

# Journal of the Senate

WEDNESDAY, JANUARY 18, 2017

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Bill Referred to Committee on Appropriations

### S. 1.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to the determination of average daily membership for the 2016–2017 school year and equalized pupil count for fiscal year 2018.

## Executive Order Referred

The President laid before the Senate Executive Order 05-17 relating to changes in the organization of the executive branch of the government of Vermont pursuant to the provision of 3 V.S.A. §2002, which was read by the Secretary and is as follows:

### STATE OF VERMONT

### EXECUTIVE DEPARTMENT

### EXECUTIVE ORDER NO. 05-17

[Creation of the Agency of Economic Opportunity]

WHEREAS, the Governor, pursuant to 3 V.S.A. Section 2001, may make such changes in the organization of the Executive Branch or in the assignment of functions among its units as he considers necessary for efficient administration; and

WHEREAS, it is desirable to reorganize the agencies, departments and divisions of government by better coordinating certain activities and improve the coordination and effectiveness of services to the public; and

WHEREAS, the Agency of Commerce and Community Development and the Department of Labor administer programs and provide services that share common policy interests, objectives and constituencies; and

WHEREAS, the goals of greater affordability, economic growth and optimal government efficacy require a stronger and more direct alignment of State government workforce training, recruitment and service programs with economic and community development activities; and

WHEREAS, certain Department of Labor programs relating to workforce and consumer safety can be more efficiently administered by the Department of Public Safety, where additional opportunities for simplifying and streamlining service to Vermonters will be created; and

WHEREAS, the State could strengthen and more efficiently deliver services to the public through the reorganization of the Agency of Commerce and Community Development and the Department of Labor into a single Agency of Economic Opportunity.

NOW THEREFORE, by virtue of the authority vested in me by 3 V.S.A. chapter 41 as Governor, I, Philip B. Scott, do hereby create an Agency of Economic Opportunity by reorganizing the Agency of Commerce and Community Development and the Department of Labor. The Agency of Economic Opportunity shall be successor to the Agency of Commerce and Community Development and the Department of Labor.

1. All duties, responsibilities and authority of the Agency of Commerce and Community Development are hereby transferred to the Agency of Economic Opportunity.
2. All other authorized positions and equipment of the Agency of Commerce and Community Development are transferred to the Agency of Economic Opportunity.
3. All duties, responsibilities and authority of the Department of Labor, other than those relating to V.O.S.H.A., Project WorkSAFE and Passenger Tramway Safety, are hereby transferred to the Agency of Economic Opportunity.
4. All duties, responsibilities and authority of the Department of Labor relating to V.O.S.H.A., Project WorkSAFE and Passenger Tramway Safety, are hereby transferred to the Department of Public Safety.
5. The rules of the former Agency of Commerce and Community Development and the former Department of Labor in effect on the effective date of this Executive Order, other than those relating to V.O.S.H.A., WorkSAFE and Passenger Tramway Safety, shall be the rules of the Agency of Economic Opportunity.
6. The rules of the former Department of Labor in effect on the effective date of this Executive Order relating to V.O.S.H.A.,

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WorkSAFE and Passenger Tramway Safety, shall be the rules of the Department of Public Safety.

7. The positions of Secretary of the Agency of Commerce and Community Development and Commissioner of the Department of Labor are abolished and all the duties, responsibilities, and authority of the Secretary and the Commissioner are hereby transferred to the Secretary of the Agency of Economic Opportunity.
8. Effective April 17, 2017, the Agency of Economic Opportunity shall administer the programs formerly administered by the Department of Labor, other than those programs relating to V.O.S.H.A, WorkSAFE and Passenger Tramway Safety, including but not limited to:
  - A. Apprenticeship Division and Council (21 V.S.A. §§ 1101-1105);
  - B. State and Federal job training and employment services programs, including Vermont Employment Service (21 V.S.A. §§ 1201-1206), Displaced Homemakers (21 V.S.A. §§ 1231-1232), Domestic and Sexual Violence Survivors' Transitional Employment Program (21 V.S.A. §§ 1253-1255), and Regional Workforce Education and Training (10 V.S.A. § 542);
  - C. Vermont Employment Security Board (21 V.S.A. § 1302);
  - D. Workforce Development Board (10 V.S.A. § 541a);
  - E. Advisory Council (21 V.S.A. § 1306);
  - F. Employee Leasing Companies (21 V.S.A. §§ 1031-1043);
  - G. Employment Practices (21 V.S.A. §§ 301-561);
  - H. Governor's Committee on Employment of People with Disabilities (21 V.S.A. § 497a);
  - I. Employee's Liability and Workers' Compensation program (21 V.S.A. §§ 601-711); and
  - J. Unemployment Compensation law (21 V.S.A §§ 1301-1471).
9. The Youth in Agriculture, Natural Resources and Food Production Consortium (21 V.S.A. §§ 1151-1153), shall be attached to the Agency of Economic Opportunity for administrative purposes.
10. All duties, responsibilities and authority of the Department of Labor relating to the following programs are hereby transferred to the Department of Public Safety:

- A. V.O.S.H.A. and Project WorkSAFE programs (21 V.S.A. §§ 201-232 and 18 V.S.A. §§ 1415-1418 (transferred to Department of Labor by Executive Order No. 21-08 dated January 14, 2005)); and
  - B. Passenger Tramway program and the Passenger Tramway Board (31 V.S.A. §§ 701-712).
11. All other positions and equipment of the Department of Labor relating to VOSHA, Project WorkSAFE and the Passenger Tramway Program are transferred to the Department of Public Safety.
12. Effective April 17, 2017, the Agency of Economic Opportunity shall administer all programs formerly administered by the Agency of Commerce and Community Development including, but not limited to:
  - A. Housing, Community Development, Economic Development Historic Preservation and Tourism and Marketing programs (3 V.S.A. §§ 2401-2516);
  - B. Vermont Housing Council (created by Executive Order 08-11); and
  - C. Travel and Information Council (10 V.S.A. § 484 (for purposes of the collection and distribution of travel information)).
13. The Sustainable Jobs Fund Program (10 V.S.A. §§ 326-330), shall be attached to the Agency of Economic Opportunity for administrative purposes.
14. Effective April 17, 2017, the Agency of Economic Opportunity shall consist of four Departments:
  - A. Department of Marketing and Tourism;
  - B. Department of Economic Development;
  - C. Department of Housing and Community Development; and
  - D. Department of Labor and Workforce Development.
15. The Agency of Economic Opportunity shall be headed by a Secretary appointed by the Governor, with advice and consent of the Senate. The Governor shall also appoint a Deputy Secretary. Each of the four Departments shall be headed by a Commissioner to be appointed by the Governor.

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16. The Secretary of the Agency of Economic Opportunity, together with the Commissioner of Labor and Workforce Development, shall further study the effectiveness, priority and delivery of services and shall report any additional recommendation for restructuring and/or statutory changes to the Governor by November 17, 2017.

This Executive Order supersedes and replaces Executive Order No. 01-05, codified as Executive Order No. 21-8.

This Executive Order shall be submitted to the General Assembly pursuant to 3 V.S.A. § 2002. This Executive Order shall take effect on April 17, 2017, unless disapproved by the General Assembly pursuant to 3 V.S.A. § 2002(b).

WITNESS my name hereunto subscribed  
and the Great Seal of the State of Vermont  
hereunto affixed at Montpelier this 15th day of  
January, 2017.

/s/Philip B. Scott

PHILIP B. SCOTT

Governor

#### EXECUTIVE ORDER 05-17

Thereupon, pursuant to the rules of the Senate, Executive Order No. 05-17 was referred to the Committee on Economic Development, Housing and General Affairs.

#### **Executive Order Referred**

The President laid before the Senate Executive Order 06-17 relating to changes in the organization of the executive branch of the government of Vermont pursuant to the provision of 3 V.S.A. §2002, which was read by the Secretary and is as follows:

#### **STATE OF VERMONT**

#### **EXECUTIVE DEPARTMENT**

#### **EXECUTIVE ORDER NO. 06-17**

[Creation of the Agency of Digital Services]

WHEREAS, the Governor, pursuant to 3 V.S.A. Section 2001, may make such changes in the organization of the executive branch or in the assignment of functions among its units as he considers necessary for efficient administration; and

WHEREAS, it is desirable to reorganize the departments and divisions of government by better coordinating certain activities and to improve the coordination and effectiveness of services to the public; and

WHEREAS, the Department of Information and Innovation and various State agencies purchase information technology (IT) products and services, administer IT programs and provide IT services; and

WHEREAS, the existing structure of centralized IT and decentralized IT operating in parallel has made it difficult to (i) share data; (ii) capture comprehensive IT usage metrics, including spending; (iii) develop a comprehensive strategy for funding, procurement and use of IT; (iv) ensure results based accountability; and (v) collaborate on statewide best practices; and

WHEREAS, many states have restructured information technology governance in order to increase efficiency, broaden transparency and enable more strategic use of IT; and

WHEREAS, restructuring IT governance presents an opportunity to better align business functions and IT through:

- 1) Improved coordination of technology procurements;
- 2) Improved project management practices and standards;
- 3) Improved communication among State agency and department technology resources;
- 4) Improved IT governance;
- 5) Utilization of technology skills and resources across departments for the benefit of all agencies and departments;
- 6) A comprehensive understanding of IT spending;
- 7) Support of results based accountability;
- 8) Realignment of IT resources with State priorities; and

WHEREAS, this restructuring offers benefits to State employees through greater opportunities for professional development within State government; and

WHEREAS, the State could improve and more efficiently deliver services to the public through the creation of the Agency of Digital Services.

NOW THEREFORE, by virtue of the authority vested in me by 3 V.S.A. Chapter 41 as Governor, I, Philip B. Scott, do hereby create an Agency of Digital Services. The Agency of Digital Services shall be the successor to, and the continuation of, the Department of Information and Innovation.

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1. All duties, obligations, responsibilities and authority, including all contracts, grant agreements, service level agreements and MOUs of the Department of Information and Innovation are hereby transferred to the Agency of Digital Services and shall continue in force and effect without any interruption in their functions.

2. All financial assets and liabilities of the Department of Information and Innovation are hereby transferred to the Agency of Digital Services and shall be accounted for in the Internal Services Fund, known as the Communications and Information Technology Fund.

3. The position of the Commissioner of the Department of Information and Innovation is abolished and all the duties, responsibilities and authority of the Commissioner are hereby transferred to the Secretary and Chief Information Officer of the Agency of Digital Services.

4. All other authorized positions and equipment of the Department of Information and Innovation are transferred to the Agency of Digital Services.

5. Effective April 17, 2017, the Agency of Digital Services shall be headed by the Secretary and Chief Information Officer (together, the "CIO") appointed by the Governor with the advice and consent of the Senate.

6. Effective April 17, 2017, the CIO of the Agency of Digital Services may appoint a Chief Financial Officer who shall be exempt from the classified service.

7. Effective April 17, 2017, the Agency of Digital Services shall consist of five divisions: (A) the Security Division which shall be headed by the Chief Information Security Officer appointed by the CIO of the Agency of Digital Services, with the approval of the Governor; (B) the Enterprise Architecture Division which shall be headed by the Chief Technology Officer appointed by the CIO of the Agency of Digital Services, with the approval of the Governor; (C) the Data Management Division which shall be headed by the Chief Data Officer appointed by the CIO of the Agency of Digital Services, with the approval of the Governor; (D) the Division of Enterprise Project Management; and (E) the Division of Shared Services. The Division of Enterprise Project Management and the Division of Shared Services shall each be headed by a Director appointed by the CIO of the Agency of Digital Services, with the approval of the Governor. The Chief Information Security Officer, the Chief Technology Officer, the Chief Data Officer and the Directors shall be exempt from the classified service.

8. Effective April 17, 2017, all existing department and agency technology leaders, including, but not limited to, chief information officers and directors of information technology ("technology leaders"), and their

professional IT personnel in the Executive Branch agencies and departments, shall report directly to the CIO of the Agency of Digital Services.

9. The Commissioner of the Department of Human Resources and the CIO of the Agency of Digital Services, in consultation with agency and department heads, shall identify technology leaders. The Commissioner of the Department of Human Resources and the CIO of the Agency of Digital Services shall define the position duties and identify and determine appropriate classifications for all State personnel who perform information security activities, as that term is defined in 3 V.S.A. §2222(9) and information technology activities, as that term is defined in 3 V.S.A. 2222(10). All technology leaders shall be exempt from the classified service.

10. Beginning April 17, 2017, on an agency-by-agency and department-by-department basis, all positions and incumbents identified by the Commissioner of Human Resources and the CIO of the Agency of Digital Services as set forth above, shall transfer to the Agency of Digital Services. Technology leaders and professional IT personnel shall remain in their current physical locations.

11. Beginning April 17, 2017, on an agency-by-agency and department-by-department basis, all appropriations associated with the positions transferred pursuant to paragraph 10 above, shall transfer from the affected agencies and departments to the Agency of Digital Services.

12. Beginning April 17, 2017, on an agency-by-agency and department-by-department basis, all the functions, equipment, supplies and inventory associated with the positions transferred pursuant to paragraph 10 above, shall transfer from the affected agencies and departments to the Agency of Digital Services. All agency and department contracts for goods and services shall remain with the respective agencies and departments.

13. The CIO of the Agency of Digital Services shall further study the effectiveness, priority and delivery of IT services and shall report to the Governor any additional recommendation for restructuring and/or statutory changes by November 17, 2017.

This Executive Order shall be submitted to the General Assembly pursuant to 3 V.S.A. § 2002 and shall take effect on April 17, 2017, unless disapproved by the General Assembly pursuant to 3 V.S.A. § 2002(b).

WITNESS my name hereunto subscribed  
and the Great Seal of the State of Vermont  
hereunto affixed at Montpelier this 15th day  
of January, 2017.



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/s/Philip B. Scott

PHILIP B. SCOTT

Governor

EXECUTIVE ORDER 06-17

Thereupon, pursuant to the rules of the Senate, Executive Order No. 06-17 was referred to the Committee on Government Operations.

**Executive Order Referred**

The President laid before the Senate Executive Order 07-17 relating to changes in the organization of the executive branch of the government of Vermont pursuant to the provision of 3 V.S.A. §2002, which was read by the Secretary and is as follows:

**STATE OF VERMONT**

**EXECUTIVE DEPARTMENT**

**EXECUTIVE ORDER NO. 07-17**

[Merger of the Department of Liquor Control and the State Lottery Commission]

WHEREAS, the Governor, pursuant to 3 V.S.A. Section 2001, may make such changes in the organization of the Executive Branch or in the assignment of functions among its units as he considers necessary for efficient administration; and

WHEREAS, it is desirable to reorganize the departments and divisions of government by better coordinating certain activities and to improve the coordination, effectiveness and value of services to the public; and

WHEREAS, both the Department of Liquor Control and the State Lottery Commission have rights, powers, duties and responsibilities that involve, in significant part, the collection of proceeds, charges and other forms of revenue to the State of Vermont; and

WHEREAS, the State could improve and more efficiently deliver services to the public through the merger of the Department of Liquor Control and the State Lottery Commission; and

WHEREAS, streamlining and consolidating the functions of the Department of Liquor Control and the State Lottery Commission under a single Department offers the opportunity to realize cost savings, eliminate redundancy, improve accountability, provide more efficient use of specialized expertise and facilities, and promote more effective sharing of best practices and state of the art technology, among other benefits.

NOW THEREFORE, by virtue of the authority vested in me by 3 V.S.A. Chapter 41 as Governor, I, Philip B. Scott, do hereby create the Department of Liquor and Lottery by merging the Department of Liquor Control with the State Lottery Commission. The Department of Liquor and Lottery shall be successor to, and a continuation of, the Department of Liquor Control with the State Lottery Commission.

1. All duties, responsibilities and authority, including all contracts, grant agreements and MOUs of the Department of Liquor Control, are hereby transferred to the Department of Liquor and Lottery and shall continue in force and effect without any interruption in their functions.

2. The State Lottery Commission is abolished and all duties, responsibilities and authority, including all contracts, grant agreements and MOUs of the State Lottery Commission, are hereby transferred to the Department of Liquor and Lottery and shall continue in force and effect without any interruption in their functions.

3. The position of the Director of the Lottery Commission is abolished and all the duties, responsibilities and authority of the Director are hereby transferred to the Commissioner of Liquor and Lottery.

4. The position of the Commissioner of Liquor Control is hereby renamed the Commissioner of Liquor and Lottery with all of the duties, responsibilities and authority of the former Commissioner of Liquor Control and the former Director of the Lottery Commission. The Commissioner of Liquor and Lottery shall be a State employee exempt from the State classified system who shall serve at the pleasure of the Governor, subject to Laws of 2016, Act No. 144 § 20.

5. All other authorized positions and equipment of the Department of Liquor Control and the State Lottery Commission are transferred to the Department of Liquor and Lottery.

6. Effective April 17, 2017, the Department of Liquor and Lottery shall be comprised of a Commissioner of Liquor and Lottery and a Board of Liquor and Lottery.

7. The Board of Liquor and Lottery will consist of a Chair and four (4) members who shall be appointed by the Governor, with the advice and consent of the Senate. Initially, the members of the Board of Liquor and Lottery shall be the five (5) members of the former Liquor Control Board who shall serve the remainder of their terms at the pleasure of the Governor, subject to removal pursuant to 7 V.S.A. § 102. Vacancies on the Board of Liquor and Lottery shall be filled by the Governor, with the advice and consent of the Senate. A member appointed by the Governor when the General Assembly is

not in session shall be subject to approval by the Senate at its next regular, special or adjourned session. The members shall serve until their successors are appointed and qualified. No member of the Board of Liquor and Lottery shall have any pecuniary interest in any licensee licensed to conduct a lottery or to sell malt, vinous beverages and/or spirituous liquors. No member of the Board of Liquor and Lottery shall have a pecuniary interest in any contract awarded by the Board or Department.

8. The Chair shall have general charge of the offices and employees of the Board. The Chair shall receive reasonable compensation at a level to be determined by the Governor.

9. The term of each member, other than the Chair and the members of the former Liquor Control Board, shall be three (3) years.

10. Effective April 17, 2017, the Department of Liquor and Lottery shall consist of a Division of Liquor Control and a Division of State Lottery, with both divisions reporting to the Commissioner of Liquor and Lottery. The divisions shall each be headed by a Director appointed by the Commissioner of Liquor and Lottery. The Directors shall be exempt from the classified service.

11. The Governor shall annually submit a budget to the General Assembly.

12. The rules of the Department of Liquor Control and the State Lottery Commission in effect on the effective date of this Executive Order shall be the rules of the Department of Liquor and Lottery, until amended or repealed.

13. The Chair, in consultation with the Board of Liquor and Lottery and the Commissioner of Liquor and Lottery, shall further study the effectiveness, priority and delivery of liquor and lottery sales and services and shall report to the Governor additional recommendation for restructuring and/or statutory changes by November 17, 2017.

This Executive Order shall be submitted to the General Assembly pursuant to 3 V.S.A. § 2002 and shall take effect on April 17, 2017, unless disapproved by the General Assembly pursuant to 3 V.S.A. § 2002(b).

WITNESS my name hereunto subscribed  
and the Great Seal of the State of Vermont  
hereunto affixed at Montpelier this 15th  
day of January, 2017.

/s/Philip B. Scott

PHILIP B. SCOTT

Governor

Thereupon, pursuant to the rules of the Senate, Executive Order No. 07-17 was referred to the Committee on Economic Development, Housing and General Affairs.

### **Bills Introduced**

Senate bills of the following titles were severally introduced, read the first time and referred:

#### **S. 34.**

By Senators Sirotkin, Ashe, Mullin and Pearson,

An act relating to cross-promoting development incentives and State policy goals.

To the Committee on Government Operations.

#### **S. 35.**

By Senator Sears,

An act relating to nonconsensual sexual conduct.

To the Committee on Judiciary.

#### **S. 36.**

By Senators McCormack and Flory,

An act relating to shared parental rights and responsibilities.

To the Committee on Judiciary.

#### **S. 37.**

By Senators McCormack, Collamore, Degree and Flory,

An act relating to access to treatment for patients with a terminal illness.

To the Committee on Health and Welfare.

### **Message from the House No. 7**

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

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 10.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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**Adjournment**

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