

# Journal of the Senate

FRIDAY, FEBRUARY 16, 2018

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the House No. 17

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 559.** An act relating to miscellaneous environmental subjects.

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

## Bills Referred to Committee on Appropriations

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 Appropriations:

**S. 203.** An act relating to systemic improvements of the mental health system.

**S. 261.** An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience.

## Bill Referred to Committee on Finance

**S. 272.**

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 miscellaneous changes to laws related to motor vehicles and motorboats.

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**Joint Resolution Placed on Calendar****J.R.S. 48.**

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

By Committee on Institutions,

**J.R.S. 48.** Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend the Department's lease with the Stowe Mountain Resort and to amend a conservation easement in the Town of Plymouth.

*Whereas*, in 1972, the Stowe Mountain Resort entered into a lease with the State of Vermont for 1,400 acres of the Mount Mansfield State Forest to be used as a ski resort, and

*Whereas*, in accordance with the terms of the lease, in 2017, the State of Vermont consented to a reassignment of the Mount Mansfield Company Inc.'s (MMC) lease to Vail Resorts, and

*Whereas*, at the request of the Department of Forests, Parks and Recreation, the parties to the lease entered into a separate agreement to amend certain provisions of the lease, and

*Whereas*, on July 30, 2001, the trustees of the David A. Cederlund Living Trust granted a conservation easement to the State of Vermont, encumbering approximately 230.5 acres of land (conservation easement area) located in the Town of Plymouth, but excepting 10 acres designated as a development parcel (development parcel), and

*Whereas*, a shed was constructed unintentionally within the conservation easement area, and consequently, the boundaries between the development parcel and the conservation area need to be reconfigured, *now therefore be it*

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

First: That the Commissioner of Forests, Parks and Recreation is authorized to amend the Stowe Mountain Resort ski lease (Lease) as follows:

(1) Article 6 of the Lease requires the MMC to pay a rental fee equal to five percent of gross receipts from ski lifts located on the leasehold area. As shown on page 5 of the "Mt. Mansfield Company Report of Procedures and Findings For the 2015-2016 Ski Season," the company also paid a five percent rental fee on revenues from lifts, the Zip Tour, and the Tree Top Adventure activities, recently located within the leasehold area and designated as additional activities. Consistent with this approach, the State and Vail Resorts now agree to apply the five percent rental fee to the additional activities and any new commercial recreational activities occurring on the leasehold.

(2) Notwithstanding language in Article 14 of the Lease, Vail Resorts shall indemnify and hold harmless the State and shall provide a general liability insurance policy as follows:

(a) Except in the event of the State's gross negligence or willful misconduct, Vail Resorts shall defend, indemnify, and hold harmless the State and the additional parties referred to in Article 14 of the Lease from any damages and any claim arising out of or related to the use, maintenance, or operation of lifts or premises.

(b) Vail Resorts shall carry general liability insurance in a policy or policies at all times with minimum coverage of at least \$10 million per occurrence and \$20 million in aggregate, naming the State and additional parties as stated in Article 14 of the Lease as additional insureds under such coverage. Not more than once every five years, the State may review required insurance amounts and may increase these amounts so they are reasonably representative of the current market for insurance amounts for similar operations as the State may reasonably determine.

(3) Vail Resorts shall provide access to the public to the leasehold area, including for uphill travel on the ski area ski trails, subject to Vail Resorts' right to impose reasonable restrictions on the public's access for uphill travel for safety, operational, or business purposes. Vail Resorts shall coordinate with the State to take all reasonable efforts to designate specific trails, times, and parking locations that may be used by the public for uphill travel in the leasehold area, subject to the above restrictions. Vail Resorts shall establish a written policy, consistent with these terms, and shall provide a copy to the State and make the policy publicly available.

(4) Other than a permitted transfer, Vail Resorts, or following a permitted transfer, any permitted transferees shall not assign the lease or engage in a transaction by way of merger, consolidation, or sale, singly or in combination, involving the transfer of equity securities constituting more than one-half of the total voting securities or interests of Vail Resorts, or if applicable, its permitted transferees, without the prior written consent of the State. Notwithstanding the foregoing, Vail Resorts' assignment of the Lease, or any transaction involving the transfer of equity securities of Vail Resorts, to any direct or indirect wholly owned subsidiary of Vail Holdings, Inc. shall be a permitted transfer, provided that the guaranty remains in full force and effect.

(5) There is added an approximately 10-acre section of State land to the Lease that the General Assembly approved in 1998 Acts and Resolves No. 148, Sec. 35. This land is located between the two "S" turns on Vail Resorts' Toll Road.

(6) Paragraph 3(d) of the Lease, which is now obsolete due to the relocation of the State campground and the development of a separate independent water source that is not located within the leasehold area, is deleted.

Second: That the Commissioner of Forests, Parks and Recreation is authorized to amend the Easement and Grant of Development Rights and Conservation Restrictions, dated July 30, 2001, encumbering approximately 230.5 acres of land in the Town of Plymouth, designated the conservation easement on the map entitled “David A. & Maureen E. Cederlund, Trustees of the David A. Cederlund Living Trust” and dated March 13, 1999, in order to reconfigure the 10-acre development parcel to include the footprint of a shed that was constructed over the boundary of the existing development parcel footprint and the easement area. The landowners, David A. Cederlund and Maureen E. Cederlund, trustees of the David A. Cederlund Living Trust, shall prepare and cover the costs of a new survey of the reconfigured 10-acre development parcel and shall record the survey and easement amendment document in the Town of Plymouth’s land records after the Department reviews and approves the survey and easement document. The reconfigured development parcel shall not exceed 10 acres and shall be configured to prevent any negative impact to the conservation values of the portion of the property subject to the conservation easement, *and be it further*

**Resolved:** That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forests, Parks and Recreation.

Thereupon, under the rules, the joint resolution was placed on the Calendar for notice the next legislative day.

#### **Bill Referred**

House bill of the following title was read the first time and referred:

#### **H. 559.**

An act relating to miscellaneous environmental subjects.

To the Committee on Natural Resources and Energy.

#### **Bill Passed**

#### **S. 40.**

Senate bill entitled:

An act relating to increasing the minimum wage.

Was taken up.

Thereupon, pending third reading of the bill, Senators Brock and Flory moved to amend the bill in Sec. 1, 21 V.S.A. § 384, after subsection (e), by inserting a subsection (f) to read:

(f)(1) Notwithstanding 2 V.S.A. § 20(d), on or before December 1, 2018, and on or before each subsequent December 1 until the minimum wage established pursuant to subsection (a) of this section reaches \$15.00:

(A) the Commissioner shall submit a written report to the Governor and the General Assembly regarding whether seasonally adjusted total nonfarm, private employment for the State decreased over the 12-month period ending on September 30 of that year; and

(B) the Commissioner of Taxes shall submit a written report to the Governor and the General Assembly regarding whether the inflation adjusted revenues from the sales tax imposed pursuant to 32 V.S.A. § 9771 and the use tax imposed pursuant to 32 V.S.A. § 9773 for the 12-month period ending on September 30 of that year are less than the revenues from the sales tax and use tax for the 12-month period ending on September 30 of the previous year.

(2)(A) If the Commissioner's report indicates that seasonally adjusted total nonfarm, private employment for the State decreased over the 12-month period ending on September 30 and the Commissioner of Taxes' report indicates that the inflation adjusted revenues from the sales tax imposed pursuant to 32 V.S.A. § 9771 and the use tax imposed pursuant to 32 V.S.A. § 9773 for the 12-month period ending on September 30 of that year are less than the revenues from the sales tax and use tax for the 12-month period ending on September 30 of the previous year, the scheduled future increases in the minimum wage pursuant to subsection (a) of this section shall be delayed by one year.

(B) The scheduled increases in the minimum wage shall not be delayed more than two times pursuant to this subsection (f).

Which was disagreed to on a roll call, Yeas 7, Nays 22.

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:** Benning, Branagan, Brock, Collamore, Flory, Soucy, Westman.

**Those Senators who voted in the negative were:** Ashe, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, White.

**The Senator absent and not voting was:** Ayer.

Thereupon, pending third reading of the bill, Senator Branagan moved to amend the bill in Sec. 4, 21 V.S.A. § 383, in subdivision (2) by amending subparagraph (I) to read as follows:

(I) ~~students working during all or any part of the school year or regular vacation periods~~ any individual under 20 years of age.

Which was disagreed to on a roll call, Yeas 7, Nays 23.

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:** Benning, Branagan, Brock, Collamore, Flory, Soucy, Westman.

**Those Senators who voted in the negative were:** Ashe, Ayer, Balint, Baruth, Bray, Brooks, Champion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, White.

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

### **Bill Amended; Third Reading Ordered**

#### **S. 123.**

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

An act relating to limiting liability for animal shelter and rescue organizations assisting law enforcement in animal cruelty investigations.

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. § 3903 is amended to read:

§ 3903. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) [Repealed.]

(b) Animal intake. An animal shelter or rescue organization ~~under this chapter shall not accept an animal unless the person transferring the animal to the shelter provides~~ as defined by section 3901 of this title shall make every effort to collect the following information about an animal it accepts: the name and address of the person transferring the animal and, if known, the name of the animal, its vaccination history, and other information concerning the background, temperament, and health of the animal.

(c) Nonprofit status. A rescue organization under this chapter shall be recognized and approved as a nonprofit organization under 26 U.S.C. § 501(c)(3).

(d) Immunity from liability. Notwithstanding section 3901a of this title, any animal shelter or rescue organization assisting law enforcement in an animal cruelty investigation or seizure that, in good faith, provides care and treatment to an animal involved in the investigation or seizure shall not be held liable for civil damages by the owner of the animal unless the actions of the shelter or organization constitute gross negligence.

## 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.

### **Bill Amended; Third Reading Ordered**

#### **S. 280.**

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

An act relating to the Child Poverty Advisory Council.

Reported recommending that the bill ought to pass in concurrence.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as follows:

First: In Sec. 1, in subsection (a), by striking out “Child Poverty Advisory Council” and inserting in lieu thereof Advisory Council for Strengthening Families

Second: In Sec. 1, by striking subdivision (b)(1), and inserting in lieu thereof the following:

(b)(1) Voting membership. The Advisory Council shall be composed of the following 13 voting members:

(A) three members of the Senate, not all from the same political party, appointed by the Committee on Committees, including one member from the Committee on Education and one member from the Committee on Health and Welfare;

(B) three members of the House, not all from the same political party, appointed by the Speaker of House, including one member from the Committee on Education and one member from the Committee on Human Services;

(C) a member appointed by Voices for Vermont's Children;

(D) a member appointed by the Vermont Low Income Advocacy Council;

(E) a member appointed by Vermont Legal Aid;

(F) a member appointed by the Vermont Coalition for Disability Rights;

(G) a member appointed by the Vermont Affordable Housing Coalition;

(H) a nongovernmental designee of the Child and Family Trauma Work Group who does not otherwise represent an organization with membership on this Council; and

(I) an employee of the prekindergarten through grade 12 public education delivery system in Vermont appointed jointly by the Executive Directors of the Vermont Superintendents Association, the Vermont Principals' Association, and the Vermont Council of Special Education Coordinators.

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

An act relating to the Advisory Council for Strengthening Families.

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, and the recommendation of amendment was agreed to, and third reading of the bill was ordered.

### **Appointments Confirmed**

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

The nominations of

Feldman, Rachel of Middlesex - Member, Capitol Complex Commission - October 2, 2017, to February 28, 2018.

Simpson, Robert of Burlington - Chair, Health, State Board of - December 5, 2017, to February 28, 2023.



Bolton, Margaret of Addison - Member, Health, State Board of - December 12, 2016, to February 28, 2017.

Bolton, Margaret of Addison - Member, Health, State Board of - December 5, 2017, to February 28, 2023.

Meals, Don of Burlington - Member, Health, State Board of - September 12, 2016, to February 28, 2019.

Gill, Faisal M. of Winooski - Member, Medical Practice, Board of - January 1, 2017, to December 31, 2022.

Hunter, Patricia of Rutland - Member, Medical Practice, Board of - January 1, 2017, to December 31, 2022.

Sexton, Ryan of Montpelier - Member, Medical Practice, Board of - June 14, 2016, to December 31, 2018.

Potter, Alexandra S. of Starksboro - Member, Vermont Tobacco Evaluation and Review Board - June 30, 2016, to July 1, 2019.

Were collectively confirmed by the Senate.

#### **Message from the House No. 18**

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 829.** An act relating to appointing town grand jurors.

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

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

**H.C.R. 239.** House concurrent resolution congratulating the 2017 Class of Boy Scout Eagle rank recipients in Vermont.

**H.C.R. 240.** House concurrent resolution in memory of former Representative Gordon N. Stafford of Brighton.

**H.C.R. 241.** House concurrent resolution honoring former Bethel Town Clerk and Treasurer Jean Burnham for her nearly half century of illustrious municipal public service.

**H.C.R. 242.** House concurrent resolution congratulating the U-32 High School Raiders on winning a fifth consecutive boys' outdoor track and field championship.

**H.C.R. 243.** House concurrent resolution in memory of John T. Ewing of Burlington.

**H.C.R. 244.** House concurrent resolution designating February 13, 2018 as Suicide Prevention Awareness Day at the State House.

**H.C.R. 245.** House concurrent resolution congratulating the Vermont Youth Conservation Corps on winning both a U.S. Forest Service Culture of Inclusion Award and The Corps Network's recognition for the Health Care Share program.

**H.C.R. 246.** House concurrent resolution honoring Vermont State Police Lieutenant Matthew Nally Sr. of Cabot for his exemplary public service as a law enforcement officer.

**H.C.R. 247.** House concurrent resolution honoring Patrick Scheidel for his exemplary 27-year career as Essex Town Manager.

**H.C.R. 248.** House concurrent resolution in memory of Vermont National Guard Sergeant Major Michael Evan Cram of Milton.

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

#### **House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Fagan and others,

By All Members of the Senate,

#### **H.C.R. 239.**

House concurrent resolution congratulating the 2017 Class of Boy Scout Eagle rank recipients in Vermont.

By Reps. Lefebvre and others,

By Senators Benning, Rodgers and Starr,

#### **H.C.R. 240.**

House concurrent resolution in memory of former Representative Gordon N. Stafford of Brighton.

By Rep. Haas,

By Senators Clarkson, McCormack and Nitka,

**H.C.R. 241.**

House concurrent resolution honoring former Bethel Town Clerk and Treasurer Jean Burnham for her nearly half century of illustrious municipal public service.

By Reps. Jessup and others,

By Senators Brooks, Cummings and Pollina,

**H.C.R. 242.**

House concurrent resolution congratulating the U-32 High School Raiders on winning a fifth consecutive boys' outdoor track and field championship.

By Reps. Ancel and others,

By Senators Sirotkin, Ashe, Baruth, Ingram, Kitchel, Lyons, Mazza, McCormack and Pearson,

**H.C.R. 243.**

House concurrent resolution in memory of John T. Ewing of Burlington.

By All Members of the House,

**H.C.R. 244.**

House concurrent resolution designating February 13, 2018 as Suicide Prevention Awareness Day at the State House.

By Reps. Gardner and others,

**H.C.R. 245.**

House concurrent resolution congratulating the Vermont Youth Conservation Corps on winning both a U.S. Forest Service Culture of Inclusion Award and The Corps Network's recognition for the Health Care Share program.

By Rep. Toll,

By Senators Brooks, Cummings and Pollina,

**H.C.R. 246.**

House concurrent resolution honoring Vermont State Police Lieutenant Matthew Nally Sr. of Cabot for his exemplary public service as a law enforcement officer.

By Reps. Myers and others,

**H.C.R. 247.**

House concurrent resolution honoring Patrick Scheidel for his exemplary 27-year career as Essex Town Manager.

By Reps. Bissonnette and others,

**H.C.R. 248.**

House concurrent resolution in memory of Vermont National Guard Sergeant Major Michael Evan Cram of Milton.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, February 16, 2018, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 46.