

Senate Calendar

FRIDAY, MARCH 02, 2012

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**ACTION CALENDAR
UNFINISHED BUSINESS**

Second Reading

Favorable

S. 128.

An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

Reported favorably by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 5-0-0)

CONSIDERATION POSTPONED

S. 129.

An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

PENDING QUESTION: Shall the bill be read the third time?.

NEW BUSINESS

Third Reading

S. 189.

An act relating to expanding confidentiality of cases accepted by the court diversion project.

S. 197.

An act relating to hospital-based outpatient fees.

S. 199.

An act relating to immunization exemptions and the immunization pilot program.

Committee Bill for Second Reading

Favorable

S. 251.

An act relating to miscellaneous amendments to laws pertaining to motor vehicles.

By the Committee on Transportation. (**Sen. Westman for the Committee**)
Reported favorably by Senator Kitchel for the Committee on Appropriations.

(Committee vote: 5-0-2)

Second Reading

Favorable

S. 147.

An act relating to granting staff of the departments of corrections and for children and families ex officio status for the purpose of obtaining and providing notary public services.

Reported favorably by Senator McCormack for the Committee on Finance.

(Committee vote: 6-0-1)

Favorable with Recommendation of Amendment

S. 230.

An act relating to property and casualty insurers and electronic notices.

Reported favorably with recommendation of amendment by Senator Brock for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 3666 is added to read:

§ 3666. DELIVERY OF NOTICES BY ELECTRONIC MEANS

(a) As used in this section:

(1) “Delivered by electronic means” includes:

(A) delivery to an electronic mail address at which a party has consented to receive notice; and

(B) posting on an electronic network, together with separate notice to a party sent to the electronic mail address at which the party has consented to receive notice of the posting.

(2) “Party” means an applicant, an insured, or a policyholder.

(b) Subject to subsection (d) of this section, any notice to a party required under section 3880, 3881, 4224, 4225, 4712, or 4713 of this title may be, but is not required to be delivered by electronic means provided the process used to obtain consent of the party to have notice delivered by electronic means meets

the requirements of 9 V.S.A. chapter 20, the Uniform Electronic Transactions Act.

(c) Delivery of a notice pursuant to subsection (b) of this section shall be considered equivalent to any delivery method required under section 3883, 4226, or 4714 of this title, including delivery by first-class mail, certified mail, certificate of mail, or certificate of mailing.

(d) A notice may be delivered by electronic means by an insurer to a party under this section if:

(1) The party has affirmatively consented to such method of delivery and not subsequently withdrawn consent.

(2) The party, before giving consent, is provided with a clear and conspicuous statement:

(A) informing the party of:

(i) the right of the party to have the notice provided or made available in paper or another nonelectronic form at no additional cost;

(ii) the right of the party to withdraw consent to have notice delivered by electronic means;

(iii) whether the party's consent applies:

(I) only to the particular transaction as to which the notice must be given; or

(II) to identified categories of notices that may be delivered by electronic means during the course of the party's relationship with the insurer;

(iv) how, after consent is given, the party may obtain a paper copy of a notice delivered by electronic means at no additional cost; and

(v) the procedures the party must use to withdraw consent to have notice delivered by electronic means and to update information needed to contact the party electronically.

(3) The party:

(A) before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice delivered by electronic means; and

(B) consents electronically or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices delivered by electronic means as to which the party has given consent.

(4) After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice to which the consent applies:

(A) provides the party with a statement of:

(i) the revised hardware and software requirements for access to and retention of a notice delivered by electronic means; and

(ii) a revised statement required by subdivision (2) of this subsection; and

(B) the party affirmatively consents to continued delivery of notices by electronic means.

(e) Every notice delivered pursuant to subsection (b) of this section shall include the statement required by subdivision (d)(2) of this section. This section does not otherwise affect the content or timing of any notice required under chapter 105, 113, or 128 of this title.

(f) If a provision of chapter 105, 113, or 128 of this title requiring notice to be provided to a party expressly requires verification or acknowledgment of receipt of the notice, the notice may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt. Absent acknowledgement of receipt of the initial notice on the part of the party, the insurer shall send two subsequent notices on separate business days.

(g) The legal effectiveness, validity, or enforceability of any contract or policy of insurance may not be made contingent upon obtaining electronic consent or confirmation of consent of a party in accordance with subdivision (d)(3)(B) of this section.

(h)(1) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice delivered by electronic means to the party before the withdrawal of consent is effective.

(2) A withdrawal of consent by a party is effective within 30 days after receipt of the withdrawal by the insurer.

(3) Failure to comply with subdivision (d)(4) of this section shall be treated as a withdrawal of consent for purposes of this section.

(i) A party who does not consent to delivery of notices by electronic means under subsection (b) of this section, or who withdraws his or her consent, shall not be subjected to any additional fees or costs for having notices provided or made available in paper or another nonelectronic form.

(j) This section shall not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National

Commerce Act, 15 U.S.C. chapter 96, relating to the use of an electronic record to provide or make available information that is required to be provided or made available in writing to a party.

Sec. 2. INTERPRETATION

The delivery of notice in accordance with Sec. 1 of this act is intended and shall be construed to meet the requirements of state insurance regulation 78-01, section 1, as revised.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2013 and apply to all policies and certificates delivered, issued for delivery, or renewed in this state on or after that date.

(Committee vote: 6-0-1)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 89.

An act relating to Medicaid for Working Persons with Disabilities.

Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ANALYSIS OF COSTS AND SAVINGS

(a) The agency of human services, in consultation with the legislative joint fiscal office, shall analyze the costs or savings associated with the following options:

(1) Entering into an agreement with the Social Security Administration in which the state pays the Medicare Part B premium for individuals enrolled in the Medicaid for Working People with Disabilities program.

(2) Increasing or eliminating the income limits or asset limits or both for eligibility for the Medicaid for Working People with Disabilities program.

(3) Disregarding spousal income or spousal assets or both when determining eligibility for the Medicaid for Working People with Disabilities program.

(4) Disregarding the income of a spouse enrolled in the Medicaid for Working People with Disabilities program when determining the other spouse's eligibility to receive Medicaid benefits.

(5) Permitting an individual receiving Medicaid pursuant to 33 V.S.A. § 1901(b) immediately preceding a hospitalization or period of temporary unemployment to maintain his or her Medicaid eligibility during that period, as long as the period of hospitalization or unemployment does not exceed 90 days.

(6) Allowing an individual's enrollment in the Medicaid for Working People with Disabilities program to establish his or her eligibility for services under Vermont's developmental services waiver, provided that the individual must meet clinical eligibility and funding priority criteria in order to receive services pursuant to the waiver.

(7) Using benefits counselors at public and nonprofit organizations to increase public awareness of the Medicaid for Working People with Disabilities program and other work incentives for individuals with disabilities.

(b) No later than January 15, 2013, the secretary of human services shall report to the house committees on human services and on appropriations and the senate committees on health and welfare and on appropriations the results of the analysis conducted pursuant to subsection (a) of this section, as well as recommendations about whether and how to pursue any or all of the options described in subdivisions (a)(1) through (7) of this section.

Sec. 2. STATE PLAN AMENDMENT; SPOUSAL INCOME DISREGARD; RULEMAKING

(a) If supported by the analysis performed pursuant to Sec. 1 of this act, the secretary of human services shall apply to the Centers for Medicare and Medicaid Services for an amendment to the state Medicaid plan pursuant to 42 CFR § 430.12 to specify that the income of an individual receiving Medicaid pursuant to 33 V.S.A. § 1902(b) shall be disregarded in determining the eligibility of such person's spouse to receive medical assistance pursuant to Title XIX (Medicaid) of the Social Security Act.

(b) The secretary shall apply for a state plan amendment pursuant to subsection (a) of this section in a timely manner in order to ensure that the income disregard will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

(c) Upon approval of the state plan amendment pursuant to subsection (a) of this section, the secretary of human services shall adopt rules pursuant to 3 V.S.A. chapter 25 necessary to implement the income disregard.

Sec. 3. STATE PLAN AMENDMENT; DEVELOPMENTAL SERVICES WAIVER

(a) If supported by the analysis performed pursuant to Sec. 1 of this act, the secretary of human services shall apply to the Centers for Medicare and Medicaid Services for an amendment to the state Medicaid plan pursuant to 42 CFR § 430.12 to specify that an individual's enrollment in the Medicaid for Working People with Disabilities program establishes his or her financial eligibility for services under the state's developmental services waiver; provided that the individual shall still be required to meet clinical eligibility and funding priority criteria in order to receive services pursuant to the waiver.

(b) The secretary shall apply for a state plan amendment pursuant to subsection (a) of this section in a timely manner in order to ensure that the financial eligibility criteria will be in place as soon as practicable when the new Medicaid eligibility and enrollment system is operational.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

Favorable with Proposal of Amendment

H. 512.

An act relating to banking, insurance, securities, and health care administration.

Reported favorably with recommendation of proposal of amendment by Senator Cummings for the Committee on Finance.

The Committee recommends that the Senate propose to the House to amend the bill by striking out Sec. 41 in its entirety and inserting in lieu thereof a new Sec. 41 to read as follows:

Sec. 41. 8 V.S.A. § 6052(b) is amended to read:

(b) Before it may offer insurance in any state, each risk retention group shall also submit for approval to the insurance commissioner of this state a plan of operation and feasibility study which includes a description of the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer, together with such additional information as the commissioner may reasonably require. In considering and approving the risk retention group's plan of operation and any subsequent amendments thereto, the commissioner may limit the net amount of risk retained by a risk retention group. The risk retention group shall submit for approval by the commissioner an appropriate revision in the event of any subsequent material change in any item of the plan of operation or feasibility

study, including any material change in the information called for in subsection (c) of this section, but excluding the identity of policyholders and any changes in rates or rating classification systems. The group shall not offer any additional kinds of liability insurance, in this state or in any other state, until a revision of such plan or study is approved by the commissioner. The risk retention group shall inform the commissioner of any material changes in rates or rating classification systems, within 30 days of the adoption of such change.

(Committee vote: 5-0-2)

(For House amendments, see House Journal for February 16, 2012, page 290.)

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 40 (For text of Resolution, see Page 296 of Senate Calendar for March 1, 2012)

H.C.R. 278-291 (For text of Resolutions, see Addendum to House Calendar for March 1, 2012)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

David Luce of Waterbury Center – Member of the Community High School of Vermont Board- By Sen. Kittell for the Committee on Education. (1/13/12)

Patrick Flood of East Calais – Commissioner of the Department of Mental Health – By Sen. Mullin for the Committee on Health and Welfare. (2/8/12)

John Snow of Charlotte – Member of the Vermont Economic Development Authority – By Sen. Fox for the Committee on Finance. (2/8/12)

Martin Maley of Colchester – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (2/9/12)

Alison Arms of South Burlington – Superior Court Judge – By Sen. Snelli8lng for the Committee on Judiciary. (2/16/12)

Robert Bishop of St. Johnsbury – Member of the State Infrastructure Bank Board – By Sen. MacDonald for the Committee on Finance. (2/21/12)

John Valente of Rutland – Member of the Vermont Municipal Bond Bank –
By Sen. McCormack for the Committee on Finance. (2/21/12)

James Volz of Plainfield – Chair of the Public Service Board – By Sen.
Cummings for the Committee on Finance. (2/21/12)

Ed Amidon of Charlotte – Member of the Valuation Appeals Board – By
Sen. Ashe for the Committee on Finance. (2/21/12)

FOR INFORMATION ONLY

CROSSOVER DEADLINES

The following bill reporting deadlines are established for the 2012 session:

(1) From the standing committee of last reference (excluding the Committees on Appropriations and Finance), all Senate bills must be reported out of committee on or before March 16, 2012 and filed with the Secretary of the Senate so that they may be placed on the Calendar for Notice the next legislative day.

(2) For bills referred pursuant to Senate Rule 31, all Senate bills must be reported out of the Committees on Appropriations and Finance on or before March 23, 2012 and filed with the Secretary of the Senate.

(3) All bills to be referenced from the House not meeting the respective applicable dates shall be referred to the Senate Rules Committee.

(4) These deadlines may be waived for any bill or committee **only** by consent given by the Committee on Rules.

Exceptions to the foregoing deadlines include the major money bills (Appropriations, Transportation, Capital, and Miscellaneous Taxes).