

House Calendar

Thursday, February 18, 2016

45th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 PM

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ORDERS OF THE DAY

Action Postponed Until February 18, 2016

Senate Proposal of Amendment

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>	1,372,830,610
Total	1,377,005,883	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>	40,000
Total	1,377,005,883	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>	721,820,039
Total	<u>659,633,970</u>	721,820,039
Source of funds		
Global commitment fund	<u>659,633,970</u>	721,820,039
Total	<u>659,633,970</u>	721,820,039

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	<u>39,972,373</u>	<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) Sec. 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)

ACTION CALENDAR

Third Reading

H. 249

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

H. 539

An act relating to establishment of a Pollinator Protection Committee

Favorable with Amendment

H. 297

An act relating to the sale of ivory or rhinoceros horn

Rep. McCullough of Williston, for the Committee on **Fish, Wildlife & Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 175 is added to read:

CHAPTER 175. IVORY AND RHINOCEROUS HORN

§ 7701. SALE OF IVORY OR RHINOCEROS HORN

(a) Definitions. As used in this act:

(1) “Ivory” means any tusk composed of ivory from an elephant or mammoth, or any piece thereof, whether raw ivory or worked ivory, or made into, or part of, an ivory product.

(2) “Ivory product” means any item that contains, or is wholly or partially made from, any ivory.

(3) “Raw ivory” means any ivory the surface of which, polished or unpolished, is unaltered or minimally changed by carving.

(4) “Rhinoceros horn” means the horn, or any piece thereof, of any species of rhinoceros.

(5) “Rhinoceros horn product” means any item that contains, or is wholly or partially made from, any rhinoceros horn.

(6) “Total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products” means the fair market value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products, or the actual price paid for the ivory, ivory products, rhinoceros horn, and rhinoceros products, whichever is greater.

(7) “Worked ivory” means ivory that has been embellished, carved, marked, or otherwise altered so that it can no longer be considered raw ivory.

(b) Prohibition. In addition to the prohibitions and penalties established by federal law, a person in this State shall not import, sell, offer for sale, purchase, barter, or possess with intent to sell, any ivory, ivory product, rhinoceros horn, or rhinoceros horn product, except as authorized under subsections (d) and (e) of this section.

(c) Presumption of intent to sell. The possession in this State of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product in a retail or wholesale outlet commonly used for the buying or selling of similar products shall constitute presumptive evidence of possession with intent to sell under this section. Nothing in this subsection shall preclude a finding of intent to sell based on any evidence that may serve independently to establish intent to sell. The act of obtaining an appraisal of ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product alone shall not constitute possession with intent to sell.

(d) Authorized conveyance to beneficiaries. A person may convey ivory, an ivory product, rhinoceros horn, or a rhinoceros horn product to the legal beneficiary of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product that is part of an estate or other items being conveyed to lawful beneficiaries upon the death of the owner of the ivory, ivory product, rhinoceros horn, or rhinoceros horn product or in anticipation of that death.

(e) Exceptions.

(1) The prohibitions of this section shall not apply to:

(A) employees or agents of the federal government or the State undertaking any law enforcement activities pursuant to federal or State law or any mandatory duties required by federal or State law;

(B) the import of legally acquired ivory, ivory products, rhinoceros horn, or rhinoceros horn products:

(i) expressly authorized by federal law, license, or permit; or

(ii) as part of a personal or household move into the State;

(C) the sale of ivory or ivory products expressly authorized by federal law, license, or permit, provided that the total weight of the ivory or ivory components is less than 200 grams; or

(D) the import, sale, offer for sale, purchase, barter, or possession with intent to sell of any ivory, ivory product, rhinoceros horn, or rhinoceros horn product for a bona fide educational or scientific purpose or to a museum, unless the proposed activity is prohibited by federal law.

(2) In connection with any action alleging violation of this section, any person claiming the benefit of any exception under this section shall have the burden of proving that the exception is applicable and was valid and in force at the time of the alleged violation.

(f) Enforcement and penalties.

(1) This section may be enforced by a law enforcement officer as defined in 20 V.S.A. § 2358.

(2) A person who violates this section or a rule adopted pursuant to this section commits a misdemeanor and shall be fined:

(A) For a first offense, \$1,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(B) For a second or subsequent offense, \$5,000.00 or an amount equal to two times the total value of the ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the offense, whichever is greater.

(3) The penalties provided in this section shall be in addition to any penalty that may be imposed under federal law.

(g) Seizure. Upon a conviction for a violation of this section or the rules adopted under this section, a court shall order the seizure of all ivory, ivory products, rhinoceros horn, and rhinoceros horn products involved in the violation and determine the penalty for the violation based on the assessed value of the seized products. After sentencing the defendant, the court shall order that the seized ivory, ivory products, rhinoceros horn, and rhinoceros horn products be transferred to the Secretary of Natural Resources for proper disposition. The Secretary, in his or her discretion, may destroy the ivory, ivory products, rhinoceros horn, and rhinoceros horn products or donate them to an educational or scientific institution or organization.

(h) Rulemaking. The Secretary of Natural Resources may adopt rules to implement the requirements of this section.

(i) Educational information. The Secretary of Natural Resources shall maintain on its website information regarding the prohibition of the sale and purchase of ivory and rhinoceros horns in this State.

Sec. 2. REPORT ON IVORY AND RHINOCEROS HORN PROHIBITION

On or before January 15, 2022, the Secretary of Natural Resources, after consultation with the U.S. Fish and Wildlife Service, shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding the implementation of 10 V.S.A. § 7701, including a summary of:

(1) enforcement activities taken by the State, including the outcome of any items seized;

(2) the financial impact of the prohibition of the sale of ivory and rhinoceros horns on Vermont businesses;

(3) what actions other states have taken with regard to the sale of ivory and rhinoceros horns; and

(4) recommendations regarding necessary changes to Vermont law, including the extension or repeal of the prohibition.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2018.

(Committee Vote: 6-3-0)

H. 530

An act relating to categorization of State contracts for service

Rep. Devereux of Mount Holly, for the Committee on **Government Operations**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 311 is amended to read:

§ 311. CLASSIFIED SERVICE DEFINED; EXCEPTIONS

(a) The classified service to which this chapter shall apply shall include all positions and categories of employment by the ~~state~~ State, except as otherwise provided by law, and except the following:

* * *

(10) A person or persons engaged under retainer, contract for services as defined in section 341 of this title, or special agreement, ~~when certified to the secretary of administration by the attorney general that such engagement is not~~

~~contrary to the spirit and intent of the classification plan and merit system principles and standards provided by this chapter.~~

* * *

Sec. 2. 3 V.S.A. § 341 is amended to read:

§ 341. DEFINITIONS

As used in this chapter:

(1) “Agency” means any agency, board, department, commission, committee, or authority of the ~~executive branch~~ Executive Branch of state State government.

(2) “Personal services contract” ~~or “contract”~~ means ~~an agreement or combination or series of agreements, by which an entity or individual who is not a state employee agrees with an agency to provide services, valued at \$10,000.00 or more per year~~ a contract for services that is categorized as personal services in accordance with procedures developed by the Secretary of Administration.

(3) “Privatization contract” means a ~~personal services contract by which an entity or an individual who is not a state employee agrees with an agency to provide services,~~ for services valued at ~~\$20,000.00~~ \$25,000.00 or more per year, which ~~are~~ is the same or substantially similar to and in lieu of services previously provided, in whole or in part, by permanent, classified ~~state~~ State employees, and which ~~result~~ results in a reduction in force of at least one permanent, classified employee, or the elimination of a vacant position of an employee covered by a collective bargaining agreement.

(4) “Contract for services” means an agreement or combination or series of agreements by which an entity or individual agrees with an agency to provide services as an independent contractor, rather than as an employee.

Sec. 3. 3 V.S.A. § 342 is amended to read:

§ 342. CONTRACTING STANDARDS; ~~PERSONAL SERVICES~~

CONTRACTS FOR SERVICES

Each contract for services valued at \$25,000.00 or more per year shall require certification by the Office of the Attorney General to the Secretary of Administration that such contract for services is not contrary to the spirit and intent of the classification plan and merit system and standards of this title. A ~~personal services contract for services~~ is contrary to the spirit and intent of the classification plan and merit system and standards of this title, and shall not be

certified by the Office of the Attorney General ~~under subdivision 311(a)(10) of this title as provided in this subsection~~, unless the provisions of subdivisions (1), (2) and (3) of this subsection are met, or one or more of the exceptions described in subdivision (4) of this subsection apply.

* * *

Sec. 4. 3 V.S.A. § 344 is amended to read:

§ 344. CONTRACT ADMINISTRATION

(a) The Secretary of Administration shall maintain a database with information about contracts for services, including approved privatization contracts and approved personal services contracts. The Secretary shall also maintain a database with information about privatization contracts which are rejected because they fail to qualify under subdivision 343(2) of this title. Contracts maintained in the database shall be public record to the extent provided under 1 V.S.A. chapter 5, and shall be located at the agency of origin, including information about names of contractors, summaries of work to be performed, costs, and duration.

(b) The information on contracts maintained in the database shall be reported to the General Assembly in the annual workforce report required under subdivision 309(a)(19) of this title. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 9-0-2)

Action Postponed Until February 19, 2016

Third Reading

H. 622

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

Consent Calendar

Concurrent Resolutions

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 the end of the session of the

next legislative day. 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.

H.C.R. 242

House concurrent resolution recognizing the importance of the Black Lives Matter Movement in the U.S. and Vermont Black communities

H.C.R. 243

House concurrent resolution congratulating the 2015 class of Green Mountain Council Eagle Boy Scouts

H.C.R. 244

House concurrent resolution honoring J. Morgans Steakhouse's bartender, Roderick Vincent O'Brien, for his consummate professional and unfailing courtesy

H.C.R. 245

House concurrent resolution honoring former Juvenile Defender Robert Sheil for his exemplary public service

H.C.R. 246

House concurrent resolution in memory of former Representative Barbara L. Wood of Bethel

H.C.R. 247

House concurrent resolution congratulating the Rutland Regional Medical Center on its receipt of two excellence awards from Healthgrades

S.C.R. 35

Senate concurrent resolution congratulating Matt Hynes on being named the 2015-2016 Vermont boys' cross country Gatorade Player of the Year

S.C.R. 36

Senate concurrent resolution honoring Central Vermont Chamber of Commerce President and CEO George Malek

For Informational Purposes

Resolutions for Town Meeting Day

If members would like resolutions for presentation at Town Meeting, please let Michael Chernick know by noon on Friday, February 19, 2016

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.

Joint Assembly

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

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.