

# Journal of the Senate

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FRIDAY, MAY 5, 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. 64

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. 170.** An act relating to possession and cultivation of marijuana by a person 21 years of age or older.

**H. 196.** An act relating to paid family leave.

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

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

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

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

**H. 424.** An act relating to the Commission on Act 250: the Next 50 Years.

And has severally concurred therein.

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

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

And has adopted the same on its part.

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

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

And has adopted the same on its part.

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

**S. 50.** An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

And has adopted the same on its part.

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

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

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. Townsend of South Burlington  
Rep. LaClair of Barre Town  
Rep. Gardner of Richmond

**Pages Honored**

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

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

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**Bills Referred**

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

**H. 170.**

An act relating to possession and cultivation of marijuana by a person 21 years of age or older.

To the Committee on Rules.

**H. 196.**

An act relating to paid family leave.

To the Committee on Rules.

**House Proposal of Amendment Concurred In with Amendment****S. 133.**

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

\* \* \* Findings and Legislative Intent \* \* \*

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The State's mental health system has changed during the past ten years, with regard to both policy and the structural components of the system.

(2) The State's adult mental health inpatient system was disrupted after Tropical Storm Irene flooded the Vermont State Hospital in 2011. The General Assembly, in 2012 Acts and Resolves No. 79, responded by designing a system "to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served."

(3) Elements of Act 79 included the addition of over 50 long- and short-term residential beds to the State's mental health system, all of which are operated by the designated and specialized service agencies, increased peer support services, and replacement inpatient beds. It also was intended to strengthen existing care coordination within the Department of Mental Health to assist community providers and hospitals in the development of a system that provided rapid access to each level of support within the continuum of

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care as needed to ensure appropriate, high-quality, and recovery- and resiliency-oriented services in the least restrictive and most integrated settings for each stage of an individual's recovery.

(4) Two key elements of Act 79 were never realized: a 24-hour peer-run warm line and eight residential recovery beds. Other elements of Act 79 were fully implemented.

(5) Since Tropical Storm Irene flooded the Vermont State Hospital, Vermont has experienced a dramatic increase in the number of individuals in mental health distress experiencing long waits in emergency departments for inpatient hospital beds. Currently, hospitals average 90 percent occupancy, while crisis beds average just under 70 percent occupancy, the latter largely due to understaffing. Issues related to hospital discharge include an inadequate staffing in community programs, insufficient community programs, and inadequate supply of housing.

(6) Individuals presenting in emergency departments reporting acute psychiatric distress often remain in that setting for many hours or days under the supervision of hospital staff, peers, crisis workers, or law enforcement officers, until a bed in a psychiatric inpatient unit becomes available. Many of these individuals do not have access to a psychiatric care provider, and the emergency department does not provide a therapeutic environment. Due to these conditions, some individuals experience trauma and worsening symptoms while waiting for an appropriate level of care. Hospitals are also strained and report that their staff is demoralized that they cannot care adequately for psychiatric patients and consequently there is a rise in turnover rates. Many hospitals are investing in special rooms for psychiatric emergencies and hiring mental health technicians to work in the emergency departments.

(7) Traumatic waits in emergency departments for children and adolescents in crisis are increasing, and there are limited resources for crisis support, hospital diversion, and inpatient care for children and adolescents in Vermont.

(8) Addressing mental health care needs within the health care system in Vermont requires appropriate data and analysis, but simultaneously the urgency created by those individuals suffering under existing circumstances must be recognized.

(9) Research has shown that there are specific factors associated with long waits, including homelessness, interhospital transfer, public insurance, use of sitters or restraint, age, comorbid medical conditions, alcohol and substance use, diagnoses of autism, intellectual disability, developmental delay,

and suicidal ideation. Data have not been captured in Vermont to identify factors that may be associated with longer wait times and that could help pinpoint solutions.

(10) Vermonters in the custody of the Commissioner of Corrections often do not have access to appropriate crisis or routine mental health supports or to inpatient care when needed, and are often held in correctional facilities after being referred for inpatient care due to the lack of access to inpatient beds. The General Assembly is working to address this aspect of the crisis through parallel legislation during the 2017–2018 biennium.

(11) Care provided by the designated agencies is the cornerstone upon which the public mental health system balances. However, many Vermonters seeking help for psychiatric symptoms at emergency departments are not clients of the designated or specialized service agencies and are meeting with the crisis response team for the first time. Some of the individuals presenting in emergency departments are able to be assessed, stabilized, and discharged to return home or to supportive programming provided by the designated and specialized service agencies.

(12) Act 79 specified that it was the intent of the General Assembly that “the [A]gency of [H]uman [S]ervices fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity.” However, reimbursement rates for crisis, outpatient, and inpatient care are often segregated from health care payment structures and payment reform.

(13) There is a shortage of psychiatric care professionals, both nationally and statewide. Psychiatrists working in Vermont have testified that they are distressed that individuals with psychiatric conditions remain for lengthy periods of time in emergency departments and that there is an overall lack of health care parity between mental conditions and other health conditions.

(14) In 2007, a study commissioned by the Agency of Human Services substantiated that designated and specialized service agencies face challenges in meeting the demand for services at current funding levels. It further found that keeping pace with current inflation trends, while maintaining existing caseload levels, required annual funding increases of eight percent across all payers to address unmet demand. Since that time, cost of living adjustments appropriated to designated and specialized service agencies have been raised by less than one percent annually.

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(15) Designated and specialized service agencies are required by statute to provide a broad array of services, including many mandated services that are not fully funded.

(16) Evidence regarding the link between social determinants and healthy families has become increasingly clear in recent years. Improving an individual's trajectory requires addressing the needs of children and adolescents in the context of their family and support networks. This means Vermont must work within a multi-generational framework. While these findings primarily focus on the highest acuity individuals within the adult system, it is important also to focus on children's and adolescents' mental health. Social determinants, when addressed, can improve an individual's health; therefore housing, employment, food security, and natural support must be considered as part of this work as well.

(17) Before moving ahead with changes to improve mental health care and to achieve its integration with comprehensive health care reform, an analysis is necessary to take stock of how it is functioning and what resources are necessary for evidence-based or best practice and cost-efficient improvements that best meet the mental health needs of Vermont children, adolescents, and adults in their recovery.

(18) It is essential to the development of both short- and long-term improvements to mental health care for Vermonters that a common vision be established regarding how integrated, recovery- and resiliency-oriented services will emerge as part of a comprehensive and holistic health care system.

## Sec. 2. LEGISLATIVE INTENT

It is the intent of the General Assembly to continue to work toward a system of health care that is fully inclusive of access to mental health care and meets the principles adopted in 18 V.S.A. § 7251, including:

(1) The State of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the Commissioner of Corrections, and the State's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the Departments of Mental Health and of Corrections, designated hospitals, designated agencies, and community and peer partners to

ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The State's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

(9) Individuals with a psychiatric disability or mental condition who are in the custody or temporary custody of the Commissioner of Mental Health and who receive treatment in an acute inpatient hospital unit, intensive residential recovery facility, or a secure residential recovery facility shall be afforded rights and protections that reflect evidence-based best practices aimed at reducing the use of emergency involuntary procedures.

\* \* \* Analysis, Action Plan, and Long-Term Vision Evaluation \* \* \*

### Sec. 3. ANALYSIS, ACTION PLAN, AND LONG-TERM VISION FOR THE PROVISION OF MENTAL HEALTH CARE WITHIN THE HEALTH CARE SYSTEM

(a) In order to address the present crisis that emergency departments are experiencing in treating an individual who presents with symptoms of a mental health crisis, and in recognition that this crisis is a symptom of larger systematic shortcomings in the provision of mental health services statewide, the General Assembly seeks an analysis and action plan from the Secretary of Human Services in accordance with the following specifications:

(1) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health, the Green Mountain Care Board, providers, and persons who are affected by current services, shall submit an action plan with recommendations and legislative proposals to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services that shall be informed by an analysis of

specific issues described in this section and Sec. 4 of this act. The analysis shall be conducted in conjunction with the planned updates to the Health Resource Allocation Plan (HRAP) described in 18 V.S.A. § 9405, of which the mental health and health care integration components shall be prioritized. With regard to children, adolescents, and adults, the analysis and action plan shall:

(A) specify steps to develop a common, long-term, statewide vision of how integrated, recovery- and resiliency-oriented services shall emerge as part of a comprehensive and holistic health care system;

(B) identify data that are not currently gathered, and that are necessary for current and future planning, long-term evaluation of the system, and for quality measurements, including identification of any data requiring legislation to ensure their availability;

(C) identify the causes underlying increased referrals and self-referrals to emergency departments;

(D) determine the availability, regional accessibility, and gaps in services that are barriers to efficient, medically necessary, recovery- and resiliency-oriented patient care at levels of support that are least restrictive and most integrated with regard to voluntary and involuntary hospital admissions, emergency departments, intensive residential recovery facilities, secure residential recovery facilities, crisis beds, and other diversion capacities; crisis intervention services; peer respite and support services; intensive and other outpatient services; services for transition age youths; and stable housing;

(E) incorporate existing information from research and from established quality metrics regarding emergency department wait times;

(F) incorporate anticipated demographic trends, the impact of the opiate crisis, and data that indicate short- and long-term trends; and

(G) identify the levels of resources necessary to attract and retain qualified staff to meet identified outcomes required of designated and specialized service agencies and specify a timeline for achieving those levels of support.

(2) On or before September 1, 2017, the Secretary shall submit a status report to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services describing the progress made in completing the analysis required pursuant to this subsection and producing a corresponding action plan. The status report shall include any immediate action steps that the Agency was able to take to address the emergency department crisis that did not require additional resources or legislation.



(b)(1) The Commissioner shall collect data to inform the analysis and action plan described in subsection (a) of this section regarding emergency services for persons with psychiatric symptoms or complaints in the emergency department. The data collected regarding persons presenting in emergency departments with psychiatric symptoms shall include:

(A) the circumstances under which and reasons why a person is being referred or self-referred to an emergency department;

(B) measurements shown by research to affect length of waits; and

(C) rates at which persons brought to emergency departments for emergency examinations pursuant to 18 V.S.A. §§ 7504 and 7505 are found not to be in need of inpatient hospitalization.

(2) Data to otherwise inform the analysis and action plan shall include short- and long-term trends in inpatient length of stay and readmission rates.

(3) Data for persons under 18 years of age shall be collected and analyzed separately.

(c) On or before January 15, 2019, the Secretary shall submit a comprehensive evaluation of the overarching structure for the delivery of mental health services within a sustainable, holistic health care system in Vermont to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services, including:

(1) whether the current structure is succeeding in serving Vermonters with mental health needs and meeting the goals of access, quality, and integration of services;

(2) whether quality and access to mental health services are equitable throughout Vermont;

(3) whether the current structure advances the long-term vision of an integrated, holistic health care system;

(4) how the designated and specialized service agency structure contributes to the realization of that long-term vision;

(5) how mental health care is being fully integrated into health care payment reform; and

(6) any recommendations for structural changes to the mental health system that would assist in achieving the vision of an integrated, holistic health care system.

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Sec. 4. COMPONENTS OF ANALYSIS, ACTION PLAN, AND LONG-TERM VISION EVALUATION

The analysis, action plan, and long-term vision evaluation required by Sec. 3 of this act shall address the following:

(1) Care coordination. The analysis, action plan, and long-term vision evaluation shall address the potential benefits and costs of developing regional navigation and resource centers for referrals from primary care, hospital emergency departments, inpatient psychiatric units, correctional facilities, and community providers, including the designated and specialized service agencies, private counseling services, and peer-run services. The goal of regional navigation and resource centers is to foster improved access to efficient, medically necessary, and recovery- and resiliency-oriented patient care at levels of support that are least restrictive and most integrated for individuals with mental health conditions, substance use disorders, or co-occurring conditions. Consideration of regional navigation and resource centers shall include consideration of other coordination models identified during the recovery- and resiliency-oriented analysis, including models that address the goal of an integrated health system.

(2) Accountability. The analysis, action plan, and long-term vision evaluation shall address the effectiveness of the Department's care coordination team in providing access to and adequate accountability for coordination and collaboration among hospitals and community partners for transition and ongoing care, including the judicial and corrections systems. An assessment of accountability shall include an evaluation of potential discrimination in hospital admissions at different levels of care and the extent to which individuals are served by their medical homes.

(3)(A) Crisis diversion evaluation. The analysis, action plan, and long-term vision evaluation shall evaluate:

(i) existing and potential new models, including the 23-hour bed model, that prevent or divert individuals from the need to access an emergency department;

(ii) models for children, adolescents, and adults; and

(iii) whether existing programs need to be expanded, enhanced, or reconfigured, and whether additional capacity is needed.

(B) Diversion models used for patient assessment and stabilization, involuntary holds, diversion from emergency departments, and holds while appropriate discharge plans are determined shall be considered, including the extent to which they address psychiatric oversight, nursing oversight and coordination, peer support, security, and geographic access. If the preliminary

analysis identifies a need for or the benefits of additional, enhanced, expanded, or reconfigured models, the action plan shall include preliminary steps necessary to identify licensing needs, implementation, and ongoing costs.

(4) Implementation of Act 79. The analysis, action plan, and long-term vision evaluation, in coordination with the work completed by the Department of Mental Health for its annual report pursuant to 18 V.S.A. § 7504, shall address whether those components of the system envisioned in 2012 Acts and Resolves No. 79 that have not been fully implemented remain necessary and whether those components that have been implemented are adequate to meet the needs identified in the preliminary analysis. Priority shall be given to determining whether there is a need to fund fully the 24-hour warm line and eight unutilized intensive residential recovery facility beds and whether other models of supported housing are necessary. If implementation or expansion of these components is deemed necessary in the analysis, the action plan shall identify the initial steps needed to plan, design, and fund the recommended implementation or expansion.

(5) Mental health access parity. The analysis, action plan, and long-term vision evaluation shall evaluate opportunities for and remove barriers to implementing parity in the manner that individuals presenting at hospitals are received, regardless of whether for a psychiatric or other health care condition. The evaluation shall examine: existing processes to screen and triage health emergencies; transfer and disposition planning; stabilization and admission; and criteria for transfer to specialized or long-term care services.

(6) Geriatric psychiatric support services, residential care, or skilled nursing unit or facility. The analysis, action plan, and long-term vision evaluation shall evaluate the extent to which additional support services are needed for geriatric patients in order to prevent hospital admissions or to facilitate discharges from inpatient settings, including community-based services, enhanced residential care services, enhanced supports within skilled nursing units or facilities, or new units or facilities. If the analysis concludes that the situation warrants more home- and community-based services, a geriatric nursing home unit or facility, or any combination thereof, the action plan shall include a proposal for the initial funding phases and, if appropriate, siting and design, for one or more units or facilities with a focus on the clinical best practices for these patient populations. The action plan and preliminary analysis shall also include means for improving coordination and shared care management between Choices for Care and the designated and specialized service agencies.

(7) Forensic psychiatric support services or residential care. The analysis, action plan, and long-term vision evaluation shall evaluate the extent

to which additional services or facilities are needed for forensic patients in order to enable appropriate access to inpatient care, prevent hospital admissions, or facilitate discharges from inpatient settings. These services may include community-based services or enhanced residential care services. The analysis and action plan shall be completed in coordination with other relevant assessments regarding access to mental health care for persons in the custody of the Commissioner of Corrections as required by the General Assembly during the first year of the 2017–2018 biennium.

(8) Units or facilities for use as nursing or residential homes or supportive housing. To the extent that the analysis indicates a need for additional units or facilities, it shall require consultation with the Commissioner of Buildings and General Services to determine whether there are any units or facilities that the State could be utilized for a geriatric skilled nursing or forensic psychiatric facility, an additional intensive residential recovery facility, an expanded secure residential recovery facility, or supportive housing.

(9) Designated and specialized service agencies. The analysis, action plan, and long-term vision evaluation shall estimate the levels of funding necessary to sustain the designated and specialized service agencies' workforce; enable the designated and specialized service agencies to meet their statutorily mandated responsibilities and required outcomes; identify the required outcomes; and establish recommended levels of increased funding for inclusion in the fiscal year 2019 budget.

#### Sec. 5. INVOLUNTARY TREATMENT AND MEDICATION REVIEW

(a) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health and the Chief Superior Judge, shall analyze and submit a report to the Senate Committee on Health and Welfare to the House Committee on Health Care regarding the role that involuntary treatment and psychiatric medication play in inpatient emergency department wait times, including any concerns arising from judicial timelines and processes. The analysis shall examine gaps and shortcomings in the mental health system, including the adequacy of housing and community resources available to divert patients from involuntary hospitalization; treatment modalities, including involuntary medication and non-medication alternatives available to address the needs of patients in psychiatric crises; and other characteristics of the mental health system that contribute to prolonged stays in hospital emergency departments and inpatient psychiatric units. The analysis shall also examine the interplay between the rights of staff and patients' rights and the use of involuntary treatment and medication. Additionally, to provide the General Assembly with a wide variety of options,

the analysis shall examine the following, including the legal implications, the rationale or disincentives, and a cost-benefit analysis for each:

(1) a statutory directive to the Department of Mental Health to prioritize the restoration of competency where possible for all forensic patients committed to the care of the Commissioner; and

(2) enabling applications for involuntary treatment and applications for involuntary medication to be filed simultaneously or at any point that a psychiatrist believes joint filing is necessary for the restoration of the individual's competency.

(b) On or before January 15, 2018, Vermont Legal Aid, Disability Rights Vermont, and Vermont Psychiatric Survivors shall have the opportunity to submit an addendum addressing the Secretary's report completed pursuant to subsection (a) of this section.

(c)(1) On or before November 15, 2017, the Department shall issue a request for information for a longitudinal study comparing the outcomes of patients who received court-ordered medications while hospitalized with those of patients who did not receive court-order medication while hospitalized, including both patients who voluntarily received medication and those who received no medication, for a period from 1998 to the present. The request for information shall specify that the study examine the following measures:

(A) the length of an individual's involuntary hospitalization

(B) the time spent by an individual in inpatient and outpatient settings;

(C) the number of an individual's hospital admissions, including both voluntary and involuntary admissions;

(D) the number of and length of time of an individual's residential placements;

(E) an individual's success in different types of residential settings;

(F) any employment or other vocational and educational activities after hospital discharge;

(G) any criminal charges after hospital discharge; and

(H) other parameters determined in consultation with representatives of inpatient and community treatment providers and advocates for the rights of psychiatric patients.

(2) Request for information proposals shall include estimated costs, time frames for conducting the work, and any other necessary information.

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\* \* \* Payment Structures \* \* \*

Sec. 6. INTEGRATION OF PAYMENTS; ACCOUNTABLE CARE ORGANIZATIONS

(a) Pursuant to 18 V.S.A. § 9382, the Green Mountain Care Board shall review an accountable care organization's (ACO) model of care and integration with community providers, including designated and specialized service agencies, regarding how the model of care promotes seamless coordination across the care continuum, business or operational relationships between the entities, and any proposed investments or expansions to community-based providers. The purpose of this review is to ensure progress toward and accountability to the population health measures related to mental health and substance use disorder contained in the All Payer ACO Model Agreement.

(b) In the Board's annual report due on January 15, 2018, the Green Mountain Care Board shall include a summary of information relating to integration with community providers, as described in subsection (a) of this section, received in the first ACO budget review under 18 V.S.A. § 9382.

(c) On or before December 31, 2020, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall provide a copy of the report required by Section 11 of the All-Payer Model Accountable Care Organization Model Agreement, which outlines a plan for including the financing and delivery of community-based providers in delivery system reform, to the Senate Committee on Health and Welfare and the House Committee on Health Care.

Sec. 7. PAYMENTS TO THE DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The Secretary of Human Services, in collaboration with the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living; providers; and persons who are affected by current services, shall develop a plan to integrate multiple sources of payments for mental and substance abuse services to the designated and specialized service agencies. In a manner consistent with Sec. 11 of this act, the plan shall implement a Global Funding model as a successor to the analysis and work conducted under the Medicaid Pathways and other work undertaken regarding mental health in health care reform. It shall increase efficiency and reduce the administrative burden. On or before January 1, 2018, the Secretary shall submit the plan and any related legislative proposals to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services.

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Sec. 8. ALIGNMENT OF FUNDING WITHIN THE AGENCY OF HUMAN SERVICES

For the purpose of creating a more transparent system of public funding for mental health services, the Agency of Human Services shall continue with budget development processes enacted in legislation during the first year of the 2015–2016 biennium that unify payment for services, policies, and utilization review of services within an appropriate department consistent with Secs. 6 and 7 of this act.

\* \* \* Workforce Development \* \* \*

Sec. 9. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Mental Health, Developmental Disabilities, and Substance Use Disorder Workforce Study Committee to examine best practices for training, recruiting, and retaining health care providers and other service providers in Vermont, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders. It is the goal of the General Assembly to enhance program capacity in the State to address ongoing workforce shortages.

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

(1) the Secretary of Human Services or designee, who shall serve as the Chair;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Mental Health or designee;

(4) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(5) the Commissioner of Health or designee;

(6) a representative of the Vermont State Colleges;

(7) a representative of the Governor's Health Care Workforce Work Group created by Executive Order 07-13;

(8) a representative of persons affected by current services;

(9) a representative of the families of persons affected by current services;

(10) a representative of the designated and specialized service agencies appointed by Vermont Care Partners;

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(11) the Director of Substance Abuse Prevention;

(12) a representative appointed by the Area Health Education Centers; and

(13) any other appropriate individuals by invitation of the Chair.

(c) Powers and duties. The Committee shall consider and weigh the effectiveness of loan repayment, tax abatement, long-term employment agreements, funded training models, internships, rotations, and any other evidence-based training, recruitment, and retention tools available for the purpose of attracting and retaining qualified health care providers in the State, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders.

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

(e) Report. On or before December 15, 2017, the Committee shall submit a report to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services regarding the results of its examination, including any legislative proposals for both long-term and immediate steps the State may take to attract and retain more health care providers in Vermont.

(f) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Committee to occur on or before July 1, 2017.

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

(3) The Committee shall cease to exist on December 31, 2017.

#### Sec. 10. OFFICE OF PROFESSIONAL REGULATION; INTERSTATE COMPACTS

The Director of Professional Regulation shall engage other states in a discussion of the creation of national standards for coordinating the regulation and licensing of mental health professionals, as defined in 18 V.S.A. § 7101, for the purposes of licensure reciprocity and greater interstate mobility of that workforce. On or before September 1, 2017, the Director shall report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding the results of his or her efforts and recommendations for legislative action.



\* \* \* Designated and Specialized Service Agencies \* \* \*

Sec. 11. 18 V.S.A. § 8914 is added to read:

§ 8914. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

(a) The Secretary of Human Services shall have sole responsibility for establishing the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living's rates of payments for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers that are reasonable and adequate to achieve the required outcomes for designated populations. When establishing rates of payment for designated and specialized service agencies, the Secretary shall adjust rates to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable cost of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.

(b) When establishing rates of payment for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

Sec. 12. HEALTH INSURANCE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES

On or before September 1, 2017, the Commissioner of Human Resources shall consult with Blue Cross and Blue Shield of Vermont and Vermont Care Partners regarding the operational feasibility of including the designated and specialized service agencies in the State employees' health benefit plan and submit any findings and relevant recommendations for legislative action to the Senate Committees on Health and Welfare, on Government Operations, and on Finance and the House Committees on Health Care and on Government Operations.

\* \* \* Effective Date \* \* \*

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Ayer moved that the Senate concur in the House proposal of amendment with an amendment as follows:

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

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

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

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

Fifth: In Sec. 4, by striking out subdivision (9) in its entirety and inserting in lieu thereof a new subdivision (9) to read as follows:

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

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

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

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

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

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

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

Which was agreed to.

### **House Proposals of Amendment Concurred In with Amendment**

#### **S. 52.**

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

\* \* \* Preapplication Submittals; Energy Facilities \* \* \*

Sec. 1. 30 V.S.A. § 248(f) is amended to read:

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) ~~Such~~ The municipal or regional planning commission may take one or more of the following actions:

(A) ~~hold~~ Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Board on the application and in determining whether to retain additional personnel under subdivision (1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

(C) ~~Such commissions shall make~~ Make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board within 40 days of the petitioner's submittal to the planning commission under this subsection.

(D) Once the petition is filed with the Public Service Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the Board.

(2) The petitioner's application shall address the substantive written

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comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

\* \* \* Facility Siting; Service of Application When Determined Complete;  
Extension of Telecommunications Siting Authority \* \* \*

Sec. 2. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a “meteorological station” consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the Board:

(1) Shall develop a simple application form and shall require that ~~completed applications be filed~~ the applicant first file the application with the Board, and that, within two business days of notification from the Board that the application is complete, the applicant serve copies of the complete application on the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days of the ~~Board’s receipt of a complete application~~ date of service of the complete application under subdivision (1) of this subsection, and the Board determines that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not

applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

\* \* \*

Sec. 3. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located. From the comments made at the public hearing, the Board shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Board shall direct the parties to provide evidence on the area. This subdivision does not require the Board to respond to each individual comment.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) ~~At the time of filing its application with the Board, copies shall be given by the petitioner to~~ Within two business days of notification from the Board that the petition is complete, the petitioner shall serve copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

\* \* \*

Sec. 4. 30 V.S.A. § 248(j)(2) is amended to read:

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. The Within two business days of notification by the Board that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the Board shall give written notice of the proposed certificate and its determination that the filing is complete to the those parties specified in subdivision (a)(4)(C) of this section, to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Board to have a substantial interest in the matter. Such notice also shall be published on the Board's website within two days of issuing the determination that the filing is complete and shall request comment within ~~28~~ 30 days of the ~~initial publication date of service of the complete filing on the~~ question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

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

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS  
FACILITIES

\* \* \*

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. The notices to the legislative body and planning commission of the municipality shall attach a statement that itemizes the rights and opportunities available to those bodies under subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n), and (o) of this section and informs them of the guide published under subsection (p) of this section and how to obtain a copy

of that guide.

\* \* \*

(i) Sunset of Board authority. Effective on July 1, ~~2017~~ 2020, no new applications for certificates of public good under this section may be considered by the Board.

(j) Telecommunications facilities of limited size and scope.

\* \* \*

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

\* \* \*

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

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

\* \* \*

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~24~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

\* \* \*

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

\* \* \*



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\* \* \* Notice of Petitions for a CPG to Do Business \* \* \*

Sec. 6. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association, ~~which~~ that desires to own or operate a business over which the Public Service Board has jurisdiction under the provisions of this chapter shall first petition the Board to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, ~~and shall make an order for the publication of the substance thereof and the time and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing.~~ At least 12 days before this hearing, notice of the hearing shall be published on the Board's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed. The Director for Public Advocacy shall represent the public at ~~such~~ the hearing. If the Board finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

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\* \* \* Enforcement \* \* \*

Sec. 7. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT POWERS

\* \* \*

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c.

Sec. 8. 30 V.S.A. § 30 is amended to read:

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

\* \* \*

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes after investigation violated section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections.

(1) An administrative citation, whether draft or final, shall:

(A) state each provision of statute and rule and each condition of a certificate of public good alleged to have been violated;

(B) include a concise statement of the facts giving rise to the alleged violation and the evidence supporting the existence of those facts;

(C) request that the person take the remedial action specified in the notice or pay a civil penalty of not more than \$5,000.00 for the violation, or both; and

(D) if remedial action is requested, state the reasons for seeking the action.

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

(A) At the time the draft citation is issued, the Department shall file a copy with the Board and post the draft citation on its website.

(B) Commencing with the date of issuance, the Department shall provide an opportunity of 30 days for public comment on the draft citation. The Department shall include information on this opportunity in the draft citation.

(C) Once the public comment period closes, the Department:

(i) Shall provide the person and the Board with a copy of each comment received.

(ii) Within 15 days of the close of the comment period, may file a revised draft citation with the Board. The revised draft citation may be accompanied by a stipulation or agreed settlement between the person and the Department with a request for Board approval.

(D) The Board may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Board shall take any such action within 25 days of the close of the public comment period, or the filing of a revised draft citation, whichever is later. Such a Board proceeding shall supersede the draft citation.

(3) If the Board has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative citation to the person. Within 30 days of receipt of a final administrative citation, the person shall respond in one of the following ways:

(A) Request a hearing before the Board on the existence of the alleged violation, the proposed penalty, and the proposed remedial action.

(B) Pay any civil penalty set forth in the notice and agree to undertake such remedial action as is set forth in the notice and submit to the Department for its approval a plan for compliance. In such a case, the final administrative citation shall be enforceable in the same manner as an order of the Board.

(C) Decline to contest the existence of the alleged violation and request a hearing on either the proposed penalty or remedial action, or both. When exercising this option, a person may agree to either the proposed penalty or remedial action and seek a hearing only on the penalty or action with which the person disagrees.

(4) When a person requests a hearing under subdivision (3) of this subsection, the Board shall open a proceeding and conduct a hearing in accordance with the provisions of this section on the alleged violation and such remedial action and penalty as are set forth in the notice. Notwithstanding any contrary provision of this section, a penalty under this subdivision (4) shall not exceed \$5,000.00.

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(5) If a person pays the civil penalty set forth in a final administrative citation, then the Department shall be precluded from seeking and the Board from imposing additional civil penalties for the same alleged violation unless the violation is continuing or is repeated.

(6) If a person agrees to undertake the remedial action set forth in a final administrative citation, failure to undertake the action or comply with a compliance plan approved by the Department shall constitute a separate violation.

(7) The Board may approve disposition of a final administrative citation by stipulation or agreed settlement submitted before entry of a final order.

(8) Penalties assessed under this subsection shall be deposited in the General Fund.

\* \* \* Name Change to Public Utility Commission \* \* \*

Sec. 9. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC SERVICE BOARD UTILITY COMMISSION

(a) The Vermont Public Service Board Utility Commission shall consist of a Chair and two members. The Chair and each member shall not be required to be admitted to the practice of law in this State.

(b) The Chair shall be nominated, appointed, and confirmed in the manner of a Superior judge.

(c) Members of the Board Commission other than the Chair shall be appointed in accordance with this subsection. Whenever a vacancy occurs, public announcement of the vacancy shall be made. The Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall review the candidates in respect to judicial criteria and standards only and shall recommend to the Governor those candidates the Board considers qualified. The Governor shall make the appointment from the list of qualified candidates. The appointment shall be subject to the consent of the Senate.

(d) The term of each member shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member wishing to succeed himself or herself in office may seek reappointment under the terms of this section.

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the Board Commission may be removed only for cause. When a Board Commission member who hears all or a substantial part of a case retires from office before such case is completed, he or she shall remain a member of

the ~~Board~~ Commission for the purpose of concluding and deciding such case, and signing the findings, orders, decrees, and judgments therein. A retiring Chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive a reasonable compensation to be fixed by the remaining members of the ~~Board~~ Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the ~~Board~~ Commission enters a final order therein even though such order is appealed to the Supreme Court and the case remanded by that court to the ~~Board~~ Commission. Upon remand the ~~Board~~ Commission then in office may in its discretion consider relevant evidence including any part of the transcript of testimony in the proceedings prior to appeal.

(g) The Chair shall have general charge of the offices and employees of the ~~Board~~ Commission.

Sec. 10. 30 V.S.A. § 7001(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the Public Service ~~Board~~ Utility Commission under section 3 of this title.

Sec. 11. 30 V.S.A. § 8002(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the Public Service ~~Board~~ Utility Commission under section 3 of this title, ~~except when used to refer to the Clean Energy Development Board.~~

Sec. 12. REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the statutes as needed for consistency with Secs. 9–11 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Public Service Board” with “Public Utility Commission”; and

(2) replace “Board” with “Commission” when the existing term “Board” refers to the Public Service Board.

Sec. 13. RULES; NAME CHANGE

(a) The rules of the Public Service Board in effect on July 1, 2017 shall become rules of the Vermont Public Utility Commission (the Commission).

(b) In those rules, the Commission is authorized to change all references to the Public Service Board so that they refer to the Commission. Unless accompanied by one or more other revisions to the rules, such a change need

not be made through the rulemaking process under the Administrative Procedure Act.

\* \* \* In-person Citizens' Access to Public Service Board Hearings \* \* \*

Sec. 13a. 30 V.S.A. § 11 is amended to read:

§ 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF FACT

\* \* \*

(b) The Board shall allow all members of the public to attend each of its hearings unless the hearing is for the sole purpose of considering information to be treated as confidential pursuant to a protective order duly adopted by the Board.

(1) The Board shall make all reasonable efforts to ensure that the location of each hearing is sufficient to accommodate all members of the public seeking to attend.

(2) The Board shall ensure that the public may safely attend the hearing, including obtaining such resources as may be necessary to fulfill this obligation.

(c) The Board shall hear all matters within its jurisdiction, and make its findings of fact. It shall state its rulings of law when they are excepted to. Upon appeal to the Supreme Court, its findings of fact shall be accepted unless clearly erroneous.

\* \* \* Remote Location Access by Citizens to PSB Hearings \* \* \*

Sec. 14. PLAN; CITIZENS' ACCESS TO PSB HEARINGS FROM REMOTE LOCATIONS

(a) On or before December 15, 2017, the Division for Telecommunications and Connectivity within the Department of Public Service, in consultation with relevant organizations such as the Vermont Access Network and Vermont access management organizations, shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a plan to achieve citizen access to hearings and workshops of the Public Service Board from remote locations across the State. The access shall include interactive capability and the ability to use multiple remote locations simultaneously. The plan may build on the Department's Vermont Video Connect proposal described in the Report to the General Assembly by the Vermont Interactive Technologies Working Group dated Dec. 9, 2015, submitted pursuant to 2015 Acts and Resolves No. 58, Sec. E.602.1.

(b) The plan shall include each of the following:

- 
- (1) assessment of cost-effective interactive video technologies;
  - (2) identification of at least five locations across Vermont that are willing and able to host the access described in subsection (a) of this section;
  - (3) the estimated capital costs of providing such access; and
  - (4) the estimated operating costs for hosting and connecting.

\* \* \* Citizen Access to Public Service Board; Implementation Report \* \* \*

Sec. 15. REPORT; IMPLEMENTATION OF WORKING GROUP  
RECOMMENDATIONS

On or before December 15, 2017, the Public Service Board shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including those recommendations that the Group identified as not requiring statutory change.

\* \* \* Appliance Efficiency \* \* \*

Sec. 16. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 17 through 21 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. 17. 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).

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Sec. 18. 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. 19. 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. 20. 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. 21. 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. 19 of this act.

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(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.

\* \* \* Energy Storage \* \* \*

Sec. 22. ENERGY STORAGE; REPORT

(a) Definitions. As used in this section, “energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

(b) Report. On or before November 15, 2017, the Commissioner of Public Service shall submit a report on the issue of deploying energy storage on the Vermont electric transmission and distribution system.

(1) The Commissioner shall submit the report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(2) The Commissioner shall provide an opportunity for the public and Vermont electric transmission and distribution companies to submit information relevant to the preparation of the report.

(3) The report shall:

(A) summarize existing state, regional, and national actions or initiatives affecting deployment of energy storage;

(B) identify and summarize federal and state jurisdictional issues regarding deployment of energy storage;

(C) identify the opportunities for, the benefits of, and the barriers to deploying energy storage;

(D) identify and evaluate regulatory options and structures available to foster energy storage, including potential cost impacts to ratepayers; and

(E) assess the potential methods for fostering the development of cost-effective solutions for energy storage in Vermont and the potential benefits and cost impacts of each method for ratepayers.

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(4) The report shall identify the challenges and opportunities for fostering energy storage in Vermont.

Sec. 23. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

\* \* \*

(b) Definitions. ~~For purposes of~~ As used in this section, the following definitions shall apply:

\* \* \*

(6) "Energy storage" means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

\* \* \*

(d) Expenditures authorized.

(1) Projects for funding may include the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) ~~small-scale~~ small-scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

---

(J) effective projects that are not likely to be established in the absence of funding under the program;

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than those of commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations;

(M) energy storage projects that facilitate utilization of renewable energy resources.

\* \* \*

\* \* \* Telecommunications Plan \* \* \*

Sec. 24. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

---

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure;

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; ~~and~~.

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

\* \* \* Standard Offer Program; Exemption \* \* \*

Sec. 25. STANDARD OFFER PROGRAM; EXEMPTION; REPORT

(a) On or before December 15, 2018, the Public Service Board (Board) shall submit a written report providing its recommendations related to the exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption, including the effect of the exemption on the State's achievement of the renewable energy goals set forth in 30 V.S.A. § 8001. In developing its recommendations under this section, the Board shall conduct a proceeding to solicit input from potentially affected parties and the public.

(b) Notwithstanding any contrary provision of the exemption at 30 V.S.A. § 8005a(k)(2)(B), a retail electricity provider shall not qualify to be exempt under subdivision 8005a(k)(2)(B) during calendar year 2018 or calendar year 2019 unless that provider previously qualified for an exemption under that subdivision.

(c) In this section, "retail electricity provider" has the same meaning as in 30 V.S.A. § 8002.

\* \* \* Open Meeting Law; Public Service Board \* \* \*

Sec. 25a. REPORT; OPEN MEETING LAW; PUBLIC SERVICE BOARD

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

The report shall set out the reasons favoring and disfavoring each of these outcomes and provide the Attorney's General recommendation.

(b) The report described in subsection (a) shall be submitted to the House and Senate Committees on Government Operations, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

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

#### Sec. 26. EFFECTIVE DATES

This section and Secs. 14 through 25a shall take effect on passage. The remainder of this act shall take effect on July 1, 2017.

and that after passage the title of the bill be amended to read: "An act relating to the Public Service Board, energy, and telecommunications"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin moved that the Senate concur in the House proposal of amendment with a further proposal of amendment as follows:

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

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

#### § 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

\* \* \*

(j) Telecommunications facilities of limited size and scope.

\* \* \*

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application, ~~and provide.~~ Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact to on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities.

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~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall ~~give~~ serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board ~~within 21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

\* \* \*

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

\* \* \*

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~21~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection.



If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

\* \* \*

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

\* \* \*

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

Secs. 16-21. [Deleted.]

Third: By striking out Sec. 24 in its entirety and the reader assistance thereto and inserting in lieu thereof the following:

Sec. 24. [Deleted.]

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

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

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

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Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with a proposal of amendment as proposed by Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin?, Senator Rodgers moved to amend the proposal of amendment of Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin, as follows:

By adding two new sections to be numbered Secs. 3a and 3b to read as follows:

Sec. 3a. 30 V.S.A. § 248(b)(1) is amended to read:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

\* \* \*

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), “substantial deference” means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

(D) With respect to an application for an electric generation facility filed before July 1, 2023, the Board shall give substantial deference as defined in subdivision (C) of this subdivision (1) to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This subdivision (D) shall apply regardless of whether the duly adopted plan of the municipality or region has obtained an affirmative determination of energy compliance pursuant to 24 V.S.A. § 4352.

Sec. 3b. PROSPECTIVE REPEAL

30 V.S.A. § 248(b)(1)(D) is repealed effective on July 1, 2023.

Which was disagreed to on a roll call, Yeas 10, Nays 20.

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

**Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Branagan, Collamore, Degree, Flory, Kitchel, Mullin, Nitka, Rodgers, Starr.

**Those Senators who voted in the negative were:** Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons, MacDonald, Mazza, McCormack, Pearson, Pollina, Sears, Sirotkin, Westman, White.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with a proposal of amendment as proposed by Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin?, Senator Rodgers moved to amend the proposal of amendment of Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin, as follows:

Sec. 1a and a reader assistance thereto to read:

\* \* \* Determination of Energy Compliance; Transportation Planning \* \* \*

Sec. 1a. 24 V.S.A. § 4352(c) is amended to read:

(c) Enhanced energy planning; requirements. To obtain an affirmative determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision 4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan other than transportation and be confirmed under section 4350 of this title;

\* \* \*

Which was disagreed to.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as proposed by Senators Lyons, Campion, Cummings, Degree, MacDonald, Pollina and Sirotkin?, was agreed to.

---

**Proposal of Amendment; Third Reading Ordered****H. 143.**

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

An act relating to automobile insurance requirements and transportation network companies.

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:

Sec. 1. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) “Prearranged ride” or “ride” means the transportation provided by a driver to a transportation network rider, beginning when a driver accepts the rider’s request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last requesting rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) “Transportation network company” or “company” means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) “Transportation network company driver” or “driver” means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) “Transportation network company rider” or “rider” means an individual who uses a company’s digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the rider.

(b) Company’s financial responsibility.

(1) Beginning on July 1, 2017, a driver, or company on the driver’s behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company’s digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company’s digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least \$100,000.00 for death and bodily injury per person, \$300,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

---

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(iii) \$10,000.00 in medical payments coverage (Med Pay).

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by a company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

(A) liability coverage for bodily injury and property damage;

(B) personal injury protection coverage;

(C) uninsured and underinsured motorist coverage;

(D) medical payments coverage;

(E) comprehensive physical damage coverage; and

(F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

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(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

#### § 751. COMPANY LICENSE

(a) A company shall not operate without a license issued by the Commissioner of Motor Vehicles. Applications for a license shall be filed with the Commissioner and shall contain such information and shall be on such forms as the Commissioner may prescribe.

(b) Each application shall be accompanied by an application fee of \$250.00, which shall not be refunded. If an application is approved by the Commissioner, upon payment of an additional fee of \$250.00, the applicant shall be granted a license, which shall be valid for one year after the date of issuance. The renewal fee is \$500.00.

(c) The Commissioner shall not issue a license to a company unless he or she finds that the company:

(1) has a zero-tolerance policy for drug and alcohol use, as described in subsection 752(c) of this chapter;



- (2) requires compliance with applicable vehicle requirements;
- (3) adopts nondiscrimination and accessibility policies; and
- (4) establishes record maintenance guidelines.

§ 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

- (1) the individual's name, address, and date of birth;
- (2) a copy of the individual's driver's license;
- (3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and
- (4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) obtains a Vermont criminal record from the Vermont Crime Information Center; and

(B) contracts with an entity accredited by the National Association of Professional Background Screeners to conduct a national criminal record check, a motor vehicle check, and a search of the Vermont Sex Offender Registry and the National Sex Offender Public Registry.

(2) The background checks required by this subsection shall be conducted annually by the company.

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64;

(C) a violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3)(selling or dispensing LSD); 4233(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking heroin); 4234(b)(2) or (b)(3)(selling or dispensing depressants, stimulants, and narcotics); 4234a(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking

methamphetamine); 4235(c)(2) or (c)(3)(selling or dispensing hallucinogenic drugs); or 4235a(b)(2) or (b)(3)(selling or dispensing Ecstasy);

(D) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(E) a felony violation of 13 V.S.A. chapter 47 (frauds) or chapter 57 (larceny and embezzlement); or

(F) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1071 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction; or

(3) is or has been required to register as a sex offender in any jurisdiction.

(c) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(d) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

#### § 753. RECORDS; INSPECTION

The Commissioner of Motor Vehicles or designee, at all reasonable times, has the right to inspect driver and company records demonstrating compliance with the requirements of this chapter, including the results of background checks, proof that vehicles meet the standards of this chapter, and proof of adequate insurance.

#### § 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner may impose an administrative penalty, suspend or revoke a company's license, or both, if a company violates the provisions of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case

of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the address stated on the company's license. The notice shall include the following:

- (1) a factual description of the alleged violation;
- (2) a reference to the particular statute allegedly violated;
- (3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing, that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice, and that failure to pay a penalty may result in suspension of its license.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court, or through any other means available to State agencies.

(g) If a penalty is not paid within 60 days after it is imposed, the Commissioner may suspend any license issued under this chapter.

(h) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

#### § 755. PREEMPTION; SAVINGS CLAUSE

(a) A municipality shall not adopt an ordinance, resolution, or bylaw regulating transportation network companies that is inconsistent with the requirements of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2022.

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**Sec. 2. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY**

The Commissioner of Financial Regulation shall review the minimum automobile insurance requirements in each of the states located in the northeastern region of the United States and shall report his or her findings and recommendations with respect to Vermont's minimum automobile insurance requirements to the General Assembly on or before November 1, 2017.

**Sec. 3. EFFECTIVE DATE**

This act shall take effect on July 1, 2017.

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

An act relating to transportation network companies.

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

Senator Degree, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: In Sec. 1, 23 V.S.A. § 750(b)(2)(A), by striking out subdivision (i) in its entirety and inserting in lieu thereof a new subdivision (i) to read as follows:

(i) primary automobile liability insurance in the amount of at least \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

Second: In Sec. 1, 23 V.S.A. § 750(b) (company's financial responsibility), by adding subdivision (9) to read as follows:

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty of not more than \$500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a fine of not more than \$100.00. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

Third: In Sec. 1, by striking out section 751 (company license) in its entirety

Fourth: In Sec. 1, by striking out section 754 (enforcement) in its entirety and by inserting in lieu thereof a new section 754 to read as follows:

§ 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

(1) a factual description of the alleged violation;

(2) a reference to the particular statute allegedly violated;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

Fifth: By adding Sec. 3 to read as follows:

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Motor Vehicles, in consultation with the Director of the Office of Professional Regulation, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire

companies should be regulated by the State. Among other things, the Commissioner shall consider:

- (1) issues related to public safety, necessity, and convenience;
- (2) regulatory models adopted in other states, as well as in Vermont municipalities, applicable to transportation network companies and other vehicle for hire companies;
- (3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;
- (4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures;
- (5) matters related to fares, including the provision of fare estimates to riders, restrictions on “surge pricing,” and payment methods;
- (6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees; the employment status of drivers; increased access for people with disabilities;
- (7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and
- (8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a “vehicle for hire” is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

- (1) Those which an employer uses to transport employees.
- (2) Those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15).
- (3) Buses, trolleys, trains, or similar mass transit vehicles.
- (4) Courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate Committees on

Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

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 the recommendation of proposal of amendment of the Committee on Judiciary was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

**Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment Concurred In**

**H. 506.**

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

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

Was taken up for immediate consideration.

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

By striking out Sec. 35 (professional regulation report) in its entirety and inserting in lieu thereof the following:

**Sec. 35. PROFESSIONAL REGULATION REPORT**

The Director of the Office of Professional Regulation and leaders of the relevant agencies and departments shall continue to analyze the professional regulation reports and other information gathered as a result of the professional regulation survey required by 2016 Acts and Resolves No. 156, Secs. 20 and 21 in order to recommend how the State can operate in a more effective and efficient manner.

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

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**Rules Suspended; House Proposal of Amendment to Senate Proposals of  
Amendment Concurred In**

**H. 512.**

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

An act relating to the procedure for conducting recounts.

Was taken up for immediate consideration.

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

First: In Sec. 1, in 17 V.S.A. chapter 51, subchapter 9, in section 2602j (court hearing and judgment), in subsection (c), following “the marking of any ballot as defective in accordance with section 2547” by inserting the following: or subsection 2587(d)

Second: In Sec. 1, in section 2602j (court hearing and judgment), in subsection (f), following “and after it has made a final decision on any questionable votes” by inserting the following: or defective ballots

Third: In Sec. 31, 17 V.S.A. § 2543 (return of ballots), by striking out subsection (d) in its entirety and inserting in lieu thereof:

(d)(1) All early voter absentee ballots returned to the clerk before the polls close on election day as follows shall be counted:

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

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

(C) by hand delivery to the presiding officer at the voter’s polling place.

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

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposals of amendment?, were severally decided in the affirmative.



**Rules Suspended; House Proposal of Amendment to Senate Proposals of  
Amendment Concurred In**

**H. 519.**

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

An act relating to capital construction and State bonding.

Were taken up for immediate consideration.

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

First: In Sec. 2, State Buildings, in subdivision (c)(2), by striking out the following: “\$5,799,648.00” and inserting in lieu thereof the following: \$5,707,408.00, and after subsection (d), by striking out the appropriation totals and inserting in lieu thereof the following:

<u>Appropriation – FY 2018</u>	<u>\$27,857,525.00</u>
<u>Appropriation – FY 2019</u>	<u>\$27,853,933.00</u>
<u>Total Appropriation – Section 2</u>	<u>\$55,711,458.00</u>

Second: In Sec. 3, Human Services, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) The sum of \$300,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Human Services for cameras, locks, perimeter intrusion at correctional facilities, and renovations to the Southeast State Correctional Facility for up to 50 beds.

and after subsection (b), by striking out the appropriation totals and inserting in lieu thereof the following:

<u>Appropriation – FY 2018</u>	<u>\$300,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$300,000.00</u>
<u>Total Appropriation – Section 3</u>	<u>\$600,000.00</u>

Third: In Sec. 5, Commerce and Community Development, by adding a subsection (e) to read as follows:

(e) The amounts appropriated in subdivisions (a)(2) and (a)(3) of this section shall be used as a one-to-one matching grant. The funds shall become available after the Agency notifies the Department that the funds have been matched.

Fourth: In Sec. 10, Natural Resources, in subdivision (c)(2), by striking out:

“(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure: \$30,000.00”

and inserting in lieu thereof

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

and by striking out all after subsection (f) and inserting in lieu thereof the following:

(g) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas: \$1,100,000.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

Appropriation – FY 2018 \$10,914,000.00

Appropriation – FY 2019 \$8,205,000.00

Total Appropriation – Section 10 \$19,119,000.00

Fifth: In Sec. 11, Clean Water Initiatives, in subdivision (f)(4), by striking out the following: “\$11,010,704.00” and inserting in lieu thereof the following: \$11,112,944.00 and after subsection (k), by striking out the appropriation totals and inserting in lieu thereof the following:

Appropriation – FY 2018 \$21,936,616.00

Appropriation – FY 2019 \$23,470,212.00

Total Appropriation – Section 11 \$45,406,828.00

Sixth: In Sec. 12, Military, in subdivision (b)(1), by striking out the following: “\$850,000.00” and inserting in lieu thereof the following: \$700,000.00 and after subsection (b), by striking out the appropriation totals and inserting in lieu thereof the following:

Appropriation – FY 2018 \$750,000.00

Appropriation – FY 2019 \$760,000.00

Total Appropriation – Section 12 \$1,510,000.00

Seventh: In Sec. 16, Vermont Veterans' Home, by striking out all after subsection (a) and inserting in lieu thereof the following:

(b) The sum of \$300,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Vermont Veterans' Home for kitchen renovations and mold remediation.

(c) The sum of \$50,000.00 is appropriated in FY 2019 to the Vermont Veterans' Home for resident care furnishings.

(d) It is the intent of the General Assembly that the amounts appropriated in subsections (a) and (c) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

<u>Appropriation – FY 2018</u>	<u>\$390,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$50,000.00</u>
<u>Total Appropriation – Section 16</u>	<u>\$440,000.00</u>

Eighth: In Sec. 27, 29 V.S.A. § 154a, in subdivision (b)(3), by striking out the following “acquisition, management and care” and inserting in lieu thereof the following: acquisition, management, and care

Ninth: In Sec. 31, Agency of Human Services; Facilities, in subsection (a), by striking out subdivision (a)(2) in its entirety and renumbering the remaining subdivisions to be numerically correct, and in subsection (c), by inserting at the end of the sentence, before the period, the following: , and the Health Reform Oversight Committee

Tenth: In Sec. 36, Public Safety Field Station; Williston, in subsection (b), following the first sentence, by adding a second sentence to read as follows:

The proceeds from the sale shall be appropriated to future capital construction projects.

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

**Rules Suspended; Report of Committee of Conference Accepted and  
Adopted on the Part of the Senate**

**H. 508.**

Appearing on the Calendar for notice, on motion of Senator Lyons, the rules were suspended and the report of the Committee of Conference on House bill entitled:

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

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Was taken up for immediate consideration.

Senator Lyons, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

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

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

Sec. 1. FINDINGS

The General Assembly finds that:

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

(2) The ACE questionnaire contains ten categories of questions for adults pertaining to abuse, neglect, and family dysfunction during childhood. It is used to measure an adult's exposure to traumatic stressors in childhood. Based on a respondent's answers to the questionnaire, an ACE score is calculated, which is the total number of ACE categories reported as experienced by a respondent.

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

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

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

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

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

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

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

CHAPTER 34. PROMOTION OF CHILD AND FAMILY RESILIENCE

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

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

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

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

(3) Early childhood adversity is common and can be prevented. When adversity is not prevented, early intervention is essential to ameliorate the impacts of adversity. A statewide, community-based, interconnected, public health and social service approach is necessary to address this effectively. This model shall include training for local leaders to facilitate a cultural change around the prevention and treatment of childhood trauma.

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

Sec. 3. ADVERSE CHILDHOOD EXPERIENCES; WORKING GROUP

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) a description of any existing programming within the Agencies or conducted in partnership with local community groups that is aimed at addressing and reducing trauma and associated health risks to children.

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

(f) Meetings.

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

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

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

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

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

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

#### Sec. 4. ADVERSE CHILDHOOD EXPERIENCES; RESPONSE PLAN

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

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

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

(3) ensuring that grants to the Agency of Human Services' community partners related to children and families strive toward accountability and community resilience.

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

#### Sec. 5. CURRICULUM; ADVERSE CHILDHOOD EXPERIENCES

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



## Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

*Committee on the part of the Senate*

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

*Committee on the part of the House*

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

**Rules Suspended; Report of Committee of Conference Accepted and  
Adopted on the Part of the Senate**

**S. 127.**

Pending entry on the Calendar for notice, on motion of Senator Mazza, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

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

Was taken up for immediate consideration.

Senator Mazza, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

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

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House Proposal of Amendment and the House Proposal be further amended as follows:

First: In Sec. 12, 23 V.S.A. § 1095b, in subdivision (c)(3), by striking out the following: “for a first conviction and four points assessed for a second or subsequent conviction”

Second: By striking out Sec. 13 in its entirety and inserting in lieu thereof the following:

Sec. 13. 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:

\* \* \*

- |         |                               |  |
|---------|-------------------------------|--|
| (LL)(i) | § 1095.                       | Entertainment picture visible to operator;   |
| (ii)    | § 1095b(c) <del>(2)</del> (3) | Use of portable electronic device <del>in outside work or school zone—first offense;</del> |

\* \* \*

(3) Four points assessed for:

- |     |                      |  |
|-----|----------------------|--|
| (A) | § 1012.              | Failure to obey enforcement officer;   |
| (B) | § 1013.              | Authority of enforcement officers;   |
| (C) | § 1051.              | Failure to yield to pedestrian;  |
| (D) | § 1057.              | Failure to yield to persons who are blind;                                     |
| (E) | § <u>1095b(c)(2)</u> | <u>Use of portable electronic device in work or school zone—first offense;</u> |

(4) Five points assessed for:

- |     |         |   |
|-----|---------|---|
| (A) | § 1050. | Failure to yield to emergency vehicles; |
| (B) | § 1075. | Illegal passing of school bus;          |
| (C) | § 1099. | Texting prohibited;                     |

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(D) § 1095b(c)(2) Use of portable electronic device in work or school zone—second and subsequent offenses;

\* \* \*

Third: By striking out Sec. 24 in its entirety and inserting in lieu thereof the following:

Sec. 24. 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13 and by 2014 Acts and Resolves No. 189, Sec. 26, is further amended as follows:

Sec. 1. VERMONT STRONG MOTOR VEHICLE PLATES

\* \* \*

(c) Use. An approved Vermont Strong commemorative plate may be displayed on a motor vehicle registered in Vermont as a pleasure car or on a motor truck registered in Vermont for less than 26,001 pounds (but excluding vehicles registered under the International Registration Plan) by covering the front registration plate with the commemorative plate any time from the effective date of this act ~~until June 30, 2016~~. The regular front registration plate shall not be removed. The regular rear registration plate shall be in place and clearly visible at all times.

\* \* \*

\* \* \* License Plate Cost Savings \* \* \*

Sec. 24a. LICENSE PLATE COST SAVINGS

(a) The Commissioner of Motor Vehicles, in consultation with the Commissioner of Corrections, shall:

(1) examine whether the redesign of Vermont's standard license plate could lead to cost savings associated with the production of such plates and, if cost savings are likely to result from a redesign, shall estimate how much savings would result from various redesign options; and

(2) identify any other opportunities to reduce costs associated with the production and acquisition of license plates, including by reducing materials costs, and estimate the cost savings expected to result from such opportunities.

(b) The Commissioner of Motor Vehicles shall estimate all cost savings that would result from eliminating the requirement that vehicles registered in Vermont display front license plates, except in the case of motor trucks with a registered weight of 10,100 pounds or more. The estimate shall assume that front and rear license plates will continue to be issued for vehicles registered pursuant to 23 V.S.A. § 304(b)(1) (vanity plates).

(c) On or before January 15, 2018, the Commissioner of Motor Vehicles shall report to the House and Senate Committees on Transportation and on Appropriations the findings and estimates required under this section and any proposed actions or recommendations related to achieving license plate-related cost savings.

Fourth: By striking out Sec. 27a and the reader assistance thereto in their entirety

Fifth: In Sec. 31 (effective dates), in subdivision (a)(1), by striking out the following: “27a (inspections; emissions repairs),”

*RICHARD T. MAZZA  
MARGARET K FLORY  
DUSTIN ALLARD DEGREE*

*Committee on the part of the Senate*

*PATRICK M. BRENNAN  
TIMOTHY R. CORCORAN  
MOLLIE SULLIVAN BURKE*

*Committee on the part of the House*

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

### **Committee of Conference Appointed**

#### **H. 22.**

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

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator White  
Senator Collamore  
Senator Pearson

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

### **Message from the House No. 65**

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 Senate proposal of amendment to House bill entitled:

**H. 495.** An act relating to miscellaneous agriculture subjects.

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. Smith of New Haven

Rep. Bock of Chester

Rep. Higley of Lowell

**Message from the House No. 66**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

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

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

**Message from the House No. 67**

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 a bill originating in the Senate of the following title:

**S. 131.** An act relating to State's Attorneys and sheriffs.

And has passed the same in concurrence with proposal 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 Senate bill of the following title:

---

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

And has adopted the same on its part.

### **Adjournment**

On motion of Senator Mazza, the Senate adjourned until one o'clock and thirty minutes in the afternoon.

### **Called to Order**

The Senate was called to order by the President *pro tempore*.

### **Rules Suspended; Bills Messaged**

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

**S. 52, S. 133, H. 506, H. 508, H. 512, H. 519.**

### **Committee of Conference Appointed**

#### **H. 495.**

An act relating to miscellaneous agriculture subjects.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Collamore  
Senator Pollina  
Senator Starr

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

### **House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment Concurred in with further Proposal of Amendment**

#### **S. 22.**

Senate bill entitled:

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

Having been called up, was taken up.

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?, Senator Sears moved to concur in the House

proposal of amendment to the Senate proposal of amendment to the House proposal of amendment with further proposal of amendment as follows:

By striking out Secs. 1–5 in their entirety and inserting in lieu thereof new Secs. 1–18 to read as follows:

Sec. 1. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all penalties for possession of one ounce or less of marijuana and two mature and four immature marijuana plants for a person who is 21 years of age or older while retaining criminal penalties for possession, dispensing and sale of larger amounts of marijuana. This act also retains civil penalties for possession of marijuana by a person under 21 years of age, which are the same as for possession of alcohol by a person under 21 years of age.

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

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

\* \* \*

~~(15)(A) “Marijuana” means any plant material of the genus cannabis or any preparation, compound, or mixture thereof except:~~

~~(A) sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:~~

~~(i) the seeds of the plant;~~

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

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

(B) “Marijuana” does not include:

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

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

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

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

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

\* \* \*

(43) “Immature marijuana plant” means a female marijuana plant that has not flowered and that does not have buds that may be observed by visual examination.

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

Sec. 3. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants~~ of four mature marijuana plants or eight immature



marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound or more of marijuana or more than 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than 10 plants of six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds or more of marijuana or more than one pound or more of hashish or knowingly and unlawfully cultivating more than 25 plants of 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

\* \* \*

Sec. 4. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE  
OR OLDER; CIVIL VIOLATION

(a)(1) ~~A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- (1) ~~not more than \$200.00 for a first offense;~~
- (2) ~~not more than \$300.00 for a second offense;~~
- (3) ~~not more than \$500.00 for a third or subsequent offense.~~

(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature

marijuana plants or fewer or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited by law.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

- (i) not more than \$100.00 for a first offense;
- (ii) not more than \$200.00 for a second offense; and
- (iii) not more than \$500.00 for a third or subsequent offense.

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.~~

(1) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(2) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(3) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(4) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(5) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(6) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)~~(c)(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

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(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 5. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

\* \* \*

Sec. 6. REPEAL

18 V.S.A. § 4230d (marijuana possession by a person under 16 years of age; delinquency) is repealed.

Sec. 7. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of

age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, "dwelling unit" means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

Sec. 8. 18 V.S.A. § 4230g is added to read:

§ 4230g. FURNISHING MARIJUANA TO A PERSON UNDER  
21 YEARS OF AGE; CRIMINAL OFFENSE

(a) No person shall:

(1) furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c) Except as provided in subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(e) This section shall not apply to:

(1) A person under 21 years of age who furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary that lawfully provides marijuana to a registered patient or caregiver pursuant to chapter 86 of this title.

Sec. 9. 18 V.S.A. § 4230h is added to read:

§ 4230h. FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party’s executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f) A person who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

Sec. 10. 18 V.S.A. § 4230i is added to read:

§ 4230i. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

Sec. 11. 18 V.S.A. § 4230j is added to read:

§ 4230j. EXCEPTIONS

(a) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

- (1) not more than \$200.00 for a first offense;
- (2) not more than \$300.00 for a second offense;
- (3) not more than \$500.00 for a third or subsequent offense.

(b) A person who is convicted of a felony for selling marijuana in violation of section 4230 of this title or selling a regulated drug to minors or on school grounds in violation of section 4237 of this title for an offense that occurred on or after July 1, 2018 and who possesses any of the following commits a

misdemeanor and is subject to imprisonment of not more than one year or a fine of not more than \$1,000.00, or both:

- (1) more than one ounce, but not more than two ounces of marijuana;
- (2) more than five grams, but not more than 10 grams of hashish; or
- (3) not more than six mature marijuana plants and 12 immature marijuana plants.

Sec. 12. 18 V.S.A. § 4476 is amended to read:

§ 4476. OFFENSES AND PENALTIES

~~(a) No person shall sell, possess with intent to sell, or manufacture with intent to sell, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a regulated drug in violation of chapter 84 of this title. Whoever violates any provision of this section shall be punished by imprisonment for not more than one year, or by a fine of not more than \$1,000.00, or both.~~

~~(b) Any A person who violates subsection (a) of this section by selling sells drug paraphernalia to a person under 18 years of age shall be imprisoned for not more than two years, or fined not more than \$2,000.00, or both.~~

~~(e)(b) The distribution and possession of needles and syringes as part of an organized community-based needle exchange program shall not be a violation of this section or of chapter 84 of this title.~~

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this subsection, the prohibition on consumption of marijuana by the operator shall extend to the operator's consumption of secondhand marijuana smoke in the vehicle as a result of another person's consumption of marijuana. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.



(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be ~~fin~~ subject to a civil penalty of not more than \$25.00 \$50.00.

Sec. 15. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING USING MARIJUANA OR TOBACCO IN A MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not use marijuana as defined in 18 V.S.A. § 4201 or a tobacco substitute as defined in 7 V.S.A. § 1001 or possess a lighted tobacco product or use a tobacco substitute as defined in 7 V.S.A. § 1001 in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a fine civil penalty of not more than \$100.00. No points shall be assessed for a violation of this section.

Sec. 16. 33 V.S.A. § 3504 is amended to read:

§ 3504. MARIJUANA AND TOBACCO USE PROHIBITED AT CHILD CARE FACILITIES

(a) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201 or to cultivate marijuana, or use tobacco products or tobacco substitutes as defined in 7 V.S.A. § on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use marijuana as defined in 18 V.S.A. § 4201, tobacco products, or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both ~~indoor~~ indoors and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If use of marijuana or smoking of tobacco products or tobacco substitutes occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in which marijuana, tobacco products, or tobacco substitutes, or both, are used. Cultivation of marijuana in a licensed or registered family child care home is not permitted.

Sec. 17. DISPARITIES IN ENFORCEMENT OF DRUG LAWS; MARIJUANA REGULATORY COMMISSION

(a) Findings. The General Assembly finds that:

(1) A 2013 report by the American Civil Liberties Union, *The War on Marijuana in Black and White*, identified Vermont as 15th in the country and first in New England when comparing discrepancies in citation and arrest rates for marijuana possession. The report stated that African-Americans in Vermont were 4.36 times more likely to be cited or arrested for marijuana possession than whites, higher than the national average of African-Americans being 3.73 more likely than whites to be cited or arrested for marijuana possession. Although Vermont later decriminalized possession of small

amounts of marijuana, a 2016 report by Human Rights Watch and the ACLU, *Every 25 Seconds: The Human Toll of Criminalizing Drug Use in the United States*, found that Vermont had the third-highest racial disparity in drug possession arrest rates in the country despite nearly identical use rates.

(2) In the report, *Driving While Black or Brown in Vermont*, University of Vermont researchers, examining 2015 data from 29 police agencies covering 78 percent of Vermont's population, found significant disparities in how often African-Americans and Hispanics are stopped, searched, and arrested, as compared to whites and Asians. According to the report, African-American drivers are four times more likely than white drivers to be searched by Vermont police, even though they are less likely to be found with illegal items.

(3) As part of efforts to eliminate implicit bias in Vermont's criminal justice system, policymakers must reexamine the State's drug laws, beginning with its policy on marijuana.

(4) According to a 2014 study conducted by the RAND Corporation, an estimated 80,000 Vermont residents regularly consume marijuana. Except for patients on the Vermont Medical Marijuana Registry, these Vermonters obtain marijuana through a thriving illegal market.

(5) In November 2016, voters in Massachusetts and Maine approved possession and cultivation of marijuana for personal use by adults 21 years of age or older. In July 2018, both states will begin to allow retail sales of marijuana and marijuana-infused products through licensed stores. Canada is expected to act favorably on legislation legalizing marijuana possession and cultivation for adults 18 years of age or older and federal administration officials have cited the summer of 2018 as the date at which licensed retail stores will begin selling marijuana and marijuana-infused products to the public.

(6) By adopting a comprehensive regulatory structure for legalizing and licensing the marijuana market, Vermont can revise drug laws that have a disparate impact on racial minorities, help prevent access to marijuana by youths, better control the safety and quality of marijuana being consumed by Vermonters, and use revenues to support substance use prevention and education and enforcement of impaired driving laws.

(b) Creation. There is created the Marijuana Regulatory Commission.

(c) Membership. The Commission shall be composed of the following nine members:

(1) two current members of the House of Representatives and one member of the public who all shall be appointed by the Speaker of the House;

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(2) two current members of the Senate and one member of the public who all shall be appointed by the Committee on Committees;

(3) the Attorney General or designee;

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

(5) one member appointed by the Governor.

(d) Powers and duties. The Commission shall develop legislation that establishes a comprehensive regulatory and revenue system for an adult-use marijuana market that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health.

(e) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office for the purpose of preparing legislation and shall have the technical assistance of the Agency of Agriculture, Food and Markets.

(f) Legislation. On or before November 1, 2017, the Commission shall provide the General Assembly and the Governor with its recommended legislation.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Commission to occur on or before August 1, 2017.

(2) The members shall elect a chair from the membership.

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

(4) The Commission shall cease to exist on January 30, 2018.

(h) Reimbursement.

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

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 18. EFFECTIVE DATE

This section and Sec. 17 shall take effect on passage and the remaining sections shall take effect on July 1, 2018.

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 with further proposal of amendment?, Senator Collamore 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 Sears was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order and ruled that the proposal of amendment was *germane*.

Thereupon, the pending question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment with further proposal of amendment?, was agreed to on a roll call, Yeas 20, Nays 9.

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

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Brooks, Campion, Clarkson, Cummings, Lyons, MacDonald, McCormack, Pearson, Pollina, Rodgers, Sears, Sirotkin, Westman, White.

**Those Senators who voted in the negative were:** Branagan, Collamore, Degree, Flory, Ingram, Mazza, Mullin, Nitka, Starr.

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

#### **Rules Suspended; House Proposal of Amendment Concurred In**

#### **S. 33.**

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

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

Were taken up for immediate consideration.

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

First: In Sec. 1, in 6 V.S.A. § 4719, in subdivision (a)(5), after "Vermont students in" and before "programs" by striking out the words "school meal" and inserting in lieu thereof the words child nutrition

Second: In Sec. 1, by striking out 6 V.S.A. § 4721 in its entirety and inserting in lieu thereof the following:

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§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to execute, administer, and award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, ~~or~~ a consortium of school districts, or registered or licensed child care providers may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in the School Food Service Program child nutrition programs;

(2) fund items, including local farm food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visiting farmers, that will help teachers educators to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) provide fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, child nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools and licensed or registered child care providers in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase the viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, ~~food service workers~~ child nutrition staff, and educators, and farm-to-school technical service providers jointly shall ~~jointly~~ adopt ~~rules~~ procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools ~~and~~ school districts, and registered or licensed child care providers that are developing farm-to-school connections and education that indicate a willingness to make changes to their child nutrition programs to increase student access and participation and that are making progress toward the implementation of the Vermont nutrition and fitness policy guidelines School Wellness Policy Guidelines developed by the Agency of Agriculture,

Food and Markets, the Agency of Education, and the Department of Health, ~~dated November 2005~~ updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than \$15,000.00.

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

**Rules Suspended; Report of Committee of Conference Accepted and  
Adopted on the Part of the Senate**

**H. 513.**

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to making miscellaneous changes to education law.

Was taken up for immediate consideration.

Senator Baruth, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

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

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House Proposal of Amendment to the Senate Proposal of Amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Act 46 Findings and Purpose \* \* \*

Sec. 1. FINDINGS AND PURPOSE

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

(b) While Vermont generally does an excellent job educating our children, we fall short in two critical areas. First, we are not as successful as we need to

be in educating children from families with low income, and second, while we have a very high graduation rate from our high schools, not enough of our graduates continue their education. Fulfilling the goals of Act 46 is a critical step in addressing these shortcomings.

(c) As of May 1, 2017, voters in 105 Vermont towns have voted to merge 113 school districts into slightly larger, more sustainable governance structures, resulting in the creation of 23 new unified districts (serving prekindergarten–grade 12 students). As a result, approximately 60 percent of Vermont’s school-age children live or will soon live in districts that satisfy the goals of Act 46.

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

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

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

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

Sec. 2. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

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

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



\* \* \*

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

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

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

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

\* \* \*

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

### Sec. 3. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; EXEMPTION FROM STATEWIDE PLAN

If the conditions of this section are met, the Merged District and the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10, to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan, and the Merged District shall be eligible for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46.

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

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

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

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(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; provided, however, that an Existing District shall not be disqualified from being structurally isolated due to the fact that one or more adjoining school districts that have merged or reached final agreement to merge under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, have the same operating or tuitioning model as the Existing District.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) If the conditions of this section are met, each Merged District and the Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's statewide plan, and, except as provided under subsection (b) of this section, each Merged District shall be eligible for the incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46.

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an Existing District, are members of the same supervisory union (Two-by-Two-by-One Side-by-Side Structure) that is operational as a unit on the day on which the Merged Districts become operational.

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

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

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; provided, however, that an Existing District shall not be disqualified from being structurally isolated due to the fact that one or more adjoining school districts that have merged or reached final agreement to merge under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, have the same operating or tuitioning model as the Existing District.

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

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models are:

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

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

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

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

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

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

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

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

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

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

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

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

(b) Notwithstanding subsection (a) of this section, a Merged District shall not be eligible to receive incentives under this section if the District already received or is eligible to receive incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended.

\* \* \* Withdrawal from Union School District \* \* \*

Sec. 5. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION SCHOOL DISTRICT

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

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

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

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

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

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

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

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

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

(c) The State Board shall:

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

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

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

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

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

#### Sec. 6. REPEAL

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

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

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

Sec. 7. 2015 Acts and Resolves No. 46, Sec. 5 is amended to read:

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

\* \* \*

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

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

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

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

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

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

\* \* \* Secretary and State Board; Consideration of Alternative Structure Proposals; Exemption from Statewide Plan; Supplemental Transitional Facilitation Grant \* \* \*

Sec. 8. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

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

\* \* \*

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

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

(1) After the State Board of Education issues the statewide plan under subsection (b) of this section, districts subject to merger shall have 90 days to form a committee with members appointed in the same manner and number as required for a study committee under 16 V.S.A. chapter 11, and which shall

draft Articles of Agreement for the new district. During this period, the committee shall hold at least one public hearing to consider and take comments on the draft Articles of Agreement.

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

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

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

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

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

(1) an interstate school district;

(2) a regional career technical center school district formed under 16 V.S.A. chapter 37, subchapter 5A; or

(3) a district that, between June 30, 2013 and July 2, 2019, began to operate as a unified union school district and:

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

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

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

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



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

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

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

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

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

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

Sec. 9. 2015 Acts and Resolves No. 46, Sec. 21 is amended to read:

Sec. 21. SMALL SCHOOL SUPPORT; METRICS

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

\* \* \* Time Extension for Qualifying Districts \* \* \*

Sec. 10. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

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

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

before July 1, 2019, shall perform each of the following actions, unless the district qualifies for an exemption under Sec. 10(g) of this act.

\* \* \*

Sec. 11. TIME EXTENSION FOR VOTE OF ELECTORATE

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

\* \* \* Grants and Fee Reimbursement \* \* \*

Sec. 12. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

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

\* \* \*

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

\* \* \*

(3) Transition Facilitation Grant.

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

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

(ii) \$150,000.00.

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

\* \* \*

Sec. 13. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

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

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

\* \* \*

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

Sec. 14. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY UNIONS

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

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

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

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

\* \* \*

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\* \* \* Technical Corrections; Clarifications \* \* \*

Sec. 15. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

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

\* \* \*

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

Sec. 16. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

\* \* \*

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

Sec. 17. AVAILABILITY OF TAX AND OTHER INCENTIVES

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

Sec. 18. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. DECLINING ENROLLMENT; TRANSITION

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

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

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

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

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016, it has formed a

study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

Sec. 19. QUALIFICATION FOR INCENTIVES; ASSIGNMENT TO A SUPERVISORY UNION BY THE STATE BOARD

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

\* \* \* State Board Rulemaking Authority \* \* \*

Sec. 20. 2015 Acts and Resolves No. 46, Sec. 8 is amended to read:

Sec. 8. EVALUATION BY THE STATE BOARD OF EDUCATION

\* \* \*

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

\* \* \* Tax Provisions \* \* \*

Sec. 21. CALCULATION OF EDUCATION PROPERTY TAX SPENDING ADJUSTMENT AND EDUCATION INCOME TAX SPENDING ADJUSTMENT FOR CERTAIN SCHOOL DISTRICTS

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

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

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

(3) for which either:

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

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

education income tax spending adjustment for the district's 2015 fiscal year by more than 100 percent.

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

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

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

#### Sec. 22. MODIFIED UNIFIED UNION SCHOOL DISTRICTS; TAX RATE CALCULATIONS

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

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

#### Sec. 23. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

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

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

election is held in accordance with the unified union school district's articles of agreement.

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

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

Sec. 24. 16 V.S.A. § 243(c) is amended to read:

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

\* \* \* Postsecondary Schools \* \* \*

Sec. 25. 16 V.S.A § 176(d) is amended to read:

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

\* \* \*

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, ~~Burlington College~~, Champlain College, College of St. Joseph,

Goddard College, Green Mountain College, Landmark College, Marlboro College, Middlebury College, New England Culinary Institute, Norwich University, Saint Michael's College, SIT Graduate Institute, Southern Vermont College, Sterling College, Vermont College of Fine Arts, and Vermont Law School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

\* \* \*

\* \* \* Educational Opportunities \* \* \*

Sec. 26. 16 V.S.A. § 165(b) is amended to read:

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

\* \* \*

\* \* \* Local Education Agency \* \* \*

Sec. 27. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

\* \* \*

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

\* \* \*



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

Sec. 28. 16 V.S.A § 1075 is amended to read:

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

\* \* \*

(c) State-placed students.

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

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

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

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

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

\* \* \*

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

\* \* \*

\* \* \* Early College \* \* \*

Sec. 29. REPEAL

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

Sec. 30. 16 V.S.A § 946 is added to read:

§ 946. EARLY COLLEGE

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

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

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

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

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

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

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

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

(d) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 31. REPEAL

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

Sec. 32. 16 V.S.A. § 947 is added to read:

§ 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to section 946 of this title shall report annually in January to the Senate and House Committees on Education regarding the level

of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific results for participating students relating to programmatic goals.

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

\* \* \* Advisory Council on Special Education \* \* \*

Sec. 33. 16 V.S.A § 2945(c) is amended to read:

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

\* \* \*

\* \* \* Criminal Record Checks \* \* \*

Sec. 34. 16 V.S.A. § 255(k) and (l) are added to read:

(k) The requirements of this section shall not apply to superintendents and headmasters with respect to persons operating or employed by a child care facility, as defined under 33 V.S.A. § 3511, that provides prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A. § 3502. Superintendents and headmasters are not prohibited from conducting a criminal record check as a condition of hiring an employee to work in a child care facility that provides prekindergarten education operated by the school.

(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; 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.

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\* \* \* Education Weighting Report \* \* \*

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Sec. 35. EDUCATION WEIGHTING REPORT

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

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

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

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

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

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

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

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

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\* \* \* Postsecondary Institutions; Closing \* \* \*

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

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

\* \* \*

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

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

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

\* \* \* Prekindergarten Education Recommendations \* \* \*

Sec. 37. PREKINDERGARTEN EDUCATION RECOMMENDATIONS

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

\* \* \* High School Completion Program \* \* \*

Sec. 38. 16 V.S.A. § 942(6) is amended to read:

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

Sec. 39. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

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

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

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

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

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

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

Sec. 40. 16 V.S.A. § 1693 is amended to read:

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one of whom shall be a school superintendent, one public member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

\* \* \*

Sec. 41. TRANSITIONAL PROVISION

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

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\* \* \* Approved Independent Schools Study Committee \* \* \*

Sec. 42. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

(a) Creation. There is created the Approved Independent Schools Study Committee to consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school.

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

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

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

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

(4) the Secretary of Education or designee;

(5) the Executive Director of the Vermont Superintendents Association or designee;

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

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

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

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

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

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

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



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

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

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

(f) Continuation of rulemaking. It is the intent of the General Assembly to resolve the issues raised by the State Board of Education's proposed amendments to the 2200 Series of its Rules and Practices initiated by the State Board on November 13, 2015 (Rules for Approval of Independent Schools) after taking into account the report of the Committee required under subsection (e) of this section. Therefore, notwithstanding any provision to the contrary under 16 V.S.A. § 164, the State Board of Education shall suspend further development of the amendments to the Rules for Approval of Independent Schools, pending receipt of the report of the Committee, and shall further develop these amendments after considering the Committee's report.

(g) Meetings.

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

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

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

(4) The Committee shall cease to exist on December 2, 2017.

(h) Reimbursement.

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

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

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

Sec. 43. APPROPRIATION TO THE VERMONT STATE COLLEGES  
TO EXPAND EDUCATION AND TRAINING EVALUATION  
SERVICES PROGRAM

The sum of \$20,000.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for the purpose of providing funding for the Colleges' Education and Training Evaluation Services Program. The Vermont State Colleges shall use the appropriation to evaluate or reevaluate educational and training programs for college credit at no cost or at a reduced cost to the programs being evaluated. The Vermont State Colleges shall identify training programs in the skilled trades, including the plumbing and electrical trades, to receive these evaluation services. The Vermont State Colleges shall, on or before January 15, 2018, issue a report to the House and Senate Committees on Education describing how the funds appropriated pursuant to this section have been spent, how any remaining funds appropriated pursuant to this section will be spent, and the number and nature of the programs evaluated or reevaluated and the results of the evaluations.

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

Sec. 44. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

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

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

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

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

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

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

\* \* \*

\* \* \* Prekindergarten Programs; STARS ratings \* \* \*

Sec. 45. 16 V.S.A. § 829(c) is amended to read:

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

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

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

(B) at least four stars in the Department for Children and Families' STARS system with a plan to get to at least two points in each of the five arenas; or

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

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

Sec. 46. 16 V.S.A. chapter 42 is added to read:

#### CHAPTER 42. STUDENT RIGHTS

##### § 1623. FREEDOM OF EXPRESSION

###### (a) Findings.

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

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

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

(b) Definitions. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

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

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

(5) violates federal or State law; or

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

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

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

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

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

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

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

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

Sec. 47. 16 V.S.A. § 180 is added to read:

§ 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society

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granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

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

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

(b) Definitions. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

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

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

(5) violates federal or State law; or

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

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

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

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

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

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

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

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

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

Sec. 48. EFFECTIVE DATES

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

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

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

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

*Committee on the part of the Senate*

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

*Committee on the part of the House*

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 27, Nays 0.

Senator Baruth 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, Champion, Clarkson, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, Westman, White.

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

**Those Senators absent and not voting were:** Collamore, Pollina, Starr.

**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. 22, S. 33, H. 513.**

**Recess**

On motion of Senator Ashe the Senate recessed until 3:45 P.M.



**Called to Order**

The Senate was called to order by the President.

**Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged****H. 29.**

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the Senate proposal of amendment as follows:

First: In Sec. 2, findings, by striking out subdivision (3) in its entirety and renumbering subdivision (4) to be subdivision (3)

Second: In Sec. 3, Green Mountain Care Board; Health Care Professional Payment Parity Work Group, in subsection (b), by inserting a new subdivision (5) to read as follows:

(5) a practicing physician employed by a hospital-owned practice, appointed by the Vermont Medical Society;

And by renumbering the remaining subdivisions to be numerically correct.

Thereupon, Senator White, moved to amend the proposal of amendment of Senator Sirotkin in the *second* proposal of amendment by striking out the following: (5) a practicing physician employed by a hospital-owned practice, appointed by the Vermont Medical Society; and inserting in lieu thereof the following: (5) a representative of physicians employed by hospital-owned practices, appointed by the Vermont Medical Society;

Which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by Senator Sirotkin, as amended?, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators White, Ayer, Balint, Benning, Branagan, Clarkson, Collamore, Flory, Mazza, Nitka, Rodgers, Starr and Westman moved to amend the Senate proposal of amendment by striking out Sec. 4, reimbursement amounts for newly acquired or newly affiliated practices, in its entirety and inserting in lieu thereof the following:

Sec. 4. [Deleted.]

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Which was disagreed to on a division of the Senate Yeas 12, Nays 14.

Thereupon, pending the question, Shall the bill be read a third time?, Senators Ayer, White, Balint, Branagan, Bray, Collamore, Clarkson, Flory and McCormack moved to amend the Senate proposal of amendment by striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. GREEN MOUNTAIN CARE BOARD; HEALTH CARE  
PROFESSIONAL PAYMENT PARITY WORK GROUP

(a) The Green Mountain Care Board shall convene the Health Care Professional Payment Parity Work Group to:

(1) examine the reasons why health care professionals in independent practices are closing their practices or joining hospital-owned practices, or both;

(2) identify the causes and extent of disparities in reimbursement amounts to health care professionals for providing the same services in different settings; and

(3) determine how best to ensure more fair and equitable reimbursement amounts to health care professionals for providing the same services in different settings.

(b) The Work Group shall be composed of the following members:

(1) the Chair of the Green Mountain Care Board or designee;

(2) the Commissioner of Vermont Health Access or designee;

(3) a representative of each commercial health insurer with 5,000 or more covered lives in Vermont;

(4) a representative of independent physician practices, appointed by Health First;

(5) a representative of physicians employed by hospital-owned practices, appointed by the Vermont Medical Society;

(6) a representative of the University of Vermont Medical Center;

(7) a representative of Vermont's community hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(8) a representative of Vermont's critical access hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(9) a representative of each accountable care organization in this State;

(10) a representative of Vermont's federally qualified health centers and rural health clinics, appointed by the Bi-State Primary Care Association;

(11) a representative of naturopathic physicians, appointed by the Vermont Association of Naturopathic Physicians;

(12) a representative of chiropractors, appointed by the Vermont Chiropractic Association; and

(13) the Chief Health Care Advocate or designee from the Office of the Health Care Advocate.

(c) The Green Mountain Care Board, in consultation with the other members of the Work Group, shall:

(1) examine hospital acquisitions and transfers of health care professionals to understand the reasons why health care professionals in independent practices choose to become employed by hospitals and hospital-owned practices and the net effect of these transitions on growth in health care spending across the entire health care system;

(2) analyze the retention of independent practices and health care professionals in this State, including assessing the factors that may influence health care professionals' choice of practice location and ownership, such as administrative burden, schedule flexibility, compensation and benefits, financial risks, and business and contracting complexities; and

(3) develop a plan for reimbursing health care professionals in a more fair and equitable manner, including the following:

(A) proposing a process for reducing existing disparities in reimbursement amounts for health care professionals across all settings by the maximum achievable amount over three years, beginning on or after February 1, 2018, which shall include:

(i) establishing a process for and evaluating the potential impacts of increasing the reimbursement amounts for lower-paid providers and reducing the reimbursement amounts for the highest-paid providers;

(ii) evaluating the potential impact of requiring health insurers to modify their reimbursement amounts to health care professionals across all settings for nonemergency evaluation and management office visits codes to the amount of the insurer's average payment for that code across all settings in Vermont on January 1, 2017 or on another specified date;

(iii) ensuring that there will be no negative net impact on reimbursement amounts for health care professionals in independent practices and at community hospitals;

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(iv) ensuring that there will be no increase in medical costs or health insurance premiums as a result of the adjusted reimbursement amounts;

(v) considering the impact of the adjusted reimbursement amounts on the implementation of value-based reimbursement models, including the all-payer model; and

(vi) developing an oversight and enforcement mechanism through which the Green Mountain Care Board shall evaluate the alignment between reimbursement amounts to providers, hospital budget revenues, and health insurance premiums;

(B) identifying the time frame for adjusting the reimbursement amounts for each category of health care services; and

(C) enforcement and accountability provisions to ensure measurable results.

(d)(1) The Green Mountain Care Board shall provide an update on its progress toward achieving provider payment parity at each meeting of the Health Reform Oversight Committee between May 2017 and January 2018.

(2) On or before November 1, 2017, the Green Mountain Care Board shall submit to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance the following:

(A) a final timeline and implementation plan for achieving provider payment parity;

(B) the estimated financial savings to the health care system from reducing payment disparities and recommendations for reallocation of those funds to underfunded segments of the health care delivery system; and

(C) proposals for any necessary legislative changes to implement the provider payment parity plan and to reallocate funds within the health care system.

(e) Implementation of the provider payment parity plan shall begin on February 1, 2018 to provide the General Assembly with an opportunity to review the plan, direct modifications to the plan, and take legislative action if needed.

Which was disagreed to on a roll call, Yeas 11, Nays 18.

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

**Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Balint, Benning, Branagan, Bray, Clarkson, Collamore, Flory, McCormack, Nitka, White.

**Those Senators who voted in the negative were:** Ashe, Baruth, Brooks, Campion, Cummings, Degree, Ingram, Lyons, MacDonald, Mazza, Mullin, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman.

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

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

**Rules Suspended; House Proposal of Amendment Concurred In**

**S. 95.**

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

An act relating to sexual assault nurse examiners.

Was taken up for immediate consideration.

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

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

Subchapter 5. Sexual Assault Nurse Examiners

§ 5431. DEFINITION; CERTIFICATION

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

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

§ 5432. SANE BOARD

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

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

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

(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses; and

(4) statewide policy development related to sexual assault nurse examiner programs.

§ 5433. SANE PROGRAM CLINICAL COORDINATOR

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

(1) overseeing the recruitment and retention of SANEs in the State of Vermont;

(2) administering a statewide ~~training~~ educational program, including:

(A) the initial SANE certification training;

(B) ongoing training to ensure currency of practice for SANEs; and

(C) advanced training programs as needed;

(3) providing consultation ~~and~~ technical assistance, and training to SANEs and acute care hospitals regarding the standardized sexual assault protocol standards of care for sexual assault patients; and

(4) providing training and outreach to criminal justice and community-based agencies as needed; and

(5) coordinating and managing a system for ensuring best practices;

(6) granting certifications, pursuant to section 5431 of this title, to candidates who demonstrate compliance with the requirements for specialized certification as established by the SANE Board.

§ 5434. SANE BOARD DUTIES

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

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

~~(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;~~

~~(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;~~

~~(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;~~

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

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

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

#### § 5435. ACCESS TO A SEXUAL ASSAULT NURSE EXAMINER

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

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

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

#### Sec. 2. SEXUAL ASSAULT EVIDENCE KITS; STUDY COMMITTEE

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

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



- 
- (1) the Director of the Vermont Forensic Laboratory or designee;
  - (2) the Executive Director of the Vermont Center for Crime Victims Services or designee;
  - (3) the Commissioner of Health or designee;
  - (4) a representative of the Vermont Sexual Assault Nurse Examiners (SANE) Program;
  - (5) a representative of the county special investigative units appointed by the Executive Director of the State's Attorneys and Sheriffs; and
  - (6) a law enforcement professional appointed by the Commissioner of Public Safety.
- (c) Powers and duties. The Committee shall address the following issues:
- (1) the current practices for kit tracking;
  - (2) the effectiveness and cost of a system allowing for the online completion of sexual assault evidence kit documentation with electronic notification after reports are submitted;
  - (3) the feasibility and cost of a web-based tracking system to allow agencies involved in the response and prosecution of sexual assault to track sexual assault evidence kits, pediatric sexual assault evidence kits, and toxicology kits using a bar code number uniquely assigned to each kit;
  - (4) the effectiveness and challenges of the current system of police transport of evidence kits from hospitals to the Vermont Forensic Laboratory; and
  - (5) the feasibility and cost of alternative methods of transport of sexual assault evidence kits such as mail, delivery service, or courier.
- (d) Assistance. The Center for Crime Victim Services shall convene the first meeting of the Committee and provide support services.
- (e) Report. On or before November 1, 2017, the SANE Program, on behalf of the Committee, shall submit a written report to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.
- (f) Meetings.
- (1) The Center for Crime Victim Services shall call the first meeting of the Committee to occur on or before August 1, 2017.
  - (2) The Committee shall select a chair from among its members at the first meeting.

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

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

**Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate**

**S. 75.**

Pending entry on the Calendar for notice, on motion of Senator Rodgers, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to aquatic nuisance species control.

Was taken up for immediate consideration.

Senator Rodgers, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

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

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

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

First: In Sec. 2, 10 V.S.A. § 1454, in subsection (c), after “(c)” and before “It shall be a violation” by striking out “Aquatic nuisance species inspection station.” and inserting in lieu thereof No-cost boat wash; aquatic nuisance species inspection station.

and after “other equipment inspected, and” and before “decontaminated at an approved” by striking out the following: , if determined necessary,

Second: In Sec. 4, 10 V.S.A. § 1461, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and

aquatic nuisance species. The training program shall instruct participants regarding how to address noncompliance with the requirements of section 1454 of this title, including how:

(1) operators of the inspection station do not have authority to board a vessel unless authorized by the vessel owner; and

(2) operators of the inspection station do not have law enforcement authority to mandate compliance with the requirements of section 1454 of this title.

Third: In Sec. 4, 10 V.S.A. § 1461, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (b) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to conduct the inspection and decontamination of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species.

Fourth: By striking out Sec. 7 in its entirety and inserting in lieu thereof the following:

#### Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

(a) The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers:

(A) three days prior to placement of the barriers in a water if the Secretary has identified the water as containing threatened or endangered species; or

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(B) on the day the barriers are placed in the water if the Secretary has not identified the water as containing threatened or endangered species; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

(b) The Secretary of Natural Resources shall designate an e-mail address, telephone number, or other publicly available method by which a lake association may provide the notice required by this section seven days a week.

*JOHN S. RODGERS  
BRIAN A. CAMPION  
CHRISTOPHER A. BRAY*

*Committee on the part of the Senate*

*MARY M. SULLIVAN  
DAVID L. DEEN  
TREVOR J. SQUIRRELL*

*Committee on the part of the House*

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, 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. 75, S. 95, H. 29.**

### **Recess**

On motion of Senator Ashe the Senate recessed until 5:30 P.M.

### **Called to Order**

The Senate was called to order by the President *pro tempore*.

### **Message from the House No. 68**

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 a bill originating in the Senate of the following title:

**S. 100.** An act relating to promoting affordable and sustainable housing.

And has passed the same in concurrence with proposal 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 Senate bill of the following title:

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

And has adopted the same on its part.

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

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

And has adopted the same on its part.

#### **Message from the House No. 69**

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 Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

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

And has concurred therein.

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

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

And has concurred therein.

#### **Senate Concurrent Resolutions**

The following joint concurrent resolutions, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted on the part of the Senate:

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By Rep. Kimbell,

By Senators Nitka, Clarkson and McCormack,

**S.C.R. 14.**

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

By Senators Clarkson and McCormack,

**S.C.R. 15.**

Senate concurrent resolution designating October 16, 2017 as John Brown Day in Vermont..

**House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Rachelson and others,

**H.C.R. 158.**

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

By Rep. Bancroft,

**H.C.R. 159.**

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

By Reps. Morrissey and others,

By Senators Champion, Collamore, Flory, Mullin and Sears,

**H.C.R. 160.**

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

By Reps. Burditt and others,

By Senators Collamore, Flory and Mullin,

**H.C.R. 161.**

House concurrent resolution honoring Summer Stoutes of Tinmouth for her selfless generosity as a kidney donor and congratulating Brent Garrow on his

successful transplant surgery recovery and resumption of his firefighting and law enforcement careers.

By Reps. Hebert and others,

By Senators Balint and White,

**H.C.R. 162.**

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

By All Members of the House,

**H.C.R. 163.**

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

By Reps. Ancel and others,

By Senators Ayer, Lyons and Mullin,

**H.C.R. 164.**

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

By Rep. Haas,

By Senators Clarkson, McCormack and Nitka,

**H.C.R. 165.**

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

By Reps. Marcotte and Viens,

By Senators Rodgers and Starr,

**H.C.R. 166.**

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

By Rep. Yacovone,

**H.C.R. 167.**

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

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By Reps. Van Wyck and Lanpher,

**H.C.R. 168.**

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

By Rep. Ode,

**H.C.R. 169.**

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

By Reps. Stevens and others,

By Senators Brooks, Cummings and Pollina,

**H.C.R. 170.**

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

By Reps. Grad and others,

By Senators Brooks, Cummings and Pollina,

**H.C.R. 171.**

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

By Reps. Grad and others,

By Senators Brooks, Cummings and Pollina,

**H.C.R. 172.**

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

By Reps. Higley and Strong,

By Senators Rodgers and Starr,

**H.C.R. 173.**

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



By Reps. Stevens and others,

By Senators Brooks, Cummings and Pollina,

**H.C.R. 174.**

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

By Reps. Brennan and others,

By Senators Collamore, Flory, Mazza and Mullin,

**H.C.R. 175.**

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

By Reps. Canfield and others,

By Senators Collamore, Flory and Mullin,

**H.C.R. 176.**

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

By Reps. Long and others,

By Senators Balint and White,

**H.C.R. 177.**

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

By Reps. Beck and others,

By Senators Kitchel, Benning and Branagan,

**H.C.R. 178.**

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

By Reps. Morrissey and others,

By Senators Champion and Sears,

**H.C.R. 179.**

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

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By Reps. Morrissey and others,

By Senators Campion and Sears,

**H.C.R. 180.**

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

By Reps. Masland and Briglin,

By Senator MacDonald,

**H.C.R. 181.**

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

By Reps. Browning and others,

By Senators Campion and Sears,

**H.C.R. 182.**

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

By Reps. Quimby and others,

By Senators Benning and Kitchel,

**H.C.R. 183.**

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

By Reps. Quimby and others,

By Senators Benning and Kitchel,

**H.C.R. 184.**

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

By Reps. Dunn and others,

**H.C.R. 185.**

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

By Reps. Keefe and others,

By Senators Campion, Sears, Clarkson and Nitka,

**H.C.R. 186.**

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

By Reps. Toleno and others,

By Senators Balint and White,

**H.C.R. 187.**

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

By Reps. Miller and Morrissey,

By Senators Campion and Sears,

**H.C.R. 188.**

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

By Reps. Belaski and Bartholomew,

**H.C.R. 189.**

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

By Reps. Brumsted and others,

By Senators Lyons and Ingram,

**H.C.R. 190.**

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

**Adjournment**

On motion of Senator Mazza, the Senate adjourned, to reconvene on Monday, May 8, 2017, at four o'clock in the afternoon.