

# Journal of the Senate

TUESDAY, MARCH 15, 2016

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Paul Habersang of Montpelier.

## Pledge of Allegiance

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

## Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 52.** An act relating to the Uniform Interstate Family Support Act.

**S. 153.** An act relating to jurors' fees.

## Bills Referred to Committee on Finance

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

**S. 230.** An act relating to improving the siting of energy projects.

**S. 242.** An act relating to the service of civil process by a constable.

**S. 243.** An act relating to combating opioid abuse in Vermont.

## Joint Resolution Placed on Calendar

### J.R.S. 47.

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

By Committee on Agriculture,

**J.R.S. 47.** Joint resolution expressing appreciation to the National Milk Producers Federation and Vermont's dairy farmers for their phasing out the tail docking of dairy farm animals.

*Whereas*, the National Milk Producers Federation (NMPF) is a large organization that most dairy farmers in Vermont are associated with through their respective cooperative memberships, and

*Whereas*, routine tail docking of dairy animals has become a controversial practice, and

*Whereas*, NMPF's National Dairy FARM (Farmers Assuring Responsible Management) Program opposes the tail docking of dairy farm animals except in instances of traumatic injury, and

*Whereas*, an NMPF initiative is directing the phasing out of the tail docking of dairy farm animals as of January 1, 2017, and

*Whereas*, switch trimming will be the recommended alternative, and

*Whereas*, although federal, state, and local animal cruelty laws can serve as important preventative measures, they are unnecessary with respect to the tail docking of dairy farm animals because Vermont's dairy farmers, along with the NMPF, are voluntarily decreasing the prevalence of this practice in routine situations on dairy farms in Vermont and nationwide, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the General Assembly expresses its appreciation to the National Milk Producers Federation and Vermont's dairy farmers for their phasing out the tail docking of dairy farm animals, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to the National Milk Producers Federation, to U.S. Secretary of Agriculture Tom Vilsack, to Vermont Secretary of Agriculture, Food and Markets Chuck Ross, and to the Vermont Congressional Delegation.

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

**Joint Senate Resolution Adopted on the Part of the Senate**

**J.R.S. 46.**

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. 46.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, March 18, 2016, it be to meet again no later than Tuesday, March 22, 2016.

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**Joint Resolution Placed on Calendar****J.R.H. 23.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing Green Mountain Boys State educational program to use the State House

by: Representatives Lawrence of Lyndon and Marcotte of Coventry

Whereas, the American Legion in Vermont sponsors the Green Mountain Boys State program, which provides an opportunity for boys in high school to study the workings of State government in Montpelier, and

Whereas, as part of their visit to the State's capital city, the boys conduct a mock legislative session in the State House, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the State House for the Green Mountain Boys State program on Thursday, June 23, 2016 from 8:00 a.m. to 5:00 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont in Montpelier.

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

**Bills Referred**

House bills of the following titles were severally read the first time and referred:

**H. 112.**

An act relating to access to financial records in adult protective services investigations.

To the Committee on Judiciary.

**H. 517.**

An act relating to the classification of State waters.

To the Committee on Natural Resources & Energy.

**H. 526.**

An act relating to the Commissioner of Liquor Control and the Liquor Control Board.

To the Committee on Economic Development, Housing & General Affairs.

**H. 674.**

An act relating to public notice of wastewater discharges.

To the Committee on Natural Resources & Energy.

**H. 747.**

An act relating to the State Treasurer's authority to intercept State funding to a municipality or school district in default from a Municipal Bond Bank borrowing.

To the Committee on Finance.

**H. 778.**

An act relating to State enforcement of the federal Food Safety Modernization Act.

To the Committee on Agriculture.

**Bill Amended; Third Reading Ordered****S. 245.**

Senator Ayer, for the Committee on Health & Welfare, to which was referred Senate bill entitled:

An act relating to disclosure of health care provider affiliations.

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

**Sec. 1. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF NEW AFFILIATION**

The Green Mountain Care Board shall maintain a policy for reviewing new physician acquisitions and transfers as part of the Board's hospital budget review responsibilities. The policy shall require hospitals to provide written notice about a new acquisition or transfer of health care providers to each patient served by a health care provider during the previous three-year period, including:

(1) notifying the patient that the health care provider is now affiliated with the hospital;

(2) providing the hospital's name and contact information;

(3) notifying the patient that the change in affiliation may affect his or her out-of-pocket costs, depending on the patient's health insurance plan and the services provided; and

(4) recommending that the patient contact his or her insurance company with specific questions or to determine his or her actual financial liability.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that after passage the title of the bill be amended to read:

An act relating to notice to patients of new health care provider affiliations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Health & Welfare?, Senator Ayer moved to amend the recommendation of the Committee on Health & Welfare in Sec. 1, Green Mountain Care Board; Notice to Patients of New Affiliation, in the second sentence, by striking out the word "a" prior to the words "health care provider" and inserting in lieu thereof the words an acquired or transferred

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Health and Welfare, as amended was agreed to and third reading of the bill was ordered.

### **Bill Passed**

#### **S. 157.**

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

An act relating to breast density notification and education.

### **Consideration Postponed**

#### **S. 183.**

Senate bill entitled:

An act relating to permanency for children in the child welfare system.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill in Sec. 8, 33 V.S.A. § 5125, in subsection (e), by striking out the last sentence.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Sirotkin?, Senator Sears moved that consideration of the bill be posted until the next legislative day.

**Bill Amended; Bill Passed**

**S. 255.**

Senate bill entitled:

An act relating to regulation of hospitals, health insurers, and managed care organizations.

Was taken up.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the bill by striking out Sec. 11, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 11. VERMONT HEALTH CONNECT SUSTAINABILITY ASSESSMENT; REPORT

(a) The Green Mountain Care Board shall determine the long-term sustainability of Vermont Health Connect. If the Board determines that Vermont's operation of a State-based Exchange is not feasible in the long-term, the Board shall recommend whether it would be more advantageous for Vermont residents to transition to a fully federally facilitated Exchange or to a federally facilitated State-based Exchange.

(b) On or before December 15, 2016, the Green Mountain Care Board shall deliver to the General Assembly its report, which shall include the evaluation of Vermont Health Connect's long-term sustainability and an implementation plan for transitioning to the selected federal Exchange model, if applicable, for coverage beginning on January 1, 2018 or as soon thereafter as is practicable. If the Board recommends moving to a new Exchange model, the plan shall include a description of the federally facilitated Exchange model selected, estimates of the costs associated with the transition and with ongoing participation in the federally facilitated Exchange, options for financing the transition and participation costs, and a detailed timeline of the steps necessary to ensure that the transition will take place without causing any disruption to Medicaid or private health insurance coverage. The plan shall also include a description of the steps needed to dismantle unnecessary functions of Vermont Health Connect while minimizing financial exposure to the State.

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Sec. 12. EFFECTIVE DATES

(a) Secs. 1 (hospital needs assessment), 2 (hospital community reports), 11 (Exchange sustainability assessment), and this section shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

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

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

First: In Sec. 6, health care provider bargaining group; rulemaking, by adding a second sentence to read as follows:

The Board's rule shall be at least as protective of health care providers as Rule 6.00.

Second: By striking out Sec. 10, recommendations for potential alignment, in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall compare the requirements in federal law applicable to Vermont's accountable care organizations and to the Department of Vermont Health Access in its role as a public managed care organization with the provisions of 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment, including alignment of mental health standards. The Director of Health Care Reform shall make recommendations on or before December 15, 2017 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on appropriate ways to improve alignment. In preparing his or her recommendations, the Director shall take into consideration the financial and operational implications of alignment and shall consult with interested stakeholders, including health care providers, accountable care organizations, the Office of the Health Care Advocate, and health insurance and managed care organizations, as defined in 18 V.S.A. § 9402.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

**Third Reading Ordered****J.R.S. 45.**

Joint Senate committee resolution entitled:

Joint resolution relating to the transfer of two State-owned parcels of land to the Town of Duxbury.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the joint Senate resolution was read the second time by title only pursuant to Rule 43, and third reading of the joint Senate resolution was ordered.

**Bill Amended; Third Reading Ordered****S. 196.**

Senator Lyons, for the Committee on Health & Welfare, to which was referred Senate bill entitled:

An act relating to the Agency of Human Services' contracts with providers.

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

\* \* \* Nutrition Procurement Standards for State Government \* \* \*

**Sec. 1. FINDINGS**

(a) Approximately 13,000 Vermont residents are employed by the State. Reducing the impact of diet-related diseases will support a more productive and healthy workforce that will pay dividends to Vermont's economy and cultivate national competitiveness for State residents and employees.

(b) Improving the nutritional quality of food sold or provided by the State on public property will support people in making healthy eating choices.

(c) State properties are visited by Vermont residents and out-of-state visitors, and also provide care to dependent adults and children.

(d) Approximately 25 percent of Vermont residents are overweight or obese.

(e) Obesity costs Vermont \$291 million each year in health care costs, contributing to debilitating yet preventable diseases, such as heart disease, cancer, stroke, and diabetes.

(f) Improving the types of foods and beverages served and sold in workplaces positively affects employees' eating behaviors and can result in weight loss.



(g) Maintaining a healthy workforce can positively affect indirect costs by reducing absenteeism and increasing worker productivity.

Sec. 2. 29 V.S.A. § 160c is added to read:

§ 160c. NUTRITION PROCUREMENT STANDARDS

(a)(1) The Commissioner of Health shall establish and post on the Department's website nutrition procurement standards that:

(A) consider relevant guidance documents, including those published by the U.S. General Services Administration, the American Heart Association, and the National Alliance for Nutrition and Activity and, upon request, the Department shall provide a rationale for any divergence from these guidance documents;

(B) consider both positive and negative contributions of nutrients, ingredients, and food groups to diets, including calories, portion size, saturated fat, trans fat, sodium, sugar, and the presence of fruits, vegetables, whole grains, and other nutrients of concern in Americans' diets; and

(C) contain exceptions for circumstances in which State-procured foods or beverages are intended for individuals with specific dietary needs.

(2) The Commissioner shall review and, if necessary, amend the nutrition procurement standards at least every five years to reflect advances in nutrition science, dietary data, new product availability, and updates to federal Dietary Guidelines for Americans.

(b)(1) All foods and beverages purchased, sold, served, or otherwise provided by the State or any entity, subdivision, or employee on behalf of the State shall meet the minimum nutrition procurement standards established by the Commissioner of Health.

(2) All bids and contracts between the State and food and beverage vendors shall comply with the nutrition procurement standards. The Commissioner, in conjunction with the Commissioner of Buildings and General Services, may periodically review or audit a contracting food or beverage vendor's financial reports to ensure compliance with this section.

(c) The Governor's Health in All Policies Task Force may disseminate information to State employees on the Commissioner's nutrition procurement standards.

(d) All State-owned or -operated vending machines, food or beverage vendors contracting with the State, or cafeterias located on property owned or operated by the State shall display nutritional labeling to the extent permitted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ch. 9 § 301 et seq.

(e) The Commissioner of Buildings and General Services shall incorporate the nutrition procurement standards established by the Commissioner into the appropriate procurement document.

### Sec. 3. EXISTING PROCUREMENT CONTRACTS

To the extent possible, the State's existing contracts and agreements with food and beverage vendors shall be modified to comply with the nutrition procurement standards established by the Commissioner of Health.

\* \* \* Contracts between the Agency of Human Services  
and Providers \* \* \*

### Sec. 4. REPORT; AGENCY OF HUMAN SERVICES' CONTRACTS

(a) On or before January 1, 2017, the Agency of Human Services, in consultation with Vermont Care Partners, the Green Mountain Care Board, and representatives from preferred providers, shall submit a report to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services. The report shall address the following:

(1) the amount and type of performance measures and other evaluations used in fiscal year 2016 and 2017 Agency contracts with designated agencies, specialized service agencies, and preferred providers;

(2) how the Agency's funding levels of designated agencies, specialized service agencies, and preferred providers affect access to and quality of care; and

(3) how the Agency's funding levels for designated agencies, specialized service agencies, and preferred providers affect compensation levels for staff relative to private and public sector pay for the same services.

(b) The report shall contain a plan developed in conjunction with the Vermont Health Care Innovation Project and in consultation with the Vermont Care Network and the Vermont Council of Developmental and Mental Health Services to implement a value-based payment methodology for designated agencies, specialized service agencies, and preferred providers that shall improve access to and quality of care, including long-term financial sustainability. The plan shall describe the interaction of the value-based payment methodology for Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the Agency with any Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the accountable care organizations.

(c) As used in this section:

(1) "Designated agency" means the same as in 18 V.S.A. § 7252.

(2) “Preferred provider” means any substance abuse organization that has attained a certificate of operation from the Department of Health’s Division of Alcohol and Drug Abuse Programs and has an existing contract or grant from the Division to provide substance abuse treatment.

(3) “Specialized service agency” means any community mental health and developmental disability agency or any public or private agency providing specialized services to persons with a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance pursuant to 18 V.S.A. § 8912.

#### Sec. 5. MEDICAID PATHWAY

(a) The Secretary of Human Services, in consultation with the Director of Health Care Reform and affected providers, shall create a process for payment and delivery system reform for Medicaid providers and services. This process shall address all Medicaid payments to affected providers and shall focus on services not included in the Medicaid equivalent of Medicare Part A and Part B services.

(b) On or before January 15, 2017 and annually for five years thereafter, the Secretary of Human Services shall report on the results of this process to the Senate Committee on Health and Welfare, the House Committees on Health Care and on Human Services, and the Green Mountain Care Board. The Secretary’s report shall address:

(1) all Medicaid payments to affected providers, including progress toward integration of services not included in the Medicaid equivalent of Medicare Part A and Part B services in the previous year;

(2) changes to reimbursement methodology and services impacted;

(3) changes to quality measure collection and identifying alignment efforts and analyses, if any; and

(4) the interrelationship of results-based accountability initiatives with the quality measures in subdivision (3) of this subsection.

#### Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 4 and 5 shall take effect on passage.

(b) Secs. 1–3 shall take effect on July 1, 2016.

And that after passage the title of the bill be amended to read:

An act relating to nutrition procurement standards for State government and the Agency of Human Services’ contracts with providers.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to on a division of the Senate, Yeas 19, Nays 6.

Thereupon, third reading of the bill was ordered.

**Committee Relieved of Further Consideration; Bill Committed**

**H. 112.**

On motion of Senator Sears, the Committee on Judiciary was relieved of further consideration of House bill entitled:

An act relating to access to financial records in adult protective services investigations,

and the bill was committed to the Committee on Health & Welfare.

**Message from the House No. 33**

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 House bills of the following titles:

**H. 857.** An act relating to timber harvesting.

**H. 858.** An act relating to miscellaneous criminal procedure amendments.

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

**Adjournment**

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 16, 2016.