

Journal of the Senate

TUESDAY, APRIL 25, 2023

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

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

Message from the House No. 50

A message was received from the House of Representatives by Mr. Nigel Hicks-Tibbles, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 5. An act relating to affordably meeting the mandated greenhouse gas reductions for the thermal sector through efficiency, weatherization measures, electrification, and decarbonization.

S. 37. An act relating to access to legally protected health care activity and regulation of health care providers.

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

Rules Suspended; Bill Not Referred to Committee Finance

H. 494

Appearing on the Calendar for notice, and, pending referral of the bill to the Committee on Finance pursuant to Senate Rule 31, Senator Baruth moved that the rules be suspended and House bill entitled:

An act relating to making appropriations for the support of government.

Not be referred to the Committee on Finance pursuant to Senate Rule 31 (and thereby remain on the Calendar for notice),

Which was agreed to.

Bill Referred to Committee on Rules

S. 148.

Senate bill of the following title, appearing on the Calendar for notice, under Temporary Rule 44A, was referred to the Committee on Rules:

An act relating to child care and early childhood education.

Bills Referred to Committee on Finance

House 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:

H. 62. An act relating to the interstate Counseling Compact.

H. 282. An act relating to the Psychology Interjurisdictional Compact.

Bills Referred to Committee on Appropriations

House 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:

H. 102. An act relating to the Art in State Buildings Program.

H. 126. An act relating to community resilience and biodiversity protection.

Message from the Governor Appointments Referred

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Corbett, H. Dickson of East Thetford - Superior Court Judge - from April 14, 2023 to March 31, 2025.

To the Committee on Judiciary.

Katims, Robert of Hinesburg - Superior Court Judge - from April 14, 2023 to March 31, 2028.

To the Committee on Judiciary.

Joint Senate Resolution Adopted on the Part of the Senate**J.R.S. 25.**

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

By Senator Baruth,

J.R.S. 25. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 28, 2023, it be to meet again no later than Tuesday, May 2, 2023.

Joint Resolution Placed on Calendar**J.R.H. 5.**

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

Joint resolution authorizing the Green Mountain Girls State educational program to use the facilities of the State House on a mutually agreed upon day and for a designated time span during the week of June 18, 2023

Whereas, the American Legion Auxiliary Department of Vermont sponsors the Green Mountain Girls State educational program, providing a group of girls entering the 12th grade a special opportunity to study the workings of State government, including conducting a mock legislative session at the State House, and

Whereas, this special experience is a unique civic lesson of lasting value for the participants, now therefore be it

Resolved by the Senate and House of Representatives:

That subject to the determination of and limitations that the Sergeant at Arms may establish, the Green Mountain Girls State educational program is authorized to use the facilities of the State House on a mutually agreed upon day and for a designated time span during the week of June 18, 2023, and be it further

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

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 Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 149.

By Senator Sears,

An act relating to dram shop liability insurance.

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

S. 150.

By Senator Sears,

An act relating to automobile insurance.

To the Committee on Judiciary.

Consideration Resumed; Bill Amended; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged

H. 222.

Consideration was resumed on Senate bill entitled:

An act relating to reducing overdoses.

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

An act relating to reducing overdoses.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 2, regional stakeholder meetings; public needle and syringe disposal programs, in subsection (a), in the first sentence, by striking out “Health’s Accountable Communities for”

Second: By striking out Sec. 3a, 33 V.S.A. § 2004, in its entirety and inserting in lieu thereof the following:

Sec. 3a. [Deleted.]

Third: In Sec. 6b, 18 V.S.A. § 4752, in subsection (e), after “Department of Vermont Health Access”, by inserting the phrase or the Department’s pharmacy benefits manager

Fourth: By striking out Sec. 8b, rulemaking; prior authorization; buprenorphine in its entirety and inserting in lieu thereof a new Sec. 8b to read as follows:

Sec. 8b. RULEMAKING; PRIOR AUTHORIZATION; BUPRENORPHINE

The Department of Vermont Health Access shall amend its rules pursuant to 3 V.S.A. chapter 25 to enable health care providers in office-based opioid-treatment programs to prescribe 24 milligrams or less of the preferred medication for buprenorphine without prior authorization in accordance with 33 V.S.A. § 19011.

Fifth: In Sec. 9, 24 V.S.A. § 4412, in subdivision (1)(G)(i), by striking out the word “tenants” and inserting in lieu thereof the phrase persons in recovery

Sixth: By inserting a new reader assistance heading and Secs. 11 and 12 after Sec. 10 to read as follows:

* * * Drug Checking for Contamination Detection * * *

Sec. 11. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, ~~unless the context otherwise requires:~~

* * *

(45) “Drug-checking” means the testing of a substance to determine its chemical composition or assist in determining whether the substance contains contaminants, toxic substances, or hazardous compounds.

Sec. 12. 18 V.S.A. § 4240a is added to read:

§ 4240a. OVERDOSE PREVENTION; DRUG-CHECKING FOR
CONTAMINANT DETECTION

(a) Notwithstanding any other provision of law, it shall not be a violation of this chapter to receive, possess, transport, or store samples of a substance that may contain a regulated drug solely for purposes of analyzing the substance to determine its chemical composition and disseminate information regarding the analysis to the provider of the substance.

(b) On-site community drug-checking service providers shall be permitted to:

(1) collect voluntarily provided residual samples of substances potentially containing regulated drugs, possess, transport, or store samples of a regulated drug solely for purposes of analyzing the substances to determine its chemical composition as a lifesaving intervention;

(2) use any available technologies to analyze the contents of samples to obtain timely, highly accurate information regarding the composition of drugs to prevent overdose and mitigate health risks;

(3) provide results of analysis obtained from drug-checking technology to the person requesting drug services;

(4) disseminate data containing only the results of analysis and containing no personally identifiable information to community members at risk of overdose; and

(5) if necessary, arrange for a sample of a drug or substance to be tested by an approved laboratory.

(c) In operating any drug-checking service, no personally identifiable information shall be collected from a person providing a controlled substance to a service provider.

(d) An employee, contractor, volunteer, or other person acting in the good faith provision of drug-checking services authorized by the Department, acting in accordance with established protocols, shall not:

(1) be subject to arrest, charge, or prosecution for a violation pursuant to this chapter, including for attempting to, aiding and abetting in, or conspiracy to commit a violation of this chapter;

(2) have their property subject to forfeiture, any civil or administrative penalty, or liability of any kind, including disciplinary action by a professional licensing board, credentialing restrictions, contractual or civil liability, or medical staff or other employment action; or

(3) be denied any right or privilege for actions, conduct, or omissions relating to the operation of a drug-checking service in compliance with this chapter and any rules adopted pursuant to this chapter.

(e) An individual possessing a regulated substance and who provides any portion of the substance to a program pursuant to this section for purposes of obtaining drug-checking services shall not be subject to arrest, charge, or prosecution for possession of a regulated substance pursuant to this chapter or civil or administrative penalty or disciplinary action by a professional licensing board for a violation of this chapter.

(f) Local governments shall not collect, maintain, use, or disclose any personal information relating to an individual from whom local government receives any drug or substance for checking or disposal.

(g) The result of a test carried out by an authorized drug-checking service provider shall not be admissible as evidence in any criminal or civil proceeding.

(h)(1) The Department of Health shall publish guidance and provide technical assistance for any service provider choosing to implement drug-checking services under this section.

(2) The Department shall coordinate the collection and dissemination of deidentified data related to drug-checking services to inform prevention and public health initiatives.

Seventh: By inserting a new reader assistance heading and Secs. 13 and 14 after the newly added Sec. 12 to read as follows:

* * * Opioid Abatement Special Fund * * *

Sec. 13. 18 V.S.A. § 4774 is amended to read:

§ 4774. OPIOID ABATEMENT SPECIAL FUND

(a)(1) There is created the Opioid Abatement Special Fund, a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and administered by the Department of Health. The Opioid Abatement Special Fund shall consist of all abatement account fund monies disbursed to the Department from the national abatement account fund, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services.

(2) The Department shall ~~include~~ submit a spending plan to the General Assembly, informed by the recommendations of the Opioid Settlement Advisory Committee established pursuant to section 4772 of this subchapter, ~~as part of its annual budget submission,~~ and once funding is approved appropriated by the General Assembly from the Opioid Abatement Special Fund, the Department shall request to have the funds formally released from the national abatement account fund, the national opioid abatement trust, the supplemental opioid abatement fund, or any other settlement funds that must be utilized exclusively for opioid prevention, intervention, treatment, recovery, and harm reduction services. The Department shall disburse monies from the Opioid Abatement Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 3.

* * *

Sec. 14. APPROPRIATION; OPIOID ABATEMENT SPECIAL FUND

In fiscal year 2023, the following monies shall be appropriated from the Opioid Abatement Special Fund pursuant to 18 V.S.A. § 4774:

(1) \$1,980,000.00 for the expansion of naloxone distribution efforts, including establishing harm reduction vending machines, home delivery and mail order options, and expanding the harm reduction pack and leave behind kit programs;

(2)(A) \$2,000,000.00 divided equally between four opioid treatment programs to cover costs associated with partnering with other health care providers to expand satellite locations for the dosing of medications, including costs associated with the satellite locations' physical facilities, staff time at the satellite locations, and staff time at opioid treatment programs to prepare medications and coordinate with satellite locations;

(B) the satellite locations established pursuant to this subdivision (2) shall be located in Addison County, eastern Vermont between the Northeast Kingdom and Brattleboro, Chittenden County, and a facility operated by the Department of Corrections;

(3) \$1,976,000.00 to fund 26 outreach or case management staff positions within the preferred provider network and within syringe service organizations for the provision of services that increase motivation of and engagement with individuals with substance use disorder in settings such as police barracks, shelters, social service organizations, and elsewhere in the community;

(4) \$240,000.00 divided equally among the State's four syringe service providers to provide overdose prevention services and response education and resources that build trust between individuals with substance use disorder and Vermont's system of care;

(5) \$840,000.00 to provide contingency management services to individuals with substance use disorder;

(6) \$100,000.00 to implement a wound care telehealth consultation pilot program for the purpose of utilizing wound care experts to provide telehealth drop-in appointments to address syringe use by individuals with opioid use disorder;

(7) \$200,000.00 to expand the distribution of fentanyl test strips and, if available, xylazine test strips; and

(8)(A) \$700,000.00 to the Department of Health's Division of Substance Use Programs to award one or more grants to an organization or organizations providing or preparing to implement drug-checking services with spectroscopy devices, including high-pressure mass spectrometer (HPMS) or Fourier-transform infrared spectroscopy device (FTIR), in a harm reduction setting;

(B) the grants awarded pursuant to this subdivision (8) shall be based on an applicant's ability to provide publicly available drug-checking services.

And by renumbering the remaining section to be numerically correct.

Eighth: In the newly renumbered Sec. 15, effective dates, before the period, by inserting and Sec. 8b (rulemaking; prior authorization; buprenorphine) shall take effect on January 1, 2024

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

Senator Lyons, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 14, appropriation; opioid abatement special fund, in subdivision (2)(B), by inserting the phrase or southern after "eastern" and by striking out "between the Northeast Kingdom and Brattleboro"

Second: In Sec. 14, appropriation; opioid abatement special fund, in subdivision (3), by inserting subdivision designation (A) after "(3)" and by inserting a subdivision (B) to read as follows:

(B) it the intent of the General Assembly that these positions shall be funded annually by the Opioid Abatement Special Fund unless and until the Special Fund does not have sufficient monies to fund this expenditure;

Third: In Sec. 14, appropriation; opioid abatement special fund, in subdivision (4), by striking out "\$240,000.00" and inserting in lieu thereof \$400,000.00

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

Thereupon, the recommendation of proposals of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare, as amended?, Senator Hardy moved to amend the proposals of amendment of the Committee on Health and Welfare, as amended, as follows:

First: In Sec. 9, 24 V.S.A. § 4412, subdivision (1)(G), in the first sentence, by striking out the word "and" before the phrase "a recovery residence" and inserting in lieu thereof or

Second: In Sec. 12, 18 V.S.A. § 4240a, in subsection (d), by striking out the phrase “authorized by the Department.” and by inserting in lieu thereof the word and, and by striking out the comma after “protocols”

Third: In Sec. 12, 18 V.S.A. § 4240a, in subsection (g), by striking out the phrase “an authorized” and by inserting in lieu thereof the word a

Which was agreed to.

Thereupon, the proposals of amendment recommended by the Committee on Health and Welfare, as amended, were severally agreed to.

Thereupon, third reading of the bill was ordered.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposals of amendment.

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

Thereupon, on motion of Senator Baruth, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Bill Passed

S. 146.

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

An act relating to the permitting of indirect discharges.

Thereupon, the bill passed on a roll call, Yeas 21, Nays 9.

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

Roll Call

Those Senators who voted in the affirmative were: Baruth, Bray, Champion, Chittenden, Clarkson, Cummings, Gulick, Hardy, Harrison, Hashim, Kitchel, Lyons, MacDonald, Mazza, McCormack, Perchlik, Ram Hinsdale, Vyhovsky, Watson, White, Wrenner.

Those Senators who voted in the negative were: Brock, Collamore, Ingalls, Norris, Sears, Starr, Weeks, Westman, Williams.

Bill Passed in Concurrence**H. 418.**

House bill of the following title was read the third time and passed in concurrence:

An act relating to approval of an amendment to the charter of the Town of Barre.

Third Readings Ordered**H. 76.**

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to captive insurance.

Reported that the bill ought to pass in concurrence.

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

H. 146.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to amendments to the charter of the Northeast Kingdom Waste Management District.

Reported that the bill ought to pass in concurrence.

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

Proposal of Amendment; Third Reading Ordered**H. 473.**

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

An act relating to radiologist assistants.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. § 2851 is amended to read:

§ 2851. DEFINITIONS

As used in this chapter:

* * *

(8) “Readily available” means that a supervising radiologist is available in person or is available remotely by telephone or through a live, interactive audio and video connection.

(9) “Supervision” means the direction and review by a supervising radiologist, as determined to be appropriate by the Board, of the medical services provided by the radiologist assistant. At a minimum, supervision shall mean that a radiologist is readily available for consultation and intervention. A radiologist assistant may provide services under the direction and review of more than one supervising radiologist during the course of ~~his or her~~ the radiologist assistant’s employment, subject to the limitations on ~~his or her~~ the radiologist assistant’s scope of practice as set forth in this chapter and the protocol filed under subsection 2853(b) of this title.

Sec. 2. 26 V.S.A. § 2857 is amended to read:

§ 2857. SUPERVISION AND SCOPE OF PRACTICE

(a)(1) The number of radiologist assistants permitted to practice under the direction and supervision of a radiologist shall be determined by the Board after review of the system of care delivery in which the supervising radiologist and radiologist assistants propose to practice. Scope of practice and levels of supervision shall be consistent with guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the ARRT.

(2) The authority of a radiologist assistant to practice shall terminate immediately upon termination of the radiologist assistant’s employment, and the primary supervising radiologist shall immediately notify the Board and the Commissioner of the Department of Health of the termination. The radiologist assistant’s authority to practice shall not resume until ~~he or she~~ the radiologist assistant provides proof of other employment and a protocol as required under this chapter.

(3) The primary supervising radiologist and radiologist assistant shall be employed by and have as their primary work site the same Vermont health care facility or an affiliate of the facility; provided, however, that the primary supervising radiologist does not need to be physically present at the same location where the radiologist assistant is practicing as long as a supervising radiologist is readily available for consultation and intervention.

(4) If a supervising radiologist is not physically present at the location at which a radiologist assistant is practicing, the radiologist assistant shall provide services only when a physician licensed pursuant to chapter 23 or 33 of this title, who need not be a radiologist, is physically present at the location

and would be responsible for providing intervention or assistance in the event of a medical emergency.

(b)(1) Subject to the limitations set forth in subsection (a) of this section, the radiologist assistant's scope of practice shall be limited to that delegated to the radiologist assistant by the primary supervising radiologist and for which the radiologist assistant is qualified by education, training, and experience. At no time shall the practice of the radiologist assistant exceed the normal scope of the supervising radiologist's practice.

(2) A radiologist assistant ~~may~~ shall not interpret images, make diagnoses, or prescribe medications or therapies but may communicate with patients regarding the radiologist assistant's preliminary observations regarding the technical performance of a procedure or examination and regarding the findings from a radiologist's report. Preliminary observations shall not include any communication about the presence or absence of features or characteristics that would be considered in making a diagnosis.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment 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, April 26, 2023.