

H.C.R. 214. House concurrent resolution commemorating the successful completion of the new Waterbury State Office Complex.

H.C.R. 215. House concurrent resolution honoring Marion Paris for her 46-plus years of dedicated public service working with families and children.

H.C.R. 216. House concurrent resolution congratulating Chloe Levins on her athletic achievements and extending best wishes in her forthcoming international competitions.

H.C.R. 217. House concurrent resolution commemorating the 225th anniversary of Congress's admission of Vermont as our nation's 14th State.

H.C.R. 218. House concurrent resolution commemorating the centennial anniversary of the U.S. government's 1916 deployment of the Vermont National Guard to the Mexican Expedition.

H.C.R. 219. House concurrent resolution congratulating Jay Karpin on the French government's appointing him a Chevalier (Knight) of the Legion of Honor.

H.C.R. 220. House concurrent resolution commemorating the 125th anniversary of the Bennington Battle Monument.

H.C.R. 221. House concurrent resolution honoring the outstanding municipal service of former Rockingham Town Clerk Doreen Aldrich.

H.C.R. 222. House concurrent resolution honoring former Rockingham Zoning Administrator and Health Officer Ellen L. Howard for her outstanding public service.

H.C.R. 223. House concurrent resolution congratulating Saxtons River Distillery on its 10th anniversary and the San Francisco World Spirits Competition's awarding the distillery a 2015 gold medal for its Perc Coffee Liqueur.

H.C.R. 224. House concurrent resolution honoring the Vermont Senior Games Association for its encouragement of physical fitness for older Vermonters.

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

Message from the House No. 13

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 considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 233. An act relating to amending Act 46.

And has severally concurred therein.

Communication Journalized

The President laid before the Senate the following communications from His Excellency, the Governor, relating to the delivery of a bill which was read by the Secretary and is as follows:

Message from the Governor

A message was received from His Excellency, the Governor, by Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. President:

Under Joint Rule 15, I request receipt of S. 233 An act relating to amending Act 46, at the earliest opportunity.

Sincerely,

//Peter E. Shumlin

Peter E. Shumlin
Governor

Bill Referred to Committee on Finance

S. 241.

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 personal possession and cultivation of cannabis and the regulation of commercial cannabis establishments.

Joint Senate Resolution Adopted on the Part of the Senate

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

By Senators Baruth and Benning,

J.R.S. 38. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 5, 2016, it be to meet again no later than Tuesday, February 9, 2016.

Proposal of Amendment; Third Reading Ordered**H. 187.**

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

An act relating to absence from work for health care and safety.

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. FINDINGS

The General Assembly finds:

(1) According to the Vermont Department of Labor's 2013 Fringe Benefits Study, roughly one-half of all private sector employers provide some form of paid leave to their employees.

(2) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that slightly less than 50 percent of private sector workers employed by companies with fewer than 20 workers have access to paid leave, while approximately 78 percent of workers employed by larger companies have access to paid leave time.

(3) Based on information provided by the 2013 Fringe Benefits Study, it is estimated that more than 60,000 working Vermonters lack access to paid leave.

Sec. 2. PURPOSE

(a) The purpose of this act is to promote a healthier environment at work, school, and in public by ensuring that employees are provided with paid leave time for purposes of health care and safety.

(b) It is the intent of the General Assembly that:

(1) all employers doing business in or operating in the State of Vermont shall be required to provide earned sick time to their employees as provided by this act; and

(2) all bids on State-funded construction projects, including bids from out-of-state employers, shall include the cost of providing employees working on the project with earned sick time as required pursuant to this act.

Sec. 3. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

* * *

(d) For the purposes of earned sick time, an employer shall comply with the provisions required under subchapter 4B of this chapter.

Sec. 4. 21 V.S.A. chapter 5, subchapter 4B is added to read:

Subchapter 4B. Earned Sick Time

§ 481. DEFINITIONS

As used in this subchapter:

(1) “Employer” means any individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State.

(2) “Combined time off” means a policy wherein the employer provides time off from work for vacation, sickness, or personal reasons, and the employee has the option to use all of the leave for whatever purpose he or she chooses.

(3) “Commissioner” means the Commissioner of Labor.

(4) “Earned sick time” means discretionary time earned and accrued under the provisions of this subchapter and used by an employee to take time off from work for the purposes listed in subdivisions 483(a)(1)–(5) of this subchapter.

(5) “Employee” means a person who, in consideration of direct or indirect gain or profit, is employed by an employer for an average of no less than 18 hours per week during a year. However, the term “employee” shall not include:

(A) An individual who is employed by the federal government.

(B) An individual who is employed by an employer:

(i) for 20 weeks or fewer in a calendar year; and

(ii) in a job scheduled to last 20 weeks or fewer.

(C) An individual that is employed by the State and is exempt or excluded from the State classified service pursuant to 3 V.S.A. § 311, but not an individual that is employed by the State in a temporary capacity pursuant to 3 V.S.A. § 331.

(D) An employee of a health care facility as defined in 18 V.S.A. § 9432(8) or a facility as defined in 33 V.S.A. § 7102(2) if the employee only works on a per diem or intermittent basis.

(E) An employee of a school district, supervisory district, or supervisory union as defined in 16 V.S.A. § 11 that:

(i) is employed pursuant to a school district or supervisory union policy on substitute educators as required by the Vermont Standards Board for Professional Educators Rule 5381;

(ii) is under no obligation to work a regular schedule; and

(iii) is not under contract or written agreement to provide at least one period of long-term substitute coverage which is defined as 30 or more consecutive school days in the same assignment.

(F) An individual who is under 18 years of age.

(G) An individual that is either:

(i) a sole proprietor or partner owner of an unincorporated business who is excluded from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(F) of this title; or

(ii) an executive officer, manager, or member of a corporation or a limited liability company for whom the Commissioner has approved an exclusion from the provisions of chapter 9 of this title pursuant to subdivision 601(14)(H) of this title.

(H) An individual that:

(i) works on a per diem or intermittent basis;

(ii) works only when he or she indicates that he or she is available to work;

(iii) is under no obligation to work for the employer offering the work; and

(iv) has no expectation of continuing employment with the employer.

(6) “Paid time off policy” means any policy under which the employer provides paid time off from work to the employee that includes a combination of one or more of the following:

(A) annual leave;

(B) combined time off;

(C) vacation leave;

(D) personal leave;

(E) sick leave; or

(F) any similar type of leave.

§ 482. EARNED SICK TIME

(a) An employee shall accrue not less than one hour of earned sick time for every 52 hours worked.

(b) An employer may require a waiting period for newly hired employees of up to one year. During this waiting period, an employee shall accrue earned sick time pursuant to this subchapter, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(c) An employer may:

(1) limit the amount of earned sick time accrued pursuant to this section to:

(A) from January 1, 2017 until December 31, 2018, a maximum of 24 hours in a 12-month period; and

(B) after December 31, 2018, a maximum of 40 hours in a 12-month period; or

(2) limit to 40 hours the number of hours in each workweek for which full-time employees not subject to the overtime provisions of the Federal Fair Labor Standards Act, 29 U.S.C. § 213(a)(1), may accrue earned sick time pursuant to this section.

(d)(1) Earned sick time shall be compensated at a rate that is equal to the greater of either:

(A) the normal hourly wage rate of the employee; or

(B) the minimum wage rate for an employee pursuant to section 384 of this title.

(2) Group insurance benefits shall continue during an employee's use of earned sick time at the same level and conditions that coverage would be provided as for normal work hours. The employer may require that the employee contribute to the cost of the benefits during the use of earned sick time at the existing rate of employee contribution.

(e) Except as otherwise provided by subsection 484(a) of this subchapter, an employer shall calculate the amount of earned sick time that an employee has accrued pursuant to this section:

(1) as it accrues during each pay period; or

(2) on a quarterly basis, provided that an employee may use earned sick time as he or she accrues it during each quarter.

§ 483. USE OF EARNED SICK TIME

(a) An employee may use earned sick time accrued pursuant to section 482 of this subchapter for any of the following reasons:

(1) The employee is ill or injured.

(2) The employee obtains professional diagnostic, preventive, routine, or therapeutic health care.

(3) The employee cares for a sick or injured parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, including helping that individual obtain diagnostic, preventive, routine, or therapeutic health treatment.

(4) The employee is arranging for social or legal services or obtaining medical care or counseling for the employee or for the employee's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, who is a victim of domestic violence, sexual assault, or stalking or who is relocating as the result of domestic violence, sexual assault, or stalking. As used in this section, "domestic violence," "sexual assault," and "stalking" shall have the same meanings as in 15 V.S.A. § 1151.

(5) The employee cares for a parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child, because the school or business where that individual is normally located during the employee's workday is closed for public health or safety reasons.

(b) If an employee's absence is shorter than a normal workday, the employee shall use earned sick time accrued pursuant to section 482 of this subchapter in the smallest time increments that the employer's payroll system uses to account for other absences or that the employer's paid time off policy permits. Nothing in this subsection shall be construed to require an employer to permit an employee to use earned sick time in increments that are shorter than one hour.

(c) An employer may limit the amount of earned sick time accrued pursuant to section 482 of this subchapter that an employee may use to:

(1) from January 1, 2017 until December 31, 2018, no more than 24 hours in a 12-month period; and

(2) after December 31, 2018, no more than 40 hours in a 12-month period.

(d)(1) Except as otherwise provided in subsection 484(a) of this subchapter, earned sick time that remains unused at the end of an annual period shall be carried over to the next annual period and the employee shall continue

to accrue earned sick time as provided pursuant to section 482 of this subchapter. However, nothing in this subdivision shall be construed to permit an employee to use more earned sick time during an annual period than any limit on the use of earned sick time that is established by his or her employer pursuant to subsection (c) of this section.

(2) If, at an employer's discretion, an employer pays an employee for unused earned sick time accrued pursuant to section 482 of this subchapter at the end of an annual period, then the amount for which the employee was compensated does not carry over to the next annual period.

(e) Upon separation from employment, an employee shall not be entitled to payment for unused earned sick time accrued pursuant to section 482 of this subchapter unless agreed upon by the employer.

(f)(1) An employee who is discharged by his or her employer after he or she has completed a waiting period required pursuant to subsection 482(b) of this subchapter and is subsequently rehired by the same employer within 12 months after the discharge from employment shall begin to accrue and may use earned sick time without a waiting period. However, the employee shall not be entitled to retain any earned sick time that accrued before the time of his or her discharge unless agreed to by the employer.

(2) An employee that voluntarily separates from employment after he or she has completed a waiting period required pursuant to subsection 482(b) of this subchapter and is subsequently rehired by the same employer within 12 months after the separation from employment shall not be entitled to accrue and use earned sick time without a waiting period unless agreed to by the employer.

(g) An employer shall not require an employee to find a replacement for absences, including absences for professional diagnostic, preventive, routine, or therapeutic health care.

(h) An employer may require an employee planning to take earned sick time accrued pursuant to section 482 of this subchapter to:

(1) make reasonable efforts to avoid scheduling routine or preventive health care during regular work hours; or

(2) notify the employer as soon as practicable of the intent to take earned sick time accrued pursuant to section 482 of this subchapter and the expected duration of the employee's absence.

(i)(1) If an employee is absent from work for one of the reasons listed in subsection (a) of this section, the employee shall not be required to use earned sick time accrued pursuant to section 482 of this subchapter and the employer

will not be required to pay for the time that the employee was absent if the employer and the employee mutually agree that either:

(A) the employee will work an equivalent number of hours as the number of hours for which the employee is absent during the same pay period; or

(B) the employee will trade hours with a second employee so that the second employee works during the hours for which the employee is absent and the employee works an equivalent number of hours in place of the second employee during the same pay period.

(2) Nothing in this subsection shall be construed to prevent an employer from adopting a policy that requires an employee to use earned sick time accrued pursuant to section 482 of this subchapter for an absence from work for one of the reasons set forth in subsection (a) of this section.

(j) An employer shall post notice of the provisions of this section in a form provided by the Commissioner in a place conspicuous to employees at the employer's place of business. An employer shall also notify an employee of the provisions of this section at the time of the employee's hiring.

(k) An employee who uses earned sick time accrued pursuant to section 482 of this subchapter shall not diminish his or her rights under sections 472 and 472a of this title.

(l) The provisions against retaliation set forth in section 397 of this title shall apply to this subchapter.

(m)(1) The Commissioner shall investigate complaints that an employer has not complied with the requirements of this subchapter.

(2) If following an investigation and hearing, the Commissioner determines that an employer has failed to comply with the requirements of this subchapter, he or she may order appropriate relief, including payment for sick days unlawfully withheld and the assessment of a fine pursuant to section 345 of this title.

(3) The Commissioner shall adopt rules to carry out the provisions of this subsection.

§ 484. COMPLIANCE WITH EARNED SICK TIME REQUIREMENT

(a) An employer shall be in compliance with this subchapter if either of the following occurs:

(1) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with paid time off from work that:

(A) he or she may use for all of the reasons set forth in subsection 483(a) of this subchapter; and

(B) accrues and may be used at a rate that is equal to or greater than the rate set forth in sections 482 and 483 of this subchapter.

(2) The employer offers a paid time off policy or is a party to a collective bargaining agreement that provides the employee with at least the full amount of paid time off from work required pursuant to sections 482 and 483 of this subchapter at the beginning of each annual period and the employee may use it at any time during the annual period for the reasons set forth in subsection 483(a) of this subchapter. If the employer provides an employee with the full amount of paid time off at the beginning of each annual period, the paid time off shall not carry over from one annual period to the next as provided in subdivision 483(d)(1) of this subchapter.

(b) Nothing in this subchapter shall be construed to require an employer that satisfies the requirements of subsection (a) of this section to provide additional earned sick time to an employee that chooses to use paid time off that could be used for the reasons set forth in subdivisions 483(a)(1)–(5) of this subchapter for a different purpose.

(c) Nothing in this subchapter shall be construed to prevent an employer from providing a paid time off policy or agreeing to a collective bargaining agreement that provides a paid time off policy that is more generous than the earned sick time provided by this subchapter.

(d)(1) Nothing in this subchapter shall be construed to diminish an employer's obligation to comply with any collective bargaining agreement or paid time off policy that provides greater earned sick time rights than the rights provided by this subchapter.

(2) Nothing in this subchapter shall be construed to preempt or override the terms of a collective bargaining agreement that is in effect before January 1, 2017.

(e) A collective bargaining agreement or paid time off policy may not diminish the rights provided by this subchapter.

§ 485. SEVERABILITY OF PROVISIONS

If any provision of this subchapter or the application of such provision to any person or circumstances shall be held invalid, the remainder of the subchapter and the application of such provisions to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

§ 486. NEW EMPLOYER EXEMPTION

(a) Notwithstanding any provision of this subchapter to the contrary, new employers shall not be subject to the provisions of this subchapter for a period of one year after the employer hires its first employee.

(b) For purposes of enforcement under subsections 483(l) and (m) of this subchapter, an employer shall be presumed to be subject to the provisions of this subchapter unless the employer proves that a period of no more than one year elapsed between the date on which the employer hired its first employee and the date on which the employer is alleged to have violated the provisions of this subchapter.

(c) No employer shall transfer an employee to a second employer with whom there is, at the time of the transfer, substantially common ownership, management, or control for the purposes of either employer claiming an exemption pursuant to subsection (a) of this section.

Sec. 5. 21 V.S.A. § 345 is amended to read:

§ 345. NONPAYMENT OF WAGES AND BENEFITS

(a) Each employer who violates sections ~~342 and 343~~ 342, 343, 482, and 483 of this title shall be fined not more than \$5,000.00. Where the employer is a corporation, the president or other officers who have control of the payment operations of the corporation shall be considered employers and liable to the employee for actual wages due when the officer has willfully and without good cause participated in knowing violations of this chapter.

* * *

Sec. 6. DEPARTMENT OF LABOR REPORT

The Department of Labor shall, on or before January 15, 2019, report to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the number of inquiries and complaints submitted to the Department in relation to this act and the number of investigations and enforcement actions undertaken by the Department in relation to this act during the first two years after its effective date.

Sec. 7. EFFECTIVE DATE

(a) This act shall take effect on January 1, 2017.

(b) An employer may require a waiting period of up to one year for its existing employees on January 1, 2017. The waiting period pursuant to this subsection shall begin on January 1, 2017 and shall end no later than December 31, 2017. During this waiting period, an employee shall accrue

earned sick time pursuant to this subchapter, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

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.

Committee Relieved of Further Consideration; Bill Committed

S. 59.

On motion of Senator Ayer, the Committee on Health and Welfare was relieved of further consideration of Senate bill entitled:

An act relating to insurance coverage for abuse-deterrent formulations of certain medications,

and the bill was committed to the Committee on Finance.

Committee Relieved of Further Consideration; Bill Committed

H. 524.

On motion of Senator Ayer, the Committee on Health and Welfare was relieved of further consideration of House bill entitled:

An act relating to seeking a waiver to permit businesses to continue to purchase Exchange plans directly from insurers,

and the bill was committed to the Committee on Finance.

Message from the House No. 14

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. 565. An act relating to United Methodist Church property.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 3, 2016.

WEDNESDAY, FEBRUARY 3, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Robert Spainhour of Swanton.

Bill Referred

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

H. 565.

An act relating to United Methodist Church property.

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

Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment**H. 187.**

House bill entitled:

An act relating to absence from work for health care and safety.

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. 4, 21 V.S.A. § 483, in subdivision (a)(3), after the following: “obtain diagnostic, preventive, routine, or therapeutic health treatment” by inserting the following: , or accompanying the employee’s parent, grandparent, spouse, or parent-in-law to an appointment related to his or her long-term care

Second: In Sec. 4, 21 V.S.A. § 483, by striking out subsection (m) in its entirety, and inserting in lieu thereof two new subsections to be subsections (m) and (n) to read as follows:

(m) An employer who violates this subchapter shall be subject to the penalty provisions of section 345 of this title.

(n) The Commissioner shall enforce this subchapter in accordance with the procedures established in section 342a of this title. However, the appeal provision of subsection 342a(f) shall not apply to any enforcement action brought pursuant to this subsection; and

In Sec. 4, 21 V.S.A. § 486, in subsection (b) after the words “For purposes of enforcement under subsections” by striking out the following: “483(l) and (m)” and inserting in lieu thereof the following: 483(l)–(n)

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Snelling moved to amend the Senate proposal of amendment as follows:

First: By adding a new section to be numbered Sec. 6a to read as follows:

Sec. 6a. SMALL BUSINESS PLANNING AND IMPLEMENTATION ASSISTANCE

On or before November 15, 2017, the Commissioner of Labor and the Secretary of Commerce and Community Development shall develop and implement a program to provide employers that have five or fewer employees who are employed for an average of no less than 30 hours per week during a year with assistance related to the development of time off policies and business plans necessary to implement the requirements of this act.

Second: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. EFFECTIVE DATES

(a)(1) This section and Sec. 6a shall take effect on July 1, 2016.

(2) The remaining sections of this act shall take effect on January 1, 2017, except that an employer that has five or fewer employees who are employed for an average of no less than 30 hours per week shall not be subject to the provisions of 21 V.S.A. chapter 5, subchapter 4b until January 1, 2018.

(b)(1) An employer may require for its existing employees on January 1, 2017 a waiting period of up to one year. The waiting period pursuant to this subsection shall begin on January 1, 2017 and shall end on or before December 31, 2017. During this waiting period, an employee shall accrue earned sick time pursuant to 21 V.S.A. § 482, but shall not be permitted to use the earned sick time until after he or she has completed the waiting period.

(2) An employer that has five or fewer employees who are employed for an average of no less than 30 hours per week may require for its existing employees on January 1, 2018 a waiting period of up to one year. The waiting period pursuant to this subsection shall begin on January 1, 2018 and shall end on or before December 31, 2018. During this waiting period, an employee shall accrue earned sick time pursuant to 21 V.S.A. § 482, but shall not be

permitted to use the earned sick time until after he or she has completed the waiting period.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Campion moved that the Senate proposal of amendment be amended in Sec. 4, 21 V.S.A. § 481, by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) “Employer” means any individual, organization, or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within this State that employs more than five individuals for an average of no less than 30 hours per week during a year.

Which was disagreed to on a roll call, Yeas 14, Nays 15.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Campion, Collamore, Degree, Flory, Kitchel, Mazza, Mullin, Nitka, Rodgers, Sears, *Snelling, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Campbell, Cummings, Doyle, Lyons, MacDonald, McCormack, Pollina, Sirotkin, White, Zuckerman.

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

*Senator Snelling explained her vote as follows:

“I would prefer that this legislation was not necessary. Next, my preference would be to exempt employers with 5 or fewer employees. However, I am grateful the Senate has accepted my amendment to provide more time and assistance to small business.”

Thereupon, pending the question, Shall the bill be read third time?, Senator Zuckerman and Campbell moved to amend the Senate proposal of amendment in Sec. 2, in subsection (b) by inserting a new subdivision (3) to read as follows:

(3) all employers that currently offer any type of paid time off from work that may, at a minimum, be used by the employer’s employees in the amounts and for the purposes required pursuant to this act shall not be required to change their paid time off policy or offer additional paid leave.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Bray moved to amend the Senate proposal of amendment in Sec. 4, 21 V.S.A. § 481, in subdivision (5), subparagraph (B)(i) after the words “for 20 weeks or fewer in a” by striking out “calendar year” and inserting in lieu thereof 12-month period

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Benning moved to amend the Senate proposal of amendment in Sec. 7, Effective Date, by striking out each instance of the date “2017” and inserting in lieu thereof the date 2018

Which was disagreed to on a roll call, Yeas 9, Nays 20.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Campion, Collamore, Degree, Flory, Mazza, Rodgers, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Campbell, Cummings, Doyle, Kitchel, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Snelling, White, Zuckerman.

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

Thereupon, pending the question, Shall the bill be read third time?, Senator Ashe moved to amend the Senate proposal of amendment as follows

First: In Sec. 2, by striking out subsection (b) and inserting a new subsection (b) to read as follows:

(b) It is the intent of the General Assembly that all employers doing business in or operating in the State of Vermont shall be required to provide earned sick time to their employees as provided by this act.

Second: By adding a new Sec. 7 to read as follows:

Sec. 7. 29 V.S.A. § 161 is amended to read:

§ 161. REQUIREMENTS ON STATE CONSTRUCTION PROJECTS

(a) Bids; selection.

* * *

(3) All bids on State projects shall be required to comply with all applicable provisions of Title 21.

And by renumbering the renaming section to be numerically correct.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 21, Nays 8.

Senator Mullin 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, Bray, Campbell, Campion, Cummings, Doyle, Kitchel, Lyons, MacDonald, McCormack, Mullin, Nitka, Pollina, *Sears, Sirotkin, Snelling, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Collamore, Degree, Flory, Mazza, Rodgers, Starr, Westman.

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

*Senator Sears explained his vote as follows:

“Mr. President:

“My Yes vote is predicated on this being a paid time off bill - not paid sick days - and that employers who are now doing the right thing by providing adequate paid time off not being penalized.”

Bill Amended; Third Reading Ordered

S. 198.

Senator Collamore, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the Government Accountability Committee and the annual report on the State’s population-level outcomes.

Reported recommending that the bill be amended in Sec. 3 (amending 2014 Acts and Resolves No. 186, Sec. 3), in subdivision (7), subparagraph (E), following the words “number and percent”, by striking out the word “or” and inserting in lieu thereof the word of

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.

Message from the House No. 15

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 considered joint resolution originating in the Senate of the following title:

J.R.S. 38. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, February 4, 2016.

THURSDAY, FEBRUARY 4, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kim Kie of Barre.

Message from the Governor

A message was received from His Excellency, the Governor, by Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of January 2016 he approved and signed bill originating in the Senate of the following title:

S. 233. An act relating to amending Act 46.

Action Reconsidered; Consideration Interrupted by Recess

H. 187.

Assuring the Chair that he voted with the majority whereby Senator Campion's recommendation of amendment was rejected by the Senate, Senator Doyle moved that the Senate reconsider its action on House bill entitled:

An act relating to absence from work for health care and safety.

Assumes the Chair

In the absence of the President (who was Acting Governor in the absence of the Governor) the President *pro tempore* assumed the Chair.

Recess

On motion of Senator Baruth the Senate recessed until two o'clock in the afternoon.

Called to Order

The Senate was called to order by the President *pro tempore*.

Consideration Resumed; Consideration Postponed

H. 187.

Consideration was resumed on House bill entitled:

An act relating to absence from work for health care and safety.

Thereupon, pending the question, Shall the Senate reconsider it's action? Senator MacDonald raised a *point of order* that the motion to reconsider must be two successive rather than a compound motion.

Citing Mason's Manual of Legislative Procedure Sec. 465 The President *overruled* the point of order and ruled that the motion may be made in one step to reconsider both the adoption of an amendment and passage of the bill.

Thereupon, the recurring question, Shall the Senate reconsider its action on H. 187 and the amendment offered by Senator Campion?, was decided in the affirmative.

Thereupon, on motion of Senator Baruth, consideration of the bill was postponed until Wednesday, February 10, 2016.

Bill Passed

S. 198.

Senate bill entitled:

An act relating to the Government Accountability Committee and the annual report on the State's population-level outcomes.

Was taken up.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the bill by in Sec. 3 by striking out subparagraphs (E) and (F) and inserting new subparagraphs (E) and (F) to read as follows:

~~(E) annualized U.S. Department of Labor Bureau of Labor Statistics U6 rate for Vermont;~~

~~(F) percent of structurally deficient bridges, as defined by the Vermont Agency of Transportation; and~~

~~(G) percent of food total farm income sales that come from Vermont farms;~~

and striking out subparagraphs (G) and (H) in their entirety.

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

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

Bill Amended; Third Reading Ordered

S. 114.

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the Open Meeting Law.

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

Sec. 1. 1 V.S.A. § 312 is amended to read:

§ 312. RIGHT TO ATTEND MEETINGS OF PUBLIC AGENCIES

(a)(1) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule, regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under subdivision 313(a)(2) of this title. A meeting of a public body is subject to the public accommodation requirements of 9 V.S.A. chapter 139. A public body shall electronically record all public hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall have access to copies of such electronic recordings as described in section 316 of this title.

(2) Participation in meetings through electronic or other means.

(A) As long as the requirements of this subchapter are met, one or more of the members of a public body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location.

(B) If one or more members attend a meeting by electronic or other means, such members may fully participate in discussing the business of the public body and voting to take an action, but any vote of the public body that is not unanimous shall be taken by roll call.

(C) Each member who attends a meeting without being physically present at a designated meeting location shall:

- (i) identify himself or herself when the meeting is convened; and
- (ii) be able to hear the conduct of the meeting and be heard throughout the meeting.

(D) If a quorum or more of the members of a public body attend a meeting without being physically present at a designated meeting location, the ~~following additional requirements shall be met:~~

~~(i) At least 24 hours prior to the meeting, or as soon as practicable prior to an emergency meeting, the public body shall publicly announce the meeting, and a municipal public body shall post notice of the meeting in or near the municipal clerk's office and in at least two other designated public places in the municipality.~~

~~(ii) The public announcement and posted notice of the meeting agenda required under subsection (d) of this section shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the public body, or at least one staff or designee of the public body, shall be physically present at each designated meeting location.~~

(b)(1) Minutes shall be taken of all meetings of public bodies. The minutes shall cover all topics and motions that arise at the meeting and give a true indication of the business of the meeting. Minutes shall include at least the following minimal information:

- (A) all members of the public body present;
- (B) all other active participants in the meeting;
- (C) all motions, proposals, and resolutions made, offered, and considered, and what disposition is made of same; and
- (D) the results of any votes, with a record of the individual vote of each member if a roll call is taken.

(2) Minutes of all public meetings shall be matters of public record, shall be kept by the clerk or secretary of the public body, and shall be available for inspection by any person and for purchase of copies at cost upon request after five calendar days from the date of any meeting. Meeting minutes shall

be posted no later than five calendar days from the date of the meeting to a website, if one exists, that the public body maintains or has designated as the official website of the body. Except for draft minutes that have been substituted with updated minutes, posted minutes shall not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken.

* * *

(d)(1) At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be:

(A) posted to a website, if one exists, that the public body maintains or designates as the official website of the body; and

(B) in the case of a municipal public body, posted in or near the municipal office and in at least two other designated public places in the municipality.

(2) A meeting agenda shall be made available to a person prior to the meeting upon specific request.

(3)(A) Any addition to or deletion from the agenda shall be made as the first act of business at the meeting.

(B) Any other adjustment to the agenda may be made at any time during the meeting.

* * *

Sec. 2. 1 V.S.A. § 314(b) is amended to read:

(b)(1) Prior to instituting an action under subsection (c) of this section, the Attorney General or any person aggrieved by a violation of the provisions of this subchapter shall provide the public body written notice that alleges a specific violation of this subchapter and requests a specific cure of such violation. The public body will not be liable for attorney's fees and litigation costs under subsection (d) of this section if it cures in fact a violation of this subchapter in accordance with the requirements of this subsection.

(2) Upon receipt of the written notice of alleged violation, the public body shall respond publicly to the alleged violation within ~~seven-business~~ 10 calendar days by:

(A) acknowledging the violation of this subchapter and stating an intent to cure the violation within 14 calendar days; or

(B) stating that the public body has determined that no violation has occurred and that no cure is necessary.

(3) Failure of a public body to respond to a written notice of alleged violation within ~~seven business~~ 10 calendar days shall be treated as a denial of the violation for purposes of enforcement of the requirements of this subchapter.

(4) Within 14 calendar days after a public body acknowledges a violation under subdivision (2)(A) of this subsection, the public body shall cure the violation at an open meeting by:

(A) if applicable, either ratifying, or declaring as void, any action taken at or resulting from ~~a meeting in violation of this subchapter~~;

(i) a meeting that was not noticed in accordance with subsection 312(c) of this title; or

(ii) a meeting that a person or the public was wrongfully excluded from attending; or

(iii) an executive session or portion thereof not authorized under subdivisions 313(a)(1)–(10) of this title; and

(B) adopting specific measures that actually prevent future violations.

(5) Acknowledgment of a violation under this subsection shall not of itself subject a person to a criminal penalty under subsection (a) of this section.

Sec. 3. EFFECTIVE DATE; APPLICATION OF CRIMINAL PENALTY

(a) This act shall take effect on passage.

(b) A person shall not be subject to prosecution pursuant to 1 V.S.A. § 314(a) for a violation of 1 V.S.A. § 312(d)(1)(A) (requirement to post agenda to website, if any) in connection with any meeting that occurred before July 1, 2015.

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 pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senator Sears moved to strike out Sec 2(b)(5), which was agreed to.

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

Adjournment

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

FRIDAY, FEBRUARY 5, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Amended; Bill Passed**S. 114.**

Senate bill entitled:

An act relating to the Open Meeting Law.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill in Sec. 2, 1 V.S.A. § 314(b)(4)(A), by striking out the following: "if applicable."

Which was agreed to.

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

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 Representative Keenan and others,

H.C.R. 225.

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

By Representative Martin and others,

By Senator Westman,

H.C.R. 226.

House concurrent resolution honoring Marvin Locke for his exemplary civic service in Lamoille County.

By Representative Dickinson and others,

By Senator Degree,

H.C.R. 227.

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

By Representative Devereux and others,

H.C.R. 228.

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

By Representative Hooper and others,

By Senators Cummings, Doyle and Pollina,

H.C.R. 229.

House concurrent resolution congratulating the Institute for Sustainable Communities on its 25th anniversary.

By Representative Davis and others,

By Senators Benning, Kitchel and MacDonald,

H.C.R. 230.

House concurrent resolution in memory of Margaret Richardson of Orange.

By Representative Emmons and others,

H.C.R. 231.

House concurrent resolution commemorating the 50th anniversary of the National Historic Preservation Act.

By Representatives Donahue and Lewis,

By Senators Cummings, Doyle and Pollina,

H.C.R. 232.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, February 9, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 38.

TUESDAY, FEBRUARY 9, 2016

The Senate was called to order by the President.

Devotional Exercises

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

Pledge of Allegiance

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

Message from the House No. 16

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

Mr. President:

I am directed to inform the Senate that:

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

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

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

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

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

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

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

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

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

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

Joint Senate Resolution Adopted on the Part of the Senate

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

By Senators Baruth and Benning,

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

Resolved by the Senate and House of Representatives:

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

Joint Resolutions Placed on Calendar**J.R.S. 40.**

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

By Senator Campbell,

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

Resolved by the Senate and House of Representatives:

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

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

J.R.S. 41.

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

By Senator Campbell,

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

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

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

Resolved by the Senate and House of Representatives:

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

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

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

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

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

Bill Amended; Third Reading Ordered

S. 171.

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

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

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

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

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

(a)(1) The objective of a pretrial risk assessment is to provide information to the Court for the purpose of determining whether a person presents a risk of

nonappearance or a threat to public safety so the Court can make an appropriate order concerning bail and conditions of pretrial release.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If possible, the Court shall set the date and time for the assessment at arraignment. In the alternative, the pretrial monitor shall coordinate the date, time, and location of the clinical assessment and advise the Court, the person and his or her attorney, and the prosecutor.

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

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

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

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Proposals of Amendment; Third Reading Ordered

H. 611.

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

An act relating to fiscal year 2016 budget adjustments.

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

First: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. 2015 Acts and Resolves No. 58, Sec. B.301 is amended to read:

Sec. B.301 Secretary's office - global commitment		
Operating expenses	4,541,736	69,303,699
Grants	<u>1,372,464,147</u>	<u>1,372,830,610</u>
Total	<u>1,377,005,883</u>	1,442,134,309
Source of funds		
General fund	208,728,673	217,281,414
Special funds	26,550,179	27,899,279
Tobacco fund	28,747,141	28,079,458
State health care resources fund	270,712,781	282,705,968
Federal funds	842,227,109	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 Sec. 17 in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

Sec. 17. 2015 Acts and Resolves No. 58, Sec. B.307 is amended to read:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	659,633,970	721,820,039
Total	659,633,970	721,820,039
Source of funds		
Global commitment fund	659,633,970	721,820,039
Total	659,633,970	721,820,039

Third: By striking out Sec. 22 in its entirety and inserting in lieu thereof a new Sec. 22 to read as follows:

Sec. 22. 2015 Acts and Resolves No. 58, Sec. B.312 is amended to read:

Sec. B.312 Health - public health		
Personal services	37,391,426	39,304,394
Operating expenses	8,229,404	8,229,404
Grants	<u>39,972,373</u>	<u>39,661,136</u>
Total	<u>85,593,203</u>	87,194,934
Source of funds		
General fund	8,544,109	6,595,459
Special funds	16,854,895	17,004,542
Tobacco fund	2,461,377	2,461,377
Federal funds	38,184,687	37,945,155
Global commitment fund	18,401,274	22,043,386
Interdepartmental transfers	<u>1,121,861</u>	1,120,015

Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	85,593,203	87,194,934

Fourth: By striking out Sec. 36 in its entirety and inserting in lieu thereof a new Sec. 36 to read as follows:

Sec. 36. 2015 Acts and Resolves No. 58, Sec. B.346 is amended to read:

Sec. B.346 Total human services

Source of funds

General fund	662,344,182	677,913,668
Special funds	95,588,135	97,129,681
Tobacco fund	32,619,752	31,952,069
State health care resources fund	270,712,781	282,705,968
Education fund	3,554,425	3,886,204
Federal funds	1,328,305,215	1,388,932,032
Global commitment fund	1,314,332,149	1,379,045,585
Internal service funds	1,816,195	1,816,195
Interdepartmental transfers	30,798,487	34,112,598
Permanent trust funds	<u>25,000</u>	<u>25,000</u>
Total	3,740,096,321	3,897,519,000

Fifth: In Sec. 53(a)(1), by striking out the following: “21550 Lands & Facilities Trust Fund”

Sixth: By adding a new section to be numbered Sec. 55a to read as follows:

Sec. 55a. FISCAL YEAR 2016 CONTINGENT GENERAL FUND APPROPRIATIONS

(a) In fiscal year 2016, to the extent that the Commissioner of Finance and Management determines that General Fund revenues exceed the 2016 official revenue forecast and other fund receipts assumed for all previously authorized fiscal year 2016 appropriations and transfers necessary to ensure the stabilization reserve is at its maximum authorized level under 32 V.S.A. § 308, \$10,300,000 is appropriated to the Agency of Administration for transfer to the Agency of Human Services for Global Commitment upon determination of the Commissioner of Finance and Management of the amount necessary to fund the 53rd week of Medicaid expenditures. Any funds remaining after this 53rd week payment shall be carried forward and revert to the General Fund for reallocation by the Legislature in the fiscal year 2017 budget adjustment or the fiscal year 2018 budget process.

(b) The Commissioner of Finance and Management shall report to the Joint Fiscal Committee in July 2016 on the status of the funds appropriated in this section.

Seventh: By adding two (2) new sections to be numbered Secs. 60a and 60b to read as follows:

Sec. 60a. JUDICIAL BRANCH POSITION AUTHORIZATION

(a) The establishment of the following new permanent exempt position in the Judicial Branch of State government is authorized in fiscal year 2017 – one (1) Superior judge.

Sec. 60b. 4 V.S.A. § 71(a) is amended to read:

(a) There shall be ~~32 superior~~ 34 Superior judges, whose term of office shall, except in the case of an appointment to fill vacancy or unexpired term, begin on April 1 in the year of their appointment or retention, and continue for six years.

Eighth: In Sec. 67, in the first sentence, by striking out the following: “18 V.S.A. chapters 220 and 221” and inserting in lieu thereof the following: chapters 220 and 221 of this title and in the third sentence, by striking out the following: “18 V.S.A. chapter 221” and inserting in lieu thereof the following: chapter 221 of this title

Ninth: By striking out Sec. 71 in its entirety and inserting in lieu thereof a new Sec. 71 to read as follows:

Sec. 71. SUPPLEMENTAL RAIL SPENDING

(a) Notwithstanding 32 V.S.A. § 706 and the limits on program, project, or activity spending authority approved in the Fiscal Year 2016 Transportation Program, the Secretary of Transportation, with the approval of the Secretary of Administration and subject to the provisions of subsection (b) of this section, may transfer up to \$3,000,000 in Transportation Fund or Transportation Infrastructure Bond Fund appropriations, other than appropriations for the Town Highway State Aid, Structures, and Class 2 Roadway programs, to the Transportation – Rail appropriation, for the specific purpose of addressing the increased cost of Amtrak service, emergency projects, and projects needing immediate attention during fiscal year 2016.

(b)(1) If a contemplated transfer of an appropriation would not delay the planned work schedule of a project, the Secretary of Transportation may execute the transfer and shall give prompt notice thereof to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and, when the General Assembly is not in session, to the Joint Transportation Oversight Committee.

(2) If a contemplated transfer of an appropriation would, by itself, delay the planned work schedule of a project, the Secretary:

(A) when the General Assembly is in session, may execute the transfer, but shall give the House and Senate Committees on Transportation advance notice of at least 10 business days prior to executing the transfer; or

(B) when the General Assembly is not in session, shall obtain the prior approval of the Joint Transportation Oversight Committee before the Secretary may execute the transfer.

(3) Contemplated transfers of Transportation Infrastructure Bond Fund appropriations shall comply with the limitations on the uses of such funds as provided in 19 V.S.A. § 11f.

(c) This section shall be repealed on July 1, 2016.

Tenth: By striking out Sec. 72 in its entirety and inserting in lieu thereof a new Sec. 72 to read as follows:

Sec.72. DEPARTMENT FOR CHILDREN AND FAMILIES; GENERAL ASSISTANCE REPORT

(a) By March 15, 2016, the Commissioner for Children and Families shall provide the House and Senate Committees on Appropriations, the House Committees on Human Services and on General, Housing and Military Affairs, and the Senate Committee on Health and Welfare a report on the funds spent year-to-date, through January and funds authorized through February 28, 2016, in the General Assistance budget for emergency housing and homelessness assistance that details the budgeted funds, usage, and projections for the remainder of the fiscal year for each type of housing service or assistance provided. The report shall also include the status on the development of alternatives to using motels as a solution for emergency housing, including a summary of programs and projects funded through the Office of Economic Opportunity.

Eleventh: In Sec. 74, by striking out subsection (b) in its entirety and inserting in lieu thereof two new subsections (b) and (c) to read as follows:

(b) Secs. 60a and 60b shall take effect on July 1, 2016.

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

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

Thereupon, the bill was read the second time by title only pursuant to Rule 43 and pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Appropriations?, Senator Kitchel moved to amend the proposal of amendment of the Committee on Appropriations, as follows:

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

Which was agreed to.

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

Adjournment

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

WEDNESDAY, FEBRUARY 10, 2016

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 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. 575. An act relating to eliminating the role of town service officers in administering General Assistance benefits.

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

Bill Referred

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

H. 575.

An act relating to eliminating the role of town service officers in administering General Assistance benefits.

To the Committee on Health and Welfare.

**Consideration Resumed; Substitute Proposal of Amendment; Bill Read
the Third Time; Bill Passed**

H. 187.

Consideration resumed on House bill entitled:

An act relating to absence from work for health care and safety.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as moved by Senator Campion?, Senator Campion moved to substitute a proposal of amendment for his proposal of amendment as follows:

First: After Sec. 6a, by inserting a new section to be numbered Sec. 6b to read as follows:

Sec. 6b. COST TO SMALL EMPLOYERS; SURVEY; REPORT

(a) The Department of Labor and the Agency of Commerce and Community Development shall conduct a survey of Vermont employers with five or fewer employees regarding the following:

(1) the number of employees employed by each employer;

(2) the hourly wages paid by each employer to its employees; and

(3) whether each employer provides its employees with paid time off from work that satisfies the requirements of 21 V.S.A. § 482–484 as enacted pursuant to Sec. 4 of this act.

(b) The Department of Labor and the Agency of Commerce and Community Development shall, on or before January 15, 2017, report to the General Assembly regarding the results of the survey and an estimate of the total additional cost to employers with five or fewer employees of providing earned sick time pursuant the requirements of this act.

Second: In Sec. 8, subdivision (a)(1), after the words “This section” by striking out the following: “and Sec. 6a” and inserting in lieu thereof the following: , Sec. 6a, and 6b

Which was agreed to on a roll call, Yeas 15, Nays 14.

Senator Starr 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, Bray, Campbell, Cummings, Lyons, MacDonald, McCormack, Pollina, Sears, Sirotkin, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Campion, Collamore, Degree, Doyle, Flory, Kitchel, Mazza, Mullin, Nitka, Rodgers, Snelling, Starr, Westman.

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

Thereupon, the proposal of amendment of Senator Campion, as substituted, was agreed to.

Thereupon, pending third reading of the bill, Senators Zuckerman and Campbell moved that the Senate proposal of amendment be amended in Sec. 2, Purpose, by striking out subsection (b) in its entirety and inserting a new subsection (b) to read:

(b) It is the intent of the General Assembly that:

(1) all employers doing business in or operating in the State of Vermont shall be required to provide earned sick time to their employees as provided by this act; and

(2) all employers that currently offer any type of paid time off from work that may, at a minimum, be used by the employer's employees in the amounts and for the purposes required pursuant to this act shall not be required to change their paid time off policy or offer additional paid leave.

Which was agreed to.

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

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

H. 611.

House bill entitled:

An act relating to fiscal year 2016 budget adjustments.

Was taken up.

Thereupon, pending third reading of the bill, Senator Kitchel moved that the Senate proposal of amendment be amended in the *Eleventh* proposal of amendment in Sec. 74, subsection (b) by striking out the following: "Secs. 60a and 60b" and inserting in lieu thereof the following: Sec. 60a

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 25, Nays 4.

Senator Sears 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, Bray, Campbell, Campion, Cummings, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Benning, Collamore, Degree, Mullin.

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

Joint Resolution Adopted on the Part of the Senate

J.R.S. 40.

Joint Senate resolution entitled:

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

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 41.

Joint Senate resolution entitled:

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

Was taken up.

Senator MacDonald moved to amend the joint resolution by striking out all after the title and inserting in lieu thereof the following:

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

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

Resolved by the Senate and House of Representatives:

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

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

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

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

Resolved: That the Joint Rules Committee propose to the Senate Rules Committee and the House Rules Committee legislation to amend 2 V.S.A. § 10 to change the hour of the day of future joint assemblies held for the purpose of electing legislative trustees of the University of Vermont and State Agricultural College and legislative trustees of the Vermont State Colleges from 10 o'clock and 30 minutes, forenoon, to a time in the afternoon that will not conflict with regularly scheduled meetings of House or Senate standing committees.

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

Thereupon, the recurring question, Shall the joint Senate resolution having been placed on the Calendar for action, be adopted on the part of the Senate?, was agreed to.

Message from the House No. 18

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 considered joint resolution originating in the Senate of the following title:

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

And has adopted the same in concurrence.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, February 11, 2016.

THURSDAY, FEBRUARY 11, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

**Message from the Governor
Appointment Referred**

A message was received from the Governor, by Susan Allen, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to the committee as indicated:

Morrissey, Mary of Jericho - Superior Judge, - from February 5, 2016, to March 31, 2017.

To the Committee on Judiciary.

Bill Passed

S. 171.

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

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

Adjournment

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

FRIDAY, FEBRUARY 12, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Michael Augustinowitz of Montpelier.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Walter Berger of Arlington
Ayla Bishop of Jeffersonville
Lydia Bushey of Barnet
Mariana Considine of Hardwick
Eamon Dunn of Burlington
Alex Emerson of Topsham
Alix St. Hilaire of Hinesburg
Anna Kalfus of Colchester
Keri Mason of White River Junction
Nekaiya Shine of Granville

Message from the House No. 19

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. 512. An act relating to adequate shelter of dogs and cats.

H. 548. An act relating to extraordinary dividends for life insurers.

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

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

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

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

And has adopted the same in concurrence.

Bills Referred

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

H. 512.

An act relating to adequate shelter of dogs and cats.

To the Committee on Judiciary.

H. 548.

An act relating to extraordinary dividends for life insurers.

To the Committee on Finance.

Third Reading Ordered**H. 505.**

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

An act relating to approval of amendments to the charter of the Village of North Bennington.

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.

Third Reading Ordered**J.R.S. 35.**

Senator Balint, for the Committee on Institutions, to which was referred joint Senate resolution entitled:

Joint resolution urging Vermont's participation in the Stepping Up initiative to reduce the number of incarcerated Vermonters with a mental illness.

Reported that the joint Senate resolution ought to be adopted in concurrence.

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

Senate Concurrent Resolution

The following joint concurrent resolution, 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, was adopted on the part of the Senate:

By Senators Kitchel, Benning, Bray, Champion, MacDonald, Rodgers and Snelling,

By Representative Davis and others,

S.C.R. 34.

Senate concurrent resolution honoring natural resources and transportation historian William G. Gove of Williamstown for his prodigious research and fascinating books.

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 Representative Webb and others,

By Senators Sirotkin, Ashe, Ayer, Baruth, Lyons, Snelling and Zuckerman,

H.C.R. 233.

House concurrent resolution in memory of Richard Walters of Shelburne.

By Representative Stevens and others,

By Senators Ashe, Baruth, Lyons, Sirotkin, Snelling and Zuckerman,

H.C.R. 234.

House concurrent resolution honoring MacArthur Fellow Alison Bechdel of Bolton on her artistic and literary achievements.

By Representative Krowinski and others,

By Senators Lyons, Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Champion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 235.

House concurrent resolution designating February 5, 2016 as Wear Red Day in Vermont.

By Representative Nuovo and others,

By Senators Ayer and Bray,

H.C.R. 236.

House concurrent resolution congratulating the 2015 Middlebury College Panthers National Collegiate Athletic Association's Division III championship field hockey team.

By Representative Fagan and others,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Champion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 238.

House concurrent resolution congratulating Vermont National Guard Specialist Skylar Anderson on becoming the first woman certified as a U.S. military combat engineer.

By Representative Russell and others,

By Senator Flory,

H.C.R. 239.

House concurrent resolution honoring Rip Jackson on his outstanding service as minister of music at Grace Congregational Church in Rutland.

By Representative Cole and others,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Champion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 240.

House concurrent resolution designating February 11, 2016 as Suicide Prevention Awareness Day in Vermont.

By Representatives Van Wyck and Lanpher,

H.C.R. 241.

House concurrent resolution honoring Dr. Donald and Elizabeth Bicknell for their many years of outstanding community service.

Message from the House No. 20

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 adopted House concurrent resolutions of the following titles:

H.C.R. 233. House concurrent resolution in memory of Richard Walters of Shelburne.

H.C.R. 234. House concurrent resolution honoring MacArthur Fellow Alison Bechdel of Bolton on her artistic and literary achievements.

H.C.R. 235. House concurrent resolution designating February 5, 2016 as Wear Red Day in Vermont.

H.C.R. 236. House concurrent resolution congratulating the 2015 Middlebury College Panthers National Collegiate Athletic Association's Division III championship field hockey team.

H.C.R. 238. House concurrent resolution congratulating Vermont National Guard Specialist Skylar Anderson on becoming the first woman certified as a U.S. military combat engineer.

H.C.R. 239. House concurrent resolution honoring Rip Jackson on his outstanding service as minister of music at Grace Congregational Church in Rutland.

H.C.R. 240. House concurrent resolution designating February 11, 2016 as Suicide Prevention Awareness Day in Vermont.

H.C.R. 241. House concurrent resolution honoring Dr. Donald and Elizabeth Bicknell for their many years of outstanding community service.

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

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 34. Senate concurrent resolution honoring natural resources and transportation historian William G. Gove of Williamstown for his prodigious research and fascinating books.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 16, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 39.

TUESDAY, FEBRUARY 16, 2016

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.

Standing Committee Realigned

The President, on behalf of the Committee on Committees, reported a new appointment to one of the standing committees, effective as of February 16, 2016, resulting in a realignment of the committee, as follows:

Agriculture

A.M.	Senator Starr, Chair	Room 26
	Zuckerman, Vice-Chair	
	Campbell	
	[McAllister] 1/9/15 – 5/14/15	
	Sirotkin, Clerk	
	[Mazza] 5/14/15 – 2/16/16	
	<i>Degree</i> 2/16/16	

Bill Referred to Committee on Appropriations**S. 241.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

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

Joint Senate Resolution Adopted on the Part of the Senate**J.R.S. 42.**

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. 42. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 19, 2016, it be to meet again no later than Tuesday, February 23, 2016.

Bill Passed in Concurrence

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

H. 505. An act relating to approval of amendments to the charter of the Village of North Bennington.

Joint Resolution Adopted on the Part of the Senate**J.R.S. 35.**

Joint Senate resolution of the following title was read the third time and adopted on the part of the Senate:

Joint resolution urging Vermont's participation in the Stepping Up initiative to reduce the number of incarcerated Vermonters with a mental illness.

Message from the House No. 21

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. 533. An act relating to victim notification.

H. 608. An act relating to solid waste management.

H. 765. An act relating to technical corrections.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 17, 2016.

WEDNESDAY, FEBRUARY 17, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Referred

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

H. 533.

An act relating to victim notification.

To the Committee on Judiciary.

H. 608.

An act relating to solid waste management.

To the Committee on Natural Resources and Energy.

H. 765.

An act relating to technical corrections.

To the Committee on Government Operations.

Third Reading Ordered**H. 524.**

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

An act relating to seeking a waiver to permit businesses to continue to purchase Exchange plans directly from insurers.

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.

Adjournment

On motion of Senator Campbell, the Senate adjourned until ten o'clock and twenty-five minutes in the morning on Thursday, February 18, 2016.

THURSDAY, FEBRUARY 18, 2016

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. 22

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. 400. An act relating to various changes to judicial procedure.

H. 677. An act relating to the Restitution Unit.

H. 845. An act relating to legislative review of certain report requirements.

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

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 42. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Joint Assembly

At ten o'clock and thirty minutes in the morning, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

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

The Senate repaired to the hall of the House.

Having returned therefrom, at ten o'clock and fifty-five o'clock in the morning, the President assumed the Chair.

Recess

On motion of Senator Campbell the Senate recessed until one o'clock in the afternoon.

Called to Order

The Senate was called to order by the President.

Bills Referred

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

H. 400.

An act relating to various changes to judicial procedure.

To the Committee on Judiciary.

H. 677.

An act relating to the Restitution Unit.

To the Committee on Judiciary.

H. 845.

An act relating to legislative review of certain report requirements.

To the Committee on Government Operations.

Bill Passed in Concurrence**H. 524.**

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

An act relating to seeking a waiver to permit businesses to continue to purchase Exchange plans directly from insurers.

Adjournment

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

FRIDAY, FEBRUARY 19, 2016

In the absence of the President (who was Acting Governor in the absence of the Governor) the Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

Message from the House No. 23

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. 625. An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit.

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

The House has considered Senate proposal of amendment to the following House bill:

H. 187. An act relating to absence from work for health care and safety.

And has severally concurred therein.

Message from the House No. 24

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. 249. An act relating to intermunicipal services.

H. 539. An act relating to establishment of a Pollinator Protection Committee.

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

The House has adopted joint resolutions of the following titles:

H.C.R. 242. House concurrent resolution recognizing the importance of the Black Lives Matter Movement in the U.S. and Vermont Black communities.

H.C.R. 243. House concurrent resolution congratulating the 2015 class of Green Mountain Council Eagle Boy Scouts.

H.C.R. 244. House concurrent resolution honoring J. Morgans Steakhouse's bartender, Roderick Vincent O'Brien, for his consummate professional and unfailing courtesy.

H.C.R. 245. House concurrent resolution honoring former Juvenile Defender Robert Sheil for his exemplary public service.

H.C.R. 246. House concurrent resolution in memory of former Representative Barbara L. Wood of Bethel.

H.C.R. 247. House concurrent resolution congratulating the Rutland Regional Medical Center on its receipt of two excellence awards from Healthgrades.

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

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

S.C.R. 35. Senate concurrent resolution congratulating Matt Hynes on being named the 2015-2016 Vermont boys' cross country Gatorade Player of the Year.

S.C.R. 36. Senate concurrent resolution honoring Central Vermont Chamber of Commerce President and CEO George Malek.

And has adopted the same in concurrence.

Bills Referred

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

H. 249.

An act relating to intermunicipal services.

To the Committee on Government Operations.

H. 539.

An act relating to establishment of a Pollinator Protection Committee.

To the Committee on Agriculture.

H. 625.

An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit.

To the Committee on Natural Resources and Energy.

Bill Amended; Third Reading Ordered**S. 154.**

Senator Nitka, for the Committee on Judiciary, to which was referred 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.

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

Sec. 1. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY MEDICAL PERSONNEL MEMBER, MANDATED REPORTER, EMPLOYEE OF FAMILY SERVICES DIVISION OF DEPARTMENT FOR CHILDREN AND FAMILIES, OR HEALTH CARE WORKER; ASSAULT WITH BODILY FLUIDS

(a) A person convicted of a simple or aggravated assault against a law enforcement officer, a firefighter, a health care worker, a mandated reporter as defined in 33 V.S.A. § 4913, an employee of the Family Services Division of the Department for Children and Families, or a member of emergency medical personnel as defined in 24 V.S.A. § 2651(6) while the officer, firefighter, health care worker, mandated reporter, employee of the Family Services Division, or emergency medical personnel member is performing a lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) for the first offense, be imprisoned not more than one year;

(2) for the second offense and subsequent offenses, be imprisoned not more than 10 years.

* * *

(d) ~~For purposes of~~ As used in this section:

(1) “Health care facility” shall have the same meaning as defined in 18 V.S.A. § 9432(8); ~~and.~~

(2) “Health care worker” means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.

(3) "Performing a lawful duty" for a mandated reporter shall mean performing the mandated reporter's lawful duty under 33 V.S.A. § 4913(c).

(e) This section shall not apply to an individual under 18 years of age residing in a residential rehabilitation facility.

Sec. 2. 13 V.S.A. § 1702 is added to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct intentionally:

(1) threaten another person; and

(2) as a result of the threat, place the other person in reasonable apprehension of death or serious bodily injury.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

(d) As used in this section:

(1) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" shall not include constitutionally protected activity.

(e) Any person charged under this section who is under 18 years of age shall be adjudicated as a juvenile delinquent.

Sec. 3. 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, and pending the question, Shall the bill be amended as recommended by the Committee on Judiciary?, Senator Baruth moved to strike out Sec. 2 of the recommendation of amendment by the Committee on Judiciary and renumber the remaining section to be numerically correct.

Thereupon, pending the question, Shall the recommendation of amendment of Senator Baruth to the recommendation of amendment of the Committee on Judiciary be agreed to?, Senator Baruth requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, the recurring question, Shall the bill be amended as recommended by the Committee on Judiciary was agreed to and third reading of the bill was ordered.

Senate 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 on the part of the Senate:

By Senators Cummings, Doyle, Pollina, Balint and Mullin,

By Representatives Hooper and Kitzmiller,

S.C.R. 35.

Senate concurrent resolution congratulating Matt Hynes on being named the 2015-2016 Vermont boys' cross country Gatorade Player of the Year.

By Senators Pollina, Cummings and Doyle,

By Representative Hooper and others,

S.C.R. 36.

Senate concurrent resolution honoring Central Vermont Chamber of Commerce President and CEO George Malek.

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 Representative Christie and others,

By Senators Ashe, Balint, Campbell, Campion, Nitka, Pollina, Rodgers, Sears, Snelling, White and Zuckerman,

H.C.R. 242.

House concurrent resolution recognizing the importance of the Black Lives Matter Movement in the U.S. and Vermont Black communities.

By Representative Fagan and others,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Champion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 243.

House concurrent resolution congratulating the 2015 class of Green Mountain Council Eagle Boy Scouts.

By Representative Donovan and others,

H.C.R. 244.

House concurrent resolution honoring J. Morgans Steakhouse's bartender, Roderick Vincent O'Brien, for his consummate professional and unflinching courtesy.

By Representative Jewett and others,

H.C.R. 245.

House concurrent resolution honoring former Juvenile Defender Robert Sheil for his exemplary public service.

By Representative Haas and others,

By Senators Campbell, McCormack, Nitka, Doyle, MacDonald, Mazza, Snelling and Westman,

H.C.R. 246.

House concurrent resolution in memory of former Representative Barbara L. Wood of Bethel.

By Representative Cupoli and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 247.

House concurrent resolution congratulating the Rutland Regional Medical Center on its receipt of two excellence awards from Healthgrades.

Adjournment

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, February 23, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 42.

TUESDAY, FEBRUARY 23, 2016

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.

Consideration Postponed

Senate bill entitled:

S. 154.

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.

Was taken up.

Thereupon, Senator Sears moved that consideration of the bill be postponed until Thursday, February 25, 2016, which was agreed to.

Third Reading Ordered**S. 256.**

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

An act relating to extending the moratorium on home health agency certificates of need.

Reported that the bill ought to pass.

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

Bill Amended; Third Reading Ordered**S. 212.**

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

An act relating to court-approved absences from home detention and home confinement furlough.

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

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

§ 7554. RELEASE PRIOR TO TRIAL

(a) Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the judicial officer determines that such a release will not reasonably ensure the appearance of the person as required. In determining whether the defendant presents a risk of nonappearance, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged and the number of offenses with which the person is charged. If the officer determines that such a release will not reasonably ensure the appearance of the defendant as required, the officer shall, either in lieu of or in addition to the ~~above~~ methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure the appearance of the defendant as required:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the Court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

(E) Require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to ensure appearance as required, including a condition requiring that the defendant return to custody after specified hours.

(G) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554e of this title.

(2) If the judicial officer determines that conditions of release imposed to ensure appearance will not reasonably protect the public, the judicial officer may impose in addition the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure protection of the public:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(E) If the defendant is a State, county, or municipal officer charged with violating section 2537 of this title, the Court may suspend the officer's duties in whole or in part, if the Court finds that it is necessary to protect the public.

(F) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554e of this title.

* * *

Sec. 2. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) ~~Definition~~ Definitions. As used in this section:

(1) ~~“home~~ Home detention” means a program of ~~confinement~~ pretrial detention and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of

~~Corrections or local sheriff's office providing electronic monitoring. The Court may authorize scheduled absences such as work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections.~~ A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the ~~Court~~ court.

(2) "Listed crime" shall have the same meaning as provided in section 5301 of this title.

(b) Procedure. The status of a defendant who is detained pretrial for more than seven days in a correctional facility for lack of bail may be reviewed by the Court to determine whether the defendant is appropriate for home detention. The request for review may be made by either the Department of Corrections or the defendant. After a hearing, the Court may order that the defendant be released to the Home Detention Program, providing that the Court finds placing the defendant on home detention will reasonably assure his or her appearance in Court when required and the proposed residence is appropriate for home detention. In making such a determination, the Court shall consider:

(1) the nature of the offense with which the defendant is charged;

(2) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

(3) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

(c)(1) Conditions for defendants charged with an offense that is not a listed crime. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections or the sheriff's office providing the electronic monitoring.

(2) Conditions for defendants charged with a listed crime. The court may approve authorized absences from the home only if such absences are clearly identified on the record with respect to the day of the week, time of day, the purpose of the absence, the permissible duration of the absence, the places that may be visited during the absence, and the frequency with which the absence may recur. The absences may commence no earlier than 24 hours following the issuance of the order. The day the order is issued, the court shall provide an electronic copy of the order to the prosecutor's office. The Department of Corrections or the sheriff's office providing the electronic monitoring may reschedule court-authorized absences only after providing

72 hours' advance notice of the changes to the prosecutor's office. Only medical emergencies are exempted from the notification requirements of this subdivision.

(d) Failure to comply. The Department of Corrections may revoke a defendant's home detention status for an unauthorized absence or failure to comply with any other condition of the Program and shall return the defendant to a correctional facility.

Sec. 3. 13 V.S.A. § 7554e is added to read:

§ 7554e. COMMUNITY-BASED ELECTRONIC MONITORING PROGRAM

(a) Definitions. As used in this section:

(1) "Community-based electronic monitoring" means an integrated community detention program that provides 24-hours-a-day, seven-days-a-week electronic monitoring that restricts the defendant to a preapproved community continuously with supervision and immediate response by the sheriff's office that is providing the electronic monitoring. A court may impose community-based electronic monitoring as a condition of release prior to trial in accordance with subdivisions 7554(a)(1)(G) or 7554(a)(2)(F) of this title.

(2) "Listed crime" shall have the same meaning as provided in section 5301 of this title.

(b) Procedure. The court may order that a defendant charged with an offense that is not a listed crime be released prior to trial in accordance with section 7554 of this title to a program of community-based electronic monitoring, provided that the court finds that placing the defendant on community-based electronic monitoring will reasonably assure his or her appearance in court when required and that the proposed community is an appropriate placement for the defendant. In making such a determination, the court shall consider:

(1) the nature of the offense with which the defendant is charged;

(2) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

(3) any risk or undue burden to other persons who reside in the proposed community or risk to third parties or to public safety that may result from such placement.

(c) Failure to comply. A judicial officer imposing a program of community-based electronic monitoring on a defendant as a condition of his or

her release shall, in accordance with subsection 7554(c) of this title, issue an appropriate order and inform the defendant of any penalties applicable to violations of the imposed conditions, and advise the defendant that a warrant for his or her arrest may be issued immediately upon any such violation.

Sec. 4. REPEAL

13 V.S.A. § 7554d (Windham County Electronic Monitoring Program) is repealed.

Sec. 5. 28 V.S.A. § 808b is amended to read:

§ 808b. HOME CONFINEMENT FURLOUGH

(a) An offender may be sentenced to serve a term of imprisonment, but placed by a court on home confinement furlough that restricts the defendant to a preapproved place of residence continuously, except for authorized absences. Home confinement furlough shall be enforced by appropriate means of supervision, including electronic monitoring and other conditions such as limitations on alcohol, visitors, and access to firearms imposed by the ~~Court~~ court or the Department, or both.

(b) The Department, in its own discretion, may place on home confinement furlough an offender who has not yet served the minimum term of the sentence for an eligible misdemeanor as defined in section 808d of this title if the Department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism.

~~(c) A home confinement furlough shall not exceed a total of 180 days and shall require the defendant:~~

~~(1) to remain at a preapproved residence at all times except for scheduled and preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the Court may order; or~~

~~(2) to remain at a preapproved residence 24 hours a day on lock down status except for medical appointments and court appearances.~~

~~(d)~~ In determining whether a home confinement furlough sentence is appropriate and whether a place of residence is suitable for such a sentence, all of the following shall be considered:

(1) The nature of the offense with which the defendant was charged and the nature of the offense of which the defendant was convicted.

(2) The defendant's criminal history record, history of violence, medical and mental health needs, history of supervision, and risk of flight.

(3) Any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

(d)(1) A home confinement furlough shall not exceed a total of 180 days and shall require the defendant:

(A) to remain at a preapproved residence at all times except for preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court may order; or

(B) to remain at a preapproved residence 24 hours a day on lock-down status except for medical appointments and court appearances.

(2) In cases involving offenders convicted of a listed crime, the defendant shall remain at a preapproved residence at all times except for preapproved absences for work, school, treatment, attorney appointments, court appearances, and other obligations as the court or Department may authorize. The day the absences are approved, the court or the Department shall provide a record to the prosecutor's office documenting the date, time, location, and purpose of the authorized absences. The authorized absences may commence no earlier than 24 hours following notification to the prosecutor's office. The Department may reschedule authorized absences only after providing 72 hours' advance notice to the prosecutor's office. Only medical emergencies are exempted from the notification requirements of this subdivision.

(e) [Repealed.]

Sec. 6. WINDHAM COUNTY SHERIFF'S OFFICE ELECTRONIC MONITORING PROGRAM AGREEMENTS; STATEWIDE COMMUNITY-BASED ELECTRONIC MONITORING

(a) The Windham County Sheriff's Office (WCSO), tasked with piloting an electronic monitoring program from July 1, 2014 through June 30, 2016 in accordance with 2014 Act No. 179, Sec. E.339.1, is authorized to enter into agreements with any Vermont sheriff's office that wishes to participate in offering community-based electronic monitoring in accordance with 13 V.S.A. §§ 7554b and 7554e. As a part of the agreements, the WCSO shall provide and the sheriff's offices shall abide by the policies and procedures the WCSO establishes for providing electronic monitoring under 13 V.S.A. §§ 7554b and 7554e.

(b) The electronic monitoring program for pretrial detention as set forth in 13 V.S.A. §§ 7554b and 7554e shall be utilized as a tool for monitoring and supervising detainees who would otherwise be housed in a correctional facility. The goals of expanding the program statewide are to save valuable bed space for detainees who should be lodged in a correctional facility, reduce out-of-state prison placements, reduce recidivism, improve public safety and victim notification, reduce transportation costs, increase detainee access to services, and reduce case resolution time.

Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except for this section and Sec. 6, which 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.

Rules Suspended; Bill Committed

S. 116.

Appearing on the Calendar for notice, on motion of Senator Flory, the rules were suspended and Senate bill entitled:

An act relating to rights of offenders in the custody of the Department of Corrections.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Institutions, Senator Flory moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Judiciary with the report of the Committee on Institutions *intact*,

Which was agreed to.

Message from the House No. 25

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. 297. An act relating to the sale of ivory or rhinoceros horn.

H. 530. An act relating to categorization of State contracts for service.

H. 622. An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect.

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

The House has considered Senate proposal of amendment to House bill of the following title:

H. 611. An act relating to fiscal year 2016 budget adjustments.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 24, 2016.

WEDNESDAY, FEBRUARY 24, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Taihaku of East Calais.

Bills Referred

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

H. 297.

An act relating to the sale of ivory or rhinoceros horn.

To the Committee on Natural Resources and Energy.

H. 530.

An act relating to categorization of State contracts for service.

To the Committee on Government Operations.

H. 622.

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect.

To the Committee on Health and Welfare.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 212. An act relating to court-approved absences from home detention and home confinement furlough.

S. 256. An act relating to extending the moratorium on home health agency certificates of need.

Third Reading Ordered**S. 252.**

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

An act relating to the sale of lottery products.

Reported that the bill ought to pass.

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

Bill Amended; Third Readings Ordered**S. 241.**

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

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

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

* * * Findings * * *

Sec. 1. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s

and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(5) In his 2016 State of the State address, the Governor identified five essential elements to a well-regulated framework for marijuana legalization, which the General Assembly believes have been addressed in this Act:

(A) Keeping marijuana and other drugs out of the hands of youth.

(B) Creating a regulated marijuana market that shifts demand away from the illegal market and the inherent public health and safety risks associated with the illegal market.

(C) Using revenue from commercial marijuana sales to expand drug prevention and treatment programs.

(D) Strengthening law enforcement's capacity to improve the response to impaired drivers under the influence of marijuana or other drugs.

(E) Prohibiting the commercial production and sale of marijuana concentrates and edible marijuana products until other states that are currently permitting such products successfully develop consumer protections that are shown to prevent access by youth and potential misuse by adults.

(6) Revenue generated by this act shall be allotted in the following formula:

(A) 25 percent to prevention of substance abuse;

(B) 25 percent to treatment of substance abuse;

(C) 25 percent to criminal justice efforts to combat the illegal drug trade and impaired driving; and

(D) 25 percent to the General Fund for the implementation, administration, and enforcement of this act with any remaining funds allocated equally among subdivisions (A)–(C) of this subdivision (6).

* * * Prevention * * *

Sec. 2. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a) The Department of Health shall develop and administer an education and prevention program to address evidence that early and persistent use of marijuana may be detrimental to the health and well-being of youth.

(b) To the extent funding permits, the Department shall establish a Substance Abuse Youth Prevention and Education Program. The Program shall be evidence-based and shall include:

(1) Community- and school-based youth and family focused prevention initiatives that strive to:

(A) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(B) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(C) expand family education programs.

(2) An information and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(3) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(4) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(c) On or before March 15, 2017, the Department shall adopt rules to implement this section.

Secs. 3–5. RESERVED

* * * Legal Possession; Civil and Criminal Penalties * * *

Sec. 6. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all civil penalties for possession of one ounce or less of marijuana for a person who is 21 years of age or older while retaining the current criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains the current civil and criminal penalties for possession of marijuana by a person under 21 years of age, which are the same as possession of alcohol by a person under 21 years of age.

Sec. 7. 18 V.S.A. § 4201(15) is amended to read:

(15)(A) “Marijuana” means any plant material of the genus *Cannabis* or any preparation, compound, or mixture thereof except:

(A) sterilized seeds of the plant;

(B) fiber produced from the stalks; or

(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant *Cannabis sativa* L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:

(i) the seeds of the plant;

(ii) the resin extracted from any part of the plant; and

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(B) “Marijuana” does not include:

(i) the mature stalks of the plant and fiber produced from the stalks;

(ii) oil or cake made from the seeds of the plant;

(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or

(iv) the sterilized seed of the plant that is incapable of germination.

Sec. 8. 18 V.S.A. § 4230(b) is amended to read:

(b) Selling or dispensing.

(1) A person knowingly and unlawfully selling marijuana or hashish shall be imprisoned not more than two years or fined not more than \$10,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing ~~one-half ounce or more~~ than one ounce of marijuana or ~~2.5~~ five grams or more of hashish shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing one pound or more of marijuana or 2.8 ounces of hashish shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

Sec. 9. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; ~~CIVIL VIOLATION~~

~~(a)(1) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

~~(1) not more than \$200.00 for a first offense;~~

~~(2) not more than \$300.00 for a second offense;~~

~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1)~~ Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind~~ A person shall not consume marijuana in a public place. "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.

(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:

(i) not more than \$100.00 for a first offense;

(ii) not more than \$200.00 for a second offense; and

(iii) not more than \$500.00 for a third or subsequent offense.

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.;~~

(1) permit a person to cultivate marijuana without a license from the Department of Public Safety;

(2) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(3) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(4) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(5) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(6) require an employer to accommodate the possession or use of marijuana or being under the influence of marijuana in a place of employment;

(7) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(8) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.~~

~~(e)(c)(1)~~ A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)(d)~~ Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

Sec. 10. 18 V.S.A. § 4230e is added to read:

§ 4230e. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c)(1) Except as provided in subdivision (2) of this subsection (c) and subsection (d) of this section, a person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(2) A person who violates subdivision (a)(1) of this section by selling or furnishing marijuana to a person under 18 years of age shall be imprisoned not more than four years or fined not more than \$4,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 11. 18 V.S.A. § 4230f is added to read:

§ 4230f. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using a solvent such as butane, hexane, isopropyl alcohol, ethanol, or carbon dioxide unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title. This section does not preclude extraction by vegetable glycerin.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

* * * Commercial Marijuana Regulation * * *

Sec. 12. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Applicant” means:

(A) an individual who has a ten percent or greater ownership interest in a business entity that seeks to operate a marijuana establishment pursuant to this chapter;

(B) a director, officer, or manager of business entity that seeks to operate a marijuana establishment pursuant to this chapter;

(C) if the business entity that seeks to operate a marijuana establishment pursuant to this chapter is a subsidiary of a parent entity, an individual who has a ten percent or greater ownership interest in the parent entity; or

(D) a principal officer or board member of a dispensary.

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

(3) "Commissioner" means the Commissioner of Public Safety.

(4) "Department" means the Department of Public Safety.

(5) "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.

(6) "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.

(7) "Financier" means any person other than a banking institution that has made or will make an investment in the licensed business. A financier can be a person that provides money as a gift, loans money to the applicant and expects to be paid back the amount of the loan with or without interest, or expects any percentage of the profits from the business in exchange for a loan or expertise.

(8) "Handbill" means a flyer, leaflet or sheet that advertises marijuana or a marijuana establishment.

(9) "Marijuana" shall have the same meaning as provided in section 4201 of this title.

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

(11) “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.

(12) “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.

(13) “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.

(14) “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.

(15) “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.

(16) “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.

(17) “Resident” means a person who is domiciled in Vermont. For purposes of licensing under this chapter, the process for determining domicile 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).

(18) “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.

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230 of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

§ 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

§ 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption;

(3) represents that the use of marijuana has curative or therapeutic effects;

(4) depicts a person under 21 years of age consuming marijuana; or

(5) is designed to be appealing to children or persons under 21 years of age

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) Handbills shall not be posted or distributed.

(d) In accordance with section 4512 of this chapter, the Department shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(e) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

Subchapter 2. Department of Public Safety

§ 4511. AUTHORITY

For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Department shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

§ 4512. RULEMAKING

The Department shall adopt rules to implement this chapter on or before March 15, 2017, in accordance with subdivisions (1)–(3) of this section.

(1) Rules concerning any marijuana establishment shall include:

(A) the form and content of license and renewal applications;

(B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check for all principals and financiers of the proposed marijuana establishment;

(C) oversight requirements;

(D) inspection requirements;

(E) records to be kept by licensees and the required availability of the records;

(F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;

(G) security requirements, including lighting, physical security, video, and alarm requirements;

(H) restrictions on advertising, marketing, and signage;

(I) health and safety requirements;

(J) regulation of additives to marijuana, including those that are toxic or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures and standards for testing marijuana for contaminants and potency;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license; and

(P) procedures for suspension and revocation of a license.

(2) Rules concerning cultivators shall include:

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- (A) seed to sale tracking of marijuana plants;
 - (B) restrictions on the use of pesticides that are injurious to human health;
 - (C) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;
 - (D) labeling requirements for products sold to retailers; and
 - (E) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.
- (3) Rules concerning retailers shall include:
- (A) labeling requirements for products sold to customers;
 - (B) requirements for proper verification of age and residency of customers;
 - (C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and
 - (D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.
- (4) Rules concerning testing laboratories shall include:
- (A) procedures for destruction of all samples;
 - (B) quality assurance and control;
 - (C) requirements of testing operating manual; and
 - (D) requirements for chain of custody recordkeeping.

§ 4513. IMPLEMENTATION

(a)(1) On or before March 15, 2017, the Department shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion. On or before July 1, 2018, any restrictions on the timing of applications shall end and the Department shall begin an ongoing, open application process.

(2) On or before July 15, 2017, the Department shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before July 15, 2017, the Department shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any

period of time at its discretion. On or before July 1, 2018, any restrictions on the timing of applications shall end and the Department shall begin an ongoing, open application process.

(2) On or before October 15, 2017, the Department shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 1, 2018.

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

(A) up to 15 cultivator licenses that permit a cultivation space of not more than 5,000 square feet;

(B) up to 10 cultivator licenses that permit a cultivation space of 5,001–10,000 square feet;

(C) up to five cultivator licenses that permit a cultivation space of 10,001–20,000 square feet.

(2) On or after July 1, 2018, the limitations in subdivision (1) of this subsection shall not apply and the Department shall use its discretion to issue cultivator licenses in a number and size that provides sufficient amounts of marijuana to licensed retailers. A cultivator licensed under the limitations of subdivision (1) of this subsection may apply to the Department to modify its license to expand its cultivation space.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Department shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Department shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

Subchapter 3. Licenses

§ 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Department.

(b) All licenses shall expire at midnight, April 30, of each year beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Department and shall be accompanied by the fees provided for in section 4526 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), a person may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtain no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Department. If the dispensary and retail establishment are located on the same premises, the dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Department. Failure to provide proof of insurance to the Department, as required, may result in revocation of the license.

(h) This subchapter shall not apply to possession regulated by section 4230a of this title.

§ 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license, an applicant shall:

(1) be 21 years of age or older;

(2) be a resident of this State for at least two years immediately prior to applying for a license; and

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

(b) A financier of a marijuana establishment shall be a resident of this State for at least two years immediately prior to filing of the application for a license for which the person is serving as a financier.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Department, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) testing procedures and protocols;

(H) description of packaging and labeling of products transported to retailers; and

(I) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

- (B) traceability;
- (C) employee qualifications and training;
- (D) destruction of waste product; and
- (E) the types of testing to be offered.

(d) For each applicant and financier, 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 person's operation of a business in this State or any other jurisdiction.

(e) When considering applications for a marijuana establishment license, the Department shall:

(1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;

(2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Department designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Department. A license shall not be renewed unless the records of the Department show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Department prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Department. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Department shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana

establishment and shall not be passed on to an employee. A person shall not work as an employee in until that person has received an identification card issued under this section. Each card shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the marijuana establishment with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Department shall obtain the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Department.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Department shall not issue an identification card to any person who has been convicted of a drug-related offense or a violent felony or who has a pending charge for such an offense. As used in this subchapter, "violent felony" means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(f) The Department shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. The rules shall consider whether a person who has a conviction for an offense not listed in subsection (e) of this section has been rehabilitated. A conviction for an offense not listed in

subsection (e) of this section shall not automatically disqualify a person for a registry identification card. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Department's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(g) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

§ 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility.

(c) An applicant shall designate on their operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Department.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A "produced on" date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, "Consumption of marijuana impairs your ability to drive a car and operate machinery," "Keep away from children," and "Possession of marijuana is illegal under federal law."

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

§ 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption off the registered premises; and

(2) purchase marijuana from a licensed cultivator.

(b)(1) In a single transaction, a retailer may provide:

(A) one ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer may only sell “useable marijuana” which means the dried flowers of marijuana and does not include the seeds, stalks, leaves, and roots of the plant.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Board and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

§ 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

§ 4528. FEES. RESERVED

§ 4529. MARIJUANA REGULATION FUND

(a) The Marijuana Regulation Fund is hereby created. The Fund shall be maintained by the Department.

(b) The Fund shall be composed of all application fees, license fees, renewal fees, and civil penalties collected by the Department pursuant to this chapter.

(c) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(d) All monies within the Fund shall be allocated to the Department solely for the purposes of implementing, administering, and enforcing this chapter, including the costs incurred by the Department for its administrative expenses.

Subchapter 4. Taxes on Marijuana

§ 4541. MARIJUANA TAX FUND

(a) The Marijuana Tax Fund is hereby created. The Fund shall be administered by the Commissioner of Taxes and comprise all taxes collected by the Commissioner pursuant to this chapter.

(b) By the 30th day after the end of each fiscal quarter, the monies deposited in the Fund during the prior fiscal quarter shall be allocated by the Commissioner of Finance and Management as follows:

(1) 25 percent to prevention of substance abuse;

(2) 25 percent to treatment of substance abuse;

(3) 25 percent to criminal justice efforts to combat the illegal drug trade and impaired driving; and

(4) 25 percent to the General Fund for the implementation, administration, and enforcement of this act with any remaining funds allocated equally among subdivisions (1)–(3) of this subsection.

§§ 4542–4545. RESERVED

Subchapter 5. Marijuana Program Review Commission

§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

(b) Membership. The Commission shall be composed of the following members:

(1) two current members of the House of Representatives, not all from the same political party, appointed by the Speaker of the House;

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- (2) one member of the public appointed by the Speaker of the House;
 - (3) two current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees;
 - (4) one member of the public appointed by the Committee on Committees;
 - (5) two members of the public appointed by the Governor; and
 - (6) the Attorney General or his or her designee.
- (c) Legislative members shall serve only while in office.

§ 4547. POWERS; DUTIES

- (a) The Commission shall:
- (1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;
 - (2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;
 - (3) consider the issue of personal cultivation of a small number of marijuana plants and whether Vermont could permit home grow in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market;
 - (4) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;
 - (5) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of impaired driving as it relates to marijuana;
 - (6) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;
 - (7) examine whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license; and
 - (8) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries.

(9) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Department and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(10) report any recommendations to the General Assembly or the Governor, or both, as needed.

(b) On or before October 15, 2018, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

§ 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(b) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Commission to occur on or before August 1, 2016.

(2) The Commission shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 13. OFFICE OF LEGISLATIVE COUNCIL

The sum of \$60,000.00 is appropriated in fiscal year 2017 to the Office of Legislative Council for the purpose of providing staffing to the Marijuana Program Review Commission which may include hiring a consultant to

accomplish appropriate staffing. The Director of the Office of Legislative Council shall obtain approval from the Legislative Council for the staffing plan.

* * * Medical Marijuana Dispensaries * * *

Sec. 14. LEGISLATIVE INTENT; DISPENSARIES

The continued viability of medical marijuana dispensaries in a regulated retail market is critical to ensure appropriate services and products to Vermonters with qualifying debilitating medical conditions.

Sec. 15. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

* * *

(6)(A) “Health care professional” means an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a naturopathic physician under 26 V.S.A. chapter 81 ~~who has a special license endorsement authorizing the individual to prescribe, dispense, and administer prescription medicines to the extent that a diagnosis provided by a naturopath under this chapter is within the scope of his or her practice~~, an individual certified as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as an advanced practice registered nurse under 26 V.S.A. chapter 28.

(B) ~~Except for naturopaths, this~~ This definition includes individuals who are professionally licensed under substantially equivalent provisions in New Hampshire, Massachusetts, or New York.

* * *

(11) “Registered caregiver” means a person who is ~~at least 21 years old~~ of age or older, has met eligibility requirements as determined by the Department in accordance with this chapter, and who has agreed to undertake responsibility for managing the well-being of a registered patient with respect to the use of marijuana for symptom relief.

* * *

(17) “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 dispensary, 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 dispensary when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of another dispensary, 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 dispensary.

Sec. 16. 18 V.S.A. § 4473 is amended to read:

§ 4473. REGISTERED PATIENTS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(b) The Department of Public Safety shall review applications to become a registered patient using the following procedures:

* * *

(5)(A) A Review Board is established. ~~The Medical Practice Board shall appoint three physicians licensed in Vermont to constitute the Review Board. If an application under subdivision (1) of this subsection is denied, within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board.~~ The Review Board shall comprise three members:

(i) a physician appointed by the Medical Practice Board;

(ii) a naturopathic physician appointed by the Office of Professional Regulation; and

(iii) an advanced practice registered nurse appointed by the Office of Professional Regulation.

(B) The Board shall meet periodically to review studies, data, and any other information relevant to the use of marijuana for symptom relief. The Board may make recommendations to the General Assembly for adjustments and changes to this chapter.

(C) Members of the Board shall serve for three-year terms, beginning February 1 of the year in which the appointment is made, except that the first members appointed shall serve as follows: one for a term of two years, one for

a term of three years, and one for a term of four years. Members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

(D) If an application under subdivision (1) of this subsection (b) is denied, within seven days the patient may appeal the denial to the Board. Review shall be limited to information submitted by the patient under subdivision (1) of this subsection, and consultation with the patient's treating health care professional. All records relating to the appeal shall be kept confidential. An appeal shall be decided by majority vote of the members of the Board.

Sec. 17. 18 V.S.A. § 4474 is amended to read:

§ 4474. REGISTERED CAREGIVERS; QUALIFICATION STANDARDS AND PROCEDURES

* * *

(d) A registered caregiver of a patient who is under 18 years of age and suffers from seizures may cultivate hemp upon notifying the Department and shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 18. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, transfer, transport, supply, sell, and dispense 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 dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

(A) Marijuana-infused products shall include tinctures, oils, solvents, and edible or potable goods. Only the portion of any marijuana-infused product that is attributable to marijuana shall count toward the possession limits of the dispensary and the patient. The Department of Public Safety shall establish by rule the appropriate method to establish the weight of marijuana that is attributable to marijuana-infused products. A dispensary shall dispense marijuana-infused products in child-resistant packaging as defined in 7 V.S.A. § 1012.

* * *

(2)(A) Acquire marijuana seeds or parts of the marijuana plant capable of regeneration from or dispense them to registered patients or their caregivers

or acquire them from another registered Vermont dispensary, provided that records are kept concerning the amount and the recipient.

(B) Acquire, purchase, or borrow marijuana, marijuana-infused products, or services from another registered Vermont dispensary or give, sell, or lend marijuana, marijuana-infused products, or services to another registered Vermont dispensary, provided that records are kept concerning the product, the amount, and the recipient. Each Vermont dispensary is required to adhere to all possession limits pertaining to cultivation as determined by the number of patients designating that dispensary and may not transfer eligibility to another dispensary.

(3)(A) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time two mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

(B) Notwithstanding subdivision (A) of this subdivision, if a dispensary is designated by a registered patient under 18 years of age who qualifies for the registry because of seizures, the dispensary may apply to the Department for a waiver of the limits in subdivision (A) of this subdivision (3) if additional capacity is necessary to develop and provide an adequate supply of a product for symptom relief for the patient. The Department shall have discretion whether to grant a waiver and limit the possession amounts in excess of subdivision (A) of this subdivision (3) in accordance with rules adopted pursuant to section 4474d of this title.

(C) The plant limitations in subdivision (3)(A) of this subsection (a) shall not be construed to restrict a dispensary's cultivation of marijuana pursuant to a cultivation license issued under chapter 87 of this title.

(4) With approval from the Department, transport and transfer marijuana to a Vermont academic institution for the purpose of research.

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in an enclosed, locked facility ~~which is either indoors or otherwise not visible to the public and which can only be accessed by principal officers and employees of the dispensary who have valid registry identification cards.~~ The Department of Public Safety shall perform an annual on-site assessment of each dispensary

and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' registry identification numbers to protect their confidentiality.

* * *

(h) A dispensary shall include a label on the packaging of all marijuana that is dispensed. The label shall:

(1) identify the particular strain of marijuana ~~contained therein~~. Cannabis strains shall be either pure breeds or hybrid varieties of cannabis and shall reflect properties of the plant. ~~The label also shall:~~

(2) identify the amount of tetrahydrocannabinol in each single dose marijuana-infused edible or potable product; and

(3) contain a statement to the effect that the State of Vermont does not attest to the medicinal value of cannabis.

* * *

Sec. 19. 18 V.S.A. § 4474g is amended to read:

§ 4474g. **DISPENSARY REGISTRY IDENTIFICATION CARD;
CRIMINAL BACKGROUND CHECK**

(a) Except as provided in subsection (b) of this section, the Department of Public Safety shall issue each principal officer, Board member, and employee of a dispensary a registry identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to a principal officer, Board member, or employee. A person shall not serve as principal officer, Board member, or employee of a dispensary until that person has received a registry identification card issued under this section. Each card shall specify whether the cardholder is a principal officer, Board member, or employee of a dispensary and shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the dispensary with which the person is affiliated;
- (3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the registry identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for a registry identification card, the Department of Public Safety shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary principal or Board member.

* * *

Sec. 20. 18 V.S.A. § 4474h is amended to read:

§ 4474h. PATIENT DESIGNATION OF DISPENSARY

(a) A registered patient may obtain marijuana only from the patient's designated dispensary and may designate only one dispensary. If a registered patient designates a dispensary, the patient and his or her caregiver may not grow marijuana or obtain marijuana or marijuana-infused products for symptom relief from any source other than the designated dispensary. A registered patient who wishes to change his or her dispensary shall notify the ~~department of public safety~~ Department of Public Safety in writing on a form issued by the ~~department~~ Department and shall submit with the form a fee of \$25.00. The ~~department~~ Department shall issue a new identification card to the registered patient within 30 days of receiving the notification of change in dispensary. The registered patient's previous identification card shall expire at the time the new identification card takes effect. A registered patient shall submit his or her expired identification card to the ~~department~~ Department within 30 days of expiration. A registered patient shall not change his or her designated dispensary more than once in any ~~90-day~~ 30-day period.

(b) The ~~department of public safety~~ Department of Public Safety shall track the number of registered patients who have designated each dispensary. The ~~department~~ Department shall issue a monthly written statement to the dispensary identifying the number of registered patients who have designated that dispensary and the registry identification numbers of each patient and each patient's designated caregiver, if any.

(c) In addition to the monthly reports, the ~~department of public safety~~ Department of Public Safety shall provide written notice to a dispensary whenever any of the following events occurs:

(1) ~~A~~ a qualifying patient designates the dispensary to serve his or her needs under this subchapter;

(2) ~~An~~ an existing registered patient revokes the designation of the dispensary because he or she has designated a different dispensary; or

(3) ~~A~~ a registered patient who has designated the dispensary loses his or her status as a registered patient under this subchapter.

* * * Impaired Driving * * *

Sec. 21. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 22. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this

section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 23. VERMONT GOVERNOR’S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to comprehensively address the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor’s Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2017 regarding implementation of this section.

Sec. 24. COMMISSIONER OF PUBLIC SAFETY

The Commissioner of Public Safety shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

(1) the previous year’s data in Vermont,

(2) the latest information regarding best practices on prevention and enforcement, and

(3) his or her recommendations for legislative action.

Sec. 25. DRUG RECOGNITION EXPERT TRAINING

(a) In fiscal year 2017, \$42,000.00 is appropriated from the General Fund to the Department of Public Safety, these funds provide drug recognition expert training to a minimum of ten sworn law enforcement officers statewide.

(b) The Department shall develop a process for approving funding for drug recognition expert training for law enforcement agencies in the State. In awarding funding, the Department shall consider the State's interest in achieving sufficient geographic distribution of drug recognition experts to provide adequate statewide coverage.

(c) The Department shall work collaboratively with the Agency of Transportation to ensure federal Governor's Highway Safety Program funds are applied where appropriate for the cost of this training.

Sec. 26. CREATION AND FUNDING OF NEW TROOPER POSITIONS

(a) Position creation. Within the Department of Public Safety, the following positions are created:

(1) effective July 1, 2016, nine classified trooper positions;

(2) effective July 1, 2017, eight classified trooper positions; and

(3) effective July 1, 2018, eight classified trooper positions.

(b) Position funding.

(1) In fiscal year 2017, \$1,500,000.00 is appropriated from the General Fund to the Department of Public Safety for the trooper positions, including required equipment.

(2) It is the intent of the General Assembly that funding be appropriated as needed to fund the new trooper positions created in fiscal years 2018 and 2019.

Sec. 27. DEPARTMENT OF PUBLIC SAFETY LABORATORY POSITIONS, EQUIPMENT, AND FUNDING

(a) Position creation. Within the Department of Public Safety, six classified positions are established, as follows:

(1) two forensic chemists;

(2) two program technicians; and

(3) two administrative assistants.

(b) Position funding. In fiscal year 2107, \$612,000.00 is appropriated from the General Fund to the Department of Public Safety, of which \$362,000.00 shall fund the positions created in this section, and \$250,000.00 shall fund laboratory equipment.

* * * Miscellaneous * * *

Sec. 28. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, "marijuana establishment" is as defined in 18 V.S.A. chapter 87.

Sec. 29. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 30. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(24) Violations of 18 V.S.A. §§ 4230a and ~~4230b~~, relating to ~~possession~~ public consumption of marijuana.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1, 2, and 12 shall take effect on passage.

(b) Secs. 7, 11, and 13 through 29 shall take effect on July 1, 2016.

(c) Secs. 6, 8 through 10, and 30 shall take effect on January 1, 2018.

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

“An act relating to the regulation of marijuana.”

And that when so amended the bill ought to pass.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the committee on Judiciary with the following amendments thereto:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor’s Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2017, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2017.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

Second: By adding a new section to be numbered Sec. 10a to read as follows:

Sec. 10a. 18 V.S.A. § 4230g is added to read:

§ 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws

governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, “social host” means a person who is not the holder of a marijuana establishment license and is not required under chapter 87 of this title to hold a marijuana establishment license.

Third: In Sec. 12, 18 V.S.A. § 4505(a)(2), in the second sentence, after the following: “municipal permits” by adding the following: under this subsection (a)

Fourth: In Sec. 12, after the following: “Subchapter 2.” by striking out the following: “Department of Public Safety” and inserting in lieu thereof the following: Administration

Fifth: In Sec. 12, 18 V.S.A. § 4511, before the following: “For the purpose of” by adding the following: (a) and by adding subsections (b) and (c) to read as follows:

(b)(1) For the purpose of regulating the cultivation and testing of marijuana in accordance with this chapter, the Agency of Agriculture, Food and Markets shall have the following authority and duties:

(A) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(B) the inspection of licensed marijuana cultivators and testing of marijuana; and

(C) the prevention of contaminated or adulterated marijuana from being offered for sale.

(2) The authority and duties of the Agency shall be in addition to, and not a substitute for, the authority and duties of the Department.

(c)(1) There is established a Marijuana Advisory Board within the Department for the purpose of advising the Department and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

(A) the Commissioner of Public Safety or designee;

(B) the Secretary of Agriculture, Food and Markets or designee;

(C) the Commissioner of Health or designee;

(D) the Commissioner of Taxes or designee; and

(E) a member of local law enforcement appointed by the Governor.

(2) The Department shall endeavor to notify and consult with the Board prior to the adoption of any significant policy decision.

(3) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2016 and shall attend Board meetings.

Sixth: In Sec. 12, 18 V.S.A. § 4512 by striking out the following: “(1)–(3)” and inserting in lieu thereof the following: (1)–(4)

Seventh: In Sec. 12, 18 V.S.A. § 4512(1)(B) by striking out the word “principals” and inserting in lieu thereof the word applicants

Eighth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivision (1)(K) in its entirety and by inserting in lieu thereof the following:

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

Ninth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivisions (2)(A)–(C) in their entirety and by relettering the remaining subdivisions to be alphabetically correct

Tenth: In Sec. 12, 18 V.S.A. § 4512 by striking out subdivisions (4)(B) and (C) in their entirety and in subdivision (4)(A) after the following: “samples;” by adding the following and, and by relettering the remaining subdivision to be alphabetically correct

Eleventh: In Sec. 12, 18 V.S.A. § 4512 in the first sentence before the following: “The Department” by adding the following: (a) and by adding a subsection (b) to read as follows:

(b) In addition to the rules adopted by the Department pursuant to subsection (a) of this section, the Agency of Agriculture, Food and Markets shall adopt rules regarding the cultivation and testing of marijuana regulated pursuant to this chapter as follows:

(1) restrictions on the use by cultivators of pesticides that are injurious to human health;

(2) standards for both the indoor and outdoor cultivation of marijuana, including environmental protection requirements;

(3) procedures and standards for testing marijuana for contaminants and potency and for quality assurance and control;

(4) reporting requirements of a testing laboratory; and

(5) inspection requirements for cultivators and testing laboratories.

Twelfth: In Sec. 12, 18 V.S.A. § 4513(b)(2) by striking out the following: “January 1, 2018” and inserting in lieu thereof the following: January 2, 2018

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

§ 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2017, the Department shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2017, the Department shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2017, the Department shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Department may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2017, the Department shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2018.

(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 5,000 square feet;

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

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

(D) 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 5,000 square feet for a total of 20 such licenses;

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

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

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

(3) On or after July 1, 2019, the limitations in subdivision (1) 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.

Fourteenth: In Sec. 12, 18 V.S.A. § 4522(c)(1) by inserting a subdivision (G) to read as follows:

(G) how the applicant will meet its operation’s need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

And by relettering the remaining subdivisions to be alphabetically correct

Fifteenth: In Sec. 12, 18 V.S.A. § 4524(e) after the following: “drug-related” by adding the following: criminal

Sixteenth: In Sec. 12, 18 V.S.A. § 4525, in subsection (d), after the following: “Department” by adding the following: and Agency of Agriculture, Food and Markets and by adding a subsection (f) to read as follows:

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency of Agriculture, Food and Markets finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency’s instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary of Agriculture, Food and Markets and shall clearly identify the marijuana affected and the basis for the appeal.

Seventeenth: In Sec. 12, 18 V.S.A. § 4526, in subdivision (b)(1)(A), by striking out the following: “one ounce” inserting in lieu thereof the following: one-half ounce and in subsection (c) by striking out the following: “may” and inserting in lieu thereof the following: shall and after the following: “marijuana” by adding the following: , and after the following: “plant” by adding the following: , and shall not package marijuana with other items, such as paraphernalia, for sale to customers

Eighteenth: In Sec. 12, by striking out 18 V.S.A. § 4528 in its entirety and inserting in lieu thereof the following:

§ 4528. FEES

(a) The Department of Public Safety shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application 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 5,000 square feet, the application fee shall be \$15,000.00.

(B) For a cultivator license that permits a cultivation space of 5,001–10,000 square feet, the application fee shall be \$25,000.00.

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for

such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is:

(A) fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2018; or

(B) twenty-five percent of the application fees set forth in subdivisions (1)–(3) of this subsection if the original application was submitted on or after July 1, 2018 and before July 1, 2019.

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

(A) For a cultivator license that permits a cultivation space of not more than 5,000 square feet, the initial annual license and subsequent renewal fee shall be \$15,000.00.

(B) 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 \$25,000.00.

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.

(d) The following administrative fees shall apply:

(1) Change of corporate structure fee (per person) shall be \$1,000.00.

(2) Change of name fee shall be \$1,000.00.

(3) Change of location fee shall be \$1,000.00.

(4) Modification of license premises fee shall be \$250.00.

(5) Addition of financier fee shall be \$250.00.

(6) Duplicate license fee shall be \$100.00.

Nineteenth: In Sec. 12, 18 V.S.A. chapter 87, by striking out subchapter 4 in its entirety and by redesignating subchapter 5 to be subchapter 4

Twentieth: In Sec. 12, 18 V.S.A. § 4546(b)(5) after the word “public” by inserting the following: , one of whom shall have expertise in public health,

Twenty-first: In Sec. 12, 18 V.S.A. § 4547(a) in subdivision (7) by striking out the following: “and” and in subdivision (8) by striking out the following:

“.” and inserting in lieu thereof the following: ; and by striking out subdivision (10) in its entirety and inserting in lieu thereof the following:

(10) monitor the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;

(11) identify strategies for preventing youth from using marijuana;

(12) identify academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy in accordance with this act;

(13) consider whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees; and

(14) report any recommendations to the General Assembly and the Governor, as needed.

Twenty-second: By adding a new section to be numbered Sec. 12a to read as follows:

Sec. 12a. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

§ 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4), on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

§ 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant’s ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Department of Public Safety.

(b) The Department of Public Safety may require the Commissioner of Taxes to suspend or revoke the tax license of any person for failure to comply with any provision of this chapter.

Twenty-third: By adding a new section to be numbered Sec. 12b to read as follows:

Sec. 12b. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

Twenty-fourth: By adding a new section to be numbered Sec. 12c to read as follows:

Sec. 12c. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

Twenty-fifth: By adding a new section to be numbered Sec. 18a to read as follows:

Sec. 18a. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

* * *

~~(b)(1) A dispensary shall be operated on a nonprofit basis for the mutual benefit of its patients but need not be recognized as a tax-exempt organization by the Internal Revenue Service.~~

~~(2) A dispensary shall have a sliding-scale fee system that takes into account a registered patient's ability to pay.~~

* * *

(o) Notwithstanding any provision of law or any provision of its articles or bylaws to the contrary, a dispensary formed as a nonprofit may convert to any other type of business entity authorized by the laws of this State by:

(1) a majority vote of the directors and a majority vote of the members, if any; and

(2) filing with the Secretary of State a statement that the dispensary is converting to another type of entity and the documents required by law to form the type of entity.

Twenty-sixth: In Sec. 19, 18 V.S.A. § 4474g, after the following: “* * *” by adding the following:

(e) The Department of Public Safety shall not issue a registry identification card to any applicant who has been convicted of a drug-related criminal offense or a violent felony or who has a pending charge for such an offense. ~~For purposes of~~ As used in this subchapter, “violent felony” means a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

* * *

Twenty-seventh: By adding a new section to be numbered Sec. 29a to read as follows:

Sec. 29a. 6 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CENTRAL TESTING LABORATORY

§ 121. CREATION AND PURPOSE

There is created within the Agency of Agriculture, Food and Markets a central testing laboratory for the purpose of providing agricultural, ~~and~~ environmental, and other necessary testing services.

§ 122. FEES

Notwithstanding 32 V.S.A. § 603, the Agency shall establish fees for providing agricultural, ~~and~~ environmental, and other necessary testing services at the request of private individuals and State agencies. The fees shall be reasonably related to the cost of providing the services. Fees collected under this chapter shall be credited to a special fund which shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of providing the services.

§ 123. REGULATED DRUGS

(a) Except as provided in subsection (b) of this section, the provisions of 18 V.S.A. chapter 84 shall not apply to the Secretary or designee in the otherwise lawful performance of his or her official duties requiring the possession or control of regulated drugs.

(b) The central testing laboratory shall obtain a certificate of approval from the Department of Health pursuant to 18 V.S.A. § 4207.

(c) As used in this section, “regulated drug” shall have the same meaning as in 18 V.S.A. § 4201.

Twenty-eighth: By striking out Sec. 31 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 12, 12a, 18a, and 29a shall take effect on passage.

(b) Secs. 7, 10a, 11, 13 through 18, and 19 through 29 shall take effect on July 1, 2016.

(c) Sec. 12b shall take effect January 1, 2017 and shall apply to taxable year 2017 and after.

(d) Secs. 6, 8, 9, 10, 12c, and 30 shall take effect on January 2, 2018.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committees on Judiciary and Finance with the following amendments thereto:

First: In Sec. 1, by striking out subdivision (6) in its entirety and inserting in lieu thereof the following:

(6) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

Second: In Sec. 9, 18 V.S.A. § 4230a(b)(6) after the following: "employment" by inserting the following: or when an employee is acting in the scope of employment

Third: In Sec. 12, 18 V.S.A. § 4513(c)(3) by striking out the following: "subdivision (1)" and inserting in lieu thereof the following: subdivisions (1) and (2)

Fourth: In Sec. 12, by striking out 18 V.S.A. § 4529 in its entirety and inserting in lieu thereof the following:

§ 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected by Departments pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in

this subdivision, “criminal justice efforts” shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee’s regularly scheduled November meeting.

Fifth: In Sec. 12, 18 V.S.A. § 4546, by striking out subsection (b) in its entirety and by inserting a new subsection (b) to read as follows:

(b) Membership. The Commission shall be composed of the following members:

(1) four members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) one member of the House of Representatives, appointed by the Speaker of the House;

(3) one member of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

Sixth: In Sec.12, 18 V.S.A. § 4546 by adding a subsection (d) to read as follows:

(d) The Governor shall appoint one member for a one-year term, two members for two-year terms, and one member for a three-year term who shall serve as Chair. The Governor may reappoint members at his or her discretion.

Seventh: In Sec. 12, 18 V.S.A. § 4547 before “The Commission shall:” by striking out (a) and by striking out subsection (b) in its entirety.

Eighth: In Sec. 12, 18 V.S.A. § 4548 in subsection (a) by striking out the following: “Office of Legislative Council” and inserting in lieu thereof the following: Administration and in subdivision (b)(1) by striking out the

following: “Office of Legislative Council” and inserting in lieu thereof the following: Administration

Ninth: By striking out Sec. 13 in its entirety.

Tenth: By adding a new section to be numbered Sec. 22a to read as follows:

Sec. 22a. 23 V.S.A. § 1219 shall be amended as follows:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person’s general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Eleventh: By adding a new section to be numbered Sec. 22b to read as follows:

Sec. 22b. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

* * *

(4) refusal to submit to a test to determine the operator’s alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

* * *

Twelfth: In Sec. 24, by striking out the following: “COMMISSIONER OF PUBLIC SAFETY” and inserting in lieu thereof the following: REPORTING IMPAIRED DRIVING DATA and after the following: “Commissioner of Public Safety” by inserting the following: and the Secretary of Transportation,

in collaboration, and in subdivision (3) by striking out the following: “his or her” and inserting in lieu thereof the following: their

Thirteenth: By striking out Sec. 25 in its entirety and by inserting in lieu thereof a new Sec. 25 to read as follows:

Sec. 25. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor’s Highway Safety Program’s administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for the enforcement impaired driving.

Fourteenth: By striking out Secs. 26 and 27 in their entirety and inserting in lieu thereof new Secs. 26 and 27, and a section 27a to read as follows:

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

In fiscal year 2017 the follow amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter marketing programs.

(2) Tax Department: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Department of Public Safety:

(A) \$160,000.00 for staffing expenses related to rulemaking, program administration, and processing of applications.

(B) \$124,000.00 for laboratory equipment, supplies, training, testing, and contractual expenses required by this act.

(C) \$63,500.00 for matching funds needed for Drug Recognition Expert training for the department and other State law enforcement agencies in FY17 after other available matching funds are applied.

(D) Funding in Subdivision (B) and (C) of this section shall be transferred to the Agency of Transportation Governors Highway Safety Program. The \$493,000.00 federal Governor's Highway Safety Program funds are appropriated in FY 17 to the Agency of Transportation.

(4) Agency of Agriculture, Food and Markets:

(A) \$112,500.00 for the Vermont Agriculture and Environmental Lab.

(B) \$112,500.00 for staffing expenses related to rulemaking and program administration.

(5) Agency of Administration: \$150,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

Sec. 27. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2017 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Department of Public Safety—one (1) Program Administrator and one (1) Administrative Assistant.

(4) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and one (1) Program Administrator.

(5) In the Marijuana Program Review Commission—one (1) exempt Commission Director.

Sec. 27a. MARIJUANA REGULATION AND RESOURCE FUND BUDGET AND REPORT

Annually, through 2018, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

Fifteenth: By striking out Sec. 31 (effective dates) in its entirety and inserting in lieu thereof a new Sec. 31 to read as follows:

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1, 2, 12, 12a, 18a, and 29a shall take effect on passage.

(b) Secs. 7, 8, 10a, 11, 14 through 18, 19 through 22, 23 through 29 shall take effect on July 1, 2016.

(c) Sec. 12b shall take effect on January 1, 2017 and shall apply to taxable year 2017 and after.

(d) Secs. 6, 9, 10, 12c, 22a, 22b, and 30 shall take effect on January 2, 2018.

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 report of the Committee on Judiciary was amended as recommended by the Committee on Finance. Thereupon, pending the question, Shall the report of the Committee on Judiciary be amended as recommended by the Committee on Appropriations?, Senator Mullin raised a *point of order* under Chapter I § 6 of the Vermont Constitution that all revenue bills must originate in the House.

The President *overruled* the point of order and ruled that the bill was not a violation of Chapter II § 6 of the Vermont Constitution as the primary purpose of the bill was not to raise revenue but was the legalization and regulation of marijuana.

Thereupon, the question, Shall the report of the Committee on Judiciary, be amended as recommended by the Committee on Appropriations?, was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Judiciary, as amended, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Rodgers and Zuckerman moved to amend the bill as follows:

First: By adding a new section to be numbered Sec. 7a to read as follows:

Sec. 7a. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate marijuana in excess of the limit provided in subsection 4230h(a) of this title. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating marijuana in excess of the limit provided in section 4230h of this title shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces or more of marijuana or 10 grams or more of hashish or knowingly and unlawfully cultivating more than ~~three plants of marijuana~~ twice the limit provided in section 4230h of this title shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing one pound or more of marijuana or 2.8 ounces or more of hashish or knowingly and unlawfully cultivating more than ~~10 plants of marijuana~~ three times the limit provided in section 4230h of this title shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing 10 pounds or more of marijuana or one pound or more of hashish or knowingly and unlawfully cultivating more than ~~25 plants of marijuana~~ four times the limit provided in section 4230h of this title shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

* * *

Second: By adding a new section to be numbered Sec.10b to read as follows:

Sec. 10b. 18 V.S.A. § 4230h is added to read:

§ 4230h. PERSONAL CULTIVATION; RESTRICTIONS; PENALTIES

(a)(1) Except as otherwise provided in this chapter, a person 21 years of age or older who possesses six or fewer marijuana plants, of which not more than three are mature female plants, shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. Each residential unit shall be limited to six marijuana plants, of which not more than three may be mature female plants, regardless of how many persons 21 years or older reside in the residential unit.

(2) Any marijuana harvested from the plants allowed pursuant to subdivision (1) of this subsection shall not count toward the one ounce possession limit provided in section 4230a of this title provided it is in a secure indoor facility.

(3) As used in this section, “dwelling unit” means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(b) Personal cultivation of marijuana only may occur:

(1) outdoors on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(2) in an enclosure that is screened from public view.

(c) A violation of subsection (a) of this section shall be punished in accordance with subsection 4230(a) of this title.

(d) A violation of subsection (b) of this section shall be punished in accordance with subdivision 4230(a)(1)(A) of this title.

(e) Chapter 87 of this title (marijuana establishments) shall not apply to personal cultivation conducted in compliance with this section and a license shall not be required.

Third: In Sec. 12, 18 V.S.A. § 4547(a) by striking out subdivision (3) in its entirety and by renumbering the remaining subdivisions to be numerically correct.

Fourth: In Sec. 31, EFFECTIVE DATES, subsection (d) after the following: “10.” by inserting the following: 10b.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Rodgers and Zuckerman?, Senator Sears moved to substitute the recommendation of amendment as follows:

First: In Sec. 12, 18 V.S.A. § 4547(a) in subdivision (13) by striking out the word “and” and by striking out subdivision (14) and inserting in lieu thereof the following:

(14) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

(15) report any recommendations to the General Assembly and the Governor, as needed.

Second: In Sec. 12, 18 V.S.A. § 4547 by striking out subsection (b) in its entirety and inserting a new subsection (b) to read as follows:

(b)(1) On or before October 15, 2017, the Commission shall issue a report to the General Assembly and the Governor regarding allowing personal cultivation of marijuana as provided in subdivision (a)(3) of this section.

(2) On or before January 15, 2019, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action

Which was agreed to.

Thereupon, the substitute recommendation of amendment was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Sears, Ashe, Benning and White moved to amend the bill as follows:

First: In Sec. 9, 18 V.S.A. § 4230a(b), by striking out subdivision (6) in its entirety and by renumbering the remaining subdivisions in subsection (b) to be numerically correct.

Second: In Sec 9, 18 V.S.A. § 4230a, after subsection (d) by inserting a subsection (e) to read as follows:

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Third: By adding a Sec. 29b to read as follows:

Sec. 29b. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created a Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

(b) Membership. The Committee shall be composed of the following five members:

(1) the Secretary of Commerce and Community Development or designee;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(4) one person representing the interests of employers appointed by the Governor.

(c) Powers and duties. The Committee shall study:

(1) whether Vermont's workers' compensation and unemployment insurance systems are adversely impacted by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by

authorizing employers to conduct post-accident, employer-wide, or post-rehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2016, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2016.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on December 31, 2016.

Fourth: In Sec. 31, EFFECTIVE DATES, in subsection (a) by striking out “and” and after “29a” by inserting and 29b

Which was agreed to.

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

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

Thereupon, third reading of the bill was ordered on a roll call, Yeas 16, Nays 13.

Senator Campbell 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, Baruth, Benning, Champion, Cummings, Lyons, MacDonald, McCormack, Pollina, Rodgers, Sears, Sirotkin, Westman, White, Zuckerman.

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

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

Proposal of Amendment; Third Reading Ordered

H. 84.

Senator Balint, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to internet dating services.

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. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Currently, an Internet dating service does not have an affirmative duty under any state or federal law to ban a member of the service, but a service may choose to voluntarily ban a member for violating one or more terms of use, or because the service determines the member poses a risk of defrauding another member.

(2) In 2014, Internet dating services banned millions of members, the vast majority of which were banned within 72 hours of creating an account with the service.

(3) Of the members banned in 2014, well less than one percent contacted the Internet dating service concerning the ban.

(4) Due to a growing number of cases in which Vermont members of Internet dating services have lost significant financial amounts to persons using Internet dating services to defraud members or businesses, the Office of the Vermont Attorney General proposes this legislation, working with the input of multiple Internet dating services and other stakeholders.

(5) If an Internet dating service violates the statutory provisions created in this act, the Attorney General has the authority pursuant to 9 V.S.A. §§ 2458 and 2459 to request from a court, or to settle with the service for, restitution for a consumer or class of consumers affected by the violation.

(b) Purpose. The purposes of this act are:

(1) to protect Vermont consumers by requiring an Internet dating service to disclose in a timely manner important information about banned members to Vermont members of the service;

(2) to protect Internet dating services from liability to members for disclosing the information required by this act, while preserving liability to the State of Vermont and its agencies, departments, and subdivisions for violating this act; and

(3) to protect Vermont consumers and other members of Internet dating services by requiring an Internet dating service to notify its Vermont members when there is a significant change to the Vermont member's account information.

Sec. 2. 9 V.S.A. chapter 63, subchapter 8 is added to read:

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

(1) "Account change" means a change to a member's password, username, e-mail address, or other contact information an Internet dating service uses to enable communications between members.

(2) "Banned member" means the member whose account or profile is the subject of a fraud ban.

(3) "Fraud ban" means barring a member's account or profile from an Internet dating service because, in the judgment of the service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means.

(4) "Internet dating service" means a person, or a division of a person, that is primarily in the business of providing dating services principally on or through the Internet.

(5) "Member" means a person who submits to an Internet dating service information required to access the service and who obtains access to the service.

(6) “Vermont member” means a member who provides a Vermont residential or billing address or zip code when registering with the Internet dating service.

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

(a) An Internet dating service shall disclose to all of its Vermont members known to have previously received and responded to an on-site message from a banned member:

(1) the user name, identification number, or other profile identifier of the banned member;

(2) the fact that the banned member was banned because, in the judgment of the Internet dating service, the banned member may have been using a false identity or may pose a significant risk of attempting to obtain money from other members through fraudulent means;

(3) that a member should never send money or personal financial information to another member; and

(4) a hyperlink to online information that clearly and conspicuously addresses the subject of how to avoid being defrauded by another member of an Internet dating service.

(b) The notification required by subsection (a) of this section shall be:

(1) clear and conspicuous;

(2) by e-mail, text message, or other appropriate means of communication; and

(3) sent within 24 hours after the fraud ban, or at a later time if the service has determined, based on an analysis of effective messaging, that a different time is more effective, but in no event later than three days after the fraud ban.

(c) An Internet dating service shall disclose in an e-mail, text message, or other appropriate means of communication, in a clear and conspicuous manner, within 24 hours after discovering an account change to a Vermont member’s account:

(1) the fact that information on the member’s account has been changed;

(2) a brief description of the change; and

(3) if applicable, how the member may obtain further information on the change.

§ 2482c. LIMITED IMMUNITY

(a) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for disclosing to any member that it has banned a member, the user name or identifying information of the banned member, or the reasons for the Internet dating service's decision to ban such member.

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

(c) This subchapter does not diminish or adversely affect the protections for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal Communications Decency Act).

§ 2482d. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as is provided under subchapter 1 of this chapter.

Sec. 3. EFFECTIVE DATES

(a) This section and 9 V.S.A. §§ 2482a, 2482c, and 2482d in Sec. 2 shall take effect on passage.

(b) In Sec. 2, 9 V.S.A. § 2482b shall take effect on January 1, 2017.

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 Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, February 25, 2016.

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 and 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 pass?

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, Senators 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) 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 and 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.

FRIDAY, FEBRUARY 26, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Joint Resolution Placed on Calendar

J.R.S. 43.

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

By Senator Nitka,

J.R.S. 43. Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 17, 2016, at ten o'clock and thirty minutes in the forenoon to vote on the retention of four Superior Judges. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

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

Message from the Governor
Appointment Referred

A message was received from the Governor, by Susan Allen, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to the committee as indicated:

Cole, Christopher of Richmond - Secretary of the Agency of Transportation, - from September 12, 2015, to February 28, 2017.

To the Committee on Transportation.

Bill Referred

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

H. 761.

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

To the Committee on Health and Welfare.

Bills Passed

S. 10.

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

An act relating to the State DNA database.

S. 223.

Senate bill of the following title:

An act relating to regulating fantasy sports contests.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 19, Nays 6.

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

Roll Call

Those Senators who voted in the affirmative were: Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Lyons, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Zuckerman.

Those Senators who voted in the negative were: Ashe, Kitchel, Mazza, Rodgers, Starr, White.

Those Senators absent and not voting were: Flory, MacDonald, McAllister (suspended), Snelling, Westman.

Bill Amended; Third Reading Ordered

S. 190.

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

An act relating to maintaining prescription drugs outside the original prescription container.

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

Sec. 1. 18 V.S.A. § 4216 is amended to read:

§ 4216. AUTHORIZED POSSESSION BY INDIVIDUALS

(a) A person to whom or for whose use any regulated drug has been prescribed, sold, or dispensed, and the owner of any animal for which any such drug has been prescribed, sold, or dispensed, may lawfully possess the same on the condition that such drug was prescribed, sold, or dispensed by a physician, dentist, pharmacist, or veterinarian licensed ~~under this chapter to practice in this State~~ or under the laws of another state or country wherein such person has his or her practice, and further that all amounts of the drug are retained in the lawful container in which it was delivered to him or her by the person selling or dispensing the same, ~~provided however, that for the purposes of this section an amount of regulated drugs of not more than two days' individual prescribed dosage may be possessed by a patient for his or her personal use.~~

(b) Notwithstanding the requirement in subsection (a) of this section that a regulated drug be retained in its original container, the individual to whom a regulated drug was prescribed, dispensed, or sold by a physician, dentist, or pharmacist licensed in Vermont or in another state or country may maintain up to a 14-day supply of the regulated drug outside the original container for his or her own personal use if the following conditions are met:

(1) the drug was prescribed for the individual;

(2) the individual is in possession of the original or a copy of the prescription label;

(3) at all times, the individual intends and has intended to use the drug only for legitimate medical use in conformity with instructions from the prescriber and dispenser; and

(4) the individual maintains the limited supply of the drug in a receptacle that reasonably constitutes a more convenient or portable format to enable the individual's legitimate medical use.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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.

Senate 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 on the part of the Senate:

By Senators Kitchel and Benning,

By Representative Martel,

S.C.R. 37.

Senate concurrent resolution congratulating innkeepers Brian and Leslie Mulcahy on their outstanding record of accomplishment at the Rabbit Hill Inn in Lower Waterford.

By Senators Campion and Sears,

By Representative Corcoran and others,

S.C.R. 38.

Senate concurrent resolution honoring Sharyn Brush for her outstanding public service in the town of Bennington.

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 Representative Juskiewicz and others,

By Senator Westman,

H.C.R. 237.

House concurrent resolution honoring Cambridge Town Clerk, Treasurer, and Collector of Delinquent Taxes Jane Porter for her outstanding municipal public service.

By Representative Olsen,

By Senators Campbell, McCormack and Nitka,

H.C.R. 248.

House concurrent resolution honoring Wendell Coleman for his local and State public service on behalf of the citizens of Londonderry.

By Representatives Olsen and Long,

By Senators Balint and White,

H.C.R. 249.

House concurrent resolution honoring Ralph Coleman of Jamaica for his dedicated civic leadership in the town of Jamaica and for the Leland & Gray Union Middle and High School.

By Representative Olsen,

By Senators Campbell, McCormack and Nitka,

H.C.R. 250.

House concurrent resolution honoring Chief George Lang on his outstanding 42 years of devoted service at the Champion 5 South Londonderry Fire Department.

By Representative Martin and others,

By Senator Westman,

H.C.R. 251.

House concurrent resolution honoring Marvin Locke for his exemplary civic service in Lamoille County.