

# House Calendar

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Friday, April 25, 2014

109th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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**ACTION CALENDAR**

**Third Reading**

**J.R.H. 18**

Joint resolution urging Congress to reauthorize the federal terrorism insurance program

**S. 70**

An act relating to the delivery of raw milk at farmers' markets

**S. 177**

An act relating to nonjudicial discipline

**Favorable with Amendment**

**H. 892**

An act relating to approval of the adoption and the codification of the charter of the Central Vermont Public Safety Authority

**Rep. Lewis of Berlin**, for the Committee on **Government Operations**, recommends the bill be amended as follows:

First: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 4 (sovereign immunity), at the end of the first sentence, after “to the same extent that”, by striking out in its entirety “the State of Vermont does” and inserting in lieu thereof a municipality of the State does.

Second: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 12 (quorum and rules), in subsection (a), by striking out in its entirety the first sentence and inserting in lieu thereof To transact business, a majority of all directors who are not all from the same member shall be present and shall vote in favor of a motion for it to be effective.

Third: Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 26 is redesignated to read:

**§ 26. REMOVAL OF OFFICERS**

Fourth: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 31 (collection), in subsection (a), after “Annually, on or before”, by striking out “January 1,” and inserting in lieu thereof July 1,

Fifth: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 31 (collection), in subsection (c), at the end of the last sentence, after “determines to be

reasonable” by inserting , not exceeding what may be permitted by general law

Sixth: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 32 (limitations of appropriations), by striking out in their entirety subsections (b) and (c) and inserting in lieu thereof a new subsection (b) to read:

(b) The amount of any deficit at the end of the fiscal year shall be included in the next proposed operating budget and paid out of the appropriations for that budget year. At the discretion of the Board, any unencumbered balance may be placed in a reserve fund or returned to the members.

( Committee Vote: 11-0-0)

### Favorable

#### H. 893

An act relating to approval of the adoption and the codification of the charter of the North Branch Fire District No. 1

**Rep. Lewis of Berlin**, for the Committee on **Government Operations**, recommends the bill ought to pass.

( Committee Vote: 11-0-0)

#### H. 894

An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier

**Rep. Higley of Lowell**, for the Committee on **Government Operations**, recommends the bill ought to pass.

( Committee Vote: 10-0-1)

#### H.R. 11

House resolution to amend Rule 25 of the Rules of the House of Representatives pertaining to the jurisdiction of the Committee on Transportation

**Rep. Deen of Westminster**, for the Committee on **Rules**, recommends the resolution ought to be adopted.

( Committee Vote: 7-0-0)

S. 234

An act relating to Medicaid coverage for home telemonitoring services

**Rep. Gage of Rutland City**, for the Committee on **Health Care**, recommends the bill ought to pass.

( **Committee Vote: 11-0-0**)

**Rep. Johnson of South Hero**, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as follows:

By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 33 V.S.A. § 1901g is added to read:

§ 1901g. MEDICAID COVERAGE FOR HOME TELEMONITORING SERVICES

(a) The Agency of Human Services shall provide Medicaid coverage for home telemonitoring services performed by home health agencies or other qualified providers as defined by the Agency of Human Services for Medicaid beneficiaries who have serious or chronic medical conditions that can result in frequent or recurrent hospitalizations and emergency room admissions. ~~The Agency shall use evidence-based best practices to determine the conditions or risk factors to be covered.~~ Beginning on July 1, 2014, the Agency shall provide coverage for home telemonitoring for one condition or risk factor for which it determines coverage to be cost-neutral. The Agency may expand coverage to include additional conditions or risk factors identified using evidence-based best practices if the expanded coverage will remain cost-neutral or as funds become available.

(b) A home health agency or other qualified ~~providers as defined by the Agency of Human Services~~ provider shall ensure that clinical information gathered by the home health agency or other qualified ~~providers as defined by the Agency of Human Services~~ provider while providing home telemonitoring services is shared with the patient's treating health care professionals. The Agency of Human Services may impose other reasonable requirements on the use of home telemonitoring services.

(c) As used in this section:

(1) "Home health agency" means an entity that has received a certificate of need from the State to provide home health services and is certified to provide services pursuant to 42 U.S.C. § 1395x(o).

(2) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health, in

conjunction with a home health plan of care, and access to the data by a home health agency or other qualified providers provider as defined by the Agency of Human Services.

( Committee Vote: 10-0-1)

## Senate Proposal of Amendment

### H. 123

An act relating to Lyme disease and other tick-borne illnesses

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

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

#### Sec. 2. PURPOSE

The purpose of this act is to ensure that patients have access to treatment for Lyme disease and other tick-borne illnesses in accordance with their needs, the clinical judgment of their physicians, and any of the guidelines referenced in Sec. 3(4) of this act.

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

#### Sec. 3. POLICY STATEMENT

A policy statement clearly communicating the following shall be issued by the Vermont State Board of Medical Practice to physicians licensed pursuant to 26 V.S.A. chapter 23 and to physician assistants licensed pursuant to 26 V.S.A. chapter 31; the Vermont Board of Osteopathic Physicians to physicians licensed pursuant to 26 V.S.A. chapter 33; the Office of Professional Regulation to naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81; and the Vermont Board of Nursing to advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28:

(1) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall document the basis for diagnosis of and treatment for Lyme disease, other tick-borne illness, or coinfection in a patient's medical record;

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent regarding the potential inaccuracy of a diagnostic Lyme disease test prior to its administration;

(3) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent in writing

prior to administering any proposed long-term treatment for Lyme disease, other tick-borne illness, or coinfection; and

(4) the Board or Office of Professional Regulation shall not pursue disciplinary action against a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, solely for the use of medical care recognized by the guidelines of the Centers for Disease Control and Prevention, Infectious Diseases Society of America, or International Lyme and Associated Diseases Society for the treatment of a patient's symptoms when the patient is clinically diagnosed with Lyme disease or other tick-borne illness; however, this does not preclude discipline for errors, omissions, or other unprofessional conduct when practicing within such guidelines.

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

#### Sec. 4. REPORT

On or before January 15, 2015 and 2016 the Commissioner of Health shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare on the following:

(1) the trends in the spread of Lyme disease and other tick-borne illnesses throughout Vermont, including a description of the surveillance criteria used in evaluating the spread of these diseases; and

(2) the Department of Health's public education initiatives to date regarding the prevention and treatment of Lyme disease and other tick-borne illnesses, including an assessment of each initiative's effectiveness.

And by renumbering the remaining section to be numerically correct.

(For text see House Journal 3/11/2014 )

**Rep. Rep. Fisher of Lincoln**, for the Committee on **Health Care**, moves that the House concur in the Senate Proposal of Amendment with further amendment thereto as follows:

The Committee on Health Care moves that the House concur in the Senate Proposal of Amendment with further amendment thereto in Sec. 3, by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall provide information to assist patients' understanding of the available Lyme disease tests, the meaning of a diagnostic Lyme disease test result, and any limitations to that test result;

**(Committee Vote: 8-1-2)**



**Amendment to be offered by Rep. Till of Jericho to H. 123**

By striking out Sec. 3, subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall provide information to patients regarding whether the proposed Lyme disease test will be processed by a laboratory certified under the federal Clinical Laboratory Improvement Amendments Program;

**H. 765**

An act relating to eliminating the part-time certification of law enforcement officers

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

Sec. 1. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL;REPORT; LEVELS OF LAW ENFORCEMENT OFFICER CERTIFICATION; SCOPE OF PRACTICE; TRAINING REQUIREMENTS

On or before January 15, 2015, the Vermont Criminal Justice Training Council shall submit to the Senate and House Committees on Government Operations a report that recommends whether there should be different levels of law enforcement officer certification to replace the current law's full- and part-time certification. Any new recommended levels shall distinguish law enforcement officer certification based on scope of practice and not on practice hours. For each recommended new level of law enforcement officer certification, the Council shall recommend:

(1) the scope of practice for that level of certification;

(2) the scope of the basic and annual in-service training that should be required to obtain and retain, respectively, that level of certification;

(3) the manner in which a law enforcement officer should be able to transition to a different level of certification; and

(4) the manner in which a law enforcement officer certified as a full- or part-time officer under current law should be able to transition to the recommended new level.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read: "An act relating to a report of the Vermont Criminal Justice Training Council's

recommended levels of law enforcement officer certification”.

(For text see House Journal 3/18/2014 )

## NOTICE CALENDAR

### Favorable with Amendment

#### H. 883

An act relating to expanded prekindergarten–grade 12 school districts

**Rep. Wilson of Manchester**, for the Committee on **Ways and Means**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Prekindergarten–Grade 12 School Districts \* \* \*

Sec. 1. 16 V.S.A. chapter 135 is added to read:

#### CHAPTER 135. PREKINDERGARTEN–GRADE 12 SCHOOL DISTRICTS; REALIGNMENT PROCESS

##### § 4051. PURPOSE

This act will encourage and support:

(1) equity in the quality and variety of educational opportunities available to students throughout the State;

(2) operational efficiencies and cost savings by facilitating the sharing of best practices and resources; and

(3) better connections between schools and the community through stronger school leadership.

##### § 4052. DEFINITIONS

As used in this act:

(1) “Design Team” means the independent nine-member entity created by this act to conduct statewide public hearings and develop a preliminary and final Statewide Realignment Plan.

(2) “Statewide Realignment Plan” or “the Plan” means the plan developed and adopted pursuant to this act by which existing school districts shall be realigned into 45–55 supervisory districts that are responsible for the education of all resident students in prekindergarten through grade 12.

##### § 4053. GUIDELINES

(a) The Statewide Realignment Plan required by this act shall be designed to recognize:

- (1) each community's unique character;
  - (2) the tradition of community participation in the adoption of school budgets;
  - (3) historic relationships among communities;
  - (4) existing connections between school districts;
  - (5) ongoing discussions between school districts engaged in the regional education district process set forth in 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156; and
  - (6) potential obstacles caused by geography.
- (b) The Statewide Realignment Plan shall preserve current opportunities for school choice and shall endeavor to enhance opportunities for public school choice.

#### § 4054. STATEWIDE REALIGNMENT PLAN

(a) The Statewide Realignment Plan shall realign existing school districts into at least 45 and no more than 55 supervisory districts that are responsible for the education of all resident students in prekindergarten through grade 12 through educational opportunities that meet the educational quality standards adopted by the State Board of Education pursuant to 16 V.S.A. § 165.

(b) Under the Statewide Realignment Plan, each new district shall:

- (1) endeavor to have an average daily membership of between 1,000 and 4,000 students;
- (2) be governed by no more than one elected school board;
- (3) adopt one district budget;
- (4) have a common, districtwide education property tax rate;
- (5) negotiate districtwide collective bargaining agreements and employ all licensed and nonlicensed personnel as employees of the new district;
- (6) be the local education agency as that term is defined in 20 U.S.C. § 7801(26); and
- (7) operate one or more career technical education (CTE) centers or enter into an agreement for resident students to attend one or more CTE centers not operated by the district, or both.

(c)(1) To the extent feasible, the Statewide Realignment Plan shall not realign a new district created under the regional education district (RED) process set forth in 2010 Acts and Resolves No. 153, as amended by 2012 Acts

and Resolves No. 156.

(2) Under the RED process, existing school districts may realign into districts that meet specific criteria. Realignment follows the provisions of 16 V.S.A. chapter 11 governing the formation of unified union school districts under which districts appoint a study committee and prepare a plan of realignment that must be approved by both the State Board and the electorate of the districts. A plan of realignment may address issues of particular interest to the local communities, such as representation on the new district's school board, the manner in which school budgets are voted, and the conditions under which the new district would be permitted to close an existing school building. If approved, the plan becomes the new district's articles of agreement.

(d) During each of the first three years of realignment under the Plan:

(1) the equalized homestead property tax rate for each town within a new supervisory district shall not increase or decrease by more than five percent in a single year; and

(2) the household income percentage shall not increase or decrease by more than five percent in a single year.

(e) During and after the creation of supervisory districts under this act, districts are encouraged to explore innovative ways to expand opportunities for students and to seek waivers of State Board rules or other legal requirements that inhibit implementation. Innovations may address any area of education policy, including instructional practices and principles; the use of technology and data systems to improve instruction and expand learning opportunities; services provided to discrete populations of students, including gifted and talented students, students with limited English proficiency, and students at risk of academic failure or expulsion; early education and school readiness; and preparation and counseling of students for postsecondary education, training, and employment.

#### § 4055. DESIGN TEAM

(a) There is created a Design Team to be composed of nine members who are geographically representative, have a broad range of knowledge of and experience in the Vermont education system and in Vermont communities, and represent diverse points of view, opinions, and interests.

(b) The nine members shall be appointed as follows:

(1) On or before June 1, 2014, the Speaker of the House, the Committee on Committees, and the Governor shall each choose three members. One of the members selected by the Speaker and one of the members selected by the Committee on Committees shall have experience serving on a school board in

Vermont. One of the members selected by the Governor shall be the Chair of the State Board of Education or the Chair's designee. No member of the Design Team shall be a member of the House of Representatives or the Senate during the period of appointment.

(2) In order to ensure the diversity of knowledge, experience, and opinions required by this section, the Speaker, the Committee on Committees, and the Governor, or their designees, shall work collectively to identify potential candidates for appointment.

(3) The Speaker, the Committee on Committees, and the Governor shall jointly appoint one of the nine members to serve as Chair of the Design Team.

(c) The Design Team shall conduct its meetings pursuant to 1 V.S.A. chapter 5, subchapter 2.

(d) The Design Team shall have the authority to delegate to one or more of its members any responsibility or power granted to it in this act, including the responsibility to conduct public hearings.

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

(f)(1) For attendance at meetings during adjournment of the General Assembly, any legislative members of the Design Team shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(2) Members of the Design Team who are not employees of the State and who are not otherwise compensated or reimbursed for their participation shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(g) The Design Team shall cease to exist on July 1, 2017.

#### § 4056. PRELIMINARY STATEWIDE REALIGNMENT PLAN

On or before April 1, 2016, the Design Team shall:

(1) consult with local education leaders, including members of school boards in every supervisory union;

(2) conduct no fewer than ten public hearings throughout the State to inform development of the Statewide Realignment Plan;

(3) conduct independent research and seek data, advice, and assistance from any individual and any public or private entity to inform development of the Statewide Realignment Plan;

(4) develop a preliminary Statewide Realignment Plan, which shall include a schedule and process by which transition to the new districts shall be fully implemented on or before July 1, 2020;

(5) make the preliminary Statewide Realignment Plan available to the public; and

(6) submit the preliminary Statewide Realignment Plan to the General Assembly for review.

#### § 4057. FINAL STATEWIDE REALIGNMENT PLAN

(a) Between April 1, 2016 and January 1, 2017, the Design Team shall:

(1) conduct no fewer than ten public hearings throughout the State and consult with local educational leaders concerning the preliminary Statewide Realignment Plan;

(2) conduct any additional independent research and seek any additional data, advice, and assistance the Design Team determines to be necessary to inform development of the final Statewide Realignment Plan; and

(3) develop a final Statewide Realignment Plan, which shall include a detailed process and time line by which transition to the new districts will be fully implemented on or before July 1, 2020.

(b) On or before January 1, 2017, the Design Team shall make the final Statewide Realignment Plan available to the public and submit it to the General Assembly

#### § 4058. STATEWIDE REALIGNMENT OF SCHOOL DISTRICTS

The final Statewide Realignment Plan presented to the General Assembly pursuant to § 4057 of this act shall take effect on July 1, 2017 unless disapproved by explicit legislative action before that date.

\* \* \* Joint Action and Regional Education Districts; Incentives \* \* \*

#### Sec. 2. REIMBURSEMENT OF FEES AND INCENTIVE GRANTS

Nothing in this act shall be construed to restrict or repeal the following:

(1) 2012 Acts and Resolves No. 156, Sec. 2 (reimbursement of up to \$5,000.00 for fees relating to initial exploration of joint activity by school districts or supervisory unions).

(2) 2012 Acts and Resolves No. 156, Sec. 4 (reimbursement of up to \$10,000.00 for fees relating to joint activity other than a merger by school districts or supervisory unions).

(3) 2012 Acts and Resolves No. 156, Sec. 5 (reimbursement of up to

\$20,000.00 in fees relating to analysis of supervisory unions' potential merger).

(4) 2012 Acts and Resolves No. 156, Sec. 6 (\$150,000.00 facilitation grant for successful merger of supervisory unions).

(5) 2012 Acts and Resolves No. 156, Sec. 11 (facilitation grant for successful merger of school districts other than a RED).

(6) 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13 (financial and other incentives for successful formation of a RED).

\* \* \* Supervisory Unions; Special Education; Transportation \* \* \*

Sec. 3. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

\* \* \*

(6) provide, or if agreed upon by unanimous vote of the supervisory union board, coordinate the provision of special education services on behalf of its member districts and, except as provided in section 144b of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the State Board or local boards; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in whole or in part at the district level, then it may ask the Secretary to grant it a waiver from this provision;

(7) employ a person or persons qualified to provide financial and student data management services for the supervisory union and the member districts;

(8) provide the following services for the benefit of member districts in a manner that promotes the efficient use of financial and human resources, which shall be provided pursuant to joint agreements under section 267 of this title whenever feasible; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in another manner, then it may ask the Secretary to grant it a waiver from this subdivision:

\* \* \*

(E) ~~provide transportation or arrange for the provision of transportation, or both in any districts in which it is offered within the supervisory union; [Repealed.]~~

\* \* \*

(11) on or before June 30 of each year, adopt a budget for the ensuing

school year; ~~and~~

(12) adopt supervisory union-wide truancy policies consistent with the model protocols developed by the commissioner; ~~and~~

~~(13)-(17) [Repealed.]~~ (13) at the option of the supervisory union board, provide transportation or arrange for the provision of transportation, or both, in any districts in which it is offered within the supervisory union.

~~(14)-(17) [Repealed.]~~

Sec. 4. 2010 Acts and Resolves No. 153, Sec. 23(b), as amended by 2011 Acts and Resolves No. 30, Sec. 1; 2011 Acts and Resolves No. 58, Sec. 34; and 2012 Acts and Resolves No. 156, Sec. 20, is further amended to read:

(b) Secs. 9 through 12 of this act shall take effect on passage and shall be fully implemented on July 1, 2013, subject to the provisions of existing contracts; ~~provided, however, that the special education provisions of Sec. 9, 16 V.S.A. § 261a(a)(6), and the transportation provisions of Sec. 9, 16 V.S.A. § 261a(a)(8)(E), shall be fully implemented on July 1, 2014.~~

Sec. 5. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 30, Sec. 2; 2011 Acts and Resolves No. 58, Sec. 18; 2013 Acts and Resolves No. 56, Sec. 23; and 2014 Acts and Resolves No. 92, Sec. 303, is further amended to read:

#### Sec. 18. TRANSITION

(a) ~~Each~~ A supervisory union shall provide for any transition of employment of special education and transportation employees by member districts to employment by the supervisory union, ~~pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6) and (8)(E), by:~~

\* \* \*

(b) ~~For purposes of this section and Sec. 9 of this act~~ As used in this section, “special education employee” shall include a special education teacher, a special education administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students’ individualized education programs or to the administration of those services. Provided, however, that “special education employee” shall include a “special education paraeducator” only if the supervisory union board elects to employ some or all special education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which



categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

~~(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement. [Repealed.]~~

Sec. 6. 24 V.S.A. § 5053a(a) is amended to read:

(a) ~~For purposes of As used in~~ this section, the term “transferred employee” means an employee under this chapter who transitioned from employment solely by a school district to employment, wholly or in part, by a supervisory union pursuant to 16 V.S.A. § 261a(a)(6) or (8)(E) ~~as amended on June 3, 2010.~~

\* \* \* North Bennington School District \* \* \*

Sec. 7. NORTH BENNINGTON SCHOOL DISTRICT

Notwithstanding any other provision of law to the contrary, on the day on which the North Bennington School District ceases to exist as a discrete entity and becomes realigned into a supervisory district pursuant to the provisions of this act, title to the building that is currently owned by the North Bennington School District and occupied by the Village School of North Bennington shall transfer to the Village of North Bennington.

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

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

( **Committee Vote: 9-2-0** )

**Rep. Donovan of Burlington**, for the Committee on **Education**, recommends the bill ought to pass when amended as recommended by the Committee on **Ways and Means** and when further amended as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read:

Sec. 1. 16 V.S.A. chapter 135 is added to read:

CHAPTER 135. PREKINDERGARTEN–GRADE 12 EDUCATION DISTRICTS; REALIGNMENT PROCESS

#### § 4051. PURPOSE

This chapter is enacted to encourage and support:

(1) increased equity in the quality and variety of educational opportunities available to students throughout the State in order to enable all Vermont students to acquire 21st Century skills and to decrease the achievement gap between students from different socioeconomic backgrounds;

(2) operational efficiencies, more equitable deployment of resources, and sharing of best practices; and

(3) stronger relationships between schools and the community by fostering stable school leadership and opportunities for community engagement.

#### § 4052. REALIGNMENT

As of July 1, 2020, pursuant to the processes and criteria set forth in this chapter, school districts in the State, except interstate school districts, and supervisory unions shall be realigned into an estimated 45–55 prekindergarten–grade 12 education districts that are responsible for the education of all resident students in prekindergarten–grade 12 and that shall assume the responsibilities currently assigned to supervisory unions.

#### § 4053. DEFINITIONS

As used in this chapter:

(1) “Design Team” means the independent nine-member entity created by this chapter to conduct statewide public engagement meetings and develop a preliminary and final proposed Statewide Realignment Plan.

(2) “Education District” means a new district that shall be created from the realignment of existing school districts pursuant to this chapter that shall be responsible for the education of all resident students in prekindergarten–grade 12 through educational opportunities that meet the educational quality standards adopted by the State Board of Education pursuant to section 165 of this title.

(3) “Statewide Realignment Plan” or “the Plan” means the plan developed and adopted pursuant to this chapter by which existing school districts that have not voluntarily realigned into Education Districts shall be realigned.

#### § 4054. DESIGN TEAM; CREATION

(a) There is created a Design Team to be composed of nine members who are geographically representative, have a broad range of knowledge of and

experience in the Vermont education system and in Vermont communities, and represent diverse points of view, opinions, and interests.

(b) The nine members shall be appointed as follows:

(1) On or before June 1, 2014, the Speaker of the House, the Committee on Committees, and the Governor shall each choose three members. No member of the Design Team shall be a member of the House of Representatives or the Senate during the period of appointment.

(2) In order to ensure the diversity of knowledge, experience, and opinions required by this section, the Speaker, the Committee on Committees, and the Governor, or their designees, shall work collectively to identify potential candidates for appointment.

(3) The Speaker, the Committee on Committees, and the Governor shall jointly appoint one of the nine members to serve as Chair of the Design Team.

(c) The Design Team shall conduct its meetings pursuant to 1 V.S.A. chapter 5, subchapter 2.

(d) The Design Team shall have the authority to delegate to one or more of its members any responsibility or power granted to it in this chapter, provided, however, that no fewer than five of the Design Team members shall be present at the required public engagement meetings.

(e) The Design Team shall have the administrative, technical, and legal assistance of the Agency of Education and the Department of Taxes and may request data and other appropriate assistance from other public bodies, such as the Joint Fiscal Office, and private entities.

(f) Members of the Design Team who are not employees of the State and who are not otherwise compensated or reimbursed for their participation shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(g) The Design Team shall cease to exist on July 1, 2018.

#### § 4055. VOLUNTARY REALIGNMENT

(a) Under the regional education district (RED) process set forth in 2010 Acts and Resolves No. 153, Secs. 2–4, as amended by 2012 Acts and Resolves No. 156, Secs. 1 and 13–17, and further amended by 2013 Acts and Resolves No. 56, Sec. 3, existing school districts may realign into districts that meet specific criteria.

(b) Realignment into a RED follows the process set forth in 16 V.S.A. chapter 11 governing the formation of union school districts, under which existing school districts appoint a study committee and prepare a plan of

realignment (the Report). Through creation of the Report, the districts exploring realignment:

(1) decide issues specified in section 706b of this title, including ownership of buildings, representation on the RED board, and whether votes on the budget and other issues will be by Australian ballot;

(2) decide issues of particular interest to the local communities, such as the conditions under which the RED would be permitted to close an existing school building; and

(3) provide for the election of an initial RED board prior to the first day of the RED's existence in order to transition to the new structure by negotiating and entering into contracts, preparing an initial proposed budget, hiring a superintendent, adopting policies, and otherwise planning for the RED's implementation.

(c) In addition, the Report shall address how the proposed district shall meet the requirements of an Education District that are itemized in subdivision 4056(b)(10) of this chapter.

(d) If the Report is approved by both the State Board and the electorate of the districts, it shall become the RED's articles of agreement.

(e) If the electorate of two or more districts approves a Report pursuant to the RED process on or before July 1, 2017, then the Statewide Realignment Plan shall not realign the RED and the RED shall be an Education District under the Plan; provided, however, pursuant to criteria identified by the Design Team, realignment is permissible if necessary to accommodate another existing district that:

(1) would become geographically isolated or would otherwise be an inappropriate member of any other potential Education District; and

(2) is an appropriate member of the RED.

#### § 4056. STATEWIDE REALIGNMENT PLAN; ELEMENTS

(a) Guidelines. The Statewide Realignment Plan shall be informed by the public meetings and other public engagement processes required by sections 4058 and 4059 of this chapter and shall be designed to recognize:

(1) each community's unique character;

(2) the tradition of community participation in the adoption of school budgets;

(3) historic relationships among communities;

(4) existing connections between school districts;

(5) ongoing discussions between school districts engaged in the RED process;

(6) potential obstacles caused by geography; and

(7) to the extent possible, the effect that national Forest Service funds paid pursuant to section 557 of this title and other unique revenue sources have on public education and education property tax rates.

(b) Requirements. Subject to the provisions of sections 4055 and 4057 of this chapter, an Education District shall:

(1) be responsible for the education of all resident prekindergarten–grade 12 students through educational opportunities that meet the educational quality standards adopted by the State Board of Education pursuant to section 165 of this title;

(2) have an average daily membership at least 1,000 students;

(3) be governed by no more than one elected board;

(4) adopt one districtwide budget;

(5) have a common, districtwide education property tax rate;

(6) negotiate districtwide collective bargaining agreements and employ all licensed and nonlicensed personnel as employees of the new district;

(7) be the local education agency as that term is defined in 20 U.S.C. § 7801(26);

(8) account for and report financial information in accordance with Generally Accepted Accounting Principles and in a manner that promotes transparency and public accountability and supports a statewide integrated data collection system;

(9) operate one or more career technical education (CTE) centers or enter into an agreement for resident students to attend one or more CTE centers not operated by the district, or both; and

(10) be designed to:

(A) maximize the effective, flexible, and efficient use of fiscal, human, and facility resources to support student achievement and success;

(B) foster stable leadership by developing and supporting both school and district leaders;

(C) hire, train, support, and retain excellent administrators, teachers, and staff;

(D) promote budgetary stability leading to less volatility for taxpayers;

(E) account for and report financial information in accordance with Generally Accepted Accounting Principles and in a manner that promotes transparency and public accountability and supports a statewide integrated data collection system; and

(F) promote a shared commitment to a strong, flexible, and coherent system.

(c) Initial articles of agreement and other transitional issues. Among other things, the Statewide Plan:

(1) shall include one or more models of initial articles of agreement addressing issues required by section 706b of this title that will govern the actions of the Education Districts that were not created during the voluntary realignment process until such time as each Education District adopts its own amended articles, including the method of apportioning the representation on the Education District's board, whether votes on the budget and other issues will be by Australian ballot, and the conditions under which the Education District would be authorized to close a school building;

(2) shall establish transition procedures and guidance necessary for the creation of each Education District, including provisions for:

(A) the election of an initial education board prior to the first day of the Education District's existence in order to transition to the new structure by negotiating and entering into contracts, preparing an initial proposed budget, hiring a superintendent, adopting policies, and otherwise planning for the District's implementation;

(B) assumption of debt;

(C) ownership and management of property;

(D) the transition of employees to the new employer, including membership in collective bargaining units; and

(E) creation, at the Education District's option, of school-based community councils designed to build partnerships among families, staff, and the community and strong community involvement; and

(3) shall ensure that no school employee subject to employment transition under the Plan will experience a detrimental change in status within the Vermont Municipal Employees' Retirement System.

(d) Tax rates. During each of the first three years after realignment into an Education District created by the Plan:

(1) the equalized homestead property tax rate for each town within an Education District shall not increase or decrease by more than five percent in a single year; and

(2) the household income percentage shall not increase or decrease by more than five percent in a single year.

§ 4057. STATEWIDE REALIGNMENT PLAN; PROTECTION FOR TUITIONING DISTRICTS AND OPERATING DISTRICTS; FLEXIBILITY; STATEMENT OF INTENT

(a) Tuitioning districts. The Statewide Realignment Plan shall preserve the ability of a district that, as of the effective date of this act, provides for the education of all resident students in one or more grades by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades and shall not require the district to limit the options available to students when it ceases to exist as a discrete entity and becomes realigned into an Education District.

(b) Operating districts. The Plan shall preserve the ability of a district that, as of the effective date of this act, provides for the education of all resident students in one or more grades by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades and shall not require the district to pay tuition for students when it ceases to exist as a discrete entity and becomes realigned into an Education District.

(c) Flexibility.

(1) If the requirements in subsections (a) and (b) of this section preclude creation of an Education District that has an average daily membership of at least 1,000 students, then the Plan may create an alternative governance structure providing common services to two prekindergarten–grade 12 districts: one existing or newly realigned district that operates one or more public schools offering elementary and secondary education and one existing or newly realigned district that pays tuition for some or all grades.

(2) If other factors preclude creation of an Education District that has an average daily membership of at least 1,000 students, then the Plan may create an Education District that does not meet that criterion provided that the District otherwise meets the criteria of an Education District and furthers the purposes of this chapter.

(d) Statement of intent. Nothing in this chapter shall be construed to restrict or repeal, or to authorize the restriction or repeal of, the ability of a school district that, as of the effective date of this act, provides for the

education of all resident students in one or more grades:

(1) by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades; or

(2) by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades.

§ 4058. PRELIMINARY STATEWIDE REALIGNMENT PLAN

(a) On or before April 1, 2017, the Design Team shall:

(1) within the boundaries of each supervisory union, consult with members of school boards, parents, students, school administrators, teachers and other school staff, public and private entities that regularly collaborate with schools, and other local education and community leaders;

(2) conduct no fewer than ten facilitated public engagement meetings throughout the State, which:

(A) include an overview by the facilitator of the objectives and fundamental features of a 21st Century learning model;

(B) solicit public comments that identify individual and community visions, values, and goals relating to Vermont's education system; and

(C) provide Vermonters the opportunity to comment on and inform development of the prekindergarten–grade 12 realignment process;

(3) conduct independent research and seek data, advice, and assistance from any individual and any public or private entity to inform development of the Plan;

(4) develop the preliminary Plan that reflects public comments and pertinent educational research and related models, which shall include:

(A) a description of the State's vision for the characteristics and delivery of prekindergarten–grade 12 education in Vermont;

(B) a schedule and process by which transition to the new districts shall be fully implemented on or before July 1, 2020;

(C) a process, distinct from the additional public engagement meetings required in subsection 4059(a) of this chapter, by which a district can request a change in its proposed placement within an Education District or otherwise voice unique concerns prior to adoption of the final Plan;

(5) make the preliminary Plan available to the public; and

(6) submit the preliminary Plan to the State Board and the General Assembly for review.



(b) Within 28 days of receipt, the Joint Fiscal Office shall review the preliminary Plan and prepare a fiscal note to assist the General Assembly and the public to conduct informed deliberations on the preliminary Plan. The fiscal note shall contain an estimate of the effect of the Plan upon the expenditures or revenues of the State and school districts for fiscal year 2021 and for the next five succeeding years

#### § 4059. FINAL STATEWIDE REALIGNMENT PLAN

(a) Between April 1, 2017 and November 1, 2017, the Design Team shall:

(1) conduct no fewer than ten public engagement meetings throughout the State and consult with local educational and community leaders to obtain opinions and comments on the preliminary Statewide Realignment Plan;

(2) conduct any additional independent research and seek any additional data, advice, and assistance the Design Team determines to be necessary to inform development of the final Statewide Realignment Plan;

(3) conduct the process by which a district can request a change in its proposed placement;

(4) consult with the State Board of Education; and

(5) develop a final Statewide Realignment Plan, which shall include a description of the State's vision for education and a detailed process and time line by which transition to the new districts will be fully implemented on or before July 1, 2020.

(b) On or before November 1, 2017, the Design Team shall submit the final Plan to the State Board, which shall post it on its website.

(c) On or before January 1, 2018:

(1) the State Board shall submit the final Plan with the Board's recommendations to the General Assembly; and

(2) the Joint Fiscal Office shall review the final Plan and prepare a fiscal note to assist the General Assembly and the public to conduct informed deliberations on the final Plan. The fiscal note shall contain an estimate of the effect of the Plan upon the expenditures or revenues of the State and school districts for fiscal year 2021 and for the next five succeeding years.

(d) The final Statewide Realignment Plan presented to the General Assembly shall take effect on July 1, 2018 when the General Assembly enacts it, or an amended plan, into law.

#### § 4060. ACCOUNTABILITY

On or before July 1, 2016:

(1) the Agency of Education shall have fully implemented statewide, integrated systems to maintain financial reporting and accounting data and longitudinal student data that are designed to measure and to compare on a district-to-district basis:

(A) the quality and variety of educational opportunities available to students throughout the State;

(B) student outcomes; and

(C) financial costs; and

(2) each supervisory union and school district shall have the technological ability to provide all requested data to both data systems and access all data to which they are entitled under State and federal privacy laws, and shall follow protocols to be developed by the Agency by which they transition the data systems, if necessary, to the Education Districts.

#### § 4061. TRANSITIONAL PROVISIONS

(a) As used in this section, “realigning districts” means the school districts and the supervisory union, supervisory unions, or portions of supervisory unions that compose an Education District created under the RED process pursuant to section 4055 of this chapter or under the Statewide Realignment Plan.

(b) Prior to the first day of the Education District’s existence, upon the election of the initial transitional board, the board shall:

(1) appoint a negotiations council for the purpose of negotiating with future employees’ representatives; and

(2) recognize the representatives of the employees of the realigning districts as the recognized representatives of the employees of the Education District.

(c) Negotiations shall commence within 90 days after formation of the initial transitional board and shall be conducted pursuant to the provisions of 16 V.S.A. chapter 57 for teachers and administrators and pursuant to 21 V.S.A. chapter 22 for other employees.

(d) An employee of a realigning district who was not a probationary employee shall not be considered a probationary employee of the Education District.

(e) If a new agreement is not ratified by both parties prior to July 1, 2020, or the first day of the Education District’s existence if earlier than July 1, 2020:

(1) the parties shall comply with the existing agreements in place in

each of the realigning districts until a new agreement is reached;

(2) the parties shall adhere to the provisions of an agreement among the employees, as represented by their respective recognized representatives, regarding how provisions under the existing contracts regarding issues of seniority, reduction in force, layoff, and recall will be reconciled during the period prior to ratification of a new agreement; and

(3) a new employee beginning employment after July 1, 2020, or the first day of the Education District's existence if earlier than July 1, 2020, shall be covered by the agreement in effect that applies to the largest bargaining unit among the realigning districts in that Education District.

(f) On the first day of its existence, the Education District shall assume the obligations of existing individual employment contracts between the realigning districts and their employees.

#### § 4062. INNOVATION

During and after the creation of Education Districts under this chapter, districts are encouraged to explore innovative ways to expand learning opportunities for students and to seek waivers of State Board rules or other legal requirements that inhibit implementation. Innovations may address any area of education policy, including instructional practices and principles; the use of technology and data systems to improve instruction and expand learning opportunities; services provided to discrete populations of students, including gifted and talented students, students with limited English proficiency, students not demonstrating adequate academic growth, and students at risk of academic failure or expulsion; early education and school readiness; and preparation and counseling of students for postsecondary education, training, and employment.

#### § 4063. GUIDELINES AND FLEXIBLE, ALTERNATIVE MODELS; ACCOUNTABILITY

(a) Guidelines; models. The Agency of Education, in consultation with the Design Team, shall revise and add to the existing template developed in connection with the RED process to provide meaningful guidance and flexible, alternative models to districts pursuing voluntary realignment under this chapter and districts created under the Statewide Realignment Plan on issues including voting and representation on Education District boards; tax rates; the funding and payment structure for career technical education (CTE) centers by new districts created under this chapter that do not operate a center and the governance structure of CTE districts; municipal ownership of school-related property; procedures for voting on a districtwide budget; and unique matters relating to existing incorporated school districts. The Agency and Design Team shall update these materials as necessary until full implementation of the

Education Districts.

(b) Performance indicators; accountability.

(1) The Agency, in consultation with the State Board of Education, shall develop criteria by which to measure requirements itemized in subdivision 4056(b)(10) of this chapter in order to:

(A) provide guidance:

(i) to school districts pursuing voluntary realignment pursuant to section 4055 of this chapter;

(ii) to the State Board when reviewing reports under the voluntary realignment phase and the preliminary and final Statewide Realignment Plans; and

(iii) in the development of the Statewide Realignment Plan; and

(B) measure performance and ensure accountability after districts transition to an Education District.

(2) On or before January 1, 2015, the Agency shall complete the work required under subdivision (1) of this subsection and present a detailed explanation of the performance indicators to the House Committees on Education and on Ways and Means and the Senate Committees on Education and on Finance for review and potential adoption of legislation that would provide guidance during the realignment process and clarification of State policy.

Second: In Sec. 2, by striking out subdivision (6) in its entirety and inserting in lieu thereof a new subdivision (6) to read:

(6) 2012 Acts and Resolves No. 156, Sec. 9 (reimbursement of up to \$20,000.00 in fees relating to merger of school districts).

Third: After Sec. 2 and before the reader assistance heading, by inserting two new sections to be Secs. 2a and 2b to read:

Sec. 2a. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district

meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the ~~effective date of merger is~~ electorate approves the merger on or before July 1, 2017.

Sec. 2b. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

\* \* \*

(h) This section is repealed on July 1, ~~2017~~ 2024.

Fourth: By striking out Sec. 7 and the related reader assistance heading in their entirety and inserting a new section to be Sec. 7 and a related reader assistance headings to read:

\* \* \* Ownership of School Buildings \* \* \*

Sec. 7. OWNERSHIP OF SCHOOL BUILDINGS; TRANSFER OF TITLE

Notwithstanding any other provision of law to the contrary, in each of the following situations, title to real property owned by a school district shall transfer to the municipality that is not a school district in which the property is located unless the electorate of the municipality votes not to accept ownership:

(1) if existing school districts choose to discontinue use of the property as a school building as part of realignment into an Education District;

(2) if an Education District chooses to discontinue use of the property as a school building at any time after realignment occurs; or

(3) if, at the time of realignment, the property is owned by a school district that does not operate a school.

and that after passage the title of the bill be amended to read: “An act relating to prekindergarten–grade 12 education districts”.

( **Committee Vote: 9-1-1** )

**S. 239**

An act relating to the regulation of toxic substances

**Rep. Deen of Westminster**, for the Committee on **Fish, Wildlife & Water Resources**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) There are more than 84,000 chemicals used commercially in the United States, and each year approximately 1,000 chemicals are added to the list of registered chemicals.

(2) More than 90 percent of the chemicals in commercial use in the United States have never been fully tested for potential impacts on human health or the environment.

(3) In 1976, the federal government passed the Toxic Substances Control Act (TSCA) in an attempt to improve the regulation of chemicals in the United States. However, TSCA grandfathered approximately 62,000 chemicals from regulation under the Act. Consequently, the U.S. Environmental Protection Agency (EPA) is not required to assess the risk of these chemicals. Since TSCA became law, EPA only has required testing for approximately 200 chemicals, and has banned or restricted the use of five of those chemicals. No chemicals have been banned in over 20 years.

(4) Biomonitoring studies reveal that toxic chemicals are in the bodies of people, including chemicals linked to cancer, brain and nervous damage, birth defects, developmental delays, and reproductive harm. Even newborn babies have chemical body burdens, proving that they are being polluted while in the womb.

(5) Vermont has regulated the use of individual chemicals of concern, including lead, mercury, bisphenol A, phthalates, decabromodiphenyl ether, tris(1,3-dichloro-2-propyl) phosphate, and tris(2-chloroethyl) phosphate, but reviewing chemicals individually, one at a time, is inefficient and inadequate for addressing the issues posed by chemicals of concern.

(6) Other states and countries, including Maine, Washington, California, and the European Union, are already taking a more comprehensive approach to chemical regulation in consumer products, and chemical regulation in Vermont should harmonize with these efforts.

(7) The State has experience monitoring and regulating chemical use through the toxic use and hazardous waste reduction programs.

(8) In order to ensure that the regulation of toxic chemicals is robust and protective, parties affected by the regulation of chemical use shall have ample opportunity to comment on proposed regulation so that the legal and financial risks of regulation are minimized.

Sec. 2. 18 V.S.A. chapter 38A is added to read:

CHAPTER 38A. CHEMICALS OF HIGH CONCERN TO CHILDREN

§ 1771. POLICY

It is the policy of the State of Vermont:

(1) to protect public health and the environment by reducing exposure of its citizens and vulnerable populations, such as children, to toxic chemicals, particularly when safer alternatives exist; and

(2) that the State attempt, when possible, to regulate toxic chemicals in a manner that is consistent with regulation of toxic chemicals in other states.

§ 1772. DEFINITIONS

As used in this chapter:

(1) “Aircraft” shall have the same meaning as in 5 V.S.A. § 202.

(2) “Chemical” means a substance with a distinct molecular composition or a group of structurally related substances and includes the breakdown products of the substance or substances that form through decomposition, degradation, or metabolism. “Chemical” shall not mean crystalline silica in any form, as derived from ordinary sand or as present as a naturally occurring component of any other mineral raw material, including granite, gravel, limestone, marble, slate, soapstone, and talc.

(3) “Chemical of high concern to children” means a chemical listed under section 1773 or designated by the Department as a chemical of high concern by rule under section 1776 of this title.

(4) “Child” or “children” means an individual or individuals under 12 years of age.

(5) “Children’s cosmetics” means cosmetics that are made for, marketed for use by, or marketed to children. “Children’s cosmetics” includes cosmetics that meet any of the following conditions:

(A) are represented in its packaging, display, or advertising as appropriate for use by children;

(B) are sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children; or

(C) are sold in any of the following:

(i) a retail store, catalogue, or online website, in which a person exclusively offers for sale consumer products that are packaged, displayed, or advertised as appropriate for use by children; or

(ii) a discrete portion of a retail store, catalogue, or online website, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(6) “Children’s jewelry” means jewelry that is made for, marketed for use by, or marketed to children and shall include jewelry that meets any of the following conditions:

(A) is represented in its packaging, display, or advertising as appropriate for use by children;

(B) is sold in conjunction with, attached to, or packaged together with other products that are packaged, displayed, or advertised as appropriate for use by children;

(C) is sized for children and not intended for use by adults; or

(D) is sold in any of the following:

(i) a vending machine;

(ii) a retail store, catalogue, or online website, in which a person exclusively offers for sale products that are packaged, displayed, or advertised as appropriate for use by children; or

(iii) a discrete portion of a retail store, catalogue, or online website, in which a person offers for sale products that are packaged, displayed, or advertised as appropriate for use by children.

(7)(A) “Children’s product” means any consumer product, marketed for use by, marketed to, sold, offered for sale, or distributed to children in the State of Vermont, including:

(i) toys;

(ii) children’s cosmetics;

(iii) children’s jewelry;

(iv) a product designed or intended by the manufacturer to help a child with sucking or teething, to facilitate sleep, relaxation, or the feeding of a child, or to be worn as clothing by children; or

(v) child car seats.

(B) “Children’s product” shall not mean or include the following:

(i) batteries;

(ii) consumer electronic products, including personal computers, audio and video equipment, calculators, wireless phones, game consoles, and hand-held devices incorporating a video screen used to access interactive software intended for leisure and entertainment and their associated peripherals;



(iii) interactive software, intended for leisure and entertainment, such as computer games, and their storage media, such as compact discs;

(iv) snow sporting equipment, including skis, poles, boots, snow boards, sleds, and bindings;

(v) inaccessible components of a consumer product that during reasonably foreseeable use and abuse of the consumer product would not come into direct contact with a child's skin or mouth; and

(vi) used consumer products that are sold in second-hand product markets.

(8) "Consumer product" means any product that is regularly used or purchased to be used for personal, family, or household purposes. "Consumer product" shall not mean:

(A) a product primarily used or purchased for industrial or business use that does not enter the consumer product market or is not otherwise sold at retail;

(B) a food or beverage or an additive to a food or beverage;

(C) a tobacco product;

(D) a pesticide regulated by the U.S. Environmental Protection Agency;

(E) a drug, or biologic regulated by the U.S. Food and Drug Administration (FDA), or the packaging of a drug, or biologic that is regulated by the FDA, including over the counter drugs, prescription drugs, dietary supplements, medical devices, or products that are both a cosmetic and a drug regulated by the FDA;

(F) ammunition or components thereof, firearms, air rifles, hunting or fishing equipment or components thereof;

(G) an aircraft, motor vehicle, vessel; or

(H) the packaging in which a consumer product is sold, offered for sale, or distributed.

(9) "Contaminant" means a trace amount of a chemical or chemicals that is incidental to manufacturing and serves no intended function in the children's product or component of the children's product, including an unintended by-product of chemical reactions during the manufacture of the children's product, a trace impurity in feed-stock, an incompletely reacted chemical mixture, and a degradation product.

(10) "Cosmetics" means articles intended to be rubbed, poured,

sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering appearance, and articles intended for use as a component of such an article. “Cosmetics” shall not mean soap, dietary supplements, or food and drugs approved by the U.S. Food and Drug Administration.

(11) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(12) “Manufacturer” means:

(A) any person who manufactures a children’s product or whose name is affixed to a children’s product or its packaging or advertising, and the children’s product is sold or offered for sale in Vermont; or

(B) any person who sells a children’s product to a retailer in Vermont when the person who manufactures the children’s product or whose name is affixed to the children’s product or its packaging or advertising does not have a presence in the United States other than the sale or offer for sale of the manufacturer’s products.

(13) “Motor vehicle” means every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products.

(14) “Persistent bioaccumulative toxic” means a chemical or chemical group that, based on credible scientific information, meets each of the following criteria:

(A) the chemical can persist in the environment as demonstrated by the fact that:

(i) the half-life of the chemical in water is greater than or equal to 60 days;

(ii) the half-life of the chemical in soil is greater than or equal to 60 days; or

(iii) the half-life of the chemical in sediments is greater than or equal to 60 days; and

(B) the chemical has a high potential to bioaccumulate based on credible scientific information that the bioconcentration factor or bioaccumulation factor in aquatic species for the chemical is greater than 1,000 or, in the absence of such data, that the log-octanol water partition coefficient (log K<sub>ow</sub>) is greater than five; and

(C) the chemical has the potential to be toxic to children as

demonstrated by the fact that:

(i) the chemical or chemical group is a carcinogen, a developmental or reproductive toxicant, or a neurotoxicant;

(ii) the chemical or chemical group has a reference dose or equivalent toxicity measure that is less than 0.003 mg/kg/day; or

(iii) the chemical or chemical group has a chronic no observed effect concentration (NOEC) or equivalent toxicity measure that is less than 0.1 mg/L or an acute NOEC or equivalent toxicity measure that is less than 1.0 mg/L.

(15) “Practical quantification limit (PQL)” means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

(16) “Toy” means a consumer product designed or intended by the manufacturer to be used by a child at play.

(17) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water.

#### § 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

(a) List of chemicals of high concern to children. The following chemicals are designated as chemicals of high concern to children for the purposes of the requirements of this chapter:

- (1) Formaldehyde.
- (2) Aniline.
- (3) N-Nitrosodimethylamine.
- (4) Benzene.
- (5) Vinyl chloride.
- (6) Acetaldehyde.
- (7) Methylene chloride.
- (8) Carbon disulfide.
- (9) Methyl ethyl ketone.
- (10) 1,1,2,2-Tetrachloroethane.
- (11) Tetrabromobisphenol A.
- (12) Bisphenol A.

- (13) Diethyl phthalate.
- (14) Dibutyl phthalate.
- (15) Di-n-hexyl phthalate.
- (16) Phthalic anhydride.
- (17) Butyl benzyl phthalate (BBP).
- (18) N-Nitrosodiphenylamine.
- (19) Hexachlorobutadiene.
- (20) Propyl paraben.
- (21) Butyl paraben.
- (22) 2-Aminotoluene.
- (23) 2,4-Diaminotoluene.
- (24) Methyl paraben.
- (25) p-Hydroxybenzoic acid.
- (26) Ethylbenzene.
- (27) Styrene.
- (28) 4-Nonylphenol; 4-NP and its isomer mixtures including CAS 84852-15-3 and CAS 25154-52-3.
- (29) para-Chloroaniline.
- (30) Acrylonitrile.
- (31) Ethylene glycol.
- (32) Toluene.
- (33) Phenol.
- (34) 2-Methoxyethanol.
- (35) Ethylene glycol monoethyl ester.
- (36) Tris(2-chloroethyl) phosphate.
- (37) Di-2-ethylhexyl phthalate.
- (38) Di-n-octyl phthalate (DnOP).
- (39) Hexachlorobenzene.
- (40) 3,3'-Dimethylbenzidine and Dyes Metabolized to 3,3'-Dimethylbenzidine.

- (41) Ethyl paraben.
- (42) 1,4-Dioxane.
- (43) Perchloroethylene.
- (44) Benzophenone-2 (Bp-2); 2,2',4,4'-Tetrahydroxybenzophenone.
- (45) 4-tert-Octylphenol; 4(1,1,3,3-Tetramethylbutyl) phenol.
- (46) Estragole.
- (47) 2-Ethylhexanoic acid.
- (48) Octamethylcyclotetrasiloxane.
- (49) Benzene, Pentachloro.
- (50) C.I. Solvent yellow 14.
- (51) N-Methylpyrrolidone.
- (52) 2,2',3,3',4,4',5,5',6,6'-Decabromodiphenyl ether; BDE-209.
- (53) Perfluorooctanyl sulphonic acid and its salts; PFOS.
- (54) Phenol, 4-octyl.
- (55) 2-Ethyl-hexyl-4-methoxycinnamate.
- (56) Mercury & mercury compounds including methyl mercury (22967-92-6).
- (57) Molybdenum and molybdenum compounds.
- (58) Antimony and Antimony compounds.
- (59) Arsenic and Arsenic compounds, including arsenic trioxide (1327-53-3) and dimethyl arsenic (75-60-5).
- (60) Cadmium and cadmium compounds.
- (61) Cobalt and cobalt compounds.
- (62) Tris(1,3-dichloro-2-propyl)phosphate.
- (63) Butylated hydroxyanisole; BHA.
- (64) Hexabromocyclododecane
- (65) Diisodecyl phthalate (DIDP).
- (66) Diisononyl phthalate (DINP).
- (67) any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.

(b) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall review the list of chemicals of high concern to children to determine if additional chemicals should be added to the list under subsection 1776(b) of this title. In reviewing the list of chemicals of high concern to children, the Commissioner of Health may consider designations made by other states, the federal government, other countries, or other governmental agencies.

(c) Publication of list. The Commissioner shall post the list of chemicals of high concern to children on the Department of Health website by chemical name and Chemical Abstracts Service number.

(d) Addition or removal from list. Under 3 V.S.A. § 806, any person may request that the Commissioner add or remove a chemical from the list of chemicals of high concern to children.

(e) PQL value. A PQL value established under this chapter for individual chemicals shall depend on the analytical method used for each chemical. The PQL value shall be based on scientifically defensible, standard analytical methods as advised by guidance published by the Department.

#### § 1774. CHEMICALS OF HIGH CONCERN TO CHILDREN WORKING

##### GROUP

(a) Creation. A Chemicals of High Concern to Children Working Group (Working Group) is created within the Department of Health for the purpose of providing the Commissioner of Health advice and recommendations regarding implementation of the requirements of this chapter.

##### (b) Membership.

(1) The Working Group shall be composed of the following members who, except for ex officio members, shall be appointed by the Governor after consultation with the Commissioner of Health:

(A) the Commissioner of Health or designee, who shall be the chair of the Working Group;

(B) the Commissioner of Environmental Conservation or designee;

(C) the State toxicologist or designee;

(D) a representative of a public interest group in the State with experience in advocating for the regulation of toxic substances;

(E) a representative of an organization within the State with expertise in issues related to the health of children or pregnant women;

(F) two representatives of businesses in the State that use chemicals

in a manufacturing or production process or use chemicals that are used in a children's product manufactured in the State;

(G) a scientist with expertise regarding the toxicity of chemicals; and

(H) a representative of the children's products industry with expertise in existing state and national policies impacting children's products.

(2)(A) In addition to the members of the Working Group appointed under subdivision (1) of this subsection, the Governor may appoint up to three additional adjunct members.

(B) An adjunct member appointed under this subdivision (2) shall have expertise or knowledge of the chemical or children's product under review or shall have expertise or knowledge in the potential health effects of the chemical at issue.

(C) Adjunct members appointed under this subdivision (2) shall have the same authority and powers as a member of the Working Group appointed under subdivision (1) of this subsection (b).

(3) The members of the Working Group appointed under subdivision (1) of this subsection shall serve staggered three-year terms. The Governor may remove members of the Working Group who fail to attend three consecutive meetings and may appoint replacements. The Governor may reappoint members to serve more than one term.

(c) Powers and duties. The Working Group shall:

(1) upon the request of the Chair of the Working Group, review proposed chemicals for listing as a chemical of high concern to children under section 1773 of this title; and

(2) recommend to the Commissioner of Health whether rules should be adopted under section 1776 of this title to regulate the sale or distribution of a children's product containing a chemical of high concern to children.

(d) Commissioner of Health recommendation; assistance.

(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall recommend chemicals of high concern to children in children's products for review by the Working Group. The Commissioner's recommendations shall be based on the degree of human health risks, exposure pathways, and impact on sensitive populations presented by a chemical of high concern to children.

(2) The Working Group shall have the administrative, technical, and legal assistance of the Department of Health and the Agency of Natural Resources.

(e) Meetings.

(1) The Chair of the Working Group may convene the Working Group at any time, but no less frequently than at least once every other year.

(2) A majority of the members of the Working Group, including adjunct members when appointed, shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

(f) Reimbursement. Members of the Working Group, including adjunct members, whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. A per diem authorized by this section shall be paid from the budget of the Department of Health.

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

(a) Notice requirement. Unless the Commissioner adopts by rule a phased-in reporting requirement under section 1776, beginning on July 1, 2015, and biennially thereafter, a manufacturer of a children's product or a trade association representing a manufacturer of children's products shall submit to the Department the notice described in subsection (b) of this section if a chemical of high concern to children is:

(1) intentionally added to a children's product at a level above the PQL produced by the manufacturer; or

(2) present in a children's product produced by the manufacturer as a contaminant at a concentration of 100 parts per million or greater.

(b) Format for notice. The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the substance;

(3) the amount of the chemical by weight contained in each unit of the product or product component;

(4) the name and address of the manufacturer of the children's product and the name, address, and telephone number of a contact person for the



manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

(c) Reciprocal data-sharing. In order for the Department to obtain the information required in the notice described in subsection (b) of this section, the Department may enter into reciprocal data-sharing agreements with other states in which a manufacturer of children's products is also required to disclose information related to chemicals of high concern to children in children's products. The Department shall not disclose trade secret information, confidential business information, or other information designated as confidential by law under a reciprocal data-sharing agreement.

(d) Waiver of reporting requirement. Upon application of a manufacturer on a form provided by the Department, the Commissioner may waive reporting requirements under this section if a manufacturer submitted the information required by this section to:

(1) a state with which the Department has entered a reciprocal data-sharing agreement; or

(2) a trade association, the Interstate Chemicals Clearinghouse, or other independent third party, if:

(A) the information reported to the third party is publicly available; and

(B) the information required to be reported for chemicals under this chapter is provided to the third party and access to that information is or will be clearly available from the Department of Health website.

(e) Chemical control program. A manufacturer shall be exempt from the requirements of notice under this section for any chemical of high concern to children that is present in a children's product or component of a children's product only as a contaminant if, during manufacture of the children's product, the manufacturer was implementing a manufacturing control program and exercised due diligence to minimize the presence of the contaminant in the children's product.

(f) Notice of removal of chemical. A manufacturer who submitted the notice required by subsection (a) of this section may at any time submit to the Department notice that a chemical of high concern to children has been removed from the manufacturer's children's product or that the manufacturer no longer sells, offers for sale, or distributes in the State the children's product

containing the chemical of high concern to children. Upon verification of a manufacturer's notice under this subsection, the Commissioner shall promptly remove from the Department website any reference to the relevant children's product of the manufacturer.

(g) Certificate of compliance. A manufacturer required to submit notice under this section to the Commissioner may rely on a certificate of compliance from suppliers for determining reporting obligations.

(h) Products for sale out of State. A manufacturer shall not be required to submit notice under this section for a children's product manufactured, stored in, or transported through Vermont solely for use or sale outside of the State of Vermont.

(i) Publication of information; disclaimer. The Commissioner shall post on the Department of Health website information submitted under this section by a manufacturer. When the Commissioner posts on the Department of Health website information submitted under this section by a manufacturer, the Commissioner shall provide the following notice:

"The reports on this website are based on data provided to the Department. The presence of a chemical in a children's product does not necessarily mean that the product is harmful to human health or that there is any violation of existing safety standards or laws. The reporting triggers are not health-based values."

(j) Fee. A manufacturer required under this section to provide information on its use of a chemical of high concern to children shall pay a fee of \$2,000.00 per chemical of high concern to children used by the manufacturer in the production of children's products. A fee required under this subsection shall be submitted when the manufacturer provides the first submission of notice required under this section for each chemical of high concern to children. The fee required shall be required only with the first submission of notice required under this section and shall not be required for each required subsequent biennial notice. Fees collected under this subsection shall be deposited in the Chemicals of High Concern Fund for the purposes of that Fund.

(k) Application of section. The requirements of this section shall apply unless a manufacturer is exempt or unless notice according to the requirements of this section is specifically preempted by federal law. In the event of conflict between the requirements of this section and federal law, federal law shall control.

§ 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO

## CHILDREN; PROHIBITION OF SALE

(a) Rulemaking authority. The Commissioner shall, after consultation with the Secretary of Natural Resources, adopt rules as necessary for the purposes of implementing, administering, or enforcing the requirements of this chapter.

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of the weight of credible, scientific evidence, has determined that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The Commissioner of Health has determined that an authoritative governmental entity or accredited research university has demonstrated that the chemical:

(A) harms the normal development of a fetus or child or causes other developmental toxicity;

(B) causes cancer, genetic damage, or reproductive harm;

(C) disrupts the endocrine system;

(D) damages the nervous system, immune system, or organs or cause other systemic toxicity; or

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

(c) Removal of chemical from list. The Commissioner may by rule remove a chemical from the list of chemicals of high concern to children established under section 1773 of this title or rules adopted under this section if the Commissioner determines that the chemical no longer meets both of the criteria of subdivisions (b)(1) and (2) of this section.

(d) Rule to regulate sale or distribution.

(1) The Commissioner, upon the recommendation of the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the

sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

(A) children will be exposed to a chemical of high concern to children in the children's product; and

(B) there is a probability that, due to the degree of exposure or frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.

(2) In determining whether children will be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

(A) the market presence of the children's product in the State;

(B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;

(C) the household and workplace presence of the children's product;

(D) the potential and frequency of exposure of children to the chemical of high concern to children in the children's product.

(3) A rule adopted under this section may:

(A) prohibit the children's product containing the chemical of high concern to children from sale, offer for sale, or distribution in the State; or

(B) require that the children's product containing the chemical of high concern to children be labeled prior to sale, offer for sale, or distribution in the State.

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(e) Exemption for chemical management strategy. In adopting a rule under this section, the Commissioner may exempt from regulation a children's product containing a chemical of high concern to children if the manufacturer of the children's product is implementing a comprehensive chemical management strategy designed to eliminate harmful substances or chemicals from the manufacturing process.

(f) Additional rules.

(1) On or before July 1, 2017, the Commissioner of Health shall adopt by rule the process and procedure to be required when the Commissioner of Health adopts a rule under subsection (b) or (c) of this section. The rule shall provide all relevant criteria for evaluation of the chemical, time frames for labeling or phasing out sale or distribution, and other information or process determined as necessary by the Commissioner for implementation of this chapter.

(2) The Commissioner may, by rule, authorize a manufacturer to report ranges of the amount of a chemical in a children's product, rather than the exact amount, provided that if there are multiple chemical values for a given component in a particular product category, the manufacturer shall use the largest value for reporting.

(3) Notwithstanding the required reporting dates under section 1774 of this title, the Commissioner may adopt by rule phased-in reporting requirements for chemicals of high concern to children in children's products based on the size of the manufacturer, aggregate sales of children's products, or the exposure profile of the chemical of high concern to children in the children's product.

(g) Additional public participation. In addition to the public participation requirements of 3 V.S.A. chapter 25 and prior to submitting a rule authorized under this section to the Secretary of State under 3 V.S.A. § 838, the Commissioner shall make reasonable efforts to consult with interested parties within the State regarding any proposed prohibition of a chemical of high concern to children. The Commissioner may satisfy the consultation requirement of this section through the use of one or more workshops, focused work groups, dockets, meetings, or other forms of communication.

§ 1777. CHEMICALS OF HIGH CONCERN TO CHILDREN FUND

(a) The Chemicals of High Concern to Children Fund is established in the State Treasury, separate and distinct from the General Fund, to be administered by the Commissioner of Health. Interest earned by the Fund shall be credited to the Fund. Monies in the Fund shall be made available to the Department of Health and the Agency of Natural Resources to pay costs incurred in administration of the requirements of this chapter.

(b) The Chemicals of High Concern to Children Fund shall consist of:

(1) fees and charges collected under section 1775 of this chapter;

(2) private gifts, bequests, grants, or donations made to the State from any public or private source for the purposes for which the Fund was

established; and

(3) such sums as may be appropriated by the General Assembly.

#### § 1778. CONFIDENTIALITY

Information submitted to or acquired by the Department or the Chemicals of High Concern to Children Working Group under this chapter may be subject to public inspection or copying or may be published on the Department website, provided that trade secret information and confidential business information shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(9) and information otherwise designated confidential by law shall be exempt from public inspection and copying under 1 V.S.A. § 317(c)(1). It shall be the burden of the manufacturer to assert that information submitted under this chapter is a trade secret, confidential business information, or is otherwise designated confidential by law. When a manufacturer asserts under this section that the specific identity of a chemical of high concern to children in a children's product is a trade secret, the Commissioner shall, in place of the specific chemical identity, post on the Department's website the generic class or category of the chemical in the children's product and the potential health effect of the specific chemical of high concern to children.

#### § 1779. VIOLATIONS; ENFORCEMENT

A violation of this chapter shall be considered a violation of the Consumer Protection Act in 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions under 9 V.S.A. chapter 63, subchapter 1. Private parties shall not have a private right of action under this chapter.

### Sec. 3. REPORT TO GENERAL ASSEMBLY; CHEMICALS OF HIGH CONCERN TO CHILDREN

On or before January 15, 2015, and biennially thereafter, the Commissioner of Health, after consultation with the Secretary of Natural Resources, shall submit to the Senate Committee on Health and Welfare, the House Committee on Human Services, the House Committee on Ways and Means, the Senate Committee on Finance, and the Senate and House Committees on Appropriations, a report concerning implementation, administration, and financing by the Department of Health of the requirements of 18 V.S.A. chapter 38A regarding the chemicals of high concern to children. The report shall include:

(1) Any updates to the list of chemicals of high concern to children required under 18 V.S.A. § 1773.

(2) The number of manufacturers providing notice under 18 V.S.A. § 1775 regarding whether a children’s product includes a chemical of high concern to children.

(3) The number of chemicals of high concern to children for which manufacturers asserted trade secret protection for the specific identity of the chemical, and a recommendation of whether a process should be established to review the validity of asserted trade secrets.

(4) An estimate of the annual cost to the Department of Health to implement the chemicals of high concern to children program.

(5) The number of Department of Health employees needed to implement the chemicals of high concern to children program.

(6) An estimate of additional funding that the Department may require to implement the chemicals of high concern to children program.

(7) A recommendation of how the State should collaborate with other states in implementing the requirements of the chemicals of high concern to children program.

(8) A recommendation as to whether the requirements of this chapter should be expanded to consumer products other than children’s products.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

**(Committee vote: 6-3-0 )**

**(For text see Senate Journal March 26, 27 2014 )**

**Rep. Sharpe of Bristol**, for the Committee on **Ways and Means**, recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources** and when further amended as follows:

First: In Sec. 2, in 18 V.S.A. § 1775, in subsection (a), by striking out “Notice requirement.” where it appears and inserting in lieu thereof “Notice of chemical of high concern to children.”

and in subsection (a), after “described in subsection (b) of this section” and before “if a chemical of high concern” by inserting for each chemical of high concern to children in a children’s product

Second: In Sec. 2, 18 V.S.A. § 1775, in subdivision (b)(2), by striking out “substance” where it appears and inserting in lieu thereof chemical

Third: In Sec. 2, 18 V.S.A. § 1775, by striking out subsection (d) in its

entirety and inserting in lieu thereof the following to read:

(d) Waiver of format. Upon application of a manufacturer on a form provided by the Department, the Commissioner may waive the requirement under subsection (b) of this section that a manufacturer provide notice in a format specified by the Commissioner. The waiver may be granted, provided that:

(1) the manufacturer submitted the information required in a notice under this section to:

(A) a state with which the Department has entered a reciprocal data-sharing agreement; or

(B) a trade association, the Interstate Chemicals Clearinghouse, or other independent third party;

(2) the information required to be reported in a notice under this section is provided to the Department in an alternate format, including reference to information publicly available in other states or by independent third parties; and

(3) the information required to be reported in a notice under this section is available on or accessible from the Department of Health website.

Fourth: In Sec. 2, 18 V.S.A. § 1775, by striking out subsection (j) in its entirety and inserting in lieu thereof the following:

(j) Fee. A manufacturer shall pay a fee of \$200.00 for each notice required under subsection (a) of this section. If, under subsection (d) of this section, the Commissioner waives the required format for reporting, the fee shall not be waived. Fees collected under this subsection shall be deposited in the Chemicals of High Concern Fund for the purposes of that Fund.

**( Committee Vote: 8-3-0)**

## **S. 241**

An act relating to binding arbitration for State employees

**Rep. O'Sullivan of Burlington**, for the Committee on **General, Housing and Military Affairs**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, by striking out subsection (b) in its entirety and inserting a new subsection (b) to read:

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



- (1) the Commissioner of Human Resources or designee;
- (2) the Executive Director of the Vermont Bar Association or designee;
- (3) one member appointed by the Vermont Troopers Association;
- (4) one member appointed by the Vermont State Employees' Association; and
- (5) the Attorney General or designee.

Second: In Sec. 1, by striking out subsection (c) in its entirety and inserting a new subsection (c) to read:

(c) Powers and duties. The Committee shall:

- (1) study the issue of grievance arbitration for State employees;
- (2) assess the relative merits of various grievance protocols, including arbitration and use of the Vermont Labor Relations Board, addressing the ability of these protocols to provide resolution of grievances in a manner that is economical, timely, just, and provides for appropriate privacy protections for the parties; and
- (3) study the impact on the State if the State does not request criminal history record information on its initial employee application form. As used in this subdivision, "criminal history record" shall have the same meaning as in 20 V.S.A. § 2056a.

**(Committee vote: 7-1-0 )**

**(For text see Senate Journal March 27, 2014 )**

### **S. 291**

An act relating to the establishment of transition units at State correctional facilities

**Rep. Hooper of Montpelier**, for the Committee on **Corrections and Institutions**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. TRANSITIONAL FACILITIES; DEPARTMENT OF CORRECTIONS; STUDY

(a) Findings. The General Assembly finds that the Department of Corrections has experienced a rise in costs of \$17,624,076.00 since FY 2012. The General Assembly further finds that there are offenders in the State of Vermont who are eligible for release from State correctional facilities but who are not released due to a lack of suitable housing. The General Assembly

further finds that recidivism is reduced and public safety is enhanced when offenders receive supervision as they transition to their home community. Therefore, it is the intent of the General Assembly that the Department of Corrections shall explore the creation of secure transitional facilities so that offenders may return to their home communities. It is also the intent of the General Assembly that the housing in these facilities include programs for employment, training, transportation, and other appropriate services. It is also the intent of the General Assembly that the Department of Corrections work with communities to gain support for these programs and services.

(b) Recommendations. The Commissioner of Corrections shall examine and make recommendations for the establishment of transitional facilities under the supervision of the Department of Corrections. The recommendations shall include an evaluation of costs associated with establishing transitional facilities, a detailed budget for funding transitional facilities, an estimate of State capital funding needs, potential site locations, a summary of the programming and services that are currently available to transitioning offenders, proposals for programming and services for transitioning offenders that may be needed, and eligibility guidelines for offenders to reside in transitional facilities, including the number of offenders who would be eligible for residence in a transitional facility.

(c) Report. On or before January 15, 2015, the Commissioner of Corrections shall submit the recommendations described in subsection (b) of this section to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(d) Definitions. As used in this section, "transitional facility" means housing intended to be occupied by offenders granted furloughs to work in the community.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

**(Committee vote: 9-1-1 )**

**(For text see Senate Journal February 5, 2014 )**

**Rep. O'Brien of Richmond, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Corrections and Institutions.**

**(Committee Vote: 11-0-0)**

## S. 293

An act relating to reporting on population-level outcomes and indicators and on program-level performance measures

**Rep. Evans of Essex**, for the Committee on **Government Operations**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, 3 V.S.A. chapter 45, subchapter 5, by striking out in its entirety § 2313 (performance contracts and grants) and inserting in lieu thereof a new § 2313 to read:

### § 2313. PERFORMANCE CONTRACTS AND GRANTS

(a) The Chief Performance Officer shall assist agencies as necessary in developing performance measures for contracts and grants.

(b) Annually, on or before July 30 and as part of any other report requirement to the General Assembly set forth in this subchapter, the Chief Performance Officer shall report to the General Assembly on the progress by rate or percent of how many State contracts and grants have performance accountability requirements and the rate or percent of contractors' and grantees' compliance with those requirements.

Second: By striking out in its entirety Sec. 3 (initial population-level indicators) and inserting in lieu thereof a new Sec. 3 to read:

### Sec. 3. INITIAL POPULATION-LEVEL INDICATORS

Until any population-level indicators are requested pursuant to the provisions of Sec. 2 of this act, 3 V.S.A. § 2311(c) (requesting population-level indicators), each population-level quality of life outcome set forth in Sec. 2 of this act, 3 V.S.A. § 2311(b) (Vermont population-level quality of life outcomes), and listed in this section shall have the following population-level indicators:

(1) Vermont has a prosperous economy.

(A) percent or rate per 1,000 jobs of nonpublic sector employment;

(B) median household income;

(C) percent of Vermont covered by state-of-the-art telecommunications infrastructure;

(D) median house price;

(E) rate of resident unemployment per 1,000 residents;

(F) percent of structurally-deficient bridges, as defined by the

Vermont Agency of Transportation; and

(G) percent of food sales that come from Vermont farms.

(2) Vermonters are healthy.

(A) percent of adults 20 years of age or older who are obese;

(B) percent of adults smoking cigarettes;

(C) number of adults who are homeless;

(D) percent of individuals and families living at different poverty levels;

(E) percent of adults at or below 200 percent of federal poverty level; and

(F) percent of adults with health insurance.

(3) Vermont's environment is clean and sustainable.

(A) cumulative number of waters subject to TMDLs or alternative pollution control plans;

(B) percent of water, sewer, and stormwater systems that meet federal and State standards;

(C) carbon dioxide per capita; and

(D) electricity by fuel or power type.

(4) Vermont's communities are safe and supportive.

(A) rate of petitions granted for relief from domestic abuse per 1,000 residents;

(B) rate of violent crime per 1,000 crimes;

(C) rate of sexual assault committed against residents per 1,000 residents;

(D) percent of residents living in affordable housing;

(E) percent or rate per 1,000 people convicted of crimes of recidivism;

(F) incarceration rate per 100,000 residents; and

(G) percent or rate per 1,000 residents of residents entering the corrections system.

(5) Vermont's families are safe, nurturing, stable, and supported.

(A) number and rate per 1,000 children of substantiated reports of

child abuse and neglect;

(B) number of children who are homeless;

(C) number of families that are homeless; and

(D) number and rate per 1,000 children and youth of children and youth in out-of-home care.

(6) Vermont's children and young people achieve their potential, including:

(A) Pregnant women and young people thrive.

(i) percent of women who receive first trimester prenatal care;

(ii) percent of live births that are preterm (less than 37 weeks);

(iii) rate of infant mortality per 1,000 live births;

(iv) percent of children at or below 200 percent of federal poverty level; and

(v) percent of children with health insurance.

(B) Children are ready for school.

(i) percent of kindergarteners fully immunized with all five vaccines required for school;

(ii) percent of first-graders screened for vision and hearing problems;

(iii) percent of children ready for school in all five domains of healthy development; and

(iv) percent of children receiving State subsidy enrolled in high quality early childhood programs that receive at least four out of five stars under State standards.

(C) Children succeed in school.

(i) rate of school attendance per 1,000 children;

(ii) percent of children below the basic level of fourth grade reading achievement under State standards; and

(iii) rate of high school graduation per 1,000 high school students.

(D) Youths choose healthy behaviors.

(i) rate of pregnancy per 1,000 females 15–17 years of age;

(ii) rate of pregnancy per 1,000 females 18–19 years of age;

(iii) percent of adolescents smoking cigarettes;

(iv) percent of adolescents who used marijuana in the past 30 days;

(v) percent of adolescents who reported ever using a prescription drug without a prescription;

(vi) percent of adolescents who drank alcohol in the past 30 days; and

(vii) number and rate per 1,000 minors of minors who are under the supervision of the Department of Corrections.

(E) Youths successfully transition to adulthood.

(i) percent of high school seniors with plans for education, vocational training, or employment;

(ii) percent of graduating high school seniors who continue their education within six months of graduation;

(iii) percent of all deaths for youths 10–19 years of age;

(iv) rate of suicide per 100,000 Vermonters;

(v) percent of adolescents with a suicide attempt that requires medical attention;

(vi) percent of high school graduates entering postsecondary education, work, or training;

(vii) percent of completion of postsecondary education; and

(viii) rate of high school graduates entering a training program per 1,000 high school graduates.

(7) Vermont's elders and people with disabilities and people with mental conditions live with dignity and independence in settings they prefer.

(A) rate of confirmed reports of abuse and neglect of vulnerable adults per 1,000 vulnerable adults; and

(B) percent of elders living in institutions versus home care.

(8) Vermont has open, effective, and inclusive government at the State and local levels.

(A) percent of youth who spoke to their parents about school;

(B) percent of youth who report they help decide what goes on in their school;

(C) percent of eligible population voting in general elections;

(D) percent of students volunteering in their community in the past week;

(E) percent of youth who feel valued by their community; and

(F) percent of youth that report their teachers care about them and give them encouragement.

**(Committee vote: 10-1-0 )**

**(For text see Senate Journal March 20, 21, 2014 )**

### **S. 295**

An act relating to pretrial services, risk assessments, and criminal justice programs

**Rep. Lippert of Hinesburg**, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. LEGISLATIVE FINDINGS

(a) It is the intent of the General Assembly that law enforcement officials and criminal justice professionals develop and maintain programs at every stage of the criminal justice system to provide alternatives to a traditional punitive criminal justice response for people who, consistent with public safety, can effectively and justly benefit from those alternative responses. These programs shall be reflective of the goals and principles of restorative justice pursuant to 28 V.S.A. § 2a. Commonly referred to as the sequential intercept model, this approach was designed to identify five points within the criminal justice system where innovative approaches to offenders and offending behavior could be taken to divert individuals away from a traditional criminal justice response to crime. These intercept points begin in the community with law enforcement interaction with citizens, proceed through arrest, the judicial process, and sentencing, and conclude with release back into communities. Alternative justice programs may include the employment of police-social workers, community-based restorative justice programs, community-based dispute resolution, precharge programs, pretrial services and case management, recovery support, DUI and other drug treatment courts, suspended fine programs, and offender reentry programs.

(b) Research shows the risk-need-responsivity model approach to addressing criminal conduct is successful at reducing recidivism. The model's premise is that the risk and needs of a person charged with or convicted of a criminal offense should determine the strategies appropriate for addressing the

person's criminogenic factors.

(c) Some studies show that incarceration of low-risk offenders or placement of those offenders in programs or supervision designed for high-risk offenders may increase the likelihood of recidivism.

(d) The General Assembly recommends use of evidence-based risk assessments and needs screening tools for eligible offenses to provide information to the Court for the purpose of determining bail and appropriate conditions of release and informing decisions by the State's Attorney and the Court related to a person's participation and level of supervision in an alternative justice program.

(e) As used in this act:

(1) "Clinical assessment" means the procedures, to be conducted after a client has been screened, by which a licensed or otherwise approved counselor identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of a treatment plan.

(2) "Needs screening" means a preliminary systematic procedure to evaluate the likelihood that an individual has a substance abuse or a mental health condition.

(3) "Risk assessment" means a pretrial assessment that is designed to be predictive of a person's failure to appear in court and risk of violating pretrial conditions of release with a new alleged offense.

(f) The General Assembly intends this act to be a continuation of justice reinvestment efforts initiated in 2007 by the Legislative, Judicial, and Executive Branches. Justice reinvestment is a data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and strengthen communities.

(g) Buprenorphine/Naloxone (Suboxone or Subutex) is a well-known medication used in the treatment of opioid addiction. Vermont spends \$8.3 million in Medicaid funds annually on these drugs. As medicated-assisted treatment for opiate addiction has increased substantially in the last several years, so has illegal diversion of these drugs and their misuse. Suboxone is currently the number one drug smuggled into Vermont correctional facilities and evidence suggests that the nonmedical use of such drugs is gaining in popularity. The General Assembly urges the administration to prioritize efforts to ensure that people with opiate addictions are provided access to necessary medication, while taking all possible measures to prevent the diversion and misuse of these drugs, including working with drug manufacturers.



(h) Approximately 54,000 Vermonters have abused or been dependent on alcohol or illicit drugs in the past year, according to the current National Survey on Drug Use and Health. More people abuse or are dependent on alcohol (approximately 39,000) than all illicit drugs combined (18,000). Many Vermonters struggle with both alcohol and illicit drugs. Substance abuse is expensive, and not solely due to the cost of providing treatment. Research indicates that \$1.00 invested in addiction treatment saves between \$4.00 and \$7.00 in reduced drug-related crime, criminal justice costs, and theft. Earlier intervention to provide services before major problems develop can save even more.

(i) According to the Agency of Human Services' Report on Substance Abuse Continuum of Services and Recommendations, dated January 15, 2014, despite the number of people with substance use disorders, this condition is significantly under-treated for many reasons. In addition, it reports that one of the challenges associated with attracting and retaining qualified individuals to the field of substance abuse treatment and prevention is that there are insufficient training opportunities, no opportunities for private practitioner Licensed Alcohol and Drug Counselors (LADC) to receive payment for providing services to Medicaid eligible patients, and low wages for LADCs working in community provider settings.

Sec. 2. 13 V.S.A. § 7554c is added to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) The objective of a pretrial risk assessment is to provide information to the Court for the purpose of determining whether a person presents a risk of nonappearance or a threat to public safety, so the Court can make an appropriate order concerning bail and conditions of pretrial release.

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

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

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

(A) misdemeanor drug offenses cited into court;

(B) felony drug offenses cited into court;

(C) felonies that are not listed crimes cited into court;

(D) persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment; and

(E) persons not charged with a listed crime who are identified by law enforcement, the prosecution, the defense, probation and parole personnel, the Court, a treatment provider, or a family member or friend as having a substantial substance abuse or mental health issue.

(2) Participation in an assessment or screening shall be voluntary.

(3) In the event an assessment or screening cannot be obtained prior to arraignment, the Court shall direct the assessment and screening to be conducted as soon as practicable.

(4) A person who qualifies pursuant to subdivision (1)(A)–(E) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a risk assessment or needs screening unless the other charge is a listed crime as defined in section 5301 of this title.

(5) Nothing in this section shall be construed to limit the Court’s authority to order an assessment or screening as a condition of release under section 7554 of this title.

(6) The Administrative Judge and Court Administrator, in consultation with the Secretary of Human Services and the Commissioner of Corrections, shall develop a statewide plan for the phased, consistent rollout of the categories identified in subdivisions (1)(A) through (E) of this subsection. All persons whose offense or status falls into one of the categories shall be eligible for a risk assessment or needs screening on or before January 1, 2016. Prior to that date, a person shall not be guaranteed the offer of a risk assessment or needs screening solely because the person’s offense or status falls into one of the categories. Criminal justice professionals charged with implementation shall adhere to the plan.

(c) The results of the assessment and screening shall be provided to the prosecutor who, upon filing a criminal charge against the person, shall provide the results to the person and his or her attorney and the Court.

(d)(1) In consideration of the assessment and screening, the Court may order the person to comply with any of the following conditions:

(A) meet with a pretrial monitor on a schedule set by the Court;

(B) participate in a clinical assessment by a substance abuse

treatment provider;

(C) comply with any level of treatment or recovery support recommended by the provider;

(D) provide confirmation to the pretrial monitor of the person's attendance and participation in the clinical assessment and any recommended treatment; and

(E) provide confirmation to the pretrial monitor of the person's compliance with any other condition of release.

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

(3) The conditions authorized in subdivision (1) of this subsection shall be in addition to any other conditions of release permitted by law and shall not limit the Court in any way.

(e)(1) Information obtained from the person during the risk assessment or needs screening shall be exempt from public inspection and copying under the Public Records Act and, except as provided in subdivision (2) of this subsection, only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. The immunity provisions of this subsection apply only to the use and derivative use of information gained as a proximate result of the risk assessment or needs screening.

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

(3) The Vermont Supreme Court in accordance with judicial rulemaking as provided in 12 V.S.A. § 1 shall promulgate and the Department of Corrections in accordance with the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section. Emergency rules adopted prior to January 1, 2015 pursuant to this section shall be considered to meet the "imminent peril" standard under 3 V.S.A. § 844(a).

(f) The Administrative Judge shall develop guidelines for the appropriate use of court-ordered pretrial monitoring services based upon the risk and needs of the defendant.

### Sec. 3. RISK ASSESSMENT AND NEEDS SCREENING TOOLS AND

## SERVICES

(a) The Department of Corrections shall select risk and needs assessment and screening tools for use in the various decision points in the criminal justice system, including pretrial, community supervision screening, community supervision, prison screening, prison intake, and reentry.

(b) In selection and implementation of the tools, the Department shall consider tools being used in other states and shall consult with and have the cooperation of all criminal justice agencies.

(c) The Department shall have the tools available for use on or before September 1, 2014. The Department, the Judiciary, the Defender General, and the Executive Director and the Department of State's Attorneys and Sheriffs shall conduct training on the risk assessment tools on or before December 15, 2014.

(d) The Department, in consultation with law enforcement agencies and the courts, shall contract for or otherwise provide pretrial services described in this section, including performance of risk assessments, needs screenings, and pretrial monitoring. The contract shall include requirements to comply with data collection and evaluation procedures.

(e) Pretrial monitoring may include:

(1) reporting to the Court concerning the person's compliance with conditions of release;

(2) supporting the person in meeting the conditions imposed by the Court, including the condition to appear in Court as directed;

(3) identifying community-based treatment, rehabilitative services, recovery supports, and restorative justice programs; and

(4) supporting a prosecutor's precharge program.

(f)(1) The Department, in consultation with the Judiciary and the Crime Research Group, shall develop and implement a system to evaluate goals and performance of the pretrial services described in this section and report to the General Assembly annually on or before December 15.

(2) The Agency of Human Services, in consultation with the Judiciary, shall ensure that a study is conducted to include an outcome study, process evaluation and cost benefit analysis.

(g) The Secretary of Human Services, with staff and administrative support from the Criminal Justice Capable Core Team, shall map services and assess the impact of court referrals and the capacity of the current service provision system in each region. The Secretary, in collaboration with service providers

and other stakeholders, shall consider regional resources, including services for assessment, early intervention, treatment, and recovery support. Building on existing models and data, the Secretary and the Criminal Justice Capable Core Team shall develop recommendations for a system for referral based on the appropriate level of need, identifying existing gaps to optimize successful outcomes. Funding models for those services shall be examined by the appropriate State departments. The recommendation for the system for referral shall be inclusive of all initiatives within the Agency of Human Services, including those within the Blueprint for Health and Screening, Brief Intervention, and Referral for Treatment (SBIRT), as well as initiatives within the Green Mountain Care Board and the State Innovation Model (SIM) grant.

\* \* \* Alternative Justice Programs \* \* \*

#### Sec. 4. PROSECUTOR PRECHARGE PROGRAM GUIDELINES AND REPORTING

(a) The Department of State's Attorneys and Sheriffs, in consultation with the Judiciary and the Attorney General, shall develop broad guidelines for precharge programs to ensure there is probable cause and that there are appropriate opportunities for victim input and restitution.

(b) On or before October 1, 2014, and annually thereafter, the Executive Director of the Department of State's Attorneys and Sheriffs shall report to the General Assembly detailing the alternative justice programs that exist in each county together with the protocols for each program, the annual number of persons served by the program, and a plan for how a sequential intercept model can be employed in the county. The report shall be prepared in cooperation with the Director of Court Diversion, a co-chair of the Community Justice Network of Vermont, and State, municipal, and county law enforcement officials.

Sec. 5. [Deleted.]

Sec. 6. 13 V.S.A. § 5362(c) is amended to read:

(c) The Restitution Unit shall have the authority to:

\* \* \*

(7) Enter into a repayment contract with a juvenile or adult accepted into a diversion program or alternative justice program and to bring a civil action to enforce the contract when a diversion program has referred an individual pursuant to 3 V.S.A. § 164a or an alternative justice program contract pursuant to section 7554c of this title or a prosecutor precharge program.

Sec. 7. 13 V.S.A. § 5363(d)(2) is amended to read:

(2) The Restitution Unit may make advances of up to ~~\$10,000.00~~

\$5,000.00 under this subsection to the following persons or entities:

\* \* \*

(B) A victim who is a natural person or the natural person's legal representative in a case where the defendant, before or after an adjudication of guilt, enters into a drug court contract or an alternative justice program contract pursuant to section 7554c of this title or a prosecutor precharge program requiring payment of restitution.

\* \* \* Criminal Provisions \* \* \*

Sec. 8. 18 V.S.A. § 4235b is added to read:

§ 4235b. TRANSPORTATION OF DRUGS INTO THE STATE;

AGGRAVATING FACTOR

When imposing a sentence for a felony violation of dispensing or selling a regulated drug in violation of this chapter, the Court shall consider as an aggravating factor whether the person knowingly and unlawfully transported the regulated drug into Vermont.

Sec. 9. 13 V.S.A. § 1201 is amended to read:

§ 1201. BURGLARY

(a) A person is guilty of burglary if he or she enters any building or structure knowing that he or she is not licensed or privileged to do so, with the intent to commit a felony, petit larceny, simple assault, or unlawful mischief. This provision shall not apply to a licensed or privileged entry, or to an entry that takes place while the premises are open to the public, unless the person, with the intent to commit a crime specified in this subsection, surreptitiously remains in the building or structure after the license or privilege expires or after the premises no longer are open to the public.

(b) As used in this section, ~~the words "building," "structure," and "premises";~~

(1) "Building," "premises," and "structure" shall, in addition to their common meanings, include and mean any portion of a building, structure, or premises which differs from one or more other portions of such building, structure, or premises with respect to license or privilege to enter, or to being open to the public.

(2) "Occupied dwelling" means a building used as a residence, either full-time or part-time, regardless of whether someone is actually present in the building at the time of entry.

(c)(1) A person convicted of burglary into an occupied dwelling shall be imprisoned not more than 25 years or fined not more than \$1,000.00, or both.

Otherwise, a person convicted of burglary shall be imprisoned not more than 15 years or fined not more than \$1,000.00, or both.

(2) When imposing a sentence under this section, the Court shall consider as an aggravating factor whether, during commission of the offense, the person:

(A) entered the building when someone was actually present;

(B) used or threatened to use force against the occupant; or

(C) carried a dangerous or deadly weapon, openly or concealed, during the commission of the offense, and the person has not been convicted of a violation of section 4005 of this title in connection with the offense.

#### Sec. 10. DEPARTMENT OF PUBLIC SAFETY REPORT

The Department of Public Safety, in consultation with the Department of Health, shall examine 18 V.S.A. § 4234 (depressant, stimulant, narcotic drug) for the purpose of establishing clear dosage amounts for narcotics as they relate to unlawful possession, dispensing, and sale. The Department shall consider section 4234 in relation to 18 V.S.A. § 4233 (heroin). The Department shall report its recommendations to the Senate and House Committees on Judiciary on or before December 15, 2014.

\* \* \* Regulation of Opiates \* \* \*

#### Sec. 11. DVHA AUTHORITY; USE OF AVAILABLE SANCTIONS

The Department of Vermont Health Access shall use its authority to sanction Medicaid-participating prescribers, whether practicing in or outside the State of Vermont, operating in bad faith or not in compliance with State or federal requirements.

#### Sec. 12. CONTINUED MEDICATION-ASSISTED TREATMENT FOR INCARCERATED PERSONS

(a) The Department of Corrections, in consultation with the Medication-Assisted Treatment for Inmates Work Group created by 2013 Acts and Resolves No. 67, Sec. 11, shall develop and implement a one-year demonstration project to pilot the continued use of medication-assisted treatment within Department facilities for detainees and sentenced inmates.

(b) The pilot project shall offer continued medication-assisted treatment for opioid dependence with methadone or buprenorphine and a prescribed taper as appropriate to incarcerated persons who were participating in medication-assisted treatment in the community immediately prior to incarceration.

(c) As used in this section, “prescribed taper” means a clinically appropriate medication taper that is designed to minimize withdrawal symptoms and limit avoidable suffering.

(d) The Commissioner of Corrections shall publish an interim revision memorandum to replace Directive 363.01 as recommended by the Medication-Assisted Treatment for Inmates Work Group.

(e) On or before July 30, 2014, the Department shall enter into memoranda of understanding with the Department of Health and with hub treatment providers regarding ongoing medication-assisted treatment for persons in the custody of the Department.

(f) The Department shall collaborate with the Department of Health to facilitate the provision of opioid overdose prevention training for pilot project participants who are incarcerated and the distribution of overdose rescue kits with naloxone at correctional facilities to persons who are transitioning from incarceration back into the community.

(g) The Departments of Corrections and of Health shall continue the Medication-Assisted Treatment for Inmates Work Group created by 2013 Acts and Resolves No. 67, Sec. 11 to inform and monitor implementation of the demonstration project. The Departments shall evaluate the demonstration project and provision of medication-assisted treatment to persons who are incarcerated in Vermont and report their findings, including a proposed schedule of expansion, to the House Committees on Corrections and Institutions, on Human Services, and on Judiciary, the Senate Committees on Health and Welfare and on Judiciary, and the Joint Committee on Corrections Oversight on or before January 1, 2015.

### Sec. 13. VPMS QUERY; RULEMAKING

The Secretary of Human Services shall adopt rules requiring:

(1) All Medicaid participating providers, whether licensed in or outside Vermont, who prescribe buprenorphine or a drug containing buprenorphine to a Vermont Medicaid beneficiary to query the Vermont Prescription Monitoring System the first time they prescribe buprenorphine or a drug containing buprenorphine for the patient and at regular intervals thereafter. Regular intervals shall exceed the requirements for other Schedule III pharmaceuticals, and queries shall be done prior to prescribing a replacement prescription. The rules shall also include dosage thresholds, which may be exceeded only with prior approval from the Chief Medical Officer of the Department of Vermont Health Access or designee.

(2) All providers licensed in Vermont who prescribe buprenorphine or a



drug containing buprenorphine to a Vermont patient who is not a Medicaid beneficiary to query the Vermont Prescription Monitoring System the first time they prescribe buprenorphine or a drug containing buprenorphine for the patient and at regular intervals thereafter. Regular intervals shall exceed the requirements for other Schedule III pharmaceuticals, and queries shall be done prior to prescribing a replacement prescription. The rules shall also include dosage thresholds.

Sec. 14. MEDICATION-ASSISTED THERAPY; RULEMAKING

The Commissioner of Health shall adopt rules relating to medication-assisted therapy for opioid dependence for physicians treating fewer than 30 patients, which shall include a requirement that such physicians ensure that their patients are screened or assessed to determine their need for counseling and that patients who are determined to need counseling or other support services are referred for appropriate counseling from a licensed clinical professional or for other services as needed.

Sec. 15. 26 V.S.A. chapter 36, subchapter 8 is added to read:

Subchapter 8. Naloxone Hydrochloride

§ 2080. NALOXONE HYDROCHLORIDE; DISPENSING OR FURNISHING

(a) The Board of Pharmacy shall adopt protocols for licensed pharmacists to dispense or otherwise furnish naloxone hydrochloride to patients who do not hold an individual prescription for naloxone hydrochloride. Such protocols shall be consistent with rules adopted by the Commissioner of Health.

(b) Notwithstanding any provision of law to the contrary, a licensed pharmacist may dispense naloxone hydrochloride to any person as long as the pharmacist complies with the protocols adopted pursuant to subsection (a) of this section.

Sec. 16. 33 V.S.A. § 813 is added to read:

§ 813. MEDICAID PARTICIPATING PROVIDERS

The Department of Vermont Health Access shall grant authorization to a licensed alcohol and drug abuse counselor to participate as a Medicaid provider to deliver clinical and case coordination services to Medicaid beneficiaries, regardless of whether the counselor is a preferred provider.

Sec. 16a. DEPARTMENT OF CORRECTIONS AND HEALTH CARE  
REFORM

(a) The Agency of Human Services and its departments shall assist the

Department of Corrections in fully enacting the provisions of the Affordable Care Act and Vermont's health care reform initiatives as they pertain to persons in the criminal justice population, including access to health information technology, the Blueprint for Health, Medicaid enrollment, the health benefit exchange, health plans, and other components under the Department of Vermont Health Access that support and ensure a seamless process for reentry to the community or readmission to a correctional facility.

(b) The Department of Corrections shall include substance abuse and mental health services in its request for proposal (RFP) process for inmate health services. Through the RFP, the Department shall require that substance abuse and mental health services be provided to persons while incarcerated.

Sec. 17. 18 V.S.A. § 4254 is amended to read:

§ 4254. IMMUNITY FROM LIABILITY

\* \* \*

(d) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any of the penalties for violation of 13 V.S.A. § 1030 (violation of a protection order), for a violation of this chapter or 7 V.S.A §§ 656 and 657, for being at the scene of the drug overdose, or for being within close proximity to any person at the scene of the drug overdose.

(e) A person who seeks medical assistance for a drug overdose or is the subject of a good faith request for medical assistance pursuant to subsection (b) or (c) of this section shall not be subject to any sanction for a violation of a condition of pretrial release, probation, furlough, or parole for a violation of this chapter or 7 V.S.A §§ 656 and 657; for being at the scene of the drug overdose; or for being within close proximity to any person at the scene of the drug overdose.

\* \* \*

(g) The immunity provisions of this section apply only to the use and derivative use of evidence gained as a proximate result of the person's seeking medical assistance for a drug overdose, being the subject of a good faith request for medical assistance, being at the scene, or being within close proximity to any person at the scene of the drug overdose for which medical assistance was sought and do not preclude prosecution of the person on the basis of evidence obtained from an independent source.

Sec. 18. EFFECTIVE DATES

(a) Secs. 2, 6, and 7 shall take effect on January 1, 2015.

(b) This section and Secs. 1 (legislative intent), 3 (risk assessment and

needs screening tools), 4 (prosecutor precharge programs and reporting), 10 (Department of Public Safety report), 13 (VPMS query; rulemaking), 14 (medication assisted therapy, rulemaking), and 17 (immunity from liability) shall take effect on passage.

(c) The remaining sections shall take effect on July 1, 2014.

**(Committee vote: 9-0-2 )**

**(For text see Senate Journal March 12, 13 2014 )**

#### **Favorable**

#### **S. 316**

An act relating to child care providers

**Rep. Stevens of Waterbury**, for the Committee on **General, Housing and Military Affairs**, recommends that the bill ought to pass in concurrence.

**(Committee Vote: 6-2-0)**

**(For text see Senate Journal February 27, 28, 2014 )**

#### **Senate Proposal of Amendment**

#### **H. 483**

An act relating to adopting revisions to Article 9 of the Uniform Commercial Code

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

First: In Sec. 1, in § 9-801, by striking out the following: “2013” and inserting in lieu thereof the following: 2014.

Second: In Sec. 2, by striking out the following: “2013” and inserting in lieu thereof the following: 2014.

(For text see House Journal April 30, 2014 )

**Rep. Rep. Carr of Brandon**, for the Committee on **Commerce and Economic Development**, moves that the House concur in the Senate Proposal of Amendment.

**(Committee Vote: 10-0-1)**

#### **H. 874**

An act relating to consent for admission to hospice care and for DNR/COLST orders

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

First: By striking out Sec. 2 in its entirety and inserting a new Sec. 2 to read

as follows:

Sec. 2. 18 V.S.A. § 9708(f) is amended to read:

(f) The Department of Health shall adopt by rule ~~no later than~~ on or before July 1, ~~2014~~ 2016, criteria for individuals who are not the patient, agent, or guardian, but who are giving informed consent for a DNR/COLST order. The rules shall include the following:

(1) other individuals permitted to give informed consent for a DNR/COLST order who shall be a family member of the patient or a person with a known close relationship to the patient; and

(2) parameters for how decisions should be made, which shall include at a minimum the protection of a patient's own wishes in the same manner as in section 9711 of this title; ~~and~~

~~(3) access to a hospital's internal ethics protocols for use when there is a disagreement over the appropriate person to give informed consent.~~

Second: By adding three new sections to be numbered Secs. 3, 4 and 5 to read as follows:

Sec. 3. 14 V.S.A. § 3075(g) is amended to read:

(g)(1) The guardian shall obtain prior written approval by the ~~probate division~~ Probate Division of the ~~superior court~~ Superior Court following notice and hearing:

(A) if the person under guardianship objects to the guardian's decision, on constitutional grounds or otherwise;

(B) if the ~~court~~ Court orders prior approval for a specific surgery, procedure, or treatment, either in its initial order pursuant to subdivision 3069(c)(2) of this title or anytime after appointment of a guardian;

(C) except as provided in subdivision (2) of this subsection, and unless the guardian is acting pursuant to an advance directive, before withholding or withdrawing life-sustaining treatment other than antibiotics; or

(D) unless the guardian is acting pursuant to an advance directive, before consenting to a do-not-resuscitate order or clinician order for life-sustaining treatment, as defined in 18 V.S.A. § 9701(6), unless a clinician as defined in 18 V.S.A. § 9701(5) certifies that the person under guardianship is likely to experience cardiopulmonary arrest before ~~court~~ Court approval can be obtained. In such circumstances, the guardian shall immediately notify the ~~court~~ Court of the need for a decision, shall obtain the clinician's certification prior to consenting to the do-not-resuscitate order or clinician order for life-sustaining treatment, and shall file the clinician's certification with the ~~court~~

Court after consent has been given.

(2) The requirements of subdivision (1)(C) of this subsection shall not apply if obtaining a ~~court~~ Court order would be impracticable due to the need for a decision before ~~court~~ Court approval can be obtained. In such circumstances, the guardian shall immediately notify the ~~court~~ Court by telephone of the need for a decision, and shall notify the ~~court~~ Court of any decision made.

Sec. 4. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

\* \* \*

(11) “Guardian” means a person appointed by the Probate Division of the Superior Court who has the authority to make medical decisions pursuant to 14 V.S.A. § 3069~~(b)~~(c).

\* \* \*

Sec. 5. 18 V.S.A. § 9708 is amended to read:

§ 9708. ~~AUTHORITY AND OBLIGATIONS OF HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, AND RESIDENTIAL CARE FACILITIES REGARDING DO-NOT-RESUSCITATE ORDERS AND CLINICIAN ORDERS FOR LIFE-SUSTAINING LIFE-SUSTAINING TREATMENT~~

(a) As used in this section, “DNR/COLST” shall mean a do-not-resuscitate order (“DNR”) and a clinician order for ~~life-sustaining~~ life-sustaining treatment (“COLST”) as defined in section 9701 of this title.

(b) A DNR order and a COLST shall be issued on the Department of Health’s “Vermont DNR/COLST form” as designated by rule by the Department of Health.

(c) Notwithstanding subsection (b) of this section, health care facilities and residential care facilities may document DNR/COLST orders in the patient’s medical record in a facility-specific manner when the patient is in their care.

(d) A DNR order must:

(1) be signed by the patient’s clinician;

(2) certify that the clinician has consulted, or made an effort to consult, with the patient, and the patient’s agent or guardian, if there is an appointed agent or guardian;

(3) include either:

(A) the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or other individual giving informed consent for the DNR and the individual's relationship to the patient; or

(B) certification that the patient's clinician and one other named clinician have determined that resuscitation would not prevent the imminent death of the patient, should the patient experience cardiopulmonary arrest; and

(4) if the patient is in a health care facility or a residential care facility, certify that the requirements of the facility's DNR protocol required by section 9709 of this title have been met.

(e) A COLST must:

(1) be signed by the patient's clinician; and

(2) include the name of the patient; agent; guardian, in accordance with 14 V.S.A. § 3075(g); or other individual giving informed consent for the COLST and the individual's relationship to the patient.

\* \* \*

And by renumbering the remaining section of the bill to be numerically correct.

(No House Amendments )

## H. 875

An act relating to the elimination of a defendant's right to a trial by jury in traffic appeals and fines for driving with license suspended

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

Sec. 1. 4 V.S.A. § 1109 is amended to read:

### § 1109. REMEDIES FOR FAILURE TO PAY

(a) As used in this section:

(1) "Amount due" means all financial assessments contained in a ~~judicial bureau~~ Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) "Designated collection agency" means a collection agency designated by the ~~court administrator~~ Court Administrator.

(3) ~~"Designated credit bureau" means a credit bureau designated by the court administrator or the court administrator's designee. [Repealed.]~~

(b) A ~~judicial bureau~~ Judicial Bureau judgment shall provide notice that a \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant

fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the ~~court technology special fund~~ Court Technology Special Fund established pursuant to section 27 of this title.

(c) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the ~~judicial bureau~~ Judicial Bureau provides the defendant with a notice of judgment, the ~~judicial bureau~~ Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.

(1) Notice of hearing. The ~~judicial bureau~~ Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision (2) of this subsection.

(2) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the ~~judicial bureau~~ Judicial Bureau to do one or more of the following:

(A) cause the matter to be reported to one or more designated ~~credit bureaus~~ collection agencies; ~~or~~

(B) refer the matter to ~~criminal division of the superior court~~ the Criminal Division of the Superior Court for contempt proceedings; or

(C) provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.

(3) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The ~~state~~ State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(4) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a ~~judicial bureau~~ Judicial Bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

(iii) ~~Direct the clerk of the judicial bureau to cause the matter to be reported to one or more designated credit bureaus. The court administrator or the court administrator's designee is authorized to contract with one or more credit bureaus for the purpose of reporting information about unpaid judicial bureau judgments~~ Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.

(iv) ~~Recommend that the eriminal division of the superior court~~ Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision (4), the ~~judicial bureau~~ Judicial Bureau shall notify the ~~eriminal division of the superior court~~ Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The ~~eriminal division of the superior court~~ Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in ~~eriminal division of the superior court~~ the Criminal Division of the Superior Court, the ~~defender general~~ Defender General shall assign counsel at the ~~defender general's~~ Defender General's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the ~~court administrator~~ Court Administrator may authorize the clerk of the ~~judicial bureau~~ Judicial Bureau to refer the matter to a designated collection agency.

(2) The ~~court administrator~~ Court Administrator or the ~~court administrator's~~ Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid ~~judicial bureau~~ Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide.

(f) Notwithstanding 32 V.S.A. § 502, the ~~court administrator~~ Court Administrator is authorized to contract with a third party to collect fines,



penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the ~~court administrator~~ Court Administrator.

Sec. 2. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or ~~subsections~~ subsection 1091(b), 1094(b), or 1128(b) or (c) of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(2) A person who violates section 676 of this title for the sixth or subsequent time shall, if the five prior offenses occurred after July 1, 2003, be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the driving with license suspended diversion program or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter shall not be counted as prior offenses under subdivision (2) of this subsection.

(b) Except as authorized in section 1213 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of section 1201 of this title or has been suspended under section 1205 of this title and who operates or attempts to operate a motor vehicle upon a public highway before reinstatement of the license shall be imprisoned not more than two years or fined not more than \$5,000.00, or both. The sentence shall be subject to the following mandatory minimum terms:

\* \* \*

Sec. 3. 23 V.S.A. § 2307 is amended to read:

§ 2307. REMEDIES FOR FAILURE TO PAY TRAFFIC VIOLATIONS

~~As used in this section,~~

(a) ~~“Amount due”~~ Definition. As used in this section, “amount due” means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized

by law.

(b) Notice of risk of suspension. A judgment for a traffic violation shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and the denial, if the person is the sole registrant, of the person's application for renewal of a motor vehicle registration, until the amount due is paid or otherwise satisfied. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a judicial officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles ~~who, after~~. After 20 days from the date of receiving the electronic notice, the Commissioner shall:

(1) ~~suspend~~ Suspend the person's operator's license or privilege to operate for a period of 120 days. However, the person shall become eligible for reinstatement prior to expiration of the 120 days if the amount due is paid or otherwise satisfied.

(2) ~~and deny, if the person is the sole registrant,~~ Deny the person's application for renewal of a motor vehicle registration, if the person is the sole registrant, until the amount due is paid or otherwise satisfied.

(c) During proceedings conducted pursuant to 4 V.S.A. § 1109, the hearing officer may apply the following mitigation remedies when the judgment is based upon a traffic violation. The hearing officer also may apply the remedies with or without a hearing when acting on a motion to approve a proposed DLS Diversion Program contract and related payment plan pursuant to 2012 Acts and Resolves No. 147, Sec. 2. Notwithstanding any other law, no entry fee shall be required and venue shall be statewide for motions to approve.

(1) The hearing officer may waive the reinstatement fee required by section 675 of this title or reduce the amount due on the basis of:

(A) the defendant's driving history, ability to pay, or service to the community;

(B) the collateral consequences of the violation; or

(C) the interests of justice.

(2) The hearing officer may specify a date by which the defendant shall pay the amount due and may notify the Commissioner of Motor Vehicles to reinstate the defendant's operator's license or privilege subject to payment of the amount due by the specified date. If the defendant fails to pay the amount due by the specified date, the Judicial Bureau may notify the Commissioner to suspend the defendant's operator's license or privilege. A license may be

reinstated under this subdivision only if the defendant's license is suspended solely for failure to pay a judgment of the Judicial Bureau.

(3) The judicial officer shall have sole discretion to determine mitigation remedies pursuant to this subdivision, and the judicial officer's determination shall not be subject to review or appeal in any court, tribunal, or administrative office.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

And that after passage the title of the bill be amended to read: "An act relating to fines for driving with license suspended".

(No House Amendments )

### **H. 890**

An act relating to approval of amendments to the charter of the City of Burlington regarding the redistricting of City election areas

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

The Senate proposes to the House to amend the bill in Sec. 2, 24 App. V.S.A. chapter 3, in § 2 (election boundaries), in subsection (a) (City districts described), in subdivision (2) (Central District), in the geographic description of the district, after "Central Vermont Railway bridge downstream of the Lower Winooski Falls and Salmon Hole; thence southerly along the East District", by striking out in its entirety "eastern boundary" and inserting in lieu thereof western boundary to its intersection with the centerline of Main Street; continuing southerly along the centerline of South Winooski Avenue.

(No House Amendments )

### **Ordered to Lie**

### **S. 91**

An act relating to privatization of public schools.

Pending Question: Shall the House propose to the Senate to amend the bill as offered by Rep. Turner of Milton?

### **Consent Calendar**

#### **Concurrent Resolutions for Adoption Under Joint Rule 16a**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment.

Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of 4/24/2014.

**H.C.R. 330**

House concurrent resolution honoring choral conductor, musician, composer, and college music instructor Edwin Lawrence

**H.C.R. 331**

House concurrent resolution honoring Grace Simonds for her municipal public service as the Town Clerk and Town Service Officer of Whiting

**H.C.R. 332**

House concurrent resolution congratulating Erica Wallstrom on being awarded an Albert Einstein Distinguished Educator Fellowship

**H.C.R. 333**

House concurrent resolution congratulating Rutland Senior High School Principal William Olsen on being named the 2014 Vermont Principal of the Year

**H.C.R. 334**

House concurrent resolution commemorating the publication of *The Vermont Difference: Perspectives from the Green Mountain State*

**H.C.R. 335**

House concurrent resolution in memory of former Representative Lawrence Powers

**H.C.R. 336**

House concurrent resolution honoring Vermont National Guard State Command Sergeant Major Forest T. Glodgett on his distinguished military career

**H.C.R. 337**

House concurrent resolution recognizing all Vermont firefighters, police officers, and emergency medical service (EMS) personnel for the professional level of service they provide to their communities

**H.C.R. 338**

House concurrent resolution honoring Wayne Hunter for his public service as a U.S. Postal Service employee in Northfield

**H.C.R. 339**

House concurrent resolution congratulating Sandy Baird on her most-deserved receipt of the 2014 Vermont Bar Association's Pro Bono Service Award

**H.C.R. 340**

House concurrent resolution honoring the Southwest Vermont Supervisory Union teachers and staff concluding their careers in 2014

**For Informational Purposes**

**H.R. 11**

House resolution to amend Rule 25 of the Rules of the House of Representatives pertaining to the jurisdiction of the Committee on Transportation

Offered by: Representatives Cheney of Norwich and Pearson of Burlington

Resolved by the House of Representatives:

That this legislative body moves to amend Rule 25 of the Rules of the House of Representatives to read:

25. At the beginning of each regular session, standing committees shall be appointed having the following names, number of members, and duties:

<u>Committee</u>	<u>Member</u>	<u>To Consider Matters Relating to</u>
		* * *
Transportation	11	All transportation companies and corporations subject to the regulation of the Public Service Board, <del>and</del> all air and surface transportation, <del>including its</del> <u>the</u> registration <del>and</del> , regulation, <del>the</del> licensing of <del>its</del> <u>transportation</u> operations and <u>users</u> , the construction and maintenance of <del>its</del> thoroughfares, and the <del>regulation of the users thereof</del> <u>impact of the transportation sector on air pollution and climate change.</u>
		* * *