

# Journal of the House

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**Thursday, April 23, 2015**

At one o'clock in the afternoon the Speaker called the House to order.

## **Devotional Exercises**

Devotional exercises were conducted by Rearranged - barbershop quartet; Irene Knight of South Burlington, Nancy L'Ecuyer of Essex Junction, Robyn Myers Moore of Essex Junction and Deb Drury of Essex, Vt.

## **Committee Relieved of Consideration and Resolution Committed to Other Committee**

### **J.R.H. 15**

**Rep. Fiske of Enosburgh** moved that the committee on Human Services be relieved of Joint resolution bill, entitled

Joint resolution requesting the U.S. Food and Drug Administration and the federal Office of Disease Prevention and Health Promotion to establish new sugar consumption recommendations

And that the resolution be committed to the committee on Health Care, which was agreed to.

## **Third Reading; Bills Passed**

House bills of the following titles were severally taken up, read the third time and passed:

### **H. 8**

House bill, entitled

An act relating to the oversight of the transfer of military equipment to law enforcement agencies;

### **H. 280**

House bill, entitled

An act relating to amending the State Board of Education rules on school lighting requirements;

### **H. 494**

House bill, entitled

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An act relating to approval of the adoption and codification of the charter of the Town of Weybridge;

**H. 496**

House bill, entitled

An act relating to approval of the adoption and codification of the charter of the Town of West Fairlee;

**H. 499**

House bill, entitled

An act relating to approval of the adoption and codification of the charter of the Town of Salisbury;

**Bill Read Third Time; Action Postponed Until end of Orders of the Day**

**H. 187**

House bill, entitled

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

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Browning of Arlington** moved to amend the bill as follows:

First: In Sec. 4, in 21 V.S.A. § 481, after subdivision (7), by adding a subdivision (8) to read as follows:

(8) “Insurance Program” means the Vermont Earned Sick Time Insurance Program.

Second: In Sec. 4, in 21 V.S.A. § 484, in subsection (a), by striking out “either” and inserting in lieu thereof “any” and after subdivision (a)(2), by adding a subdivision (3) to read as follows:

(3) The employer participates in the Vermont Earned Sick Time Insurance Program created pursuant to section 486 of this title.

Third: In Sec. 4, after 21 V.S.A. § 485, by adding two new sections to be sections 486 and 487 to read as follows:

§ 486. VERMONT EARNED SICK TIME INSURANCE PROGRAM

(a) Beginning on January 1, 2017, an employer may elect to participate in the Vermont Earned Sick Time Insurance Program by notifying the Commissioner of its intent to do so on a form provided by the Commissioner.

(b)(1) An existing employee or a new hire of an employer that is participating in the Insurance Program may elect to obtain coverage for the minimum number of earned sick days required pursuant to sections 482 and 483 of this subchapter.

(2) An employee that elects to obtain coverage under the Insurance Program shall be permitted to accrue and use earned sick time as provided by this subchapter and the rules and regulations of the Insurance Program adopted by the Commissioner.

(c) For each employee that elects to participate in the program, the employer shall:

(1) notify the Commissioner that the employee has elected to participate in the program on a form provided by the Commissioner; and

(2) pay an Insurance Program participation fee equal to eight hours at the employee's normal hourly wage rate or the minimum wage rate for an employee pursuant to section 384 of this title, whichever is greater.

(d)(1) An employee that uses accrued earned sick time pursuant to the Insurance Program may file an application for benefits under this section with the Commissioner of Labor on a form provided by the Commissioner within 10 days of using the earned sick time.

(2) Upon receiving a complete application for benefits from an employee, the Commissioner shall pay the employee an amount equal to the greater of the employee's normal hourly wage rate or the minimum wage rate for an employee pursuant to section 384 of this title for each hour of accrued earned sick time used. Benefits paid pursuant to the Insurance Program shall be paid from the Earned Sick Time Insurance Fund established pursuant to section 487 of this subchapter.

(e) The Commissioner shall adopt rules as necessary to implement this section.

#### § 487. EARNED SICK TIME INSURANCE FUND

(a) An Earned Sick Time Insurance Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner of Labor for the earned sick time benefits awarded and administration of the Vermont Earned Sick Time Insurance Program provided pursuant to section 486 of this subchapter. The Fund shall consist of a premium to be deducted from employees' wages and the Insurance Program participation fee paid by employers. An employer shall submit the premiums and fees to the

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Commissioner of Labor in a form and at times determined by the Commissioner.

(b) Annually, the Commissioner of Labor shall determine the projected demands on the Fund and adjust the employee premium rate in subsection (a) of this section to ensure that the premium is the lowest rate necessary to fund fully the projected benefits and associated administrative costs of the Insurance Program.

(c) The Commissioner shall file an annual report to the General Assembly explaining the premium rate set for that year. 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.

Fourth: After Sec. 4, by adding a Sec. 4a to read as follows:

Sec. 4a. IMPLEMENTATION OF VERMONT EARNED SICK TIME  
INSURANCE PROGRAM; REPORT

(a) The Commissioner of Labor shall conduct an actuarial analysis of the Vermont Earned Sick Time Insurance Program and the anticipated pool of employees utilizing the Insurance Program. Based on that analysis, the Commissioner shall develop proposed rules necessary to implement the Insurance Program by January 1, 2017 and to administer the Insurance Program and the Earned Sick Time Insurance Fund on an ongoing basis. In particular, the Commissioner shall develop proposed rules to address the following issues:

(1) enrollment and participation in the Insurance Program by employees and employers;

(2) the administration of the Insurance Program and the Earned Sick Time Insurance Fund;

(3) the appropriate levels for employee premiums and a mechanism for reviewing and adjusting employee premiums on an annual basis;

(4) the requirements and resources necessary to ensure that the Earned Sick Time Insurance Fund has adequate reserve funding;

(5) provisions and procedures for auditing and enforcing the payment of participation fees and premiums, and the use of earned sick time under the statutes and regulations governing the Insurance Program;

(6) necessary waiting periods before an employee may begin to use accrued earned sick time pursuant to the Insurance Program; and

(7) procedures to permit an employee to carry over earned sick time that has accrued in the Insurance Program from one employer to another.

(b) On or before January 1, 2016, the Commissioner shall report to the General Assembly on the proposed rules developed pursuant to subsection (a) of this section, and any recommendations for legislation necessary to implement the Vermont Earned Sick Time Insurance Program by January 1, 2017.

Fifth: In Sec. 7, Effective Date, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. EFFECTIVE DATES

(a) This section and Sec. 4a of this act shall take effect on July 1, 2015.

(b) The remainder of this act shall take effect on January 1, 2017.

Thereupon, **Rep. Browning of Arlington** asked and was granted leave of the House to withdraw her amendment.

Thereupon, the bill was read the third time.

Pending the question, Shall the bill pass? **Rep. Hebert of Vernon** demanded the Yeas and the Nays, which demand was sustained by the Constitutional number.

Pending the call of the roll, **Rep. Burditt of West Rutland** moved to recommit the bill to the committee on General, Housing and Military Affairs, which was disagreed to.

Pending the call of the roll, **Rep. Turner of Milton** moved to postpone action until the end of the Orders of the Day, which was agreed to.

**Senate Proposal of Amendment Concurred in**

**H. 51**

The Senate proposed to the House to amend House bill, entitled

An act relating to group-wide supervision of internationally active insurance groups and the establishment of domestic insurers in Vermont

In Sec. 4, 8 V.S.A. § 3696, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Notwithstanding any other provision of law to the contrary, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge such official as the supervisor. However, the Commissioner shall make a

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determination or acknowledgment as to the appropriate supervisor for such group pursuant to subsection (b) of this section in the event of a material change in the group that results in:

(1) the group's insurers domiciled in Vermont holding the largest share of the group's premiums, assets, or liabilities; or

(2) Vermont becoming the place of domicile of the top-tiered insurers in the insurance holding company system of the group.

Which proposal of amendment was considered and concurred in.

### **Joint Resolution Adopted**

#### **J.R.H. 16**

Joint resolution, entitled

Joint resolution relating to the approval of State land transactions;

Was taken up and adopted on the part of the House.

### **Recess**

At two o'clock and fifteen minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At four o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

### **Consideration Resumed; Bill Amended and Passed**

#### **H. 187**

Consideration resumed on House bill, entitled

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

Pending the call of the roll, **Rep. Turner of Milton** asked leave of the House to offer an amendment after third reading, which was disagreed to on a Division vote. Yeas, 55. Nays, 63.

Pending the call of the roll, **Rep. Marcotte of Coventry** asked leave of the House to offer an amendment after third reading which was agreed to.

Pending the call of the roll, **Rep. Marcotte of Coventry** moved to amend the bill as follows:

In Sec. 4, in 21 V.S.A. 481, after subdivision (5)(F), by inserting a subdivision (5)(G) to read as follows:

(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.

Which was agreed to.

Pending the question, Shall the bill pass? **Rep. Eastman of Orwell** asked leave of the House to offer an amendment after third reading, which was agreed to.

Pending the question, Shall the bill pass? **Rep. Eastman of Orwell** moved to amend the bill as follows:

In Sec. 4, in 21 V.S.A. § 481, after subdivision (5)(E), by inserting a subdivision (5)(F) to read as follows:

(F) An individual who is a guest worker employed pursuant to a federal work visa program, including guest workers who are exempt from the visa issuance process pursuant to 8 C.F.R. § 212.1(b).

Which was agreed to.

Pending the question, Shall the bill pass? **Rep. Turner of Milton** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill pass? was decided in the affirmative. Yeas, 72. Nays, 63.

Those who voted in the affirmative are:

|                         |                          |                             |
|-------------------------|--------------------------|-----------------------------|
| Ancel of Calais         | Copeland-Hanzas of       | Johnson of South Hero       |
| Bartholomew of Hartland | Bradford                 | Keenan of St. Albans City   |
| Berry of Manchester *   | Dakin of Chester         | Kitzmiller of Montpelier    |
| Bissonnette of Winooski | Davis of Washington *    | Klein of East Montpelier    |
| Botzow of Pownal        | Deen of Westminster      | Krowinski of Burlington     |
| Briglin of Thetford     | Ellis of Waterbury       | Lalonde of South Burlington |
| Burke of Brattleboro    | Emmons of Springfield    | Lanpher of Vergennes        |
| Buxton of Tunbridge     | Fields of Bennington     | Lenes of Shelburne          |
| Chesnut-Tangerman of    | Frank of Underhill       | Lippert of Hinesburg        |
| Middletown Springs      | French of Randolph       | Long of Newfane             |
| Christie of Hartford    | Haas of Rochester        | Lucke of Hartford           |
| Clarkson of Woodstock * | Head of South Burlington | Macaig of Williston         |
| Cole of Burlington      | Hoooper of Montpelier    | Manwaring of Wilmington     |
| Connor of Fairfield     | Jerman of Essex          | Martin of Wolcott           |
|                         | Jewett of Ripton         | Masland of Thetford         |

|                           |                         |                              |
|---------------------------|-------------------------|------------------------------|
| McCormack of Burlington   | Ram of Burlington       | Townsend of South Burlington |
| McCullough of Williston   | Russell of Rutland City | Troiano of Stannard *        |
| Miller of Shaftsbury      | Ryerson of Randolph     | Walz of Barre City           |
| Morris of Bennington      | Sharpe of Bristol       | Webb of Shelburne *          |
| Nuovo of Middlebury       | Sheldon of Middlebury   | Woodward of Johnson          |
| O'Sullivan of Burlington  | Stevens of Waterbury    | Yantachka of Charlotte       |
| Partridge of Windham      | Stuart of Brattleboro   | Young of Glover              |
| Patt of Worcester         | Sullivan of Burlington  | Zagar of Barnard             |
| Pearson of Burlington     | Sweaney of Windsor      |                              |
| Pugh of South Burlington  | Till of Jericho         |                              |
| Rachelson of Burlington * | Toleno of Brattleboro   |                              |

Those who voted in the negative are:

|                              |                         |                           |
|------------------------------|-------------------------|---------------------------|
| Bancroft of Westford         | Gage of Rutland City    | Parent of St. Albans City |
| Baser of Bristol             | Gamache of Swanton      | Pearce of Richford        |
| Batchelor of Derby           | Graham of Williamstown  | Poirier of Barre City *   |
| Beyor of Highgate            | Greshin of Warren       | Potter of Clarendon       |
| Browning of Arlington *      | Hebert of Vernon        | Purvis of Colchester      |
| Burditt of West Rutland *    | Helm of Fair Haven      | Quimby of Concord         |
| Canfield of Fair Haven       | Higley of Lowell        | Savage of Swanton         |
| Carr of Brandon              | Hubert of Milton *      | Scheuermann of Stowe      |
| Condon of Colchester         | Juskiewicz of Cambridge | Shaw of Pittsford         |
| Conquest of Newbury          | Komline of Dorset       | Sibilia of Dover          |
| Corcoran of Bennington       | Krebs of South Hero     | Strong of Albany          |
| Cupoli of Rutland City       | LaClair of Barre Town   | Tate of Mendon            |
| Dakin of Colchester          | Lawrence of Lyndon      | Terenzini of Rutland Town |
| Dame of Essex *              | Lefebvre of Newark      | Toll of Danville          |
| Devereux of Mount Holly      | Lewis of Berlin         | Trieber of Rockingham     |
| Dickinson of St. Albans Town | Marcotte of Coventry    | Turner of Milton          |
| Donahue of Northfield        | Martel of Waterford     | Van Wyck of Ferrisburgh   |
| Eastman of Orwell            | McCoy of Poultney       | Viens of Newport City     |
| Fagan of Rutland City        | McFaun of Barre Town    | Willhoit of St. Johnsbury |
| Feltus of Lyndon             | Morrissey of Bennington | Wright of Burlington *    |
| Fiske of Enosburgh           | Murphy of Fairfax       |                           |
|                              | Myers of Essex          |                           |

Those members absent with leave of the House and not voting are:

|                       |                          |                      |
|-----------------------|--------------------------|----------------------|
| Beck of St. Johnsbury | Forguites of Springfield | O'Brien of Richmond  |
| Branagan of Georgia   | Gonzalez of Winooski     | Olsen of Londonderry |
| Brennan of Colchester | Grad of Moretown         | Shaw of Derby        |
| Donovan of Burlington | Huntley of Cavendish     | Smith of New Haven   |
| Evans of Essex        | Mrowicki of Putney       |                      |

**Rep. Berry of Manchester** explained his vote as follows:

“Mr. Speaker:



Vermont prides itself on being a healthy place to live. Healthy lifestyles is part of the Vermont brand. Many businesses across this state are in support of this bill because they know it is good for business to have healthy workers and a healthy workplace. I changed my mind and voted for this bill because all business owners that I have spoken with are already in compliance. H.187 offers flexible time off that supports health in our Vermont communities and supports our values as people who care. This law is passed so that business owners who do not offer earned time for leave will now join the ranks of socially responsible business owners.”

**Rep. Browning of Arlington** explained her vote as follows:

“Mr. Speaker:

I vote no because this bill is likely to hurt small businesses and to hurt the very workers it is intended to help. The costs of paying sick workers and their replacements will be difficult to meet. There may be reductions in wages, in hours, and in hiring as a result. It would be better to develop an insurance program to share the cost of risks the workers face rather than to put the entire burden on businesses. The state bears greater responsibility for poor business conditions and lack of economic development than small businesses do.”

**Rep. Burditt of West Rutland** explained his vote as follows:

“Mr. Speaker:

If this passes we will hear a simultaneous cheer from New York and New Hampshire...It will be a cheer of support for our anti-business bills that continue to be a major factor in business growth...in their states...along our common borders.”

**Rep. Clarkson of Woodstock** explained her vote as follows:

“Mr. Speaker:

As tax payers we are subsidizing minimum wage employers by helping their employees provide food, heat, health care and housing for their families.

Earned sick days is a fair and healthy benefit for employees in need.”

**Rep. Dame of Essex** explained his vote as follows:

“Mr. Speaker:

I'm uncomfortable with the bill. With the hasty amendments made late after third reading we now have a bill that gives employers with a 30 week job, an incentive to hire foreign guest workers - who are exempt - instead of giving the

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job to a Vermonter. It also gives the State an incentive to hire temporary workers instead of full time workers."

**Rep. Davis of Washington** explained her vote as follows:

"Mr. Speaker:

I voted yes today because I believe working people shouldn't have to choose between a pay check and their health, and this bill represents a step in the right direction. I hope that in the future this body will continue to work to include temporary workers in both the public and private sector. Thank you."

**Rep. Hubert of Milton** explained his vote as follows:

"Mr. Speaker:

I vote no today as this body would not let an amendment go forth that would have made the state pay sick pay to part time workers but have moved to do so on small businesses."

**Rep. Poirier of Barre City** explained his vote as follows:

"Mr. Speaker:

I voted no today after voting yes yesterday because I cannot support this bill as it discriminates against state employees who are being used by the State of Vermont. I had a chance to vote to end this discrimination, but a majority of members chose to continue this practice. I have many state employees affected by this in my district. Mr. Speaker, we voted to address the immigrant problem, but failed to help the roughly 800 temporary state employees and I cannot support any bill that exempts the State from a mandate, but passes it on to our local businesses."

**Rep. Rachelson of Burlington** explained her vote as follows:

"Mr. Speaker:

The states and cities that have enacted these laws, despite having the same fears ahead of time, have been pleasantly surprised. Implementation was easier, morale and productivity has improved, the impact on the bottom line was minimal. Businesses have not had to close, many businesses have been boosted and more businesses started. And the CDC is clear, people with paid sick leave access medical care more appropriately, including vital cancer screenings, saving money and lives. The people of Vermont deserve all this and we want to continue to attract families and businesses to our state. As our neighboring states have or enact these laws we must stay competitive."

**Rep. Troiano of Stannard** explained his vote as follows:

“Mr. Speaker:

I voted yes for this bill; we all want businesses to thrive in Vermont. We also know business does not thrive on its own. They need good employees to succeed. A content employee is a good employee. They deserve this benefit.”

**Rep. Webb of Shelburne** explained her vote as follows:

“Mr. Speaker:

School staff will breathe a sigh of relief knowing that more parents will be able to care for their sick children rather than leaving this care to school staff. How many education tax dollars are used to fund substitutes who cover for staff who succumb to illness from this exact situation?”

**Rep. Wright of Burlington** explained his vote as follows:

“Mr. Speaker:

We exempted several different categories from this bill yet we refused to even allow an amendment dealing with an exemption on temporary state workers. Why? Presumably because the State cannot afford to pay for this benefit. Yet we think it is ok for small business to pay. I voted no because the one group that should have been exempted was not. Small business, the backbone of our state. We continue to make it more difficult for them to thrive.”

### **Bill Referred to Committee on Ways and Means**

#### **S. 139**

Senate bill, entitled

An act relating to pharmacy benefit managers and hospital observation status

Affecting the revenue of the state, under the rule, the bill was referred to the committee on Ways and Means.

#### **Remarks Journalized**

On motion of **Rep. Turner of Milton**, the following remarks by **Rep. Browning of Arlington** were ordered printed in the Journal:

“Mr. Speaker

My understanding is that the rules of the House are structured so that sooner or later the majority will get its way. However, they also require that the minority be able to offer its proposals and have its say. The full House refusing to consider Rep. Turner’s amendments to H. 187 and the chair of

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Housing General refusing to consider my amendment to H. 187 does not support this process, it prevents us from doing our best work for Vermonters. I object.”

### **Message from the Senate No. 51**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

**H. 98.** An act relating to reportable disease registries and data.

**H. 241.** An act relating to rulemaking on emergency involuntary procedures.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

**S. 71.** An act relating to governance of the Vermont State Colleges.

And has concurred therein.

### **Adjournment**

At five o'clock and thirty-four minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.