

House Calendar

Friday, February 12, 2016

39th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

TABLE OF CONTENTS

	Page No.
ACTION CALENDAR	
Third Reading	
H. 533 Victim notification	103
H. 608 Solid waste management	103
H. 622 Obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect	103
H. 765 Technical corrections	103
Committee Bill for Second Reading	
H. 845 Legislative review of certain report requirements..... Rep. Cole for Government Operations	103
Favorable with Amendment	
H. 400 Various changes to judicial procedure	103
Rep. Nuovo for Judiciary	
H. 677 The Restitution Unit	107
Rep. Burditt for Judiciary	
Action Postponed Until February 17, 2016	
Favorable with Amendment	
H. 249 Intermunicipal services and the authority to create a regional council of governments	108
Pending Action: Second Reading	

NOTICE CALENDAR

Favorable with Amendment

- H. 539** Establishment of a Pollinator Protection Committee 108
Rep. Zagar for Agriculture and Forest Products
- H. 625** Extending the exemption from encumbrance on title of properties
subject to a pretransition stormwater permit 110
Rep. Krebs for Fish, Wildlife and Water Resources

Senate Proposal of Amendment

- H. 187** Absence from work for health care and safety 111
- H. 611** Fiscal year 2016 budget adjustments 121

Consent Calendar

- H.C.R. 233** In memory of Richard Walters of Shelburne 125
- H.C.R. 234** Honoring MacArthur Fellow Alison Bechdel of Bolton on her
artistic and literary achievements 125
- H.C.R. 235** Designating February 5, 2016 as Wear Red Day in Vermont ... 125
- H.C.R. 236** Congratulating the 2015 Middlebury College Panthers National
Collegiate Athletic Association's Division III championship field hockey team
..... 125
- H.C.R. 238** Congratulating Vermont National Guard Specialist Skylar
Anderson on becoming the first woman certified as a U.S. military combat
engineer 125
- H.C.R. 239** Honoring Rip Jackson on his outstanding service as minister of
music at Grace Congregational Church in Rutland 125
- H.C.R. 240** Designating February 11, 2016 as Suicide Prevention Awareness
Day in Vermont 126
- H.C.R. 241** Honoring Dr. Donald and Elizabeth Bicknell for their many years
of outstanding community service 126
- S.C.R. 34** Senate concurrent resolution honoring natural resources and
transportation historian William G. Gove of Williamstown for his prodigious
research and fascinating books 126

ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 533

An act relating to victim notification

H. 608

An act relating to solid waste management

H. 622

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect

H. 765

An act relating to technical corrections

Committee Bill for Second Reading

H. 845

An act relating to legislative review of certain report requirements.

(Rep. Cole of Burlington will speak for the Committee on Government Operations.)

Favorable with Amendment

H. 400

An act relating to various changes to judicial procedure

Rep. Nuovo of Middlebury, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 2666 is amended to read:

§ 2666. MODIFICATION; TERMINATION

* * *

(b) Where the permanent guardianship is terminated by the ~~probate division of the superior court~~ Probate Division of the Superior Court order or the death of the permanent guardian, the custody and guardianship of the child shall not revert to the parent, but to the ~~commissioner for children and families~~ Commissioner for Children and Families as if the child had been abandoned.

(1) Upon the death of the permanent guardian or when the permanent guardianship is otherwise terminated by order of the Probate Division, the Probate Division shall issue an order placing the child in the custody of the Commissioner and shall immediately notify the Department for Children and Families, the State's Attorney, and the Family Division.

(2) The order transferring the child's legal custody to the Commissioner shall have the same legal effect as a similar order issued by the Family Division under the authority of 33 V.S.A. chapters 51-53.

(3) After the Probate Division issues the order transferring legal custody of the child, the State shall commence proceedings under the authority of 33 V.S.A. chapters 51-53 as if the child were abandoned.

* * *

Sec. 2. 14 V.S.A. § 2667 is amended to read:

§ 2667. ORDER FOR VISITATION, CONTACT, OR INFORMATION;
IMMEDIATE HARM TO THE MINOR

(a) ~~The probate division of the superior court~~ Probate Division of the Superior Court shall have exclusive jurisdiction to hear any action to enforce, modify, or terminate the initial order issued by the ~~family division of the superior court~~ Family Division of the Superior Court for visitation, contact, or information.

(b) Upon a showing by affidavit of immediate harm to the child, the ~~probate division of the superior court~~ Probate Division of the Superior Court may temporarily stay the order of visitation or contact on an ex parte basis until a hearing can be held, or stay the order of permanent guardianship and ~~assign parental rights and responsibilities~~ transfer legal custody of the child to the ~~commissioner for children and families~~ Commissioner for Children and Families.

(1) The order transferring the child's legal custody to the Commissioner shall have the same legal effect as a similar order issued by the Family Division under the authority of 33 V.S.A. chapters 51-53.

(2) The Probate Division shall then immediately notify the Department for Children and Families, the State's Attorney, and the Family Division when it has issued an order transferring the child's legal custody to the Commissioner, and nothing in this subsection shall prohibit the State from commencing proceedings under 33 V.S.A. chapters 51-53.

* * *

Sec. 3. 33 V.S.A. § 5223 is amended to read:

§ 5223. FILING OF PETITION

(a) When notice to the child is provided by citation, the State's Attorney shall file the petition and supporting affidavit at least 10 business days prior to the date for the preliminary hearing specified in the citation.

(b) The Court shall send or deliver a copy of the petition and affidavit to all persons required to receive notice, including the noncustodial parent and the Department, as soon as possible after the petition is filed and at least five business days prior to the date set for the preliminary hearing.

Sec. 4. 33 V.S.A. § 5229 is amended to read:

§ 5229. MERITS ADJUDICATION

* * *

(g) If, based on the child's admission or the evidence presented, the Court finds beyond a reasonable doubt that the child has committed a delinquent act, the Court shall order the Department to prepare a disposition case plan ~~within 28 days of the merits adjudication and shall set the matter for a~~ not later than seven business days before the disposition hearing. In no event, shall a disposition hearing be held later than 35 days after a finding that a child is delinquent.

(h) The Court may proceed directly to disposition providing that the child, the custodial parent, the State's Attorney, and the Department agree.

Sec. 5. 33 V.S.A. § 5230 is amended to read:

§ 5230. DISPOSITION CASE PLAN

(a) Filing of case plan. ~~The Following the finding by the Court that a child is delinquent, the~~ Department shall file a disposition case plan ~~no not later than 28 days from the date of the finding by the Court that a child is delinquent~~ seven business days before the scheduled disposition hearing. The disposition case plan shall not be used or referred to as evidence prior to a finding that a child is delinquent.

* * *

Sec. 6. 33 V.S.A. § 5315 is amended to read:

§ 5315. MERITS ADJUDICATION

* * *

(f) If the Court finds that the allegations made in the petition have not been established, the Court shall dismiss the petition and vacate any temporary orders in connection with this proceeding. A dismissal pursuant to this subsection is a final order subject to appeal.

(g) If the Court finds that the allegations made in the petition have been established based on the stipulation of the parties or on the evidence if the merits are contested, the Court shall order the Department to prepare a disposition case plan ~~within 28 days of the merits hearing and shall set the matter for a~~ not later than seven business days before a scheduled disposition hearing. An adjudication pursuant to this subsection is not a final order subject to appeal separate from the resulting disposition order.

* * *

Sec. 7. 33 V.S.A. § 5315a is added to read:

§ 5315a. MERITS STIPULATION

(a) At any time after the filing of the CHINS petition and prior to an order of adjudication on the merits, the Court may approve a written stipulation to the merits of the petition and any or all elements of the disposition plan, including the permanency goal, placement, visitation, or services.

(b) The Court may approve a written stipulation if:

(1) the parties to the petition, as defined in subdivision 5102 (22) of this title, agree to the terms of the stipulation; and

(2) the Court determines that:

(A) the agreement between the parties is voluntary;

(B) the parties to the agreement understand the nature of the allegation; and

(C) the parties to the agreement understand the rights waived if the Court approves of and issues an order based upon the stipulation.

Sec. 8. 33 V.S.A. § 5316 is amended to read:

§ 5316. DISPOSITION CASE PLAN

(a) ~~The~~ Following a finding by the Court that a child is in need of care or supervision, the Department shall file a disposition case plan ordered pursuant to subsection 5315(g) of this title ~~no not~~ later than ~~28 days from the date of the finding by the Court that a child is in need of care or supervision~~ seven business days before the scheduled disposition hearing.

* * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

H. 677

An act relating to the Restitution Unit

Rep. Burditt of West Rutland, for the Committee on **Judiciary**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7043(n) is amended to read:

(n)(1) Any monies owed by the State to an offender who is under a restitution order, including lottery winnings, unclaimed property, and tax refunds, shall be used to discharge the restitution order to the full extent of the unpaid total financial losses, regardless of the payment schedule established by the Courts.

(2) The Restitution Unit may request from the Office of the Treasurer the names and Social Security or federal identification numbers of owners of unclaimed property prior to notice being given to such persons pursuant to 27 V.S.A. § 1249. If any such owner owes restitution, the Restitution Unit, after notice to the owner, may request and the Treasurer shall transfer the unclaimed property of such owner to the Restitution Unit to be applied to the amount of restitution owed. The notice shall advise the owner of the action being taken and the right to appeal the setoff if he or she is not the person liable under the Restituion Judgment Order; or if the underlying conviction was vacated or is under appeal.

(3) When an offender is entitled to a tax refund, any restitution owed by the offender shall be withheld from the refund pursuant to 32 V.S.A. chapter 151, subchapter 12.

~~(3)~~(4)(A) For all Vermont lottery games, the Lottery Commission shall, before issuing prize money of \$500.00 or more to a winner, determine whether the winner has an outstanding restitution order. If the winner owes restitution, the Lottery Commission shall withhold the entire amount of restitution owed and pay it to the Restitution Unit. The remainder of the winnings, if any, shall be sent to the winner. The winner shall be notified by the Restitution Unit of the offset prior to payment to the victim and given a period not to exceed 20 days to contest the accuracy of the information.

(B) The Restitution Unit shall inform the Lottery Commission of persons with outstanding restitution orders upon request. Each person subject to such an order shall be identified by name, address, and Social Security number.

(C) If a lottery winner has an outstanding restitution order and an outstanding child support order, the lottery winnings shall be offset first pursuant to 15 V.S.A. § 792 by the amount of child support owed, and second

pursuant to this subsection by the amount of restitution owed. The remainder of the winnings, if any, shall be sent to the winner.

~~(4)~~(5) Unless otherwise provided, monies paid under this subsection shall be paid directly to the Restitution Unit.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 11-0-0)

Action Postponed Until February 17, 2016

Favorable with Amendment

H. 249

An act relating to intermunicipal services and the authority to create a regional council of governments

Pending Action: Second Reading

NOTICE CALENDAR

Favorable with Amendment

H. 539

An act relating to establishment of a Pollinator Protection Committee

Rep. Zagar of Barnard, for the Committee on **Agriculture & Forest Products**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. POLLINATOR PROTECTION COMMITTEE; REPORT

(a) Definition. As used in this section, “pollinator” means bees, birds, bats, and other insects or wildlife that pollinate flowering plants.

(b) Creation. There is created a Pollinator Protection Committee to:

(1) evaluate the causes and occurrences of reduced pollinator populations in the State; and

(2) recommend measures the State can adopt to conserve and protect pollinator populations.

(c) Membership. The Pollinator Protection Committee shall be composed of the following ten members:

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

(2) a person who is a beekeeper, appointed by the Governor;

(3) a dairy farmer, appointed by the Governor;

(4) a person representing a not-for-profit organization advocating the protection of pollinators, appointed by the Governor;

(5) a person who is a beekeeper, appointed by the Speaker of the House;

(6) a person who is a university employee with expertise in the protection of pollinators, appointed by the Speaker of the House;

(7) a tree fruit farmer, appointed by the Speaker of the House;

(8) a vegetable farmer, appointed by the Committee on Committees;

(9) a person licensed or certified to sell or apply pesticides, herbicides, or other economic poisons in the State, appointed by the Committee on Committees; and

(10) a person who owns or operates a greenhouse or plant nursery, appointed by the Committee on Committees.

(d) Powers and duties. The Pollinator Protection Committee shall:

(1) Evaluate the status in Vermont of the U.S. Department of Agriculture's five pillars of pollinator health. The five pillars of pollinator health are: pollinator biology; nutrition and habitat; pathogens and pests; pesticide use; and genetics and breeding.

(2) Evaluate the effectiveness of pesticide applicator licensing and other pesticide requirements in the State in protecting pollinator health.

(3) Evaluate other state or international pesticide regulations that are more protective of pollinator health than the pesticide regulations of Vermont or the U.S. Environmental Protection Agency.

(4) Study available education and outreach plans from other states that have been successful in increasing public awareness of pollinator health issues.

(5) Evaluate best management practices for application of neonicotinoid pesticides in a manner that avoids harm to pollinators.

(6) Identify possible sources of funds for use in the protection of pollinator health.

(7) Consider the requirements in 2015 Vt. Acts and Resolves No. 64 (State Clean Water Act) regarding buffers along State waters and whether and how areas in buffers or other areas that require perennial vegetation should be encouraged for use as pollinator forage zones or pollinator growing areas.

(8) Develop a State pollinator protection plan using the framework and critical elements from the Association of American Pesticide Control Officials Pollinator Protection Plan guidance.

(e) Assistance. The Pollinator Protection Committee shall have the administrative, technical, and legal assistance of the Agency of Agriculture, Food and Markets. Upon request of the Committee, the Department of Health, the State Toxicologist, the Agency of Natural Resources, the Agency of Transportation, the University of Vermont Extension Service, or the Department of Forests, Parks and Recreation shall provide technical or professional services related to performance of the powers and duties of the Committee. The Committee may request input or assistance from other stakeholders or organizations that have an interest in pollinator health or the use and regulation of pesticides in the State.

(f) Report. On or before January 15, 2017, the Pollinator Protection Committee shall submit a written report to the House Committees on Fish, Wildlife and Water Resources and on Agriculture and Forest Products and the Senate Committees on Natural Resources and Energy and on Agriculture with its findings and any recommendations for legislative action.

(g) Meetings.

(1) The Secretary of Agriculture, Food and Markets shall call the first meeting of the Committee to occur on or before September 1, 2016.

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

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

(4) The Committee shall cease to exist on February 15, 2017.

(h) Reimbursement. Members of the Pollinator Protection Committee shall not be entitled to compensation or reimbursement of expenses for participation in the Committee.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

H. 625

An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit

Rep. Krebs of South Hero, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended as follows:

First: In Sec. 1, after “shall be repealed on June 30, 2016” and before the period by striking out “2017” and inserting in lieu thereof “2018”

Second: In Sec. 2, 27 V.S.A. § 613, in subdivision (b)(2), after “June 30, 2016” and before “, the mortgagor” by striking out “2017” and inserting in lieu thereof “2018”

(Committee Vote: 9-0-0)

Senate Proposal of Amendment

H. 187

An act relating to absence from work for health care and safety

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. FINDINGS

The General Assembly finds:

(1) According to the Vermont Department of Labor’s 2013 Fringe Benefits Study, roughly one-half of all private sector employers provide some form of paid leave to their employees.

(2) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that slightly less than 50 percent of private sector workers employed by companies with fewer than 20 workers have access to paid leave, while approximately 78 percent of workers employed by larger companies have access to paid leave time.

(3) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that more than 60,000 working Vermonters lack access to paid leave.

Sec. 2. PURPOSE

(a) The purpose of this act is to promote a healthier environment at work, school, and in public by ensuring that employees are provided with paid leave time for purposes of health care and safety.

(b) It is the intent of the General Assembly that:

(1) all employers doing business in or operating in the State of Vermont shall be required to provide earned sick time to their employees as provided by this act; and

(2) all employers that currently offer any type of paid time off from work that may, at a minimum, be used by the employer’s employees in the amounts and for the purposes required pursuant to this act shall not be required to change their paid time off policy or offer additional paid leave.

Sec. 3. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

* * *

(d) For the purposes of earned sick time, an employer shall comply with the provisions required under subchapter 4B of this chapter.

Sec. 4. 21 V.S.A. chapter 5, subchapter 4B is added to read:

Subchapter 4B. Earned Sick Time

§ 481. DEFINITIONS

As used in this subchapter:

(1) “Employer” means any individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State.

(2) “Combined time off” means a policy wherein the employer provides time off from work for vacation, sickness, or personal reasons, and the employee has the option to use all of the leave for whatever purpose he or she chooses.

(3) “Commissioner” means the Commissioner of Labor.

(4) “Earned sick time” means discretionary time earned and accrued under the provisions of this subchapter and used by an employee to take time off from work for the purposes listed in subdivisions 483(a)(1)–(5) of this subchapter.

(5) “Employee” means a person who, in consideration of direct or indirect gain or profit, is employed by an employer for an average of no less than 18 hours per week during a year. However, the term “employee” shall not include:

(A) An individual who is employed by the federal government.

(B) An individual who is employed by an employer:

(i) for 20 weeks or fewer in a 12-month period; and

(ii) in a job scheduled to last 20 weeks or fewer.

(C) An individual that is employed by the State and is exempt or excluded from the State classified service pursuant to 3 V.S.A. § 311, but not an individual that is employed by the State in a temporary capacity pursuant to 3 V.S.A. § 331.

(D) An employee of a health care facility as defined in 18 V.S.A. § 9432(8) or a facility as defined in 33 V.S.A. § 7102(2) if the employee only works on a per diem or intermittent basis.

(E) An employee of a school district, supervisory district, or supervisory union as defined in 16 V.S.A. § 11 that:

(i) is employed pursuant to a school district or supervisory union policy on substitute educators as required by the Vermont Standards Board for Professional Educators Rule 5381;

(ii) is under no obligation to work a regular schedule; and

(iii) is not under contract or written agreement to provide at least one period of long-term substitute coverage which is defined as 30 or more consecutive school days in the same assignment.

(F) An individual who is under 18 years of age.

(G) An individual that is either:

(i) a sole proprietor or partner owner of an unincorporated business who is excluded from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(F) of this title; or

(ii) an executive officer, manager, or member of a corporation or a limited liability company for whom the Commissioner has approved an exclusion from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(H) of this title.

(H) An individual that:

(i) works on a per diem or intermittent basis;

(ii) works only when he or she indicates that he or she is available to work;

(iii) is under no obligation to work for the employer offering the work; and

(iv) has no expectation of continuing employment with the employer.

(6) "Paid time off policy" means any policy under which the employer provides paid time off from work to the employee that includes a combination of one or more of the following:

(A) annual leave;

(B) combined time off;

(C) vacation leave;

- (D) personal leave;
- (E) sick leave; or
- (F) any similar type of leave.

§ 482. EARNED SICK TIME

(a) An employee shall accrue not less than one hour of earned sick time for every 52 hours worked.

(b) An employer may require a waiting period for newly hired employees of up to one year. During this waiting period, an employee shall accrue earned sick time pursuant to this subchapter, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(c) An employer may:

(1) limit the amount of earned sick time accrued pursuant to this section to:

(A) from January 1, 2017 until December 31, 2018, a maximum of 24 hours in a 12-month period; and

(B) after December 31, 2018, a maximum of 40 hours in a 12-month period; or

(2) limit to 40 hours the number of hours in each workweek for which full-time employees not subject to the overtime provisions of the Federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), may accrue earned sick time pursuant to this section.

(d)(1) Earned sick time shall be compensated at a rate that is equal to the greater of either:

(A) the normal hourly wage rate of the employee; or

(B) the minimum wage rate for an employee pursuant to section 384 of this title.

(2) Group insurance benefits shall continue during an employee's use of earned sick time at the same level and conditions that coverage would be provided as for normal work hours. The employer may require that the employee contribute to the cost of the benefits during the use of earned sick time at the existing rate of employee contribution.

(e) Except as otherwise provided by subsection 484(a) of this subchapter, an employer shall calculate the amount of earned sick time that an employee has accrued pursuant to this section:

(1) as it accrues during each pay period; or

(2) on a quarterly basis, provided that an employee may use earned sick time as he or she accrues it during each quarter.

§ 483. USE OF EARNED SICK TIME

(a) An employee may use earned sick time accrued pursuant to section 482 of this subchapter for any of the following reasons:

(1) The employee is ill or injured.

(2) The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.

(3) The employee cares for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment, or accompanying the employee's parent, grandparent, spouse, or parent-in-law to an appointment related to his or her long-term care.

(4) The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or for the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. As used in this section, "domestic violence," "sexual assault," and "stalking" shall have the same meanings as in 15 V.S.A. § 1151.

(5) The employee cares for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.

(b) If an employee's absence is shorter than a normal workday, the employee shall use earned sick time accrued pursuant to section 482 of this subchapter in the smallest time increments that the employer's payroll system uses to account for other absences or that the employer's paid time off policy permits. Nothing in this subsection shall be construed to require an employer to permit an employee to use earned sick time in increments that are shorter than one hour.

(c) An employer may limit the amount of earned sick time accrued pursuant to section 482 of this subchapter that an employee may use to:

(1) from January 1, 2017 until December 31, 2018, no more than 24 hours in a 12-month period; and

(2) after December 31, 2018, no more than 40 hours in a 12-month period.

(d)(1) Except as otherwise provided in subsection 484(a) of this subchapter, earned sick time that remains unused at the end of an annual period shall be carried over to the next annual period and the employee shall continue to accrue earned sick time as provided pursuant to section 482 of this subchapter. However, nothing in this subdivision shall be construed to permit an employee to use more earned sick time during an annual period than any limit on the use of earned sick time that is established by his or her employer pursuant to subsection (c) of this section.

(2) If, at an employer's discretion, an employer pays an employee for unused earned sick time accrued pursuant to section 482 of this subchapter at the end of an annual period, then the amount for which the employee was compensated does not carry over to the next annual period.

(e) Upon separation from employment, an employee shall not be entitled to payment for unused earned sick time accrued pursuant to section 482 of this subchapter unless agreed upon by the employer.

(f)(1) An employee who is discharged by his or her employer after he or she has completed a waiting period required pursuant to subsection 482(b) of this subchapter and is subsequently rehired by the same employer within 12 months after the discharge from employment shall begin to accrue and may use earned sick time without a waiting period. However, the employee shall not be entitled to retain any earned sick time that accrued before the time of his or her discharge unless agreed to by the employer.

(2) An employee that voluntarily separates from employment after he or she has completed a waiting period required pursuant to subsection 482(b) of this subchapter and is subsequently rehired by the same employer within 12 months after the separation from employment shall not be entitled to accrue and use earned sick time without a waiting period unless agreed to by the employer.

(g) An employer shall not require an employee to find a replacement for absences, including absences for professional diagnostic, preventive, routine, or therapeutic health care.

(h) An employer may require an employee planning to take earned sick time accrued pursuant to section 482 of this subchapter to:

(1) make reasonable efforts to avoid scheduling routine or preventive health care during regular work hours; or

(2) notify the employer as soon as practicable of the intent to take earned sick time accrued pursuant to section 482 of this subchapter and the expected duration of the employee's absence.

(i)(1) If an employee is absent from work for one of the reasons listed in subsection (a) of this section, the employee shall not be required to use earned sick time accrued pursuant to section 482 of this subchapter and the employer will not be required to pay for the time that the employee was absent if the employer and the employee mutually agree that either:

(A) the employee will work an equivalent number of hours as the number of hours for which the employee is absent during the same pay period; or

(B) the employee will trade hours with a second employee so that the second employee works during the hours for which the employee is absent and the employee works an equivalent number of hours in place of the second employee during the same pay period.

(2) Nothing in this subsection shall be construed to prevent an employer from adopting a policy that requires an employee to use earned sick time accrued pursuant to section 482 of this subchapter for an absence from work for one of the reasons set forth in subsection (a) of this section.

(j) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business. An employer shall also notify an employee of the provisions of this section at the time of the employee's hiring.

(k) An employee who uses earned sick time accrued pursuant to section 482 of this subchapter shall not diminish his or her rights under sections 472 and 472a of this title.

(l) The provisions against retaliation set forth in section 397 of this title shall apply to this subchapter.

(m) An employer who violates this subchapter shall be subject to the penalty provisions of section 345 of this title.

(n) The Commissioner shall enforce this subchapter in accordance with the procedures established in section 342a of this title. However, the appeal provision of subsection 342a(f) shall not apply to any enforcement action brought pursuant to this subsection.

§ 484. COMPLIANCE WITH EARNED SICK TIME REQUIREMENT

(a) An employer shall be in compliance with this subchapter if either of the following occurs:

(1) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with paid time off from work that:

(A) he or she may use for all of the reasons set forth in subsection 483(a) of this subchapter; and

(B) accrues and may be used at a rate that is equal to or greater than the rate set forth in sections 482 and 483 of this subchapter.

(2) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with at least the full amount of paid time off from work required pursuant to sections 482 and 483 of this subchapter at the beginning of each annual period and the employee may use it at any time during the annual period for the reasons set forth in subsection 483(a) of this subchapter. If the employer provides an employee with the full amount of paid time off at the beginning of each annual period, the paid time off shall not carry over from one annual period to the next as provided in subdivision 483(d)(1) of this subchapter.

(b) Nothing in this subchapter shall be construed to require an employer that satisfies the requirements of subsection (a) of this section to provide additional earned sick time to an employee that chooses to use paid time off that could be used for the reasons set forth in subdivisions 483(a)(1)–(5) of this subchapter for a different purpose.

(c) Nothing in this subchapter shall be construed to prevent an employer from providing a paid time off policy or agreeing to a collective bargaining agreement that provides a paid time off policy that is more generous than the earned sick time provided by this subchapter.

(d)(1) Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or paid time off policy that provides greater earned sick time rights than the rights provided by this subchapter.

(2) Nothing in this subchapter shall be construed to preempt or override the terms of a collective bargaining agreement that is in effect before January 1, 2017.

(e) A collective bargaining agreement or paid time off policy may not diminish the rights provided by this subchapter.

§ 485. SEVERABILITY OF PROVISIONS

If any provision of this subchapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the subchapter and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

§ 486. NEW EMPLOYER EXEMPTION

(a) Notwithstanding any provision of this subchapter to the contrary, new employers shall not be subject to the provisions of this subchapter for a period of one year after the employer hires its first employee.

(b) For purposes of enforcement under subsections 483(l)–(n) of this subchapter, an employer shall be presumed to be subject to the provisions of this subchapter unless the employer proves that a period of no more than one year elapsed between the date on which the employer hired its first employee and the date on which the employer is alleged to have violated the provisions of this subchapter.

(c) No employer shall transfer an employee to a second employer with whom there is, at the time of the transfer, substantially common ownership, management, or control for the purposes of either employer claiming an exemption pursuant to subsection (a) of this section.

Sec. 5. 21 V.S.A. § 345 is amended to read:

§ 345. NONPAYMENT OF WAGES AND BENEFITS

(a) Each employer who violates sections ~~342 and 343~~ 342, 343, 482, and 483 of this title shall be fined not more than \$5,000.00. Where the employer is a corporation, the president or other officers who have control of the payment operations of the corporation shall be considered employers and liable to the employee for actual wages due when the officer has willfully and without good cause participated in knowing violations of this chapter.

* * *

Sec. 6. DEPARTMENT OF LABOR REPORT

The Department of Labor shall, on or before January 15, 2019, report to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the number of inquiries and complaints submitted to the Department in relation to this act and the number of investigations and enforcement actions undertaken by the Department in relation to this act during the first two years after its effective date.

Sec. 6a. SMALL BUSINESS PLANNING AND IMPLEMENTATION ASSISTANCE

On or before November 15, 2017, the Commissioner of Labor and the Secretary of Commerce and Community Development shall develop and implement a program to provide employers that have five or fewer employees who are employed for an average of no less than 30 hours per week during a

year with assistance related to the development of time off policies and business plans necessary to implement the requirements of this act.

Sec. 6b. COST TO SMALL EMPLOYERS; SURVEY; REPORT

(a) The Department of Labor and the Agency of Commerce and Community Development shall conduct a survey of Vermont employers with five or fewer employees regarding the following:

(1) the number of employees employed by each employer;

(2) the hourly wages paid by each employer to its employees; and

(3) whether each employer provides its employees with paid time off from work that satisfies the requirements of 21 V.S.A. § 482–484 as enacted pursuant to Sec. 4 of this act.

(b) The Department of Labor and the Agency of Commerce and Community Development shall, on or before January 15, 2017, report to the General Assembly regarding the results of the survey and an estimate of the total additional cost to employers with five or fewer employees of providing earned sick time pursuant the requirements of this act.

Sec. 7. 29 V.S.A. § 161 is amended to read:

§ 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

(a) Bids; selection.

* * *

(3) All bids on State projects shall be required to comply with all applicable provisions of Title 21.

Sec. 8. EFFECTIVE DATES

(a)(1) This section, Sec. 6a, and 6b shall take effect on July 1, 2016.

(2) The remaining sections of this act shall take effect on January 1, 2017, except that an employer that has five or fewer employees who are employed for an average of no less than 30 hours per week shall not be subject to the provisions of 21 V.S.A. chapter 5, subchapter 4b until January 1, 2018.

(b)(1) An employer may require for its existing employees on January 1, 2017 a waiting period of up to one year. The waiting period pursuant to this subsection shall begin on January 1, 2017 and shall end on or before December 31, 2017. During this waiting period, an employee shall accrue earned sick time pursuant to 21 V.S.A. § 482, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(2) An employer that has five or fewer employees who are employed for an average of no less than 30 hours per week may require for its existing

employees on January 1, 2018 a waiting period of up to one year. The waiting period pursuant to this subsection shall begin on January 1, 2018 and shall end on or before December 31, 2018. During this waiting period, an employee shall accrue earned sick time pursuant to 21 V.S.A. § 482, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(For text see House Journal April 22, 23 2015)

H. 611

An act relating to fiscal year 2016 budget adjustments

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

First: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. 2015 Acts and Resolves No. 58, Sec. B.301 is amended to read:

Sec. B.301 Secretary's office - global commitment		
Operating expenses	4,541,736	69,303,699
Grants	<u>1,372,464,147</u>	<u>1,372,830,610</u>
Total	<u>1,377,005,883</u>	1,442,134,309
Source of funds		
General fund	208,728,673	217,281,414
Special funds	26,550,179	27,899,279
Tobacco fund	28,747,141	28,079,458
State health care resources fund	270,712,781	282,705,968
Federal funds	842,227,109	886,128,190
Interdepartmental transfers	<u>40,000</u>	<u>40,000</u>
Total	<u>1,377,005,883</u>	1,442,134,309

Second: By striking out Sec. 17 in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

Sec. 17. 2015 Acts and Resolves No. 58, Sec. B.307 is amended to read:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	<u>659,633,970</u>	<u>721,820,039</u>
Total	<u>659,633,970</u>	<u>721,820,039</u>
Source of funds		
Global commitment fund	<u>659,633,970</u>	<u>721,820,039</u>
Total	<u>659,633,970</u>	<u>721,820,039</u>

Third: By striking out Sec. 22 in its entirety and inserting in lieu thereof a new Sec. 22 to read as follows:

Sec. 22. 2015 Acts and Resolves No. 58, Sec. B.312 is amended to read:

Sec. B.312 Health - public health		
Personal services	37,391,426	39,304,394
Operating expenses	8,229,404	8,229,404
Grants	39,972,373	<u>39,661,136</u>
Total	85,593,203	87,194,934
Source of funds		
General fund	8,544,109	6,595,459
Special funds	16,854,895	17,004,542
Tobacco fund	2,461,377	2,461,377
Federal funds	38,184,687	37,945,155
Global commitment fund	18,401,274	22,043,386
Interdepartmental transfers	1,121,861	1,120,015
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	85,593,203	87,194,934

Fourth: By striking out Sec. 36 in its entirety and inserting in lieu thereof a new Sec. 36 to read as follows:

Sec. 36. 2015 Acts and Resolves No. 58, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds		
General fund	662,344,182	677,913,668
Special funds	95,588,135	97,129,681
Tobacco fund	32,619,752	31,952,069
State health care resources fund	270,712,781	282,705,968
Education fund	3,554,425	3,886,204
Federal funds	1,328,305,215	1,388,932,032
Global commitment fund	1,314,332,149	1,379,045,585
Internal service funds	1,816,195	1,816,195
Interdepartmental transfers	30,798,487	34,112,598
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	3,740,096,321	3,897,519,000

Fifth: In Sec. 53(a)(1), by striking out the following: “21550 Lands & Facilities Trust Fund”

Sixth: By adding a new section to be numbered Sec. 55a to read as follows:

Sec. 55a. FISCAL YEAR 2016 CONTINGENT GENERAL FUND APPROPRIATIONS

(a) In fiscal year 2016, to the extent that the Commissioner of Finance and Management determines that General Fund revenues exceed the 2016 official revenue forecast and other fund receipts assumed for all previously authorized fiscal year 2016 appropriations and transfers necessary to ensure the stabilization reserve is at its maximum authorized level under 32 V.S.A. § 308, \$10,300,000 is appropriated to the Agency of Administration for transfer to the Agency of Human Services for Global Commitment upon determination of the Commissioner of Finance and Management of the amount necessary to fund the 53rd week of Medicaid expenditures. Any funds remaining from this \$10,300,000 appropriation after this 53rd week payment shall be carried forward and revert to the General Fund for reallocation by the Legislature in the fiscal year 2017 budget adjustment or the fiscal year 2018 budget process.

(b) The Commissioner of Finance and Management shall report to the Joint Fiscal Committee in July 2016 on the status of the funds appropriated in this section.

Seventh: By adding two (2) new sections to be numbered Secs. 60a and 60b to read as follows:

Sec. 60a. JUDICIAL BRANCH POSITION AUTHORIZATION

(a) The establishment of the following new permanent exempt position in the Judicial Branch of State government is authorized in fiscal year 2017 – one (1) Superior judge.

Sec. 60b. 4 V.S.A. § 71(a) is amended to read:

(a) There shall be ~~32 superior~~ 34 Superior judges, whose term of office shall, except in the case of an appointment to fill vacancy or unexpired term, begin on April 1 in the year of their appointment or retention, and continue for six years.

Eighth: In Sec. 67, in the first sentence, by striking out the following: “18 V.S.A. chapters 220 and 221” and inserting in lieu thereof the following: chapters 220 and 221 of this title and in the third sentence, by striking out the following: “18 V.S.A. chapter 221” and inserting in lieu thereof the following: chapter 221 of this title

Ninth: By striking out Sec. 71 in its entirety and inserting in lieu thereof a new Sec. 71 to read as follows:

Sec. 71. SUPPLEMENTAL RAIL SPENDING

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the Fiscal Year 2016 Transportation Program, the Secretary of Transportation, with the approval of the Secretary of Administration and subject to the provisions of subsection (b) of this section, may transfer up to \$3,000,000 in Transportation Fund or Transportation

Infrastructure Bond Fund appropriations, other than appropriations for the Town Highway State Aid, Structures, and Class 2 Roadway programs, to the Transportation – Rail appropriation, for the specific purpose of addressing the increased cost of Amtrak service, emergency projects, and projects needing immediate attention during fiscal year 2016.

(b)(1) If a contemplated transfer of an appropriation would not delay the planned work schedule of a project, the Secretary of Transportation may execute the transfer and shall give prompt notice thereof to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and, when the General Assembly is not in session, to the Joint Transportation Oversight Committee.

(2) If a contemplated transfer of an appropriation would, by itself, delay the planned work schedule of a project, the Secretary:

(A) when the General Assembly is in session, may execute the transfer, but shall give the House and Senate Committees on Transportation advance notice of at least 10 business days prior to executing the transfer; or

(B) when the General Assembly is not in session, shall obtain the prior approval of the Joint Transportation Oversight Committee before the Secretary may execute the transfer.

(3) Contemplated transfers of Transportation Infrastructure Bond Fund appropriations shall comply with the limitations on the uses of such funds as provided in 19 V.S.A. § 11f.

(c) This section shall be repealed on July 1, 2016.

Tenth: By striking out Sec. 72 in its entirety and inserting in lieu thereof a new Sec. 72 to read as follows:

Sec.72. DEPARTMENT FOR CHILDREN AND FAMILIES; GENERAL ASSISTANCE REPORT

(a) By March 15, 2016, the Commissioner for Children and Families shall provide the House and Senate Committees on Appropriations, the House Committees on Human Services and on General, Housing and Military Affairs, and the Senate Committee on Health and Welfare a report on the funds spent year-to-date, through January and funds authorized through February 28, 2016, in the General Assistance budget for emergency housing and homelessness assistance that details the budgeted funds, usage, and projections for the remainder of the fiscal year for each type of housing service or assistance provided. The report shall also include the status on the development of alternatives to using motels as a solution for emergency housing, including a summary of programs and projects funded through the Office of Economic Opportunity.

Eleventh: In Sec. 74, by striking out subsection (b) in its entirety and inserting in lieu thereof two new subsections (b) and (c) to read as follows:

(b) Secs. 60a shall take effect on July 1, 2016.

(c) This section and all remaining sections shall take effect on passage.

(For text see House Journal January 26, 27, 2016)

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 February 11, 2016.

H.C.R. 233

House concurrent resolution in memory of Richard Walters of Shelburne

H.C.R. 234

House concurrent resolution honoring MacArthur Fellow Alison Bechdel of Bolton on her artistic and literary achievements

H.C.R. 235

House concurrent resolution designating February 5, 2016 as Wear Red Day in Vermont

H.C.R. 236

House concurrent resolution congratulating the 2015 Middlebury College Panthers National Collegiate Athletic Association's Division III championship field hockey team

H.C.R. 238

House concurrent resolution congratulating Vermont National Guard Specialist Skylar Anderson on becoming the first woman certified as a U.S. military combat engineer

H.C.R. 239

House concurrent resolution honoring Rip Jackson on his outstanding service as minister of music at Grace Congregational Church in Rutland

H.C.R. 240

House concurrent resolution designating February 11, 2016 as Suicide Prevention Awareness Day in Vermont

H.C.R. 241

House concurrent resolution honoring Dr. Donald and Elizabeth Bicknell for their many years of outstanding community service

S.C.R. 34

Senate concurrent resolution honoring natural resources and transportation historian William G. Gove of Williamstown for his prodigious research and fascinating books

Public Hearings

**Public Hearing on the Governor's Proposed Fiscal Year 2017 State Budget
For Advocates
House Committee on Appropriations**

Thursday, February 11, 2016, 1:15 p.m. – 2:45 p.m. for Agency of Human Services budget sections, and Thursday, February 18, 2016, 1:15 p.m. – 2:30 p.m. for all other sections of the budget. – The House Committee on Appropriations will receive testimony on the Governor's proposed FY2017 State budget during these Advocate hearings in room 11 of the State House. Please sign up in advance, with Theresa Utton-Jerman at (802) 828-5767 or tutton@leg.state.vt.us or in room 40.

The Governor's budget proposal can be viewed at the Department of Finance & Management's website:
http://finance.vermont.gov/state_budget/rec.

PUBLIC HEARING

**Joint Community-Based Public Hearings on Fiscal Year 2017 State Budget
House and Senate Committees on Appropriations**

Monday, February 15, 2016, 6:00 - 7:00 p.m. – The Vermont House and Senate Committees on Appropriations are seeking public input on the FY2017 proposed State budget and will hold five joint public hearings Monday, February 15, 2016, 6:00 – 7:00 p.m. at 5 locations across the State. For further information, please go to: <http://www.leg.state.vt.us/jfo/link/Community-Based%20Joint%20Public%20Hearings%20site%20list>

The Committees will take testimony on the Governor's FY 2017 State budget proposal at that time. Anyone interested in testifying should come to one of the hearings. Time limits on testimony may apply depending on volume of participants.

To view or print a copy of the proposed budget, go to the Department of Finance and Management's website at:

http://finance.vermont.gov/state_budget/rec.

For more information about the format of these events, or to submit written testimony, call Theresa Utton-Jerman or Rebecca Buck, Joint Fiscal Office, 802-828-5767 or toll-free 1-800-322-5616; or e-mail: tutton@leg.state.vt.us or rbuck@leg.state.vt.us. Requests for interpreters should be made to the office by 3:00 p.m. on Monday, February 1, 2016.

February 11, 2016 - Room 11 - 7:00 pm-8:00 pm - Judicial Retention of Judges - Joint Committee on Judicial Retention

Joint Assembly

February 18, 2016 - 10:30 AM A.M. – Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than February 11, 2016 , by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.