

# Journal of the Senate

THURSDAY, MARCH 27, 2014

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the House No. 37

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

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 448.** An act relating to Act 250 and primary agricultural soils.

**H. 585.** An act relating to a study of law enforcement structure in the State.

**H. 790.** An act relating to Reach Up eligibility.

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

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

**J.R.S. 50.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

## Bill Referred to Committee on Appropriations

### S. 202.

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 energy efficiency charge.

## Bills Referred

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

**H. 448.**

An act relating to Act 250 and primary agricultural soils.

To the Committee on Natural Resources and Energy.

**H. 585.**

An act relating to a study of law enforcement structure in the State.

To the Committee on Government Operations.

**H. 790.**

An act relating to Reach Up eligibility.

To the Committee on Rules.

**Bill Amended; Third Reading Ordered****S. 241.**

Senator Baruth, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to binding arbitration for State employees.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. GRIEVANCE ARBITRATION; STUDY COMMITTEE; REPORT**

(a) Creation. There is created a Grievance Arbitration Study Committee to study the issue of grievance arbitration for employees of the State.

(b) Membership. The Grievance Arbitration Study Committee shall be composed of the following four 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; and

(4) one member appointed by the Vermont State Employees' Association.

(c) Powers and duties. The Committee shall:

(1) study the issue of grievance arbitration for State employees; and

(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.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before January 15, 2015, the Committee shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing and Military Affairs.

(f) Meetings.

(1) The Commissioner of Human Resources or designee shall be the Chair of the Committee.

(2) The Committee shall convene on or before September 1, 2014 at the call of the Chair, and the Chair shall call any subsequent meetings.

(3)(A) A majority of the members of the Committee shall be physically present at the same location to constitute a quorum.

(B) A member may vote only if physically present at the meeting location.

(C) Action shall be taken only if there is both a quorum and a majority vote of the members physically present and voting.

(4) The Committee shall cease to exist on the date it submits its report under subsection (e) of this section.

(g) Reimbursement. Members of the Committee shall not be entitled to per diem compensation or reimbursement of expenses.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In Sec. 1, by striking out subsection (d) in its entirety

And by relettering the remaining subsections to be alphabetically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

### **Bill Amended; Third Reading Ordered**

#### **S. 252.**

Senator Ashe, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to financing for Green Mountain Care.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### Sec. 1. LEGISLATIVE INTENT

It has been three years since the passage of 2011 Acts and Resolves No. 48 (Act 48). Several health care reform initiatives have been implemented or are preparing to launch, the Patient Protection and Affordable Care Act has been in effect for four years, and the Vermont Health Benefit Exchange is operational. In order to successfully implement the reforms envisioned by that act, it is appropriate to update the assumptions and cost estimates that formed the basis for Act 48, evaluate the success of existing health care reform efforts, and obtain information relating to key outstanding policy decisions. It is the intent of the General Assembly to obtain a greater understanding of the impact of health care reform efforts currently under way and to take steps toward implementation of the universal and unified health system envisioned by Act 48.

#### Sec. 2. PRINCIPLES FOR HEALTH CARE FINANCING

The General Assembly adopts the following principles to guide the financing of health care in Vermont:

(1) All Vermont residents have the right to high-quality health care.

(2) Vermont residents shall finance Green Mountain Care through taxes that are levied equitably, taking into account an individual's ability to pay and the value of the health benefits provided.

(3) As provided in 33 V.S.A. § 1827, Green Mountain Care shall be the secondary payer for Vermont residents who continue to receive health care through plans provided by an employer, by another state, by a foreign government, or as a retirement benefit.

(4) Vermont's system for financing health care shall raise revenue sufficient to provide medically necessary health care services to all enrolled Vermont residents, including maternity and newborn care, pediatric care, vision and dental care for children, surgery and hospital care, emergency care, outpatient care, treatment for mental health conditions, and prescription drugs.

\* \* \* Vermont Health Benefit Exchange \* \* \*

Sec. 3. 33 V.S.A. § 1803 is amended to read:

§ 1803. VERMONT HEALTH BENEFIT EXCHANGE

\* \* \*

(b)(1)(A) The Vermont Health Benefit Exchange shall provide qualified individuals and qualified employers with qualified health benefit plans, including the multistate plans required by the Affordable Care Act, with effective dates beginning on or before January 1, 2014. The Vermont Health Benefit Exchange may contract with qualified entities or enter into intergovernmental agreements to facilitate the functions provided by the Vermont Health Benefit Exchange.

\* \* \*

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

\* \* \*

Sec. 4. 33 V.S.A. § 1811(b) is amended to read:

~~(b)(1) No person may provide a health benefit plan to an individual or small employer unless the plan is offered through the Vermont Health Benefit Exchange and complies with the provisions of this subchapter.~~

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

#### Sec. 5. PURCHASE OF SMALL GROUP PLANS DIRECTLY FROM CARRIERS

To the extent permitted by the U.S. Department of Health and Human Services and notwithstanding any provision of State law to the contrary, the Department of Vermont Health Access shall permit employers purchasing qualified health benefit plans on the Vermont Health Benefit Exchange to purchase the plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

\* \* \* Green Mountain Care \* \* \*

#### Sec. 6. TREATMENT OF FEDERAL EMPLOYEES

The Health Care Reform Financing Plan submitted to the General Assembly by the Secretary of Administration and the Director of Health Care Reform on January 24, 2013 assumed that federal employees, including military, will not be integrated into Green Mountain Care for their primary coverage.

Sec. 7. 33 V.S.A. § 1824(f) is added to read:

(f)(1) Federal employees who participate in the Federal Employees Health Benefits Program (FEHBP) or TRICARE shall be deemed, by virtue of their participation in those plans, to be covered by Green Mountain Care. The Green Mountain Care benefit package for federal employees shall be the benefit package of their respective FEHBP or TRICARE plan. The premiums paid by federal employees for the FEHBP or TRICARE shall be deemed to be their share of contributions to the financing for Green Mountain Care.

(2) As used in this subsection, “federal employee” means a person employed by the U.S. government who is eligible for the FEHBP, a person retired from employment with the U.S. government who is eligible for the FEHBP, or an active or retired member of the U.S. Armed Forces who is eligible for a TRICARE plan.

#### Sec. 7a. SUPPLEMENTAL PLANS FOR TRICARE PARTICIPANTS

In the event that the Agency of Human Services identifies significant gaps between the coverage available to federal employees participating in TRICARE and the coverage available in Green Mountain Care, the Agency shall propose to the General Assembly a supplemental benefit plan for TRICARE participants and a mechanism for TRICARE participants to pay for the cost of the plan.

Sec. 8. 33 V.S.A. § 1825 is amended to read:

§ 1825. HEALTH BENEFITS

(a)(1) The benefits for Green Mountain Care shall include primary care, preventive care, chronic care, acute episodic care, and hospital services and shall include at least the same covered services as those included in the benefit package in effect for the lowest cost Catamount Health plan offered on January 1, 2011 consist of the benefits available in the benchmark plan for the Vermont Health Benefit Exchange.

\* \* \*

Sec. 9. CONTRACT FOR ADMINISTRATION OF CERTAIN ELEMENTS OF GREEN MOUNTAIN CARE

(a) On or before February 1, 2015, the Agency of Human Services shall identify the elements of Green Mountain Care, such as claims administration and provider relations, for which the Agency plans to solicit bids for administration pursuant to 33 V.S.A. § 1827(a). By the same date, the Agency shall also prepare a description of the job or jobs to be performed, design the bid qualifications, and develop the criteria by which bids will be evaluated.

(b) On or before July 1, 2015, the Agency of Human Services shall solicit bids for administration of the elements of Green Mountain Care identified pursuant to subsection (a) of this section.

(c) On or before December 15, 2015, the Agency of Human Services shall award one or more contracts to public or private entities for administration of elements of Green Mountain Care pursuant to 33 V.S.A. § 1827(a).

Sec. 10. CONCEPTUAL WAIVER APPLICATION

On or before October 1, 2014, the Secretary of Administration or designee shall submit to the federal Center for Consumer Information and Insurance Oversight a conceptual waiver application expressing the intent of the State of Vermont to pursue a Waiver for State Innovation pursuant to Sec. 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and the State's interest in commencing the application process.

\* \* \* Employer Assessment \* \* \*

Sec. 11. 21 V.S.A. § 2001 is amended to read:

§ 2001. PURPOSE

For the purpose of more equitably distributing the costs of health care to uninsured residents of this ~~state~~ State, an employers' health care fund contribution is established to provide a fair and reasonable method for sharing

health care costs with employers who do not offer their employees health care coverage and employers who offer insurance but whose employees enroll in Medicaid.

Sec. 12. 21 V.S.A. § 2002 is amended to read:

§ 2002. DEFINITIONS

As used in this chapter:

\* \* \*

(5) “Uncovered employee” means:

(A) an employee of an employer who does not offer to pay any part of the cost of health care coverage for its employees;

(B) an employee who is not eligible for health care coverage offered by an employer to any other employees; or

(C) an employee who is offered and is eligible for coverage by the employer but elects not to accept the coverage and either:

(i) has no other health care coverage under either Medicare or a private or public health plan; or

(ii) has purchased health insurance coverage as an individual through the Vermont Health Benefit Exchange.

\* \* \*

Sec. 13. 21 V.S.A. § 2003(b) is amended to read:

(b) For any quarter in ~~fiscal years 2007 and 2008~~ calendar year 2014, the amount of the Health Care Fund contribution shall be ~~\$91.25~~ \$119.12 for each full-time equivalent employee in excess of ~~eight~~ four. For each ~~fiscal~~ calendar year after ~~fiscal year 2008~~, ~~the number of excluded full time equivalent employees shall be adjusted in accordance with subsection (a) of this section, and~~ calendar year 2014, the amount of the Health Care Fund contribution shall be adjusted by a percentage equal to any percentage change in premiums for the second lowest cost silver-level plan in the Vermont Health Benefit Exchange.

\* \* \* Reports \* \* \*

Sec. 14. CHRONIC CARE MANAGEMENT; BLUEPRINT; REPORT

On or before October 1, 2014, the Secretary of Administration or designee shall report to the House Committees on Health Care and on Human Services, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee regarding the efficacy of the chronic care



management initiatives currently in effect in Vermont, including recommendations about whether and to what extent to increase payments to health care providers and community health teams for their participation in the Blueprint for Health and whether to expand the Blueprint to include additional chronic conditions such as obesity, mental conditions, and oral health.

Sec. 15. HEALTH INSURER SURPLUS; LEGAL CONSIDERATIONS; REPORT

The Department of Financial Regulation, in consultation with the Office of the Attorney General, shall identify the legal and financial considerations involved in the event that a private health insurer offering major medical insurance plans, whether for-profit or nonprofit, ceases doing business in this State, including appropriate disposition of the insurer's surplus funds. On or before July 15, 2014, the Department shall report its findings to the House Committees on Commerce and on Ways and Means, the Senate Committee on Finance, and the Health Care Oversight Committee.

Sec. 16. BENCHMARK-EQUIVALENT HEALTH CARE COVERAGE

On or before October 1, 2014, the Secretary of Administration or designee shall provide the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee with a recommendation regarding whether it should be the policy of the State of Vermont that all Vermont residents should have health care coverage in effect prior to implementation of Green Mountain Care that is substantially equivalent to coverage available under the benchmark plan for the Vermont Health Benefit Exchange. If the Secretary or designee reports that substantially equivalent coverage for all Vermonters should be the policy of the State, the Secretary or designee shall propose ways to achieve this goal.

Sec. 17. TRANSITION PLAN FOR PUBLIC EMPLOYEES

The Secretary of Education and the Commissioner of Human Resources, in consultation with the Vermont State Employees' Association, the Vermont League of Cities and Towns, Vermont-NEA, AFT Vermont, and other interested stakeholders, shall develop a plan for transitioning public employees from their existing health insurance plans to Green Mountain Care or another common risk pool, with the goal that all State employees, municipal employees, public school employees, and other persons employed by the State or an instrumentality of the State shall be enrolled in Green Mountain Care upon implementation, which is currently targeted for 2017, or in a common risk pool. The Secretary and Commissioner shall address the role of collective bargaining on the transition process and shall propose methods to mitigate the impact of the transition on employees' health care coverage and on their total compensation.

Sec. 18. FINANCIAL IMPACT OF HEALTH CARE REFORM INITIATIVES

(a) The Secretary of Administration or designee shall consult with the Joint Fiscal Office in developing and selecting data, assumptions, analytic models, and other work related to the following:

(1) the cost of Green Mountain Care, the universal and unified health care system established in 33 V.S.A. chapter 18, subchapter 2;

(2) the distribution of health care spending by individuals, businesses, and municipalities, including comparing the distribution of spending by individuals by income class with the distribution of other taxes; and

(3) the costs of and savings from current health care reform initiatives.

(b) The Secretary or designee and the Joint Fiscal Committee shall explore ways to collaborate on the estimates required pursuant to subsection (a) of this section and may contract jointly, to the extent feasible, in order to utilize the same analytic models, data, or other resources.

(c) On or before December 1, 2014, the Secretary of Administration shall present his or her analysis to the General Assembly. On or before January 15, 2015, the Joint Fiscal Office shall evaluate the analysis and indicate areas of agreement and disagreement with the data, assumptions, and results.

Sec. 19. PHARMACY BENEFIT MANAGEMENT

On or before October 1, 2014, the Secretary of Administration or designee shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Care Oversight Committee regarding the feasibility and benefits to the State of Vermont of the State acting as its own pharmacy benefit manager for the State employees' health benefit plan, Vermont's Medicaid program, Green Mountain Care, and any other health care plan financed or administered in whole or in part by the State.

Sec. 20. INDEPENDENT PHYSICIAN PRACTICES; REPORT

On or before December 1, 2014, the Secretary of Administration or designee shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the policy of the State of Vermont with respect to independent physician practices, including whether the State wishes to encourage existing physician practices to remain independent and whether the State wishes to encourage new independent physician practices to open, and, if it is the policy of the State to encourage these independent physician practices, recommending ways to increase the number of these practices in Vermont. The Secretary or designee shall also

consider whether the State should prohibit health insurers from reimbursing physicians in independent practices at lower rates than those at which they reimburse physicians in hospital-owned practices for providing the same services.

Sec. 21. HEALTH INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY; REPORT

On or before October 1, 2014, the Office of the Attorney General, in consultation with the Vermont Information Technology Leaders, shall report to the House Committees on Health Care, on Commerce and Economic Development, and on Ways and Means and the Senate Committees on Health and Welfare, on Economic Development, Housing and General Affairs, and on Finance regarding the need for intellectual property protection with respect to Vermont's Health Information Exchange and other health information technology initiatives, including the potential for receiving patent, copyright, or trademark protection for health information technology functions, the estimated costs of obtaining intellectual property protection, and projected revenues to the State from protecting intellectual property assets or licensing protected interests to third parties.

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

Sec. 22. EFFECTIVE DATE

This act shall take effect on passage, except that the amendments in Sec. 12 to 21 V.S.A. § 2002 shall apply beginning in the first quarter of fiscal year 2015.

And that when so amended the bill ought to pass.

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

Thereupon, pending the question, Shall the bill be read a third time?, Senator Mullin moved to amend the bill as follows:

First: In Sec. 17 (Transition Plan for Public Employees), first sentence, after the following: "Vermont-NEA," by inserting the following: Vermont School Boards Association,

Second: By adding a new section to be numbered Sec. 22 to read as follows:

\* \* \* Health Care Workforce Symposium \* \* \*

Sec. 22. HEALTH CARE WORKFORCE SYMPOSIUM

On or before November 15, 2014, the Secretary of Administration or designee, in collaboration with the Vermont Medical Society and the Vermont

Association of Hospitals and Health Systems, shall organize and conduct a symposium to address the impacts of moving toward universal health care coverage on Vermont's health care workforce and on its projected workforce needs.

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

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Galbraith moved to amend the bill by striking out Sec. 22 in its entirety and inserting in lieu thereof ten new sections to be numbered Sec. 22 through Sec. 31 to read as follows:

Sec. 22. 32 V.S.A. chapter 152 is added to read:

#### CHAPTER 152. HEALTH CARE TAXES

##### § 5981. PRINCIPLES FOR HEALTH CARE FINANCING

The General Assembly adopts the following principles to guide the financing of health care in Vermont:

(1) Every Vermonter has the right to publicly financed health care.

(2) All Vermont residents shall be eligible for Green Mountain Care. Vermont residents enrolled in the Federal Employees Health Benefits Program or TRICARE already participate in publicly financed, government-sponsored health care programs and will continue to receive health care through these programs. A Vermont resident eligible to participate in these publicly financed federal health care programs may choose to enroll in Green Mountain Care and contribute to its financing on a similar basis to other Vermont residents.

(3) Vermont residents shall finance Green Mountain Care through taxes that are levied equitably, taking into account an individual's ability to pay and the value of the health benefits provided.

(4) As provided in 33 V.S.A. § 1827, Green Mountain Care shall be the secondary payer for Vermont residents who continue to receive health care through plans provided by an employer, by another state, by a foreign government, or as a retirement benefit. As long as it is financially beneficial to the State of Vermont for these individuals to continue to be enrolled in these health care plans, the State may pay premiums on behalf of the employee, retiree, or beneficiary.

(5) Vermont's system for financing health care shall raise revenue sufficient to provide medically necessary health care services to all enrolled Vermont residents, including maternity and newborn care, pediatric care,

vision and dental care for children, surgery and hospital care, emergency care, outpatient care, treatment for mental health conditions, and prescription drugs.

#### § 5982. DEFINITIONS

As used in this chapter:

(1) “Employee” means every person for whom taxes are withheld under section 5841 of this title, except that the term shall include a federal employee only to the extent that his or her wages are from nonfederal sources.

(2)(A) “Employer” means every person who is required under the laws of the United States to withhold federal income tax from payments that are also subject to Vermont income tax.

(B) “Employer” does not mean the U.S. government.

(3) “Federal employee” means any person employed by the U.S. government, retired from employment with the U.S. government, or an active or retired member of the U.S. Armed Forces.

(4) “Self-employment income” shall have the same meaning as in the Internal Revenue Code, 26 U.S.C. § 1402(b).

(5) “Total employee wages” means the total amount of payments subject to withholding under section 5841 of this title for each individual employee, plus the total amount of any self-employment income for that individual, but in no case shall total employee wages exceed the greater of \$113,700.00 or the contribution base calculated under Section 230 of the Social Security Act, codified at 42 U.S.C. § 430.

(6) “Total employer wages” means the total amount of payments subject to withholding under section 5841 of this title for each employer subject to withholding requirements, minus any wages in excess of \$113,700.00 or the contribution base calculated under Section 230 of the Social Security Act, codified at 42 U.S.C. § 430, paid by the employer to any employee.

(7) “Wages” shall have the same meaning as in the Internal Revenue Code, 26 U.S.C. § 3401(a).

#### § 5983. PAYROLL TAX

(a) A tax is imposed on any employer required to withhold taxes under section 5841 of this title and on the self-employment income of every individual in an amount equal to total employer wages multiplied by 11 percent.

(b) A tax is imposed on any employee for whom taxes are withheld under section 5841 of this title and on the self-employment income of every individual in the amount equal to total employee wages multiplied by two percent, except as otherwise provided in section 5984 of this chapter.

§ 5984. OPT-IN TO PAYROLL TAX

A tax is imposed on any federal employee that elects to seek coverage under Green Mountain Care in an amount equal to total employee wages multiplied by 13 percent.

§ 5985. PAYMENT

(a) Each employer shall prepare and submit to the Department a quarterly return and payment on or before the 25th day of the calendar month succeeding the quarter ending on the last day of March, June, September, and December. The return requirements and procedures shall be established by the Commissioner and shall show the amount of total employer wages paid for employment during the preceding quarter and other information the Commissioner may require. The tax under this chapter shall be paid each quarter to the Department at the same time the report is submitted. The taxes shall be deposited in the Green Mountain Care Fund established under 33 V.S.A. § 1829.

(b) Each employee shall prepare and submit to the Department an annual return according to procedures established by the Commissioner showing the amount of total employee wages received for employment during the preceding year and other information the Commissioner may require. The tax shall be paid each year to the Department at the same time the return is submitted and deposited in the Green Mountain Care Fund established under 33 V.S.A. § 1829.

§ 5986. ENFORCEMENT

(a) The employer payroll tax imposed under subsection 5983(a) of this title shall be enforced and collected as if it were an amount required to be withheld and remitted to the State under subchapter 4 of chapter 151 of this title.

(b) The employee payroll tax under subsection 5983(b) of this title shall be enforced and collected as if it were a personal income tax under section 5822 of this title.

Sec. 23. 32 V.S.A. §§ 5987 and 5988 are added to read:

§ 5987. DEFINITION

As used in this chapter, “non-wage income” means, for any taxable year, the total amount of income considered taxable income in the State of Vermont under section 5822 of this title, minus any amounts subject to the tax in subsection 5983(b) of this title, but in no case shall non-wage income exceed the greater of \$113,700.00 or the contribution base calculated under Section 230 of the Social Security Act, codified at 42 U.S.C. § 430.

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§ 5988. NON-WAGE INCOME TAX

(a) A tax is imposed on each taxpayer subject to the tax under section 5822 of this title, except that the tax shall be imposed on a federal employee only in the event that he or she has elected to seek coverage under section 5984 of this chapter. The non-wage income tax shall be equal to the amount of non-wage income for each taxpayer, multiplied by 10 percent. The non-wage income tax shall have the same return, payment, and enforcement requirements as the personal income tax under section 5822 of this title.

(b) Each taxpayer subject to the tax imposed under subsection (a) of this section is entitled to claim a credit against his or her non-wage income tax in an amount equal to five times the tax imposed in subsection 5983(b) of this title for the same tax year. In the case of individuals filing a joint return, the credit against non-wage income tax shall be calculated based on the combined amount of tax imposed in subsection 5983(b) of this title on the filing unit for the same tax year.

Sec. 24. 32 V.S.A. § 5811(21) is amended to read:

(21) “Taxable income” means federal taxable income determined without regard to ~~Section 168(k) of the Internal Revenue Code~~ 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations; and

(iii) ~~the amount in excess of \$5,000.00 of state and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and the amount of total itemized deductions in excess of the standard deduction allowable to the taxpayer;~~

\* \* \*

Sec. 25. 33 V.S.A. § 1822 is amended to read:

§ 1822. IMPLEMENTATION; WAIVER

(a) Green Mountain Care shall be implemented 90 days following the last to occur of only after the occurrence of all of the events described in this subsection. If the last event is completed prior to July 1 in the year of its occurrence, Green Mountain Care shall be implemented on the first January 1 following the completion. If the last event is completed on or after July 1 in

the year of its occurrence, Green Mountain Care shall be implemented on the second January 1 following the completion. The required events shall be:

\* \* \*

Sec. 26. 33 V.S.A. § 1824 is amended to read:

§ 1824. ELIGIBILITY

(a)(1) Upon implementation, all Vermont residents shall be eligible for Green Mountain Care, ~~regardless of whether an employer offers health insurance for which they are eligible~~ except as otherwise provided in subsections (f)–(h) of this section. The Agency shall establish standards by rule for proof and verification of residency.

\* \* \*

(f)(1) Federal employees shall not be eligible for Green Mountain Care if they are eligible for health coverage through the federal government, except as provided in subdivision (2) of this subsection. As used in this section, “federal employee” means a person employed by the U.S. government who is eligible for the Federal Employees Health Benefits Program (FEHBP), a person retired from employment with the U.S. government who is eligible for the FEHBP, or an active or retired member of the U.S. Armed Forces who is eligible for a TRICARE plan.

(2) A federal employee who would otherwise be ineligible for Green Mountain Care may choose to participate in the program by enrolling in Green Mountain Care and paying the opt-in to payroll tax for federal employees established in 32 V.S.A. § 5984.

(g) An individual who is not a federal employee but who is eligible for an employer-sponsored health benefit plan or a retiree health benefit plan may choose Green Mountain Care or the employer’s or retiree plan as his or her primary coverage.

(1) If the individual chooses Green Mountain Care for primary coverage, he or she shall enroll in the program according to the procedure established by the Secretary of Human Services pursuant to this subchapter.

(2) If the individual chooses to remain on the employer’s or retiree plan, the Agency of Human Services shall pay the individual’s share of the premium for the employer-sponsored or retiree health benefit plan unless it would be more cost-effective to the State for Green Mountain Care to provide the individual’s primary coverage. In conducting its analysis of cost-effectiveness, the Agency shall factor in the cost of providing any additional benefits included in the Green Mountain Care benefit package, as well as Green Mountain Care’s status as secondary payer for services covered in whole or in



part by other health benefit plans pursuant to section 1827 of this title. The Agency shall not consider the medical history, medical conditions, or claims history of any individual for whom cost-effectiveness is being evaluated.

(A) If an individual remains on his or her employer's or retiree plan, the Agency shall pay from the Green Mountain Care Fund the employee's or retiree's share of the premium on behalf of that individual unless the Agency determines that doing so is not cost-effective for the State. Green Mountain Care shall provide any additional benefits included in the Green Mountain Care benefit package that would not otherwise be available to individuals participating in the employer-sponsored or retiree health benefit plan and shall serve as secondary payer for any benefits covered in whole or in part by the employer's or retiree plan.

(B) If the Agency determines that Green Mountain Care can provide health services to the individual in a manner that is more cost-effective to the State than making the premium payment, providing additional benefits, and serving as secondary payer through Green Mountain Care, the Agency shall not make the premium payment described in subdivision (A) of this subdivision (2).

(h) Individuals who are 65 years of age or older shall be included in Green Mountain Care and shall contribute to its financing, except that an individual who is enrolled in Medicare Parts B and D, who is enrolled in Medicare Parts C and D, or who has supplemental insurance that provides substantially the same benefits as Medicare Parts B and D may choose not to participate in Green Mountain Care and to be exempt from the tax on nonwage income pursuant to 32 V.S.A. § 5988, if applicable.

Sec. 27. 33 V.S.A. § 1825 is amended to read:

§ 1825. HEALTH BENEFITS

(a)(1) The benefits for Green Mountain Care shall include primary care, preventive care, chronic care, acute episodic care, and hospital services and shall include at least the same covered services as those included in the benefit package in effect for the lowest cost Catamount Health plan offered on January 1, 2011 consist of the benefits available in the benchmark plan for the Vermont Health Benefit Exchange.

\* \* \*

(4)(A) The No earlier than one year before and not more than three years after implementation of Green Mountain Care, the Green Mountain Care Board established in 18 V.S.A. chapter 220 shall ~~consider~~ determine whether to ~~include~~ additional benefits, including dental, vision, and hearing, and long-term care benefits ~~in~~ ,should be added to the Green Mountain Care benefit

package. If the Green Mountain Care Board determines that one or more additional benefits should be added to the benefit package, the Board shall propose to the General Assembly a method for financing the additional benefit or benefits. The additional benefit or benefits shall be offered in Green Mountain Care only after the General Assembly has approved a financing mechanism and amount.

~~(B) The Green Mountain Care Board shall consider whether to include long term care benefits in the Green Mountain Care benefit package.~~

\* \* \*

Sec. 28. 33 V.S.A. § 1827(f) is amended to read:

(f) Green Mountain Care shall be the secondary payer with respect to any health service that may be covered in whole or in part by any other health benefit plan, including private health insurance, or retiree health benefits, ~~or federal health benefit plans offered by the Veterans' Administration, by the military, or to federal employees.~~

Sec. 29. 33 V.S.A. § 1829 is amended to read:

§ 1829. GREEN MOUNTAIN CARE FUND

(a) The Green Mountain Care Fund is established in the State Treasury as a special fund to be the single source to finance health care coverage for Green Mountain Care.

(b) Into the Fund shall be deposited:

(1) transfers or appropriations from the General Fund, authorized by the General Assembly;

(2) if authorized by a waiver from federal law, federal funds for Medicaid, Medicare, and the Vermont Health Benefit Exchange established in chapter 18, subchapter 1 of this title; ~~and~~

(3) 7.7 percent of the income taxes levied pursuant to 32 V.S.A. chapter 151; and

(4) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute or by rule.

(c) The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the Fund and any remaining balance shall be retained in the Fund. The Agency shall maintain records indicating the amount of money in the Fund at any time.

(d) All monies received by or generated to the Fund shall be used only for:

(1) the administration and delivery of health services covered by Green Mountain Care as provided in this subchapter; ~~and~~

(2) expenses related to the duties and operation of the Green Mountain Care Board pursuant to 18 V.S.A. chapter 220; and

(3) the payment of premiums pursuant to subsection 1824(g) of this title.

Sec. 30. 32 V.S.A. § 435(b)(5) is amended to read:

(5) ~~Individual~~ 92.3 percent of the income taxes levied pursuant to chapter 151 of this title;

Sec. 31. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) the amendments in Sec. 12 to 21 V.S.A. § 2002 shall apply beginning in the first quarter of fiscal year 2015;

(2) Secs. 23 (non-wage income tax), 24 (itemized deductions), 29 (Green Mountain Care Fund), and 30 (General Fund) shall take effect on the date Green Mountain Care is implemented pursuant to 33 V.S.A. § 1822(a); and

(3) Sec. 22 (payroll tax) shall take effect on the first day of the last quarter of the calendar year preceding implementation of Green Mountain Care pursuant to 33 V.S.A. § 1822(a).

Thereupon, pending the question Shall the bill be amended as recommended by Senator Galbraith?, Senator Galbraith requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, the recommendation of amendment of the Committee on Finance, as amended, was agreed to and third reading of the bill was ordered.

### **Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 208.** An act relating to solid waste management.

**S. 220.** An act relating to amending the workers' compensation law, establishing a registry of sole contractors, increasing the funds available to the Department of Tourism and Marketing for advertising, and regulating legacy insurance transfers.

**S. 225.** An act relating to early retirement allowance.

**Bill Amended; Bill Passed****S. 218.**

Senate bill entitled:

An act relating to temporary employees.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sirotkin, Benning and Rodgers move to amend the bill by striking out Sec. 2 subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) may conduct preemployment drug screening, in accordance with 21 V.S.A. § 512, of all permanent and temporary Department of Corrections employees hired after July 1, 2014;

Which was agreed to.

Thereupon, the bill was read the third time and passed.

**Bill Amended; Bill Passed****S. 239.**

Senate bill entitled:

An act relating to the regulation of toxic substances.

Was taken up.

Thereupon, pending third reading of the bill, Senator White moved to amend the bill as follows:

First: In Sec. 2, 18 V.S.A. § 1779, at the end of the section by adding a new sentence to read as follows:

The Commissioner may publish information submitted or acquired under this chapter that is designated a trade secret, confidential business information, or otherwise confidential by law, provided that the information shall be published in a summary or aggregate form and the information shall not directly or indirectly identify an individual manufacturer or a business advantage of an individual manufacturer.

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 18 V.S.A. § 1779 is amended to read

§ 1779. CONFIDENTIALITY

Information submitted to or acquired by the Department or the Chemicals of High Concern Working Group under this chapter may be subject to public

inspection or copying or may be published on the Department website, provided that:

(1) Information that is protected under the Uniform Trade Secrets Act, as codified under 9 V.S.A. chapter 143, 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.

(2) The Commissioner may publish information collected under this section provided that the information is not trade secret information or confidential business information, or is not otherwise designated confidential by law.

(3) The Commissioner may publish information submitted or acquired under this chapter that is designated a trade secret, confidential business information, or otherwise confidential by law, provided that the information shall be published in a summary or aggregate form and the information shall not directly or indirectly identify an individual manufacturer or a business advantage of an individual manufacturer.

(4) The Commissioner may require, as a part of a report or notice submitted under this chapter, that a manufacturer submit a notice or report that does not contain trade secret information or confidential business information and is available for public inspection and review.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Flory moved to amend the bill as follows:

First: In Sec. 2, in 18 V.S.A. § 1778, in subsection (a), by striking out the third sentence in its entirety and inserting in lieu thereof the following:

Monies in the Fund shall be made available to:

(1) the Department of Health and the Agency of Natural Resources to pay costs incurred in administration of the requirements of this chapter; and

(2) the Office of the Attorney General to defend the requirements of this chapter.

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

Sec. 4a. ATTORNEY GENERAL; COSTS OF LITIGATION; TOXIC CHEMICAL IDENTIFICATION

The Office of the Attorney General shall monitor and record the costs of litigation incurred in the defense of the requirements of the Toxic Chemical Identification program under 18 V.S.A. chapter 38A. Beginning on January 15, 2015, and annually thereafter, the Attorney General shall submit to the Senate Committee on Health and Welfare, the House Committee on Human Services, the Senate Committee on Economic Development, Housing and General Affairs, the House Committee on Commerce, and the House and Senate Committees on Appropriations a report regarding the amount spent in defense of the requirements of the Toxic Chemical Identification program under 18 V.S.A. chapter 38A.

Which was disagreed to on a division of the Senate Yeas 9, Nays 14.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill in Sec. 2, in 18 V.S.A. § 1772, in subdivision (4), by striking out subparagraph (F) in its entirety; and at the end of subparagraph (E), by inserting or; and by relettering the remaining subparagraph to be alphabetically correct.

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call Yeas 17, Nays 11.

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

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Baruth, Bray, Campbell, Cummings, Doyle, French, Galbraith, Lyons, MacDonald, McCormack, Mullin, Pollina, Sirotkin, White, Zuckerman.

**Those Senators who voted in the negative were:** Benning, Flory, Hartwell, Kitchel, Mazza, Nitka, Rodgers, Sears, Snelling, Starr, Westman.

**Those Senators absent and not voting were:** Collins, McAllister.

#### **Bills Passed in Concurrence with Proposal of Amendment**

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

**H. 441.** An act relating to changing provisions within the Vermont Common Interest Ownership Act related to owners of time-shares.

**H. 609.** An act relating to terminating propane service.

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**Third Readings Ordered**

**H. 563.**

Senator MacDonald, for the Committee on Finance, to which was referred House bill entitled:

An act relating to captive insurance laws and accreditation standards.

Reported that the bill ought to pass in concurrence.

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

**H. 602.**

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

An act relating to municipal budget committees.

Reported that the bill ought to pass in concurrence.

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

**Adjournment**

On motion of Senator Campbell, the Senate adjourned until eleven o'clock and thirty minutes in the morning.