. 27. 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. 28. 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. 29. REPEAL

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

Sec. 30. 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. 31. REPEAL

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

Sec. 32. 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. 33. 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. 34. 16 V.S.A. § 255(k) and (l) are 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.

(1) 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; 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. 35. EDUCATION WEIGHTING REPORT

(a) The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents 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 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) 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.

(d) Assistance. The Agency of Education shall have the technical assistance of the Joint Fiscal Office and the Office of Legislative Council.

* * * Postsecondary Institutions; Closing * * *

Sec. 36. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

* * *

(g) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:

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

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

* * * Prekindergarten Education Recommendations * * *

Sec. 37. 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. 38. 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. 39. 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.

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

Sec. 40. 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. 41. TRANSITIONAL PROVISION

A superintendent shall be appointed to the Vermont Standards Board for Professional Educators under Sec. 40 of this act upon the next expiration of the term of a member who is serving on the Board as an administrator.

* * * Approved Independent Schools Study Committee * * *

Sec. 42. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

(a) 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.

(b) 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 Superintendents 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 members of the Vermont Council of Independent Schools, who shall be chosen by the Chair of the Vermont Council of Independent Schools; and

(9) the Executive Director of the Vermont Council of Special Education

Administrators or designee.

(c) 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.

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

(e) 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.

(f) Continuation of rulemaking. 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 its Rules and Practices initiated by the State Board on November 13, 2015 (Rules for Approval of Independent Schools) after taking into account the report of the Committee required under subsection (e) of this section. Therefore, notwithstanding any provision to the contrary under 16 V.S.A. § 164, the State Board of Education shall suspend further development of the amendments to the Rules for Approval of Independent Schools, pending receipt of the report of the Committee, and shall further develop these amendments after considering the Committee’s report.

(g) 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 December 2, 2017.

(h) 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. 43. 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. 44. 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.

* * *

* * * Prekindergarten Programs; STARS ratings * * *

Sec. 45. 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 a plan to get to 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 with at least two points in each of the five arenas in no more than ~~two~~ three years ~~with at least two points in each of the five arenas~~, and the provider has met intermediate milestones.

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

Sec. 46. 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. 47. 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. 48. EFFECTIVE DATES

(a) This section and Secs. 2–27, 29–35, and 37–47 shall take effect on passage.

(b) Sec. 28 (State-placed students) shall take effect beginning with the 2017–2018 school year.

(c) Sec. 36 (Postsecondary Institutions; Closing) shall take effect on October 1, 2017.

*PHILIP E. BARUTH
REBECCA A. BALINT
KEVIN J. MULLIN*

*Committee on the part of the
Senate*

*DAVID D. SHARPE
EMILY J. LONG
ALBERT E. PEARCE*

Committee on the part of the House

Which was considered and adopted on the part of the House

Adjournment

At six o'clock and sixteen minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, May 8, 2017, at ten o'clock in the forenoon.

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. 158

House concurrent resolution honoring John Bisbee for his nearly three decades of extraordinary public service as a guardian ad litem;

H.C.R. 159

House concurrent resolution congratulating the Westford School Periodic Pandas on their selection as semifinalists in the FIRSTLEGO League Global Innovation Award competition;

H.C.R. 160

House concurrent resolution congratulating The Bank of Bennington on its 100th anniversary;

H.C.R. 161

House concurrent resolution honoring Summer Stoutes of Tinmouth for her selfless generosity as a kidney donor and congratulating Brent Garrow on his successful transplant surgery recovery and resumption of his firefighting and law enforcement careers;

H.C.R. 162

House concurrent resolution honoring Ron Stahley for his insightful public education leadership;

H.C.R. 163

House concurrent resolution commemorating the 75th anniversary of the U.S. Navy Construction Battalions, the Seabees;

H.C.R. 164

House concurrent resolution honoring former Representative Paul Harrington on his outstanding public policy career;

H.C.R. 165

House concurrent resolution congratulating the Bethel Public Library on its 125th anniversary;

H.C.R. 166

House concurrent resolution honoring Newport City Fire Department members 1st Assistant Chief Phil Laramie, Captain Kevin LaCoss, Lieutenant Andrew Carbine, and Firefighter Ryan Abel on their heroic rescue in Coventry;

H.C.R. 167

House concurrent resolution honoring Lila M. Richardson on the completion of her distinguished career as a Vermont Legal Aid attorney;

H.C.R. 168

House concurrent resolution in memory of Robert Harvey Beach Sr.;

H.C.R. 169

House concurrent resolution congratulating the 2016 Burlington High School Seahorses Division I championship boys' soccer team;

H.C.R. 170

House concurrent resolution honoring Sue Duprat on her outstanding varsity athletics coaching and administrative career;

H.C.R. 171

House concurrent resolution congratulating Lisa A.M. Atwood and Amy L. Rex on being named corecipients of the 2017 Robert F. Pierce Secondary School Principal of the Year Award;

H.C.R. 172

House concurrent resolution congratulating Duane Pierson on receiving the 2017 Henry R. Giaguque Vermont Elementary Principal of the Year Award;

H.C.R. 173

House concurrent resolution honoring the extraordinary public service and sacrifice of the Morse family of Jay and congratulating Helen (Sargent) Morse on her 95th birthday;

H.C.R. 174

House concurrent resolution congratulating the 2017 Harwood Union High School Highlanders State championship boys' alpine skiing team;

H.C.R. 175

House concurrent resolution congratulating Vermonters Brennon Crossmon, Jacobi Lafferty, and Ethan Whalen on their outstanding athletic performances at the 2017 Elks Hoop Shoot Finals;

H.C.R. 176

House concurrent resolution commemorating the centennial anniversary of the Fair Haven Grade School;

H.C.R. 177

House concurrent resolution congratulating Grace Cottage Hospital on being recognized as one of the nation's top 20 critical access hospitals for patient satisfaction;

H.C.R. 178

House concurrent resolution congratulating St. Johnsbury Academy on its 175th anniversary;

H.C.R. 179

House concurrent resolution honoring John Miner for his three decades of outstanding leadership in support of Vermont's Vietnam Veterans;

H.C.R. 180

House concurrent resolution congratulating Mary Ellen Sennett of Bennington on her 100th birthday;

H.C.R. 181

House concurrent resolution congratulating the 2017 Thetford Academy Panthers Division III championship girls' basketball team;

H.C.R. 182

House concurrent resolution congratulating Arlington Memorial High School on its receipt of a 2017 U.S. News & World Report Best High School in America Silver Medal;

H.C.R. 183

House concurrent resolution congratulating the 2016 St. Johnsbury Babe Ruth League 13-years-of-age State championship baseball team;

H.C.R. 184

House concurrent resolution congratulating Lucinda Storz of Kirby on winning her third consecutive Vermont Scripps Spelling Bee championship;

H.C.R. 185

House concurrent resolution thanking David and June Keenan of Essex for their generous donation to the State House art collection of a Keith Rocco print depicting the Battle of Cedar Creek;

H.C.R. 186

House concurrent resolution in memory of Vermont skiing legend Wendell Cram;

H.C.R. 187

House concurrent resolution congratulating Stephen Rice on winning the 2016 Arthur Williams Award for Meritorious Service to the Arts;

H.C.R. 188

House concurrent resolution congratulating former Fire Chief Ronald P. Lindsey Sr. on the 50th anniversary of his service with the Shaftsbury Fire Department;

H.C.R. 189

House concurrent resolution honoring Duane "Buster" Bandy of Windsor for his outstanding municipal public service;

H.C.R. 190

House concurrent resolution honoring Robert Mason for his unique leadership in the Chittenden South Supervisory Union;

S.C.R. 14

Senate concurrent resolution recognizing the establishment of the Coolidge Scholars Program and congratulating the first class of Coolidge Scholars.;

[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.]