

Journal of the Senate

THURSDAY, FEBRUARY 25, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Ken White of Burlington.

Rules Suspended; Bill Committed

S. 205.

Pending entry on the Calendar for notice, on motion of Senator Starr, the rules were suspended and Senate bill entitled:

An act relating to renewable energy development and protecting agricultural and forest soils.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Agriculture, Senator Starr moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources & Energy with the report of the Committee on Agriculture *intact*,

Which was agreed to.

Bill Referred to Committee on Finance

S. 75.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to food and lodging establishments.

Consideration Resumed; Consideration Postponed

S. 154.

Consideration was resumed on Senate bill entitled:

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

Thereupon, pending the question, Shall the bill be read the third time?

On motion of Senator Nitka the bill was postponed until Wednesday March 9, 2016.

Bill Amended; Bill Passed

S. 241.

Senate bill entitled:

An act relating to personal possession and cultivation of cannabis and the regulation of commercial cannabis establishments.

Was taken up.

Thereupon, pending third reading of the bill, Senator White moved to amend the bill in Sec. 12, 18 V.S.A. § 4521 by redesignating subsection (h) to be subsection (i) and by adding a new subsection (h) to read as follows:

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Rodgers and Zuckerman moved to amend the bill as follows:

First: In Sec. 12, 18 V.S.A. § 4513 by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c)(1) Prior to July 1, 2018, provided applicants meet the requirements of this chapter, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet;

(E) a maximum of five testing laboratory licenses; and

(F) a maximum of 15 retailer licenses.

(2) On or after July 1, 2018 and before July 1, 2019, provided applicants meet the requirements of this chapter and in addition to the licenses authorized in subdivision (1) of this subsection, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet for a total of 20 such licenses;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet for a total of eight such licenses;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet for a total of 20 such licenses;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet for a total of six such licenses;

(E) a maximum of five testing laboratory licenses for a total of 10 such licenses; and

(F) a maximum of 15 retailer licenses for a total of 30 such licenses.

(3) On or after July 1, 2019, the limitations in subdivisions (1) and (2) of this subsection shall not apply and the Department shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed under the limitations of subdivisions (1) or (2) of this subsection may apply to the Department to modify its license to expand its cultivation space.

Second: In Sec. 12, 18 V.S.A. § 4528(b)(1) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the application fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the application fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the application fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the application fee shall be \$30,000.00.

Third: In Sec. 12, 18 V.S.A. § 4528(c) by striking out subdivision (1) in its entirety and inserting in lieu thereof the following:

(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the initial annual license and subsequent renewal fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the initial annual license and subsequent renewal fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the initial annual license and subsequent renewal fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the initial annual license and subsequent renewal fee shall be \$30,000.00.

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

Thereupon, pending third reading of the bill, Senator Starr, Collamore, Flory, and Mullin moved to amend the bill in Sec. 12, 18 V.S.A. § 4512(a)(3)(A), after the word “requirements” by inserting the following: including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana.

Which was agreed to.

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

First: In Sec. 12, by striking out 18 V.S.A. § 4501 in its entirety and inserting in lieu thereof a new section 4501 to read as follows:

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Applicant” means a person that applies for a license to operate a marijuana establishment pursuant to this chapter.

(3) “Child care facility” means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

(4) “Commissioner” means the Commissioner of Public Safety.

(5) “Department” means the Department of Public Safety.

(6) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(7) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(8) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or otherwise provides financing to a person with the expectation of a financial return.

(9) “Handbill” means a flyer, leaflet, or sheet that advertises marijuana or a marijuana establishment.

(10) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(11) “Marijuana cultivator” or “cultivator” means a person registered with the Department to engage in commercial cultivation of marijuana in accordance with this chapter.

(12) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Department to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Department to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(14) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Department to test marijuana for cultivators and retailers in accordance with this chapter.

(15) “Owns or controls,” “is owned or controlled by,” and “under common ownership or control” mean direct ownership or beneficial ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the power to direct, or cause the direction of, the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(16) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(17) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(18) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice-president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(19) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(20) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(21) "School" means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

Second: In Sec. 12, in 18 V.S.A. § 4521(d)(1), by striking out words "a person" inserting in lieu thereof the words an applicant and its affiliates

Third: In Sec. 12, in 18 V.S.A. § 4522, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof new subsections (a) and (b) to read as follows:

(a) To be eligible for a marijuana establishment license:

(1) An applicant shall be a resident of Vermont.

(2) A principal of an applicant, and a person who owns or controls an applicant, shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(3) An applicant, principal of an applicant, or person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(b) A financier of an applicant shall have been a resident of Vermont for two or more years immediately preceding the date of application.

Fourth: In Sec. 12, in 18 V.S.A. § 4522, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of a business in this State or any other jurisdiction for each of the following who is a natural person:

(1) an applicant or financier;

(2) a principal of an applicant or financier; and

(3) a person who owns or controls an applicant or financier.

Fifth: In Sec. 12, in 18 V.S.A. § 4512(1)(B), by striking out the following: "for all principals and financiers of the proposed marijuana establishment" and

inserting in lieu thereof the following: pursuant to subsection 4522(d) of this title

Which was agreed to.

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

First: In Sec. 12, 18 V.S.A. § 4512, by striking out the following: “March 15, 2017” and inserting in lieu thereof the following: March 15, 2018

Second: In Sec. 12, 18 V.S.A. § 4513, in subdivision (a)(1) by striking out the following: “April 15, 2017” and inserting in lieu thereof the following: April 15, 2018 and in subdivision (a)(2) by striking out the following: “June 15, 2017” and inserting in lieu thereof the following: June 15, 2018 and in subdivision (b)(1) by striking out the following: “May 15, 2017” and inserting in lieu thereof the following: May 15, 2018 and in subdivision (b)(2) by striking out the following: “September 15, 2017” and inserting in lieu thereof the following: September 15, 2018 and by striking out the following: “January 2, 2018” and inserting in lieu thereof the following: January 2, 2019 and in subdivision (c)(1) by striking out the following: “July 1, 2018” and inserting in lieu thereof the following: July 1, 2019 and in subdivision (c)(2) by striking out the following: “July 1, 2018” and inserting in lieu thereof the following: July 1, 2019 and by striking out the following: “July 1, 2019” and inserting in lieu thereof the following: July 1, 2020 and in subdivision (c)(3) by striking out the following: “July 1, 2019” and inserting in lieu thereof the following: July 1, 2020

Third: In Sec. 12, 18 V.S.A. § 4528(b)(4)(A), by striking out the following: “July 1, 2018” and inserting in lieu thereof the following: July 1, 2019 and, 18 V.S.A. § 4528(b)(4)(B), by striking out the following: “July 1, 2018” and inserting in lieu thereof the following: July 1, 2019 and by striking out the following: “July 1, 2019” and inserting in lieu thereof the following: July 1, 2020

Fourth: In Sec. 26, by striking out the following: “2017” wherever it appears and inserting in lieu thereof the following: 2018 and by striking out the following: “FY 17” and inserting in lieu thereof the following: FY 18 and by striking out subdivision (1) in its entirety and by renumbering the remaining subdivisions to be numerically correct.

Fifth: By adding a new section to be numbered Sec. 26a to read as follows:

Sec. 26a. FISCAL YEAR 2017 APPROPRIATIONS FROM THE MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2017, \$350,000.00 is appropriated from the Marijuana Regulation and Resource Fund to the Department of Health for initial prevention, education, and counter marketing programs.

Sixth: By adding a new section to be numbered Sec. 26b to read as follows:

Sec. 26b. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of one (1) permanent classified position of Substance Abuse Program Manager in the Department of Health is authorized in fiscal year 2017.

Seventh: In Sec. 27, by striking out the following: “2017” and inserting in lieu thereof the following: 2018 and by striking out subdivision (1) in its entirety and by renumbering the remaining subdivisions to be numerically correct.

Eighth: In Sec. 27a, by striking out the following: “2018” and inserting in lieu thereof the following: 2019

Ninth: In Sec. 29b, WORKFORCE STUDY COMMITTEE, in subsection (e) by striking out the following: “December 1, 2016” and inserting in lieu thereof the following: December 1, 2017 and in subdivision (f)(1) by striking out the following: “September 15, 2016” and inserting in lieu thereof the following: September 15, 2017 and in subdivision (f)(4) by striking out the following: “December 31, 2016” and inserting in lieu thereof the following: December 31, 2017

Tenth: By striking out Sec. 31 in its entirety and inserting a new Sec. 31 to read as follows:

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 26a, 26b, and 18 VSA § 4529 of Sec. 12 shall take effect on passage.

(b) Secs. 12a, 18a, 29a, 29b, and Sec. 12, except for 18 V.S.A. § 4529, shall take effect May 1, 2017.

(c) Secs. 7, 8, 10a, 11, 14 through 18, 19 through 22, 23 through 29 shall take effect on July 1, 2017.

(d) Sec. 12b shall take effect on January 1, 2018 and shall apply to taxable year 2018 and after.

(e) Secs. 6, 9, 10, 12c, 22a, 22b, and 30 shall take effect on January 2, 2019.

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

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill in Sec. 26, FISCAL YEAR 2017 APPROPRIATIONS FROM THE MARIJUANA REGULATION AND RESOURCE FUND, at the end of subdivision (2) by adding a new sentence to read as follows: The Tax Department shall not contract for acquisition of an excise tax module to administer the excise tax established in this act without approval of that contract by the Emergency Board at or after its January 2017 meeting.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senators Rodgers and Zuckerman moved to amend the bill as follows:

First: In Sec. 12, 18 V.S.A. § 4513 by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c)(1) Prior to July 1, 2018, provided applicants meet the requirements of this chapter, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet;

(E) a maximum of five testing laboratory licenses; and

(F) a maximum of 15 retailer licenses.

(2) On or after July 1, 2018 and before July 1, 2019, provided applicants meet the requirements of this chapter and in addition to the licenses authorized in subdivision (1) of this subsection, the Department shall issue:

(A) a maximum of 10 cultivator licenses that permit a cultivation space of not more than 1,000 square feet for a total of 20 such licenses;

(B) a maximum of four cultivator licenses that permit a cultivation space of 1,001–2,500 square feet for a total of eight such licenses;

(C) a maximum of 10 cultivator licenses that permit a cultivation space of 2,501–5,000 square feet for a total of 20 such licenses;

(D) a maximum of three cultivator licenses that permit a cultivation space of 5,001–10,000 square feet for a total of six such licenses;

(E) a maximum of five testing laboratory licenses for a total of 10 such licenses; and

(F) a maximum of 15 retailer licenses for a total of 30 such licenses.

(3) On or after July 1, 2019, the limitations in subdivisions (1) and (2) of this subsection shall not apply and the Department shall use its discretion to issue licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed under the limitations of subdivisions (1) or (2) of this subsection may apply to the Department to modify its license to expand its cultivation space.

Second: In Sec. 12, 18 V.S.A. § 4528(b)(1) by striking subparagraphs (A) and (B) and inserting in lieu thereof the following:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the application fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the application fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the application fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the application fee shall be \$30,000.00.

Third: In Sec. 12, 18 V.S.A. § 4528(c) by striking out subdivision (1) in its entirety and inserting in lieu thereof the following:

(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be determined as follows:

(A) For a cultivator license that permits a cultivation space of not more than 1,000 square feet, the initial annual license and subsequent renewal fee shall be \$3,000.00.

(B) For a cultivator license that permits a cultivation space of 1,001–2,500 square feet, the initial annual license and subsequent renewal fee shall be \$7,500.00.

(C) For a cultivator license that permits a cultivation space of 2,501–5,000 square feet, the initial annual license and subsequent renewal fee shall be \$15,000.00.

(D) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the initial annual license and subsequent renewal fee shall be \$30,000.00.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill in Sec. 12, 18 V.S.A. § 4512(a)(1), in subparagraph (O) by striking out the following: “and” and in subparagraph (P) after the following: “license” by inserting the following: ; and and by adding a subparagraph (Q) to read as follows:

(Q) requirements for banking and financial transactions

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 17, Nays 12.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, *Balint, Baruth, Benning, Campion, Cummings, Lyons, MacDonald, McCormack, Pollina, Rodgers, Sears, Sirotkin, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Bray, Campbell, Collamore, Degree, Doyle, Flory, Kitchel, Mazza, Mullin, Nitka, Snelling, Starr.

The Senator absent and not voting was: McAllister (suspended).

*Senator Balint explained her vote as follows:

“I still have concerns with this bill. But after several conversations with my colleague from Essex-Orleans, and after supporting his amendment, I do think it is a better bill and does allow smaller growers to get into this new business sector.”

Bill Passed

S. 252.

Senate bill of the following title was read the third time and passed:

An act relating to the sale of lottery products.

Proposals of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 84.

House bill entitled:

An act relating to internet dating services.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the Senate proposal of amendment as follows:

First: In Sec. 2, in 9 V.S.A. § 2482b, by adding a subsection (d) to read as follows:

(d)(1) A banned member from Vermont who is identified to one or more Vermont members pursuant to subsection (a) of this section shall have the right to challenge the ban by written complaint to the Office of the Vermont Attorney General.

(2) The Office of the Attorney General shall review a challenge brought by a banned member pursuant to this subsection and, if it finds that there was no reasonable basis for banning the member, shall require the Internet dating service to take reasonable corrective action to cure the erroneous ban.

Second: In Sec. 2, in 9 V.S.A. § 2482c(a), before the period, by inserting the following: in accordance with section 2482b of this title

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Amended; Third Reading Ordered

S. 10.

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

An act relating to the State DNA database.

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

Sec. 1. 20 V.S.A. § 1932 is amended to read:

§ 1932. DEFINITIONS

As used in this subchapter:

* * *

(5) “DNA sample” means a forensic unknown tissue sample or a tissue sample provided by any person convicted of a designated crime ~~or for whom the court has determined at arraignment there is probable cause that the person has committed a felony.~~ The DNA sample may be blood or other tissue type specified by the ~~department~~ Department.

* * *

(12) “Designated crime” means any of the following offenses:

(A) a felony;

(B) 13 V.S.A. § 1042 (domestic assault);

(C) any crime for which a person is required to register as a sex offender pursuant to 13 V.S.A. chapter 167, subchapter 3 ~~of chapter 167 of Title 13;~~

(D) a misdemeanor for which a person is sentenced to and serves a period of incarceration of at least 30 days;

(E) an attempt to commit any offense listed in this subdivision; or

~~(E)~~(F) any other offense, if, as part of a plea agreement in an action in which the original charge was a crime listed in this subdivision and probable cause was found by the court, there is a requirement that the defendant submit a DNA sample to the DNA data bank.

Sec. 2. 20 V.S.A. § 1933 is amended to read:

§ 1933. DNA SAMPLE REQUIRED

(a) The following persons shall submit a DNA sample:

(1) ~~A~~ a person convicted in a court in this ~~state~~ State of a designated crime on or after April 29, 1998;;

(2) ~~A person for whom the court has determined at arraignment there is probable cause that the person has committed a felony in this state on or after July 1, 2011.~~

~~(3)~~ A a person who was convicted in a court in this ~~state~~ State of a designated crime prior to April 29, 1998 and, after such date, is:

(A) in the custody of the ~~commissioner of corrections~~ Commissioner of Corrections pursuant to 28 V.S.A. § 701;

(B) on parole for a designated crime;

(C) serving a supervised community sentence for a designated crime; or

(D) on probation for a designated crime.

~~(b) At the time of arraignment, the court shall set a date and time for the person to submit a DNA sample.~~

(e) A person required to submit a DNA sample who is serving a sentence in a correctional facility shall have his or her DNA samples collected or taken at the receiving correctional facility, or at a place and time designated by the ~~commissioner of corrections~~ Commissioner of Corrections or by a court, if the person has not previously submitted a DNA sample.

~~(d)(c)~~ (c) A person serving a sentence for a designated crime not confined to a correctional facility shall have his or her DNA samples collected or taken at a place and time designated by the ~~commissioner of corrections~~ Commissioner of Corrections, the ~~commissioner of public safety~~ Commissioner of Public Safety, or a court if the person has not previously submitted a DNA sample in connection with the designated crime for which he or she is serving the sentence.

Sec. 3. 20 V.S.A. § 1940 is amended to read:

§ 1940. EXPUNGEMENT OF RECORDS AND DESTRUCTION OF SAMPLES

(a) In accordance with procedures set forth in subsection (b) of this section, the ~~department~~ Department shall destroy the DNA sample and any records of a person related to the sample that were taken in connection with a particular alleged designated crime in ~~any~~ either of the following circumstances:

(1) A person's conviction related to an incident that caused the DNA sample to be taken is reversed, and the case is dismissed.

(2) The person is granted a full pardon related to an incident that caused the DNA sample to be taken.

~~(3) If the sample was taken post-arraignment, the felony charge which required the DNA sample is downgraded to a misdemeanor by the prosecuting attorney upon a plea agreement or the person is convicted of a lesser offense that is a misdemeanor other than domestic assault pursuant to 13 V.S.A. § 1042 or a sex offense for which registration is required pursuant to 13 V.S.A. § 5401 et seq.~~

~~(4) If the sample was taken post-arraignment, the person is acquitted after a trial of the charges which required the taking of the DNA sample.~~

~~(5) If the sample was taken post-arraignment, the charges which required the taking of the DNA sample are dismissed by either the court or the~~

~~state after arraignment unless the attorney for the state can show good cause why the sample should not be destroyed.~~

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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.

Bill Amended; Third Reading Ordered

S. 223.

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

An act relating to regulating fantasy sports contests.

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

Sec. 1. 9 V.S.A. chapter 116 is added to read:

CHAPTER 116. FANTASY SPORTS CONTESTS

§ 4185. DEFINITIONS

In this chapter:

(1) “Confidential fantasy sports contest information” means nonpublic information available to a fantasy sports operator that relates to a fantasy sports player’s activity in a fantasy sports contest and that, if disclosed, may give another fantasy sports player an unfair competitive advantage in a fantasy sports contest.

(2) “Fantasy sports contest” means a virtual or simulated sporting event governed by a uniform set of rules adopted by a fantasy sports operator in which:

(A) a fantasy sports player may earn one or more cash prizes or awards, the value of which a fantasy sports operator discloses in advance of the contest;

(B) a fantasy sports player uses his or her knowledge and skill of sports data, performance, and statistics to create and manage a fantasy sports team;

(C) a fantasy sports team earns fantasy points based on the sports performance statistics accrued by individual athletes or teams, or both, in real world sporting events;

(D) the outcome is determined by the number of fantasy points earned; and

(E) the outcome is not determined by the score, the point spread, the performance of one or more teams, or the performance of an individual athlete in a single real world sporting event.

(3) "Fantasy sports operator" means a person that offers to members of the public the opportunity to participate in a fantasy sports contest for consideration.

(4) "Fantasy sports player" means an individual who participates in a fantasy sports contest for consideration.

§ 4186. CONSUMER PROTECTION

(a) A fantasy sports operator shall adopt policies and procedures to:

(1) prevent participation in a fantasy sports contest he or she offers with a cash prize of \$5.00 or more by:

(A) the fantasy sports operator;

(B) an employee of the fantasy sports operator or a relative of the employee who lives in the same household; or

(C) a professional athlete or official who participates in one or more real world sporting events in the same sport as the fantasy sports contest;

(2) prevent the disclosure of confidential fantasy sports contest information to an unauthorized person;

(3) require that a fantasy sports player is 18 years of age or older, and verify the age of each player using one or more commercially available databases, which primarily consist of data from government sources and which government and business regularly use to verify and authenticate age and identity;

(4) limit and disclose to prospective players the number of entries a fantasy sports player may submit for each fantasy sports contest; and

(5) segregate player funds from operational funds, and maintain a reserve in the form of cash, cash equivalents, an irrevocable letter of credit, a bond, or a combination thereof in an amount that equals or exceeds the amount of deposits in fantasy sports player accounts, for the benefit and protection of fantasy sports player funds held in their accounts.

(b) A fantasy sports operator shall have the following duties:

(1) The operator shall provide a link on its website to information and resources addressing addiction and compulsive behavior and where to seek assistance with these issues in Vermont and nationally.

(2)(A) The operator shall enable a fantasy sports player to restrict irrevocably his or her own ability to participate in a fantasy sports contest, for a period of time the player specifies, by submitting a request to the operator through its website or by online chat with the operator's agent.

(B) The operator shall provide to a player who self-restricts his or her participation information concerning:

(i) available resources addressing addiction and compulsive behavior;

(ii) how to close an account and restrictions on opening a new account during the period of self-restriction;

(iii) requirements to reinstate an account at the end of the period; and

(iv) how the operator addresses reward points and account balances during and after the period of self-restriction, and when the player closes his or her account.

(3) The operator shall provide a player access to the following information for the previous six months:

(A) a player's play history, including money spent, games played, previous line-ups, and prizes awarded;

(B) a player's account details, including deposit amounts, withdrawal amounts, and bonus information, including amounts remaining for a pending bonus and amounts released to the player.

(c)(1) A fantasy sports operator shall contract with a third party to perform an annual independent audit, consistent with the standards established by the Public Company Accounting Oversight Board, to ensure compliance with the requirements in this chapter.

(2) The fantasy contest operator shall submit the results of the independent audit to the Attorney General.

§ 4187. PENALTY

A person who violates a provision of this chapter shall be subject to a civil penalty of not more than \$1,000.00 for each violation, which shall accrue to

the State and may be recovered in a civil action brought by the Attorney General.

§ 4188. EXEMPTION

The provisions of 13 V.S.A. chapter 51, relating to gambling and lotteries, shall not apply to a fantasy sports contest.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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.

**House Proposals of Amendment to Senate Proposals of Amendment
Concurred In**

H. 611.

House proposals of amendment to Senate proposals of amendment to House bill entitled:

An act relating to fiscal year 2016 budget adjustments.

Were taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: By striking out the *First* proposal of amendment in its entirety and inserting in lieu thereof the following:

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	7,884,268
Grants	<u>1,372,464,147</u>	<u>1,434,250,041</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>	<u>40,000</u>
Total	<u>1,377,005,883</u>	1,442,134,309

Second: By striking out the *Sixth* proposal of amendment in its entirety and inserting in lieu thereof the following:

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 distributed in accordance with the provisions of 32 V.S.A. § 308c(a).

(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.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposals of amendment?, was decided in the affirmative.

Message from the House No. 26

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 761. An act relating to cataloguing and aligning health care performance measures.

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

Adjournment

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