

Journal of the Senate

TUESDAY, MAY 2, 2017

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 57

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 154. An act relating to approval of amendments to the charter of the City of Burlington.

H. 241. An act relating to the charter of the Central Vermont Solid Waste Management District.

H. 522. An act relating to approval of amendments to the charter of the City of Burlington.

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

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

S. 61. An act relating to offenders with mental illness.

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

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

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

H. 494. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

And has adopted the same on its part.

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

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

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

The Speaker appointed as members of such Committee on the part of the House:

Rep. Young of Glover
Rep. Wood of Waterbury
Rep. Baser of Bristol.

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

S. 56. An act relating to life insurance policies and the Vermont Uniform Securities Act.

And has concurred therein.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Not Concurred In; Committee of Conference Requested; Committee of Conference Appointed; Bill Messaged

H. 513.

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

An act relating to making miscellaneous changes to education law.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

* * * Criminal Record Checks * * *

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

(k) The requirements of this section shall not apply to persons operating or employed by a child care facility that is prequalified to provide prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A § 3502.

(l) The requirements of this section shall not apply with respect to a school district's partners in any program authorized or student placement created by chapter 23, subchapter 2 of this title. It is provided, however, that

superintendents are not prohibited from requiring a fingerprint supported record check pursuant to district policy with respect to its partners in such programs.

* * * Education Weighting Report * * *

Sec. 2. EDUCATION WEIGHTING REPORT

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

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

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

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

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

(b) In addition to considering and making recommendations on the criteria used for the determining weighted long-term membership of a school district under subsection (a) of this section, the Agency of Education may consider and make recommendations on other methods that would further the quality and equity of educational outcomes for students.

(c) Report. On or before December 15, 2017, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

* * * Surety Bond; Postsecondary Institutions * * *

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

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

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

(1) promptly inform the State Board;

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

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

* * *

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

* * *

(g)(1) Each institution of higher education accredited in Vermont, except institutions that are members of the Association of Vermont Independent Colleges (AVIC), the University of Vermont, and the Vermont State Colleges, shall acquire and maintain a bond from a corporate surety licensed to do business in Vermont in the amount of \$50,000.00 to cover costs that may be incurred by the State under subsection (e) of this section due to the institution's failure to comply with the requirements of subsection (a) of this section, and the institution shall provide evidence of the bond to the Secretary within 30 days of receipt. The State shall be entitled to recover up to the full amount of the bond in addition to the other remedies provided in subsection (e) of this section.

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

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

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

* * * Prekindergarten Education Recommendations * * *

Sec. 4. PREKINDERGARTEN EDUCATION RECOMMENDATIONS

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

* * * High School Completion Program * * *

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

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

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

§ 943. HIGH SCHOOL COMPLETION PROGRAM

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

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

district and the student to develop a personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

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

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

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

* * * Act 46 Findings and Purpose * * *

Sec. 7. FINDINGS AND PURPOSE

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

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

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

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

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

(f) This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act’s fundamental phased merger and incentive structures and requirements. Nothing in this act should suggest that it is acceptable for a school district to fail to take reasonable and robust action to seek to meet the goals of Act 46.

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

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

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

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

* * *

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

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

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

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) districts that received, on or after July 1, 2010 but prior to the effective date of this section, approval from their electorate to merge but are not operational as a Merged District as of the effective date of this section,

regardless of whether the Merged District is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * Withdrawal from Union School District * * *

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

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

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

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

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

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

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

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

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

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

(c) The State Board shall:

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

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

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

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

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

Sec. 12. REPEAL

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

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

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

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

* * *

(c) Alternative structure: supervisory union with member districts. An Education District as envisioned in subsection (b) of this section may not be

possible or the best model to achieve Vermont's education goals in all regions of the State. In such situations, a supervisory union composed of multiple member districts, each with its separate school board, ~~can~~ may meet the State's goals, particularly if:

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

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

(3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns; ~~and~~

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

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

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

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

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

* * *

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

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

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

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

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

- (1) an interstate school district;
- (2) a regional career technical center school district formed under 16 V.S.A. chapter 37, subchapter 5A; or
- (3) a district that, between June 30, 2013 and July 2, 2019, began to operate as a unified union school district and:

(A) voluntarily merged into the preferred education governance structure, an Education District, as set forth Sec. 5(b) of this act; or

(B) is a regional education district or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156.

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

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

Sec. 21. SMALL SCHOOL SUPPORT; METRICS

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

* * * Time Extension for Qualifying Districts * * *

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

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

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

Sec. 17. TIME EXTENSION FOR VOTE OF ELECTORATE

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

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

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

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

* * * Grants and Fee Reimbursement * * *

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

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

* * *

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

* * *

(3) Transition Facilitation Grant.

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

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

(ii) \$150,000.00.

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

* * *

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

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

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

* * *

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

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

* * *

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

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

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

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

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

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

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

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

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY
UNIONS

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

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

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

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

* * *

* * * Technical Corrections; Clarifications * * *

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

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

* * *

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

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

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

* * *

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

Sec. 24. AVAILABILITY OF TAX AND OTHER INCENTIVES

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

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

Sec. 23. DECLINING ENROLLMENT; TRANSITION

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

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

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

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

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more

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

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

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

* * * State Board Rulemaking Authority * * *

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

Sec. 8. EVALUATION BY THE STATE BOARD OF EDUCATION

* * *

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

* * * Tax Provisions * * *

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

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

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

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

(3) for which either:

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

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

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

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

(2) 2010 Acts and Resolves No. 153, Sec. 4(a)(2), which limits the amount by which tax rates are permitted to change, shall not apply to the town associated with the qualifying district for the first year for which the consolidated district's equalized homestead tax rate or household income percentage is reduced under that act.

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

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

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

Sec. 30. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

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

(b) Notwithstanding any provision to the contrary under 16 V.S.A. § 7061, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk shall immediately notify the selectboard of the town. Within 30 days of the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held in accordance with the unified union school district's articles of agreement.

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

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

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

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

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

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

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

Senator Baruth
 Senator Balint
 Senator Mullin

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

Bills Referred

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

H. 154.

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

To the Committee on Rules.

H. 241.

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

To the Committee on Rules.

H. 522.

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

To the Committee on Rules.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**H. 327.**

House bill entitled:

An act relating to the charter of the Northeast Kingdom Solid Waste Management District.

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment by striking out Sec. 3 (effective date) in its entirety and inserting in lieu thereof the following:

Sec. 3. 10 V.S.A. § 6605k(c) is amended to read:

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

(1) beginning on July 1, 2014, a person whose acts or processes produce more than 104 tons per year of food residuals;

(2) beginning on July 1, 2015, a person whose acts or processes produce more than 52 tons per year of food residuals;

(3) beginning on July 1, 2016, a person whose acts or processes produce more than 26 tons per year of food residuals; and

(4) ~~beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of food residuals; and~~

(~~5~~) beginning on July 1, 2020, any person who generates any amount of food residuals.

Sec. 4. 10 V.S.A. § 6607a(g) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

~~(C) Beginning on July 1, 2017, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.~~

* * *

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), or (B), ~~or (C)~~ of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A), or (B), ~~or (C)~~ of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A), or (B), ~~or (C)~~ of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), or (B), ~~or (C)~~ of this subsection for mandated recyclables, leaf and yard residuals, or food residuals collected as part of a litter collection event operated or administered by a nonprofit organization or municipality.

Sec. 5. EFFECTIVE DATES

(a) This section and Secs. 3 and 4 (food residuals) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2017.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Rodgers?, Senator Rodgers requested that the question be divided and that Sec. 3 and 5 be voted on separately.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Rodgers? Senator Campion raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Rodgers was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Rodgers was *not germane*.

Thereupon, Senator Rodgers moved that the rules be suspended to permit the Senate to consider a non-germane amendment.

Thereupon, Senator Rodgers requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

Proposal of Amended; Third Reading Ordered

H. 510.

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

An act relating to the cost share for State agricultural water quality financial assistance grants.

Reported that the bill ought to pass in concurrence.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence.

Thereupon, pending the question, Shall the bill be read third time?, Senator Pollina moved to amend the Senate proposal of amendment by adding two new sections to be Secs. 2a and 2b to read as follows:

Sec. 2a. 3 V.S.A. § 2822(i) is amended to read:

(i)(1) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services. Municipalities shall pay fees prescribed in subdivisions (j)(2), (10), (11), (12), and (26), except that a municipality shall also be exempt from those fees for stormwater systems prescribed in subdivision (j)(2)(A)(iii)(I), (II), or (IV) and (j)(2)(B)(iv)(I), (II), or (V) of this section for which a municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

(2) An air contaminant source shall be exempt from the fees required under subdivisions (j)(1)(A) and (B) of this section when the source of the emissions is the anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste.

Sec. 2b. 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.

* * *

(51) The following machinery, including repair parts, used for timber cutting, 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.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 22.

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senators Sirotkin and White moved to amend the Senate proposal of amendment in Sec. 1, in 20 V.S.A. § 2362a (potential hiring agency; duty to contact former agency), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1)(A) If that former agency is a law enforcement agency in this State, the executive officer of that former agency or designee shall disclose to the potential hiring agency in writing the reason the officer is no longer employed by the former agency.

(B) The executive officer or designee shall send a copy of the disclosure to the officer at the same time he or she sends it to the potential hiring agency.

(2) Such a former agency shall be immune from liability for its disclosure described in subdivision (1) of this subsection, unless such disclosure would constitute intentional misrepresentation or gross negligence.

Which was agreed to.

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

Bills Passed in Concurrence with Proposal of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposal of amendment:

H. 130. An act relating to approval of amendments to the charter of the Town of Hartford.

H. 238. An act relating to modernizing and reorganizing Title 7.

H. 347. An act relating to the State Telecommunications Plan.

Proposal of Amendment; Consideration Postponed

H. 424.

House bill entitled:

An act relating to the Commission on Act 250: the Next 50 Years.

Was taken up.

Thereupon, pending third reading of the bill, Senators Pearson, Ashe, Baruth, Ingram, Lyons, Sirotkin and Bray moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. ADDITIONAL AUTHORIZED USE; PUBLIC TRUST LANDS

(a) The General Assembly finds that:

(1) the General Assembly has the authority to authorize public uses of filled public trust lands in the City of Burlington; and

(2) the use of the filled public trust lands in the City of Burlington authorized by this act is consistent with the public trust doctrine.

(b) In addition to the uses authorized by the General Assembly in 1990 Acts and Resolves No. 274, 1991 Acts and Resolves No. 53, 1996 Acts and Resolves No. 87, and 1997 Acts and Resolves No. 22, the filled public trust lands within the City of Burlington that are located north of the centerline of Maple Street extending north to the northern terminus of the Lake Street extension completed in 2016 and that extend to the waters of Lake Champlain may be utilized for public markets that benefit Vermont's public and are available to the public on an open and nondiscriminatory basis.

(c) Any use authorized under this act is subject to all applicable requirements of law.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Rodgers moved to amend the Senate proposal of amendment as follows:

First: By adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. 10 V.S.A. § 6605k(c) is amended to read:

(c) The following persons shall be subject to the requirements of subsection (b) of this section:

(1) beginning on July 1, 2014, a person whose acts or processes produce more than 104 tons per year of food residuals;

(2) beginning on July 1, 2015, a person whose acts or processes produce more than 52 tons per year of food residuals;

(3) beginning on July 1, 2016, a person whose acts or processes produce more than 26 tons per year of food residuals; and

~~(4) beginning July 1, 2017, a person whose acts or processes produce more than 18 tons per year of food residuals; and~~

~~(5) beginning on July 1, 2020, any person who generates any amount of food residuals.~~

Second: By adding a new section to be numbered Sec. 3c to read as follows:

Sec. 3c. 10 V.S.A. § 6607a(g) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

~~(C) Beginning on July 1, 2017, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.~~

* * *

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), or (B), ~~or (C)~~ of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A), or (B), ~~or~~ (C) of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A), or (B), ~~or~~ (C) of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), or (B), ~~or~~ (C) of this subsection for mandated recyclables, leaf and yard residuals, or food residuals collected as part of a litter collection event operated or administered by a nonprofit organization or municipality.

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

Thereupon, pending the question, Shall the bill be amended as *firstly* proposed by Senator Rodgers?, Senator Ashe moved that consideration be postponed until 2:00 P.M. in the afternoon.

Which was agreed to.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 524. An act relating to approval of amendments to the charter of the Town of Hartford.

H. 527. An act relating to approval of amendments to the charter of the Town of East Montpelier and to the merger of the Town and the East Montpelier Fire District No. 1.

H. 536. An act relating to approval of amendments to the charter of the Town of Colchester.

Proposals of Amendment; Third Reading Ordered

H. 59.

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

An act relating to technical corrections.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 1 to read as follows:

Sec. 1. 1 V.S.A. § 431 is amended to read:

§ 431. STANDARD TIME; DAYLIGHT SAVING TIME

(a) The standard time within the State of Vermont shall be based on the mean astronomical time of the 75 of longitude west from Greenwich, known and designated as “U.S. Standard Eastern time,” except ~~on two o’clock ante meridian of the last Sunday in April in every year and until two o’clock ante meridian of the last Sunday in September in the same year,~~ as provided in 15 U.S.C. § 260a, when standard time is shall be advanced one hour. The period of time so advanced may be called “daylight saving time.”

* * *

And by renumbering the current Sec. 1 to be Sec. 1a.

Second: By adding a new section to be numbered Sec. 16a to read as follows:

Sec. 16a. 10 V.S.A. § 1389(e) is amended to read:

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

* * *

(F) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy; ~~and~~

(G) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices; and

(H) ~~Funding~~ funding to municipalities for the establishment and operation of stormwater utilities.

Third: By striking out Sec. 31 in its entirety and inserting in lieu thereof a new Sec. 31 to read as follows:

Sec. 31. [Deleted.]

Fourth: By adding a new section to be numbered Sec. 61a to read as follows:

Sec. 61a. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(YY)	§ 1127.	Unsafe control in presence of horses <u>and cattle animals</u> ;
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* * *

Fifth: By adding a new section to be numbered Sec. 119a to read as follows:

Sec. 119a. 28 V.S.A. chapter 11 is amended to read:

CHAPTER 11. SUPERVISION OF ADULT INMATES AT THE
CORRECTIONAL FACILITIES

* * *

Subchapter 5. Special Treatment Programs

* * *

Subchapter 6. Services For Inmates With Serious Functional Impairment

§ 905. LEGISLATIVE INTENT

It is the intent of the General Assembly that the serious functional impairment designation apply solely to individuals residing in a correctional facility and not to individuals reentering the community after incarceration.

~~Subchapter 6. Services For Inmates With Serious Functional Impairment~~

* * *

Sixth: By adding two new sections to be numbered Secs. 140a and 140b to read as follows:

Sec. 140a. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

* * *

(4) admission to places of ~~amusement~~ entertainment, including athletic events, exhibitions, dramatic and musical performances, motion pictures, golf courses and ski areas, and access to cable television systems or other audio or video programming systems that operate by wire, coaxial cable, lightwave, microwave, satellite transmission, or by other similar means, and access to any game or gaming or amusement machine, apparatus or device, excluding video game, pinball, musical, vocal, or visual entertainment machines which are operated by coin, token, or bills;

* * *

Sec. 140b. 32 V.S.A. § 9813 is amended to read:

§ 9813. PRESUMPTIONS AND BURDEN OF PROOF

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts for property or services of any type mentioned in ~~subdivisions 9771(1), (2), and (3) of this title, and all amusement charges of any type mentioned in subdivision 9771(4)~~ section 9771 of this title, are subject to tax until the contrary is established, and the burden of proving that any receipt or amusement charge is not taxable hereunder shall be upon the person required to collect tax.

* * *

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Degree, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

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

Proposals of Amendment; Third Reading Ordered

H. 111.

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

An act relating to vital records.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, 18 V.S.A. § 5000, in the final sentence of subdivision (c)(1), by striking out the words “and the date” and inserting in lieu thereof the words and by the date

Second: In Sec. 17, 18 V.S.A. § 5016, in subdivision (c)(1), by inserting the following at the end of the sentence, before the period, and shall not be issued on antifraud paper

Third: In Sec. 22, 18 V.S.A. § 5073, in subdivision (a)(2), by striking out the word “father” and inserting in lieu thereof the word parent

Fourth: In Sec. 27, 18 V.S.A. § 5077a, in subsection (a), in the first sentence, by striking out the following: “in the State Registration System.” and inserting in lieu thereof the following: in the Statewide Registration System. If the State Registrar denies an application under this subsection, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the issuance of a new birth certificate is warranted. If the court issues a decree ordering the issuance of a new birth certificate, the State Registrar shall update the System in accordance with the decree.

Fifth: In Sec. 38, 18 V.S.A. § 5112, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof the following:

(a)(1) Upon receiving from the Probate Division of the Superior Court a court order that receipt of an application for a new birth certificate and after receiving sufficient evidence to determine that an individual’s sexual reassignment has been completed, the State Registrar shall update the Statewide Registration System and issue a new birth certificate to:

(A) show that the sex of the individual born in this State has been changed; and

(B) if the application is accompanied by a decree of the Probate Division authorizing a change of name associated with the change of sex, to reflect the change of name.

(2) The State Registrar shall record in the System the identity of the person requesting the new certificate, the nature and content of the change made, the person who made the change, and the date of the change.

(b)(1) An affidavit by a licensed physician who has treated or evaluated the individual stating that the individual has undergone surgical, hormonal, or

other treatment appropriate for that individual for the purpose of gender transition shall constitute sufficient evidence ~~for the Court to issue an order~~ determine that sexual reassignment has been completed. The affidavit shall include the medical license number and signature of the physician.

(2) If the State Registrar denies an application under this section, the applicant may petition the Probate Division of the Superior Court, which shall review the application and relevant evidence de novo to determine if the issuance of a new birth certificate under this section is warranted. If the court issues a decree ordering the issuance of a new birth certificate under this section, the State Registrar shall update the Statewide Registration System and issue a new birth certificate in accordance with subsection (a) of this section.

Sixth: In Sec. 40, 18 V.S.A. § 5139, in subsection (b), in the second sentence, by striking out the words “harm would occur” and inserting in lieu thereof the words harm could occur

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposals of amendment as recommended by the Committee on Government Operations.

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

Consideration Postponed

H. 218.

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

An act relating to the adequate shelter of dogs and cats.

Reported that the bill ought to pass in concurrence.

Thereupon, pending the report of the Committee on Judiciary, Senator Ashe moved that consideration of the bill be postponed.

Which was agreed to.

House Proposals of Amendment Concurred In

S. 4.

House proposals of amendment to Senate bill entitled:

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

Were taken up.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 2, in 18 V.S.A. § 9572(a), by adding a second sentence to read as follows: For purposes of this section, the term "ACO's governing body" shall also include the governing body of any organization acting as a coordinating entity for two or more ACOs.

Second: In Sec. 2, in 18 V.S.A. § 9572(c), by striking out the word "board's" preceding "meeting schedule" and inserting in lieu thereof the word body's

Third: In Sec. 2, in 18 V.S.A. § 9572(d)(1), by striking out the following: "made available to the public" and inserting in lieu thereof the following: posted on the ACO's website within five business days following the meeting

Fourth: In Sec. 3, effective date, by striking out the following: "January 1, 2018" and inserting in lieu thereof the following: July 1, 2017

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

Rules Suspended; Bills Messaged

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

S. 4, H. 22, H. 130, H. 238, H. 327, H. 347, H. 524, H. 527, H. 536.

Message from the House No. 58

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

Mr. President:

I am directed to inform the Senate that:

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

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

S. 136. An act relating to miscellaneous consumer protection provisions.

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

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

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

The Speaker has appointed as members of such committee on the part of the House:

Rep. Sharpe of Bristol
Rep. Long of Newfane
Rep. Pearce of Richford

Adjournment

On motion of Senator Ashe, the Senate adjourned until two o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Message from the Governor Appointment Referred

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to committees as indicated:

Holcombe, Rebecca of Norwich - Secretary of the Agency of Education - from March 1, 2017, to February 28, 2019.

To the Committee on Education.

Bills Referred

Pursuant to Temporary Rule 44A the following bills having failed to meet cross-over and being referred to the Committee on Rules are hereby referred to their respective committees of jurisdictions:

H. 154.

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

To the Committee on Government Operations.

H. 241.

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

To the Committee on Government Operations.

H. 522.

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

To the Committee on Government Operations.

H. 529.

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

To the Committee on Government Operations.

H. 534.

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

To the Committee on Government Operations.

**Consideration Resumed; Bill Amended; Bill Passed in Concurrence with
Proposal of Amendment**

H. 424.

Consideration was resumed on Senate bill entitled:

An act relating to the Commission on Act 250: the Next 50 Years.

Thereupon, pending the question, Shall the proposal of amendment be amended as *firstly* proposed by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senators Rodgers, Bray, Campion, MacDonald and Pearson moved to amend the Senate proposal of amendment as follows:

By adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. 10 V.S.A. § 6607a(g)(1) is amended to read:

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste shall:

(A) Beginning on July 1, 2015, offer to collect mandated recyclables separated from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location

that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(C) Beginning on July 1, ~~2017~~ 2018, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

Which was agreed to.

Thereupon, the question, Shall the bill pass in concurrence with proposal of amendment, as amended?, was decided in the affirmative.

House Proposals of Amendment Concurred In with Amendment

S. 9.

House proposals of amendment to Senate bill entitled:

An act relating to the preparation of poultry products.

Were taken up.

The House proposes to the Senate to amend the bill as follows:

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

(2) As used in this subsection, “sanitary standards, practices, and procedures” means:

(A) the poultry are slaughtered in a facility that is soundly constructed, kept in good repair, and of sufficient size;

(B) rooms or compartments in which an edible product is processed, handled, or stored shall be separated from areas used for slaughter;

(C) all food-contact surfaces and nonfood-contact surfaces in the facility are cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of the products;

(D) pest control shall be adequate to prevent the harborage of pests on the grounds and within the facility;

(E) substances used for sanitation and pest control shall be safe and effective under the conditions of use, and shall not be applied or stored in a manner that will result in the contamination of edible products;

(F) sewage from human waste shall be disposed of in a sewage system separate from other drainage lines or disposed of through other means sufficient to prevent backup of sewage into areas where the product is processed, handled, or stored;

(G) process wastewater shall be handled in a manner to prevent the creation of insanitary conditions, which may include through on-farm composting under the required agricultural practices;

(H) a supply of potable water of suitable temperature is provided in all areas where required for processing the product, cleaning rooms, cleaning equipment, cleaning utensils, and cleaning packaging materials;

(I) equipment and utensils used for processing or handling edible product are of a material that is cleanable and sanitizable;

(J) receptacles used for storing inedible material are of such material and construction that their use will not result in adulteration of any edible product or create insanitary conditions;

(K) a person working in contact with the poultry products, food-contact surfaces, and product-packaging material shall maintain hygienic practices; and

(L) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable; clean garments shall be worn at the start of each working day; and garments shall be changed during the day as often as necessary to prevent adulteration of poultry products or the creation of insanitary conditions.

Second: 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.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senator Brooks moved that the Senate concur in the House proposals of amendment with further amendment as follows:

First: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) rooms or compartments in which an edible product is processed, handled, or stored shall be separated from areas used for slaughter, provided that a producer may use food-grade plastic sheeting as a means of separation when such sheeting prevents the creation of insanitary conditions;

Second: In Sec. 2, 6 V.S.A. § 3312, in subdivision (c)(2), by striking out subparagraphs (F) and (G) in their entirety and inserting in lieu thereof new subparagraph (F) to read as follows:

(F)(i) sewage from human waste shall be disposed of in a sewage system separate from other drainage lines; or

(ii) sewage is disposed of through other means to prevent the creation of insanitary conditions or the backup into the area where the product is processed, handled, or stored, including disposal of process wastewater through on-farm composting under the Required Agricultural Practices;

And by relettering the subsequent subparagraphs to be alphabetically correct.

Third: In Sec. 2, 6 V.S.A. § 3312 in subdivision (c)(2), by striking out relettered subparagraph (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.

Fourth: In Sec. 2, 6 V.S.A. § 3312, by striking out subsection (h) (approved label) in its entirety.

Which was agreed to.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 218.

Consideration was resumed on House bill entitled:

An act relating to the adequate shelter of dogs and cats.

Was taken up.

Thereupon, Senator Sears, for the Committee on Judiciary, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as follows:

First: In Sec. 2, 13 V.S.A. § 365, subdivision (c)(1), in the first sentence, by striking out the words “an adequate” and inserting in lieu thereof the words a minimum. And in the second sentence by striking out the word “adequate” and inserting in lieu thereof the word minimum.

Second: In Sec. 2, 13 V.S.A. § 365, subparagraph (c)(3)(A), in the first sentence, by striking out the word “adequate” and inserting in lieu thereof the words a minimum. And in the second sentence by striking out the word “adequate” and inserting in lieu thereof the word minimum

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Judiciary was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator McCormack moved to amend the Senate proposal of amendment, in Sec. 2, 13 V.S.A. § 365, by striking out subdivision (c)(1) in its entirety and inserting in lieu thereof the following:

(c) Minimum size of living space; dogs and cats.

(1) A dog, ~~whether chained or penned,~~ shall be provided a minimum living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs.

Which was disagreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator McCormack moved to amend the Senate proposal of amendment, in Sec. 2, 13 V.S.A. § 365, by striking out subdivision (e)(2) in its entirety and renumbering the following subdivisions to be numerically correct.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator McCormack?, Senator McCormack requested and was granted leave to withdraw his proposal of amendment.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 411.

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

An act relating to Vermont's energy efficiency standards for appliances and equipment.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Appliance Efficiency * * *

Sec. 1. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 2 through 6 of this act adopt federal appliance and lighting efficiency standards in effect on January 19, 2017 so that the same standards will be in place in Vermont should

the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 2. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(15) “General service lamp” has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 3. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

- (1) Medium voltage dry-type distribution transformers.
- (2) Metal halide lamp fixtures.
- (3) Residential furnaces and residential boilers.
- (4) Single-voltage external AC to DC power supplies.
- (5) State-regulated incandescent reflector lamps.
- (6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

- (1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.
- (2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 4. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 5. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 6. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 4 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

* * * Net Metering * * *

Sec. 7. 30 V.S.A. § 8010(c)(2) is amended to read:

(2) The rules shall include provisions that govern:

* * *

(F) the amount of the credit to be assigned to each kWh of electricity generated by a net metering customer in excess of the electricity supplied by the interconnecting provider to the customer, the manner in which the customer's credit will be applied on the customer's bill, and the period during which a net metering customer must use the credit, after which the credit shall revert to the interconnecting provider.

(i) When assigning an amount of credit under this subdivision (F), the Board shall consider making multiple lengths of time available over which a customer may take a credit and differentiating the amount according to the

length of time chosen. For example, a monthly credit amount may be higher if taken over 10 years and lower if taken over 20 years. Factors relevant to this consideration shall include the customer's ability to finance the net metering system, the cost of that financing, and the net present value to all ratepayers of the net metering program.

(ii) In this subdivision (ii), "existing net metering system" means a net metering system for which a complete application was filed before January 1, 2017.

(I) Commencing 10 years from the date on which an existing net metering system was installed, the Board may apply to the system the same rules governing bill credits and the use of those credits on the customer's bill that it applies to net metering systems for which applications were filed on or after January 1, 2017, other than any adjustments related to siting and tradeable renewable energy credits.

(II) This subdivision (ii) shall apply to existing net metering systems notwithstanding any contrary provision of 1 V.S.A. § 214 and 2014 Acts and Resolves No. 99, Sec. 10.

Sec. 8. NET METERING SYSTEMS; APPROVAL UNDER BOARD ORDER

(a) In this section, "Temporary Net Metering Order" means the order on reconsideration issued on August 29, 2016 by the Public Service Board (Board) under the caption of "In Re: Revised Net-Metering Rule Pursuant to Act 99 of 2014."

(b) A net metering system that received an approval from the Board pursuant to the Temporary Net Metering Order may be constructed and placed into service in accordance with the terms of that Order and the approval issued pursuant to that Order, provided the approval was issued before September 1, 2017.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES; APPLICABILITY

(a) This act shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. 7 shall apply to net metering rules of the Public Service Board adopted on or after January 1, 2017.

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

An act relating to miscellaneous energy issues.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senators MacDonald, Lyons and Sirotkin moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as follows:

First: By striking out Sec. 7 in its entirety and inserting in lieu thereof two new sections to be numbered Secs. 7 and 7a to read as follows:

Sec. 7. LEGISLATIVE INTENT

The General Assembly intends that the Public Service Board, in adopting rules pursuant to 30 V.S.A. § 8010, minimize the effect of those rules on existing net metering systems as defined in Sec. 7a of this act.

Sec. 7a. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(f) Rather than the other provisions of this section, an existing net metering system shall be governed by the provisions of section 219a of this title and Board rules implementing that section as they existed on December 31, 2016, except that the Board may allow a provider, commencing 10 years from the date on which an existing net metering system was interconnected to the provider's distribution system, to calculate credits for kWh generated by the system at the blended residential rate or disallow applying such credits to nonbypassable charges, or both.

(1) In such case, a customer with an existing net metering system may continue to apply credits for kWh generated by the system to nonbypassable charges for a period of 10 years from the date on which the system was interconnected to the distribution system of the provider.

(2) As used in this subsection (f):

(A) "Blended residential rate" means the lower of the provider's residential retail rate or the weighted statewide average of all providers' residential retail rates, as determined by the Board. For the purpose of this subdivision (A):

(i) If a provider's general residential service tariff does not include inclining block rates, the provider's residential rate shall be the dollars per kWh charge set forth in that provider's tariff for general residential service.

(ii) If a provider's general residential service tariff does include inclining block rates, the provider's residential rate shall be a blend of the provider's general residential service inclining block rates that is determined by adding together all of the revenues to the provider during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year.

(B) "Existing net metering system" means a net metering system for which a complete application was filed with the Board before January 1, 2017.

(C) "Nonbypassable charge" means a charge on the bill of a retail electricity provider that a customer must pay whether or not the customer engages in net metering. Only the following shall be nonbypassable charges under this subsection (f):

(i) the customer charge;

(ii) the energy efficiency charge pursuant to subdivision 209(d)(3) of this title;

(iii) the energy assistance program charge pursuant to subsection 218(e) of this title;

(iv) a charge for on-bill financing not related to a net metering system; and

(v) an equipment rental charge.

Second: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 9 to read as follows:

Sec. 9. EFFECTIVE DATES; APPLICABILITY

(a) This act shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214 and any contrary provision of 2014 Acts and Resolves No. 99, Sec. 10(f), Secs. 7 and 7a shall apply to:

(1) existing net metering systems as defined in Sec. 7a;

(2) net metering systems for which complete applications were or are filed on or after January 1, 2017; and

(3) net metering rules of the Public Service Board adopted on or after January 1, 2017.

Thereupon, pending the question, Shall the proposal of amendment of the Committee of Natural Resources and Energy be amended as proposed by the Senators MacDonald, Lyons and Sirotkin?, Senator MacDonald requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Natural Resources and Energy, was agreed to.

Thereupon, third reading of the bill was read, on a roll call, Yeas 29, Nays 1.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

The Senator who voted in the negative was: Lyons.

House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment; Bill Ordered to Lie

S. 22.

Senate bill entitled:

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

Was taken up.

The House concurs in the Senate Proposal of Amendment to the House Proposal of Amendment with further proposal of amendment as follows:

First: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. CRIMINAL CODE RECLASSIFICATION IMPLEMENTATION COMMITTEE

(a) Creation. There is created the Criminal Code Reclassification Committee to develop and propose a classification system for purposes of structuring Vermont's criminal offenses.

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

(1) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees;

(c) Powers and duties.

(1) The Committee shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Committee shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies. If the Committee is unable to determine an appropriate classification for a particular offense, the Committee shall indicate multiple classification possibilities for that offense.

(2) For purposes of the classification system developed pursuant to this section, the Committee shall consider the recommendations of the Criminal Code Reclassification Study Committee, and may consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mental element terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office, and may consult with the Vermont Crime Research Group, the Vermont Law School Center for Justice Reform, and any other person who would be of assistance to the Committee.

(e) Report. On or before December 31, 2017, the Committee shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

(f) Meetings.

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

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

(3) The Committee shall cease to exist on January 15, 2018.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Second: In Sec. 5, effective dates, after the words “This section” by adding the following: , Sec. 4 (Criminal Code Reclassification Implementation Committee),

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

An act relating to fentanyl, a committee to reorganize and reclassify Vermont’s criminal statutes, and the ephedrine and pseudoephedrine registry.

Thereupon, pending the question, Shall the Senate concur in the House Proposal of Amendment to the Senate Proposal of Amendment to the House Proposal of Amendment?, on motion of Senator Sears, the bill was ordered to lie.

Joint Resolution Adopted in Concurrence

J.R.H. 10.

Joint House resolution entitled:

Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Rules Suspended; Bill Referred

H. 58.

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

An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was referred to the Committee on Finance as if under Senate Rule 31.

Rules Suspended; Bill Referred

H. 495.

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

An act relating to miscellaneous agriculture subjects.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was referred to the Committee on Appropriations as if under Senate Rule 31.

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

S. 134.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to court diversion and pretrial services.

Was taken up for immediate consideration.

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

Sec. 1. FINDINGS; INTENT

(a) The General Assembly finds:

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

(2) Diversion programs benefit the criminal justice system by reducing costs and allowing resources to be allocated more efficiently for more serious offenders. According to studies by the Urban Institute and the National Alliance on Mental Illness, diversion programs reduce costs and improve outcomes by allowing offenders with mental illness to receive more appropriate treatment outside the criminal justice system. As reported in the Psychiatric Rehabilitation Journal, diversion programs reduce costs by decreasing the need for and use of hospitalization and crisis services by offenders.

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

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

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

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

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

§ 164. ADULT COURT DIVERSION PROJECT PROGRAM

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

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

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

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

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

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

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

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

(A) the Board declines to accept the case;

(B) the person declines to participate in diversion;

(C) the Board accepts the case, but the person does not successfully complete diversion;

(D) the prosecuting attorney recalls the referral to diversion.

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

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

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

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

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

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

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

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

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

(9) Each participant shall pay a fee to the local adult court diversion project. The amount of the fee shall be determined by project officers or employees based upon the financial capabilities of the participant. The fee shall not exceed \$300.00. The fee shall be a debt due from the participant, and payment of such shall be required for successful completion of the program. Notwithstanding 32 V.S.A. § 502(a), fees collected under this subdivision shall be retained and used solely for the purpose of the court diversion program.

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

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

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

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

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

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

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

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

~~(i)~~(k) Subject to the approval of the Attorney General, the Vermont Association of Court Diversion Programs may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

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

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

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

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

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

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

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

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

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

~~(3) Unless ordered as a condition of release under section 7554 of this title, participation~~ Participation in risk assessment or needs screening shall be voluntary and a person’s refusal to participate shall not result in any criminal legal liability to the person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of information gained as a proximate result of the risk assessment or, needs screening, or other conversation with the pretrial services coordinator.

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

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

(f) The Attorney General’s Office shall:

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

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

Sec. 4. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL SERVICES

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

(b) The Attorney General, the Defender General, and the Executive Director of the Department of State’s Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this

intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

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

§ 7041. DEFERRED SENTENCE

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

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

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

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

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

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

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

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

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

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

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

(c) Notwithstanding subsections (a) and (b) of this section, the court may not defer a sentence for a violation of section 3253a (aggravated sexual assault of a child), section 2602 (lewd and lascivious conduct with a child unless the

victim and the defendant were within five years of age and the act was consensual), 3252(c) (sexual assault of a child under 16 years of age unless the victim and the defendant were within five years of age and the act was consensual), 3252(d) or (e) (sexual assault of a child), 3253(a)(8) (aggravated sexual assault), or 3253a (aggravated sexual assault of a child) of this title.

* * *

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

§ 5231. RIGHT TO REPRESENTATION, SERVICES AND FACILITIES

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

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

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

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

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

§ 5232. PARTICULAR PROCEEDINGS

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

* * *

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

(A) the child; and

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

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

§ 5234. NOTICE OF RIGHTS; REPRESENTATION PROVIDED

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

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

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

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

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

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

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

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

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

Sec. 9. LEGISLATIVE FINDINGS

The General Assembly finds that:

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

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

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

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

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

Sec. 10. STUDY

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

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

Sec. 11. SUNSET

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

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

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

Senator White
Senator Benning
Senator Sears

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

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

S. 136.

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

An act relating to miscellaneous consumer protection provisions.

Was taken up for immediate consideration.

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

* * * Home Loan Escrow Account Analysis * * *

Sec. 1. 8 V.S.A. § 10404 is amended to read:

§ 10404. HOME LOAN ESCROW ACCOUNTS

* * *

(c) A lender shall not require a borrower to deposit into an escrow account any greater sum than is sufficient to pay taxes, insurance premiums, and other

charges with respect to the residential real estate, subject to the following additional charges:

(1) a lender may require aggregate annual deposits no greater than the reasonably estimated total annual charges plus ~~one-twelfth~~ one-sixth of such total; and

(2) a lender may require monthly deposits no greater than one-twelfth of the reasonably estimated total annual charges plus an amount needed to maintain an additional account balance no greater than ~~one-twelfth~~ one-sixth of such total.

* * *

(g)(1) At least annually, a lender shall conduct an escrow account analysis at the completion of the escrow account computation year to determine the borrower's monthly escrow account payments for the next computation year based on the borrower's current tax liability, if made available to the lender either by the borrower or the municipality, after any applicable adjustment for a State credit on property taxes.

(2) Upon submission of a revised property tax bill to the lender, the lender shall review the property tax bill and upon verifying that it has been reduced since the date of the last escrow account analysis, the lender shall, within 30 days of receiving notice from the borrower, conduct a new escrow account analysis, recalculate the borrower's monthly escrow payment, and notify the borrower of any change.

(3) ~~The lender shall provide~~ At least annually, and whenever an escrow account analysis is conducted or upon request of the borrower, the lender shall provide to the borrower financial statements relating to the borrower's escrow account in a manner and on a form ~~approved by the Commissioner~~ consistent with the federal Real Estate Settlement Procedures Act. The lender shall not charge the borrower for the preparation and transmittal of such statements.

* * *

* * * Fantasy Sports Contests * * *

Sec. 2. FANTASY SPORTS; FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) Participation in online fantasy sports contests throughout the nation has grown significantly in recent years and it is estimated that approximately 80,000 Vermonters have participated in at least one fantasy sports contest.

(2) At least 10 states have now recognized fantasy sports as a legal, regulated activity, and legislation has been introduced in many more states to

recognize, regulate, and tax the activity in order to identify contest operators, ensure fair play, and protect consumers.

(3) Given the widespread participation in online fantasy sports contests, Vermont should carefully consider how best to regulate fantasy sports contests, register fantasy sports contest operators, and provide necessary protection for Vermont consumers.

(b) Purpose. The purpose of Sec. 3 of this act is to direct the Attorney General and the Executive Branch to consider and propose an appropriate regulatory framework for fantasy sports contests.

Sec. 3. FANTASY SPORTS CONTESTS; PROPOSALS

(a) On or before December 15, 2017, the Attorney General shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a proposal for necessary consumer protection provisions regulating fantasy sports contests and operators.

(b) On or before December 15, 2017, the Secretary of Administration shall submit to the House Committee on Ways and Means and the Senate Committee on Finance a proposal for fantasy sports contests concerning:

(1) registration requirements and a flat registration fee of an appropriate amount; and

(2) an appropriate percentage tax on an appropriate measure of revenue.

Secs. 4–5. [Deleted.]

* * * Automatic Renewal Provisions in Consumer Contracts; H.286 * * *

Sec. 6. 9 V.S.A. § 2454a is added to read:

§ 2454a. CONSUMER CONTRACTS; AUTOMATIC RENEWAL

(a) A contract between a consumer and a seller or a lessor with an initial term of one year or longer shall not renew automatically unless:

(1) the contract states clearly and conspicuously the terms of the automatic renewal provision in plain, unambiguous language, and in bold-face type;

(2) in addition to accepting the contract, the consumer takes an affirmative action to opt in to the automatic renewal provision; and

(3) if the consumer opts in to the automatic renewal provision, the seller or lessor provides a written or electronic notice to the consumer:

(A) not less than 30 days, and not more than 60 days, before the earliest of:

(i) the automatic renewal date;

(ii) the termination date; or

(iii) the date by which the consumer must provide notice to cancel the contract; and

(B) that includes:

(i) the date the contract will terminate and a clear statement that unless the consumer cancels the contract on or before the termination date, the contract will renew automatically;

(ii) the length and any additional terms of the renewal period;

(iii) one or more methods by which the consumer can cancel the contract; and

(iv) contact information for the seller or lessor,

(b) A person who violates a provision of subsection (a) of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(c) The provisions of this section do not apply to a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101.

Sec. 7. AUTOMATIC RENEWAL OF CONTRACTS; APPLICABILITY TO EXISTING CONTRACTS

(a) A contract between a consumer and a seller or lessor in effect on January 1, 2018, with an initial term of one year or longer, and that includes an automatic renewal provision, shall not renew automatically unless the seller or lessor sends written or electronic notice to the consumer with the information required 9 V.S.A. § 2454a(a)(3)(B):

(1) not less than 30 days, and not more than 60 days, before the earliest of:

(A) the automatic renewal date;

(B) the termination date; or

(C) the date by which the consumer must provide notice to cancel the contract; or

(2) if the contract will automatically renew on or before January 31, 2018, then as soon as is commercially reasonable after this section takes effect.

(b) The Attorney General shall have the same authority to enforce this section as for 9 V.S.A. § 2454a.

* * * Retainage of Payment for Construction Materials; H.288 * * *

Sec. 8. 9 V.S.A. § 4005 is amended to read:

§ 4005. RETAINAGE

(a) If payments under a construction contract are subject to retainage, any amounts ~~which~~ that have been retained during the performance of the contract and ~~which~~ that are due to be released to the contractor upon final completion shall be paid within 30 days after final acceptance of the work.

(b) If an owner is not withholding retainage, a contractor or subcontractor may withhold retainage from its subcontractor in accordance with their agreement. The retainage shall be paid within 30 days after final acceptance of the work.

(c) Notwithstanding any contrary agreement, a contractor shall pay to its subcontractors, and each subcontractor shall in turn pay to its subcontractors, within seven days after receipt of the retainage, the full amount due to each such subcontractor.

(d) If an owner, contractor, or subcontractor unreasonably withholds acceptance of the work or fails to pay retainage as required by this section, the owner, contractor, or subcontractor shall be subject to the interest, penalty, and attorney's fees provisions of sections 4002, 4003, and 4007 of this title.

(e) Notwithstanding any provision of this section or an agreement to the contrary, except in the case of a contractor or subcontractor who is both a materialman who delivers materials and is contracted to perform work using those materials, a contractor or subcontractor shall not hold retainage for contracted materials that:

(1) have been delivered by a materialman and accepted by the contractor at the site, or off-site; and

(2) are covered by a manufacturer's warranty, or graded to meet industry standards, or both.

* * * Credit Protection for Vulnerable Persons; H.390 * * *

Sec. 9. 9 V.S.A. § 2480a is amended to read:

§ 2480a. DEFINITIONS

For purposes of As used in this subchapter and subchapter 9 of this chapter:

(1) "Consumer" means a natural person ~~residing in this State~~ other than a protected consumer.

~~(2) “Credit report” means any written, oral, or other communication of any information by a credit reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, including an investigative credit report. The term does not include:~~

~~(A) a report containing information solely as to transactions or experiences between the consumer and the person making the report; or~~

~~(B) an authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device. a consumer report, as defined in 15 U.S.C. § 1681a, that is used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer’s eligibility for credit for personal, family, or household purposes.~~

~~(3) “Credit reporting agency” or “agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of reporting to third parties on the credit rating or creditworthiness of any consumer a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer’s credit or other information for the purpose of furnishing a credit report to another person.~~

~~(4) “Identity theft” means the unauthorized use of another person’s personal identifying information to obtain credit, goods, services, money, or property.~~

~~(5) “Investigative credit report” means a report in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom the consumer is acquainted or who may have knowledge concerning any such items of information. The term does not include reports of specific factual information on a consumer’s credit record obtained directly from a creditor of the consumer or from a credit reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.~~

~~(6) “Proper identification,” as used in this subchapter, means that information generally deemed sufficient to identify a person has the same meaning as in 15 U.S.C. § 1681h(a)(1), and includes:~~

~~(A) the consumer’s full name, including first, last, and middle names and any suffix;~~

~~(B) any name the consumer previously used;~~

(C) the consumer's current and recent full addresses, including street address, any apartment number, city, state, and ZIP code;

(D) the consumer's Social Security number; and

(E) the consumer's date of birth.

(7) "Security freeze" means a notice placed in a credit report, at the request of the consumer, pursuant to section 2480h of this title.

(8) "Consumer who is subject to a protected consumer security freeze" means a natural person:

(A) for whom a credit reporting agency placed a security freeze under section 2480h of this title; and

(B) who, on the day on which a request for the removal of the security freeze is submitted under section 2480h of this title, is not a protected consumer.

(9) "File" has the same meaning as in 15 U.S.C. § 1681a.

(10) "Incapacitated person" has the same meaning as in 14 V.S.A. § 3152.

(11)(A) "Personal information" means personally identifiable financial information:

(i) provided by a consumer to another person;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by another person.

(B) "Personal information" does not include:

(i) publicly available information, as that term is defined by the regulations prescribed under 15 U.S.C. § 6804; or

(ii) any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived without using any nonpublic personal information.

(C) Notwithstanding subdivision (B) of this subdivision (11), "personal information" includes any list, description, or other grouping of consumers, and publicly available information pertaining to the consumers, that is derived using any nonpublic personal information other than publicly available information.

(12) "Protected consumer" means a natural person who, at the time a request for a security freeze is made, is:

(A) less than 18 years of age, unless emancipated under 12 V.S.A. chapter 217.

(B) an incapacitated person; or

(C) a protected person.

(13) "Protected person" has the same meaning as in 14 V.S.A. § 3152.

(14) "Record" means a compilation of information that:

(A) identifies a protected consumer;

(B) is created by a consumer reporting agency solely for the purpose of complying with this section; and

(C) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(15) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(16) "Sufficient proof of authority" means documentation that shows that a person has authority to act on behalf of a protected consumer, including:

(A) a court order;

(B) a lawfully executed power of attorney; or

(C) a written, notarized statement signed by the person that expressly describes the person's authority to act on behalf of the protected consumer.

(17) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative, including:

(A) a Social Security number or a copy of a Social Security card issued by the U.S. Social Security Administration;

(B) a certified or official copy of a birth certificate; or

(C) a copy of a government issued driver license or identification card.

Sec. 10. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Credit Report Protection for Minors

§ 2493. TITLE

This subchapter is known as "Credit Report Protection for Minors."

§ 2494. DEFINITIONS

As used in this subchapter:

(1) “Proper authority” means:

(A) in the case that it is required of a protected consumer’s representative:

(i) sufficient proof of identification of the protected consumer;

(ii) sufficient proof of identification of the protected consumer’s representative; and

(iii) sufficient proof of authority to act on behalf of the protected consumer; and

(B) in the case that it is required of a consumer who is subject to a protected consumer security freeze:

(i) sufficient proof of identification of the consumer who is subject to a protected consumer security freeze; and

(ii) proof that the consumer who is subject to a protected consumer security freeze is not a protected consumer.

(2) “Protected consumer security freeze” means:

(A) if a consumer reporting agency does not have a file that pertains to a protected consumer, a restriction that:

(i) is placed on the protected consumer’s record in accordance with this subchapter; and

(ii) except as otherwise provided in this subchapter, prohibits the consumer reporting agency from releasing the protected consumer’s record; or

(B) if a consumer reporting agency has a file that pertains to the protected consumer, a restriction that:

(i) is placed on the protected consumer’s credit report in accordance with this subchapter; and

(ii) except as otherwise provided in this subchapter, prohibits the consumer reporting agency from releasing the protected consumer’s credit report or any information derived from the protected consumer’s credit report.

§ 2495. APPLICABILITY

This subchapter does not apply to the use of a protected consumer’s credit report or record by:

(1) a person administering a credit file monitoring subscription service to which:

(A) the protected consumer has subscribed; or

(B) the protected consumer's representative has subscribed on the protected consumer's behalf;

(2) a person who, upon request from the protected consumer or the protected consumer's representative, provides the protected consumer or the protected consumer's representative with a copy of the protected consumer's credit report;

(3) a check services or fraud prevention services company that issues:

(A) reports on incidents of fraud; or

(B) authorization for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar payment methods;

(4) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding an individual to inquiring banks or other financial institutions for use only in reviewing an individual's request for a deposit account at the inquiring bank or financial institution;

(5) an insurance company for the purpose of conducting the insurance company's ordinary business;

(6) a consumer reporting agency that:

(A) only resells credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

(B) does not maintain a permanent database of credit information from which new credit reports are produced; or

(7) a consumer reporting agency's database or file that consists of information that:

(A) concerns and is used for:

(i) criminal record information;

(ii) fraud prevention or detection;

(iii) personal loss history information; or

(iv) employment, tenant, or individual background screening; and

(B) is not used for credit granting purposes.

§ 2496. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN EFFECT

(a) A consumer reporting agency shall place a security freeze for a protected consumer if:

(1) the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze; and

(2) the protected consumer's representative:

(A) submits the request described in subdivision (1) of this subsection (a):

(i) to the address or other point of contact provided by the consumer reporting agency; and

(ii) in the manner specified by the consumer reporting agency;

(B) demonstrates proper authority to the consumer reporting agency; and

(C) if applicable, pays the consumer reporting agency a fee described in section 2497 of this title.

(b) If a consumer reporting agency does not have a file that pertains to a protected consumer when the consumer reporting agency receives a request described in subsection (a) of this section, the consumer reporting agency shall create a record for the protected consumer.

(c) The credit reporting agency shall:

(1) place a security freeze no later than 30 days after the date the agency receives a request pursuant to subsection (a) of this section; and

(2) no later than 10 business days after placing the freeze:

(A) send a written confirmation of the security freeze to the protected consumer or the protected consumer's representative; and

(B) provide a unique personal identification number or password, other than a Social Security number, to be used to authorize the release of the protected consumer's credit for a specific party, parties, or period of time.

(d) If the protected consumer or protected consumer's representative wishes to allow the protected consumer's credit report to be accessed by a specific party or parties, or for a specific period of time while a freeze is in place, he or she shall:

(1) contact the credit reporting agency;

(2) request that the freeze be temporarily lifted;

(3) provide:

(A) proper authority;

(B) the unique personal identification number or password provided by the credit reporting agency pursuant to subsection (c) of this section;

(C) the proper information regarding the third party, parties, or time period for which the report shall be available to users of the credit report; and

(4) if applicable, pay the consumer reporting agency a fee described in section 2497 of this title.

(e) A credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section in an expedited manner.

(f) A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (e) of this section shall comply with the request not later than three business days after receiving the request.

(g) A credit reporting agency shall remove or lift temporarily a freeze placed on a protected consumer's credit report only in the following cases:

(1) Upon request, pursuant to subsection (d) or (j) of this section.

(2) If the protected consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a credit reporting agency intends to remove a freeze upon a protected consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the protected consumer and his or her representative in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a protected consumer security freeze is in effect and this request is in connection with an application for credit or any other use and neither the consumer subject to the protected consumer security freeze nor the protected consumer's representative allows the credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) If a protected consumer's representative requests a security freeze pursuant to this section, the credit reporting agency shall disclose to the protected consumer's representative the process of placing and lifting temporarily a security freeze and the process for allowing access to information from the protected consumer's credit report for a specific party,

parties, or period of time while the protected consumer security freeze is in place.

(j)(1) A protected consumer security freeze shall remain in place until the consumer subject to the protected consumer security freeze or the protected consumer's representative requests that the security freeze be removed.

(2) A credit reporting agency shall remove a protected consumer security freeze within three business days of receiving a proper request for removal.

(3) The protected consumer's representative or the consumer who is subject to a protected consumer security freeze shall submit to the consumer reporting agency a proper request for removal:

(A) at the address or other point of contact provided by the consumer reporting agency; and

(B) in the manner specified by the consumer reporting agency.

(4) When submitting a proper request for removal, a protected consumer's representative or a consumer who is subject to a protected consumer security freeze shall:

(A) provide proper authority;

(B) provide the unique personal identification number or password provided by the credit reporting agency pursuant to subsection (c) of this section; and

(C) if applicable, pay the consumer reporting agency a fee described in section 2497 of this title.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a protected consumer security freeze.

(l) The provisions of this section, including the protected consumer security freeze, do not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the protected consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. As used in this subdivision, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (d) of this section for purposes of facilitating the extension of credit or other permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. §§ 651-669b) and 33 V.S.A. 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, or the Department of Motor Vehicles or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties, unpaid court orders, or to fulfill any of their other statutory or charter responsibilities.

(7) A person's use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

§ 2497. FEES

(a) Except as provided in subsection (b) of this section, a consumer reporting agency may not charge a fee for any service performed under this subchapter.

(b) A consumer reporting agency may charge a reasonable fee, which does not exceed \$5.00, for each placement, suspension, or removal of a protected consumer security freeze, unless:

(1) the protected consumer's representative:

(A) has obtained a police report that states the protected consumer is the alleged victim of identity fraud; and

(B) provides a copy of the report to the consumer reporting agency; or

(2)(A) the protected consumer is less than 16 years of age at the time the request is submitted to the consumer reporting agency; and

(B) the consumer reporting agency has a file that pertains to the protected consumer.

* * * Use of Credit Information for Personal Insurance; H.432 * * *

Sec. 11. 8 V.S.A. § 4727 is added to read:

§ 4727. PERSONAL INSURANCE; USE OF CREDIT INFORMATION

(a) Purpose. The purpose of this section is to regulate the use of credit information for personal insurance, so that consumers are afforded certain protections with respect to the use of such information.

(b) Scope. This section applies to personal insurance and not to commercial insurance. As used in this section, “personal insurance” means private passenger automobile, homeowners, motorcycle, mobile home owners, and noncommercial dwelling fire insurance policies. Such policies must be underwritten for personal, family, or household use. No other types of insurance shall be included as personal insurance for the purpose of this section.

(c) Definitions. As used in this section:

(1) “Adverse action” means a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of personal insurance.

(2) “Affiliate” means any company that controls, is controlled by, or is under common control with another company.

(3) “Applicant” means an individual who has applied to be covered by a personal insurance policy with an insurer.

(4) “Consumer” means an insured whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy or an applicant for such a policy.

(5) “Consumer reporting agency” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(6) “Credit information” means any credit-related information derived from a credit report, found on a credit report itself, or provided on an

application for personal insurance. Information that is not credit-related shall not be considered “credit information,” regardless of whether it is contained in a credit report or in an application, or is used to calculate an insurance score.

(7) “Credit report” means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, or credit capacity which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

(8) “Insurance score” means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

(d) Use of credit information. An insurer authorized to do business in this State that uses credit information to underwrite or rate risks, shall not:

(1) Use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer as a factor.

(2) Deny, cancel or nonrenew a policy of personal insurance solely on the basis of credit information, without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited by subdivision (1) of this subsection.

(3) Base an insured’s renewal rates for personal insurance solely upon credit information, without consideration of any other applicable factor independent of credit information.

(4) Take an adverse action against a consumer solely because he or she does not have a credit card account, without consideration of any other applicable factor independent of credit information.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance, unless the insurer does one of the following:

(A) Treats the consumer as otherwise approved by the Commissioner, if the insurer presents information that such an absence or inability relates to the risk for the insurer.

(B) Treats the consumer as if the applicant or insured had neutral credit information, as defined by the insurer.

(C) Excludes the use of credit information as a factor and uses only other underwriting criteria.

(6) Take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the policy is first written or renewal is issued.

(7) Use credit information unless not later than every 36 months following the last time that the insurer obtained current credit information for the insured, the insurer recalculates the insurance score or obtains an updated credit report. Regardless of the requirements of this subsection:

(A) At annual renewal, upon the request of a consumer or the consumer's agent, the insurer shall reunderwrite and rerate the policy based upon a current credit report or insurance score. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a 12-month period.

(B) The insurer shall have the discretion to obtain current credit information upon any renewal before the 36 months, if consistent with its underwriting guidelines.

(C) No insurer need obtain current credit information for an insured, despite the requirements of subdivision (A) of this subdivision (7), if one of the following applies:

(i) The insurer is treating the consumer as otherwise approved by the Commissioner.

(ii) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers. However, the insurer shall have the discretion to order such report, if consistent with its underwriting guidelines.

(iii) Credit was not used for underwriting or rating such insured when the policy was initially written. However, the insurer shall have the discretion to use credit for underwriting or rating such insured upon renewal, if consistent with its underwriting guidelines.

(iv) The insurer reevaluates the insured beginning not later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information.

(8) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:

(A) credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information;

(B) inquiries relating to insurance coverage, if so identified on a consumer's credit report;

(C) collection accounts with a medical industry code, if so identified on the consumer's credit report;

(D) multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered; and

(E) multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered.

(e)(1) Extraordinary life circumstances. Notwithstanding any other law or rule to the contrary, an insurer that uses credit information shall, on written request from an applicant for insurance coverage or an insured, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by any of the following events:

(A) a catastrophic event, as declared by the federal or State government;

(B) a serious illness or injury, or a serious illness or injury to an immediate family member;

(C) the death of a spouse, child, or parent;

(D) divorce or involuntary interruption of legally owed alimony or support payments;

(E) identity theft;

(F) the temporary loss of employment for a period of three months or more, if it results from involuntary termination;

(G) military deployment overseas; or

(H) other events, as determined by the insurer.

(2) If an applicant or insured submits a request for an exception as set forth in subdivision (1) of this subsection, an insurer may, in its sole discretion, but is not mandated to:

(A) require the consumer to provide reasonable written and independently verifiable documentation of the event;

(B) require the consumer to demonstrate that the event had direct and meaningful impact on the consumer's credit information;

(C) require such request be made no more than 60 days from the date of the application for insurance or the policy renewal;

(D) grant an exception despite the consumer not providing the initial request for an exception in writing; or

(E) grant an exception where the consumer asks for consideration of repeated events or the insurer has considered this event previously.

(3) An insurer is not out of compliance with any law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

(4) The insurer shall provide notice to consumers that reasonable exceptions are available and information about how the consumer may inquire further.

(5) Within 30 days of the insurer's receipt of sufficient documentation of an event described in subdivision (1) of this subsection, the insurer shall inform the consumer of the outcome of the request for a reasonable exception. Such communication shall be in writing or provided to an applicant in the same medium as the request.

(f) Dispute resolution and error correction. If it is determined through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681i(a)(5), that the credit information of a current insured was incorrect or incomplete and if the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall reunderwrite and rerate the consumer within 30 days of receiving the notice. After reunderwriting or rerating the insured, the insurer shall make any adjustments necessary, consistent with its underwriting and rating guidelines. If an insurer determines that the insured has overpaid premium, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

(g)(1) Initial notification. If an insurer writing personal insurance uses credit information in underwriting or rating a consumer, the insurer or its agent shall disclose, either on the insurance application or at the time the insurance application is taken, that it may obtain credit information in connection with

such application. Such disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. The insurer need not provide the disclosure statement required under this section to any insured on a renewal policy if such consumer has previously been provided a disclosure statement.

(2) Use of the following example disclosure statement constitutes compliance with this section: “In connection with this application for insurance, we may review your credit report or obtain or use a credit-based insurance score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance score.”

(h) Adverse action notification. If an insurer takes an adverse action based upon credit information, the insurer must meet the notice requirements of this subsection. Such insurer shall:

(1) Provide notification to the consumer that an adverse action has been taken, in accordance with the requirements of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681m(a).

(2) Provide notification to the consumer explaining the reason for the adverse action. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer’s decision to take an adverse action. Such notification shall include a description of up to four factors that were the primary influences of the adverse action. The use of generalized terms such as “poor credit history,” “poor credit rating,” or “poor insurance score” does not meet the explanation requirements of this subsection. Standardized credit explanations provided by consumer reporting agencies or other third party vendors are deemed to comply with this section.

(i) Filing. Insurers that use insurance scores to underwrite and rate risks must file their scoring models, or other scoring processes, with the Department of Financial Regulation. A third party may file scoring models on behalf of insurers. A filing that includes insurance scoring may include loss experience justifying the use of credit information. Any filing relating to credit information is considered trade secret under and not subject to disclosure under Vermont’s Public Records Act.

(j) Indemnification. An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of a producer who obtains or uses credit information or insurance scores, or both, for an insurer, provided the producer follows the instructions of or procedures established by the insurer and complies with any applicable law or regulation. Nothing in this section shall

be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

(k) Sale of policy term information by consumer reporting agency. A consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage. The restrictions provided in this subsection do not apply to data or lists the consumer reporting agency supplies to the insurance producer from whom information was received, the insurer on whose behalf such producer acted, or such insurer's affiliates or holding companies. Nothing in this section shall be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

* * * Credit Card Debt Collection; H.482 * * *

Sec. 12. 12 V.S.A. § 511 is amended to read:

§ 511. CIVIL ACTION

(a) A civil action, except one brought upon the judgment or decree of a court of record of the United States or of this or some other state, and except as otherwise provided, shall be commenced within six years after the cause of action accrues and not thereafter.

(b) Notwithstanding subsection (a) of this section, a civil action to collect a debt arising from default on a credit card account shall be commenced within three years after the cause of action accrues and not thereafter.

Sec. 13. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department for Children and Families or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

(b) The earnings of a judgment debtor shall be exempt as follows:

(1) seventy-five percent of the debtor's weekly disposable earnings, or 30 times the federal minimum hourly wage, whichever is greater; or

(2) if the judgment debt arose from a consumer credit transaction, as that term is defined by 15 U.S.C. section 1602 and implementing regulations of the Federal Reserve Board, other than a default on a credit card account, 85 percent of the debtor's weekly disposable earnings, or 40 times the federal minimum hourly wage, whichever is greater; or

(3) if the judgment debt arose from a default on a credit card account, 85 percent of the debtor's weekly disposable earnings, or 40 times the applicable minimum hourly wage, whichever is greater; or

(4) if the court finds that the weekly expenses reasonably incurred by the debtor for his or her maintenance and that of dependents exceed the amounts exempted by subdivisions (1), ~~and (2)~~, and (3) of this subsection, such greater amount of earnings as the court shall order.

* * *

Sec. 14. 9 V.S.A. § 41a is amended to read:

§ 41A. LEGAL RATES

* * *

(e)(1) Subject to subdivision (2) of this subsection, interest on a judgment against a debtor in default on a credit card account shall accrue at the rate of 12 percent per annum.

(2) A court may suspend the accrual of interest on a judgment against a debtor in default on a credit card account if the court finds, through a financial disclosure, that the debtor has an inability to pay.

Sec. 15. 12 V.S.A. § 2903(c) is amended to read:

§ 2903. DURATION AND EFFECTIVENESS

* * *

(c) ~~Interest~~ Unless a court suspends the accrual of interest pursuant to 9 V.S.A. § 41a(e), interest on a judgment lien shall accrue at the rate of 12 percent per annum.

Sec. 16. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Sec. 11 (credit information for personal insurance) shall take effect on passage and apply to personal insurance policies either written to be effective or renewed on or after nine months from the effective date of the act.

(c) Secs. 2–3 (fantasy sports proposals) shall take effect on passage.

(d) Secs. 6–7 (automatic renewal provisions) shall take effect on January 1, 2018.

(e) The following sections shall take effect on July 1, 2017:

(1) Sec. 1 (home loan escrow accounts).

(2) Sec. 8 (retainage for construction materials).

(3) Secs. 9–10 (credit protection for vulnerable persons).

(4) Secs. 12–15 (credit card debt collection).

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

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

Senator Sirotkin
Senator Baruth
Senator Clarkson

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

Rules Suspended; Bills Messaged

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

S. 9, S. 134, S. 136, H. 424.

Adjournment

On motion of Senator Ashe, the Senate adjourned until ten o'clock in the morning.