

Journal of the Senate

TUESDAY, FEBRUARY 9, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Dwight Baker of Northfield.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Message from the House No. 16

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

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 225. House concurrent resolution designating January 24–30, 2016 as National Nurse Anesthetists Week in Vermont.

H.C.R. 226. House concurrent resolution honoring Marvin Locke for his exemplary civic service in Lamoille County.

H.C.R. 227. House concurrent resolution congratulating Cynthia Rugg on her receipt of the 2015 Oren J. Lane Community Service Award.

H.C.R. 228. House concurrent resolution honoring James Cooke for his memorable and historically informative theatrical portrayal of President Calvin Coolidge.

H.C.R. 229. House concurrent resolution congratulating the Institute for Sustainable Communities on its 25th anniversary.

H.C.R. 230. House concurrent resolution in memory of Margaret Richardson of Orange.

H.C.R. 231. House concurrent resolution commemorating the 50th anniversary of the National Historic Preservation Act.

H.C.R. 232. House concurrent resolution congratulating Jasmine Wells and Ayrin Southworth of Northfield on their participation in the High School Honors Performance Series at Carnegie Hall.

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

Joint Senate Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

J.R.S. 39. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 12, 2016, it be to meet again no later than Tuesday, February 16, 2016.

Joint Resolutions Placed on Calendar

J.R.S. 40.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Campbell,

J.R.S. 40. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 18, 2016, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2016, and expiring on March 1, 2020. In case election of all such Trustees shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such Trustees are elected.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action tomorrow.

J.R.S. 41.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Campbell,

J.R.S. 41. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2016.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 18, 2016, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or both of the two vacant positions, then voting shall continue on successive ballots for the unfilled position or positions until the vacancies have been filled by election declared of the two candidates receiving the greater number of votes.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action tomorrow.

Bill Amended; Third Reading Ordered

S. 171.

Senator Benning, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to eligibility for pretrial risk assessment and needs screening.

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

Sec. 1. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) The objective of a pretrial risk assessment is to provide information to the Court for the purpose of determining whether a person presents a risk of nonappearance or a threat to public safety so the Court can make an appropriate order concerning bail and conditions of pretrial release.

(2) The objective of a pretrial needs screening is to obtain a preliminary indication of whether a person has a substantial substance abuse or mental health issue that would warrant a subsequent court order for a more detailed clinical assessment.

(3) Participation in a risk assessment or needs screening pursuant to this section does not create any entitlement for the assessed or screened person.

(b)(1) A person whose offense or status falls into any of the following categories shall be offered a risk assessment and, if deemed appropriate by the pretrial monitor, a needs screening prior to arraignment:

(A) misdemeanors and felonies, excluding listed crimes and drug trafficking, cited into court; and

~~(B) persons cited or arrested for an offense that is not a listed crime who are identified by law enforcement, the prosecution, the defense, probation and parole personnel, the Court, a treatment provider, or a family member or friend as having a substantial substance abuse or mental health issue;~~

~~(C) misdemeanor and felony drug offenses, excluding trafficking, cited into court; and~~

~~(D) persons who are arrested and lodged and unable to post bail within 24 hours of lodging, excluding persons who are charged with an offense for which registration as a sex offender is required upon conviction pursuant to subchapter 3 of chapter 167 of this title or an offense punishable by up to life imprisonment.~~

(2) As used in this section, “listed crime” shall have the same meaning as provided in section 5301 of this title and “drug trafficking” means offenses listed as such in Title 18.

(3) Unless ordered as a condition of release under section 7554 of this title, participation in ~~an~~ risk assessment or needs screening shall be voluntary.

(4) In the event an assessment or screening cannot be obtained prior to arraignment, ~~the Court shall direct~~ the risk assessment and needs screening ~~to~~ shall be conducted as soon as practicable.

(5) A person who qualifies pursuant to subdivisions (1)(A)-(D) of this subsection and who has an additional pending charge or a violation of probation shall not be excluded from being offered a risk assessment or needs screening unless the other charge is a listed crime.

(6)(A) The Administrative Judge and Court Administrator, in consultation with the Secretary of Human Services and the Commissioner of Corrections, shall develop a statewide plan for the phased, consistent rollout of the categories identified in subdivisions (1)(A) through (D) of this subsection, in the order in which they appear in this subsection. The Administrative Judge and Court Administrator shall present the plan to the Joint Legislative Corrections Oversight Committee on or before October 15, 2014.

(B) All persons whose offense or status falls into one of the categories shall be eligible for a risk assessment or needs screening on or ~~before~~ after October 15, 2015. Prior to that date, a person shall not be guaranteed the offer of a risk assessment or needs screening solely because the person's offense or status falls into one of the categories. Criminal justice professionals charged with implementation shall adhere to the plan.

(c) The results of the risk assessment and needs screening shall be provided to the ~~prosecutor who, upon filing a criminal charge against the person, shall provide the results to the person and his or her attorney, the prosecutor, and the Court.~~

(d)(1) ~~In~~ At arraignment, in consideration of the risk assessment and needs screening, the Court may order the person to comply with ~~any of~~ the following conditions:

(A) meet with a pretrial monitor on a schedule set by the Court; and

(B) participate in a clinical assessment by a substance abuse or mental health treatment provider; and follow the recommendations of the provider.

~~(C) comply with any level of treatment or recovery support recommended by the provider follow the recommendation of the pretrial monitor if the person has voluntarily agreed to participate in a risk assessment or needs screening.~~

~~(D), (E) [Repealed.]~~

(2) The Court may order the person to follow the recommendation of the pretrial monitor if the person has voluntarily agreed to participate in a risk assessment or needs screening post-arraignment.

(3) If possible, the Court shall set the date and time for the assessment at arraignment. In the alternative, the pretrial monitor shall coordinate the date,

time, and location of the clinical assessment and advise the Court, the person and his or her attorney, and the prosecutor.

~~(3)~~(4) The conditions authorized in subdivision (1) of this subsection shall be in addition to any other conditions of release permitted by law and shall not limit the Court in any way.

(e)(1) Information obtained from the person during the risk assessment or needs screening shall be exempt from public inspection and copying under the Public Records Act and, except as provided in subdivision (2) of this subsection, only may be used for determining bail, conditions of release, and appropriate programming for the person in the pending case. The immunity provisions of this subsection apply only to the use and derivative use of information gained as a proximate result of the risk assessment or needs screening.

(2) The person shall retain all of his or her due process rights throughout the risk assessment and needs screening process and may release his or her records at his or her discretion.

(3) The Vermont Supreme Court in accordance with judicial rulemaking as provided in 12 V.S.A. § 1 shall promulgate and the Department of Corrections in accordance with the Vermont Administrative Procedure Act pursuant to 3 V.S.A. chapter 25 shall adopt rules related to the custody, control, and preservation of information consistent with the confidentiality requirements of this section. Emergency rules adopted prior to January 1, 2015 pursuant to this section shall be considered to meet the “imminent peril” standard under 3 V.S.A. § 844(a).

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Proposals of Amendment; Third Reading Ordered

H. 611.

Senator Kitchel, for the Committee on Appropriations, to which was referred House bill entitled:

An act relating to fiscal year 2016 budget adjustments.

Reported recommending that the Senate propose 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	<u>208,728,673</u>	217,281,414
Special funds	<u>26,550,179</u>	27,899,279
Tobacco fund	<u>28,747,141</u>	28,079,458
State health care resources fund	<u>270,712,781</u>	282,705,968
Federal funds	<u>842,227,109</u>	886,128,190
Interdepartmental transfers	<u>40,000</u>	40,000
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>	721,820,039
Source of funds		
Global commitment fund	<u>659,633,970</u>	<u>721,820,039</u>
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	<u>85,593,203</u>	87,194,934
Source of funds		
General fund	<u>8,544,109</u>	6,595,459
Special funds	<u>16,854,895</u>	17,004,542
Tobacco fund	<u>2,461,377</u>	2,461,377
Federal funds	<u>38,184,687</u>	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 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 and 60b shall take effect on July 1, 2016.

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

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43 and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Appropriations?,

Senator Kitchel moved to amend the proposal of amendment of the Committee on Appropriations, as follows

In the *Sixth* proposal of amendment, in Sec. 55a(a), in the last sentence, after the words “Any funds remaining” by inserting the following: from this \$10,300,000 appropriation

Which was agreed to.

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

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 10, 2016.