

WEDNESDAY, MARCH 1, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Deborah McKinley of East Craftsbury.

Bills Referred to Committee on Finance

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

S. 20. An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

S. 99. An act relating to authorizing additional tax increment financing districts.

S. 100. An act relating to promoting affordable and sustainable housing.

Joint Resolution Referred**J.R.S. 22.**

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

By Senators Pollina and Ingram,

J.R.S. 22. Joint resolution expressing strong concern at the increasing economic inequality in Vermont and throughout the United States.

Whereas, BusinessDictionary.com defines income as “the flow of cash or cash-equivalents received from work (wage or salary), capital (interest or profit) or land (rent),” and the same source defines wealth as the “value of an entity’s [or person’s] accumulated tangible cash, land, building[s], etc. and intangible (copyright, patents, trademarks, etc.) saleable possessions minus liabilities,” and

Whereas, from the conclusion of World War II until the early 1970s, income grew at approximately a steady rate from the bottom to the top of the economic ladder, and the income gap, although significant, remained relatively constant, and

Whereas, starting in the 1970s, economic growth slowed and the income gap between the top and bottom of the wage scale began to widen, and

Whereas, income growth for families from the middle to the bottom of the income scale slowed significantly while it grew strongly for top earners, reaching a concentration unseen since the 1920s, and

Whereas, according to the Congressional Budget Office (CBO) from the years 1979–2013, after-tax income for the bottom 20 percent of earners changed 46 percent and for the top one percent, the change was 192 percent, and

Whereas, if the post-2007 recession years are excluded, the income change for the top one percent for the years 1979–2007 was 314 percent, and

Whereas, the CBO recently reported that families in the top 10 percent of wealth distribution held 76 percent of all family wealth while families in the bottom half held a mere one percent, and

Whereas, writing in the May 2016 issue of *The Quarterly Journal of Economics*, University of California at Berkeley economists Emmanuel Saez and Gabriel Zucman documented that in 1978, seven percent of the nation's wealth belonged to the wealthiest 0.1 percent of Americans, but by 2012 this same narrow slice of the population owned 22 percent of the nation's wealth, and

Whereas, Senator Bernie Sanders electrified the nation during his presidential campaign with his strong criticism of the heavily skewed income and wealth inequality that is now present in the nation's economy, and

Whereas, Senate Pro Tempore Timothy R. Ashe, in remarks made upon his election to his post, spoke of the two Vermonts, one that “racks up the superlatives—Healthiest State, Best State to Raise a Family, Safest State, and on and on,” and “the other Vermont [that] is filled with people who have been at best holding the line, but more likely losing economic ground in a decade that has benefitted some so greatly,” further stating that “above everything else we work on, we must, in every policy area, endeavor to create just ONE VERMONT,” *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses strong concern at the increasing economic inequality in Vermont and throughout the United States, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor Philip B. Scott and the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Economic Development, Housing and General Affairs.

Bills Introduced

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

S. 106.

By Senators Rodgers, Benning, Branagan, Degree, Kitchel and Starr,
An act relating to land use jurisdiction over electric generation facilities.
To the Committee on Finance.

S. 107.

By Senators Pearson and Rodgers,
An act relating to limiting drug-related criminal liability and civil forfeiture actions against persons associated with an approved safer drug consumption program.
To the Committee on Judiciary.

S. 108.

By Senator Pearson,
An act relating to the Vermont Automobile Repossession Act.
To the Committee on Judiciary.

S. 109.

By Senator Rodgers,
An act relating to tuition payments and public high school choice.
To the Committee on Education.

Joint Resolution Amended; Joint Resolution Adopted on the Part of the Senate

J.R.S. 21.

Joint resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and three Justices of the Supreme Court and ten Superior Court Judges.

Was taken up.

Thereupon, pending the question, Shall the joint resolution be adopted on the part of the Senate? Senator Ashe, moved to amend the resolution as follows:

In the Resolved clause by striking out the *first* sentence in its entirety and inserting in lieu thereof the following: That the two Houses meet in Joint Assembly on Thursday, March 23, 2017, at four o'clock in the afternoon to vote on the retention of a Chief Justice and three Associate Justices of the Supreme Court and ten Superior Court Judges.

Which was agreed to.

Thereupon, the resolution was adopted on the part of the Senate.

Bill Passed

S. 56.

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

An act relating to life insurance policies and the Vermont Uniform Securities Act.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 19.

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

Joint resolution relating to prescription drug pricing.

Third Reading Ordered

S. 69.

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

An act relating to an employer's compliance with an income withholding order from another state.

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.

Third Reading Ordered

J.R.H. 4.

Senator Ingram, for the Committee on Education, to which was referred joint House resolution entitled:

Joint resolution reaffirming the General Assembly's commitment to equal educational opportunity on the 20th anniversary of the Vermont Supreme Court's decision in *Brigham v. State*.

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

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and third reading of the joint resolution was ordered on a roll call, Yeas 22, Nays 8.

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

Roll Call

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

Those Senators who voted in the negative were: Ayer, Branagan, Collamore, Degree, Flory, Rodgers, Sears, Westman.

Bill Amended; Third Reading Ordered

S. 9.

Senator Brooks, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to the preparation of poultry products.

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

Sec. 1. FINDINGS

The General Assembly finds and declares that:

(1) federal law allows a poultry producer to slaughter up to 20,000 birds annually and to sell those birds in the State without State inspection of each act of slaughter;

(2) State law currently does not allow a poultry producer to conduct slaughter under the federal 20,000 bird exception, instead requiring all producers that slaughter more than 1,000 birds a year to meet strict standards for slaughter facilities and conduct;

(3) small farmers in the State need to diversify revenue streams in order to compete, and many farmers slaughter poultry as one part of their revenue stream;

(4) the State should allow farmers to slaughter poultry under the federal 20,000 bird exception to inspection if certain sanitary standards are satisfied; and

(5) the Secretary of Agriculture, Food and Markets should develop education and outreach materials to inform farmers in the State of the requirements for slaughter under an exception to inspection and how a farmer can access technical and financial assistance from the State to meet the required sanitary standards for slaughter under an exception to inspection.

Sec. 2. 6 V.S.A. § 3312 is amended to read:

§ 3312. INSPECTION; EXCEPTIONS

(a) Not intended for human food. Inspection shall not be provided under this chapter at any establishment for the slaughter of livestock or poultry or the preparation of any livestock products or poultry products which are not intended for use as human food, but these products shall, prior to their offer for sale or transportation in intrastate commerce, unless naturally inedible by humans, be denatured or otherwise identified as prescribed by rules of the ~~secretary~~ Secretary to deter their use for human food. These licensed establishments shall be subject to periodic review.

(b) 1,000 bird exemption. Inspection shall not be required for the slaughter or preparation of poultry products of the producer's own raising on the producer's own ~~farm~~ premises, whether or not they are intended for use as human food if:

(1) Fewer than 1,000 birds are slaughtered annually; ~~and~~

(2) No ~~birds~~ poultry products are offered for sale or transportation in interstate commerce; and

(3) The poultry products are only sold, as whole birds only, from the farm, at a farmers' market, or to a food restaurant licensed by the ~~commissioner of health~~ Commissioner of Health, or are for personal use.

(c) 5,000 bird exemption.

(1) Inspection shall not be required for the slaughter or preparation of poultry products of the producer's own raising on the producer's own premises, whether or not they are intended for use as human food if all of the following conditions are satisfied:

(A) No more than 5,000 birds are slaughtered annually.

(B) No poultry products are offered for sale or transportation in interstate commerce.

(C) The poultry products are only sold, as whole birds, from the farm, at a farmers' market, directly to household consumers, or to a food restaurant licensed by the Commissioner of Health, or are for personal use.

(D) The producer's facility is not used to slaughter or process poultry by any other person or business.

(E) The producer does not purchase birds for resale that have been processed under the exemption under this section.

(F) The poultry are healthy when slaughtered.

(G) The poultry are slaughtered and otherwise processed and handled under sanitary standards, practices, and procedures that result in the preparation of poultry products that are sound, clean, and fit for human food when distributed by the producer.

(2) As used in this subsection "sanitary standards, practices, and procedures" means:

(A) the poultry are slaughtered in a building that is soundly constructed, kept in good repair, and of sufficient size;

(B) all food-contact surfaces and nonfood-contact surfaces in the building are cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of the products;

(C) the building and the grounds around it are constructed and maintained to prevent the entrance of vermin, including flies, rats, and mice;

(D)(i) sewage shall be disposed of in a sewage system separate from other drainage lines; or

(ii) sewage is disposed of through other means to prevent backup into the area where the product is processed, handled, or stored, including through on-farm composting under the Required Agricultural Practices;

(E) a supply of potable water of suitable temperature is provided in all areas where required for processing the product, cleaning rooms, cleaning equipment, cleaning utensils, and cleaning packaging materials;

(F) equipment and utensils used for processing or handling edible products or ingredients are of a material that is cleanable and sanitizable to ensure that their use will not cause adulteration of the product during processing, handling, or storage;

(G) receptacles used for storing inedible material are of such material and construction that their use will not result in adulteration of any edible product or create insanitary conditions; and

(H) a person working in contact with the product, food-contact surfaces, and product-packaging material shall maintain hygienic practices and while working shall wear clothing that is cleanable or disposable.

(d) 20,000 bird exemption. Inspection shall not be required for the slaughter or preparation of poultry products of the producer's own raising on the producer's own premises, whether or not they are intended for use as human food if:

(1) no more than 20,000 birds are slaughtered annually;

(2) no birds are offered for sale or transportation in interstate commerce;

(3) the poultry products are only sold, as whole birds, from the farm, at a farmers' market, directly to household consumers, or to a food restaurant licensed by the Commissioner of Health, or are for personal use;

(4) the producer's facility is not used to slaughter or process poultry by any other person or business;

(5) the producer does not purchase birds for resale that have been processed under the exemption under this section;

(6) the poultry are healthy when slaughtered; and

(7) the poultry are slaughtered and otherwise processed and handled according to the sanitary performance standards of 9 C.F.R. §§ 416.1–416.17.

(e) Required label. All poultry sold from the farm, at a farmers' market, or to a food restaurant pursuant to the exemption in subsection (b), (c), or (d) of this section shall be labeled with the following information:

(1) Name of farm and name of producer;

(2) Address of farm, including zip code;

(3) "Exempt per 6 V.S.A. § 3312(b): NOT INSPECTED." This statement shall be prominently displayed with such conspicuousness (as compared with other words or statements, designs, or devices in the labeling) as to render it likely to be read and understood under customary conditions of purchase and use.

(4) Safe handling and cooking instructions as follows:

"SAFE HANDLING INSTRUCTIONS:

Keep refrigerated or frozen. Thaw in refrigerator or microwave.

Keep raw poultry separate from other foods.

Wash working surfaces, including cutting boards, utensils, and hands after touching raw poultry.

Cook thoroughly to an internal temperature of at least 165 degrees Fahrenheit maintained for at least 15 seconds.

Keep hot foods hot. Refrigerate leftovers immediately or discard.”

~~(d)~~(f) Menu items; label. Any menu item that includes poultry that is exempt under this section shall clearly state the name of the farm from which the poultry was purchased and shall prominently display the words “poultry processed on the farm and not inspected” on the menu in proximity to the menu item. Poultry sold to food restaurants under the exemption in this section shall include a label alerting the purchaser to these labeling requirements.

~~(e)~~(g) Food restaurant; signed statement. The poultry producer, upon first selling poultry to a food restaurant, must procure a signed statement from the food restaurant stating that the food restaurant is aware that the poultry is exempted from inspection under subsection (b), ~~(c)~~, or ~~(d)~~ of this section, and that the menu of the food restaurant must have the information required by subsection ~~(d)~~(e) of this section. The poultry producer must keep the signed statement on file as long as the producer is selling poultry to the food restaurant under this section. The poultry producer must have a signed statement on file from each food restaurant to which poultry is sold under this section and an exact copy of each statement, including the name of the producer and the name of the purchasing restaurant shall be forwarded to the ~~department of health~~ Department of Health.

Sec. 3. 6 V.S.A. § 3302(6) is amended to read:

(6) “Commercial slaughterhouse” means any person engaged in the business of slaughtering livestock or poultry other than as a custom slaughterer or a person conducting slaughter under subsections 3312(b), (c), and (d) of this title.

Sec. 4. AGENCY OF AGRICULTURE, FOOD AND MARKETS;
EDUCATION AND OUTREACH; TECHNICAL AND FINANCIAL
ASSISTANCE; POULTRY PRODUCERS

The Secretary of Agriculture, Food and Markets shall conduct outreach and education for poultry producers seeking to slaughter poultry under an exception under 6 V.S.A. § 3312 to State inspection of slaughter. The education and outreach shall specify the requirements for operation under an exception to inspection, including the sanitary standards that must be satisfied for each exception. The education and outreach shall also provide information on how a poultry producer can access financial or technical assistance for complying with sanitary standards required under 6 V.S.A. § 3312. Any education or outreach material shall provide a contact or reference to provide

additional information regarding slaughter under an exception to inspection. The Secretary of Agriculture, Food and Markets shall post to the Agency of Agriculture, Food and Markets website any education or outreach materials produced under this section.

Sec. 5. 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.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Tebbetts, Anson of Marshfield - Secretary, Agency of Agriculture Food and Markets - January 5, 2017, to February 28, 2017.

Was confirmed by the Senate.

The nomination of

Tebbetts, Anson of Marshfield - Secretary, Agency of Agriculture Food and Markets - March 1, 2017, to February 28, 2019.

Was confirmed by the Senate on a roll call Yeas 30, Nays 0.

Senator Ashe 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The nominations of

Tierney, June of Randolph Center - Commissioner, Department of Public Service - January 5, 2017, to February 28, 2017.

Tierney, June of Randolph Center - Commissioner, Department of Public Service - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

The nominations of

Cole, Christopher of Richmond - Commissioner, Department of Buildings and General Services - January 5, 2017, to February 28, 2017.

Cole, Christopher of Richmond - Commissioner, Department of Buildings and General Services - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, March 2, 2017.

THURSDAY, MARCH 2, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Karen Mendes of Burlington.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the first day of March, 2017 he approved and signed a bill originating in the Senate of the following title:

S. 1. An act relating to the determination of average daily membership for the 2016–2017 school year and equalized pupil count for fiscal year 2018.

Bills Introduced

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

S. 110.

By Senators Bray, Ashe, Ayer, Balint, Baruth, Campion, Clarkson, McCormack, Pearson, Pollina, Rodgers, Sirotkin and White,

An act relating to equal pay.

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

S. 111.

By Senators White, Pearson and Pollina,

An act relating to privatization contracts.

To the Committee on Government Operations.

Bills Passed

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

S. 9. An act relating to the preparation of poultry products.

S. 69. An act relating to an employer's compliance with an income withholding order from another state.

Proposal of Amendment; Joint House Resolution Adopted in Concurrence with Proposal of Amendment

J.R.H. 4.

Joint House resolution entitled:

Joint resolution reaffirming the General Assembly's commitment to equal educational opportunity on the 20th anniversary of the Vermont Supreme Court's decision in *Brigham v. State*.

Was taken up.

Thereupon, pending third reading of the joint resolution, Senator Benning moved to amend the joint resolution in the *third* Whereas clause, by striking out the word "towns" and inserting in lieu thereof the words school districts

Which was agreed to.

Thereupon, the joint resolution was read the third time and adopted in concurrence with proposal of amendment.

Bill Amended; Third Reading Ordered

S. 31.

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

An act relating to circulating nurses in hospital operating rooms.

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. chapter 222 is amended to read:

CHAPTER 222. ACCESS TO HEALTH CARE PROFESSIONALS

Subchapter 1. Health Care Workforce

* * *

§ 9492. PERIOPERATIVE NURSES

A registered nurse who is licensed pursuant to 26 V.S.A. chapter 28 and educated and trained in perioperative nursing shall be present and serve as a circulating nurse for the duration of any invasive or surgical procedure that is conducted in a hospital operating room or ambulatory surgical center operating room. As used in this section, "circulating nurse" means a licensed registered nurse who is responsible for coordinating nursing care, responding to the safety needs of a patient in the operating room, and supporting the surgical team as appropriate during a procedure. A circulating nurse may leave the operating room for a short period of time during a procedure to perform an activity related to the procedure or, in accordance with specific hospital or ambulatory surgical center protocols, may be relieved by another circulating nurse.

Subchapter 2. Walk-In Centers

* * *

Sec. 2. 18 V.S.A. § 9492 is redesignated to read:

§ 9492 § 9495. NON-EMERGENCY WALK-IN CENTERS;
NONDISCRIMINATION

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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.

Adjournment

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

FRIDAY, MARCH 3, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Abigail Stockman of Barre.

Message from the House No. 27

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 144. An act relating to the membership of the Nuclear Decommissioning Citizens Advisory Panel.

H. 171. An act relating to expungement.

H. 297. An act relating to miscellaneous court operations procedures.

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. 21. Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and three Justices of the Supreme Court and ten Superior Court Judges.

And has adopted the same in concurrence.

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

H.C.R. 54. House concurrent resolution in memory of Marilyn Carlson Childs of Chelsea.

H.C.R. 55. House concurrent resolution honoring Wardsboro Town Moderator Robert Backus M.D. for his nearly four decades of exemplary practice of medicine in southern Vermont.

H.C.R. 56. House concurrent resolution remembering the late Grace Weber for her enthusiastic dedication to serving the Town of Weybridge.

H.C.R. 57. House concurrent resolution congratulating the winners of the 2017 Entrepreneurship Education student competition.

H.C.R. 58. House concurrent resolution honoring Michael Arnowitz for his musical contributions to the Vermont artistic scene.

H.C.R. 59. House concurrent resolution in memory of former St. Albans Fire Chief Gary Glendon Palmer of Georgia.

H.C.R. 60. House concurrent resolution in memory of John William Reagan of Wilmington and West Wardsboro.

H.C.R. 61. House concurrent resolution congratulating Madison Cota of Bellows Falls on being named Miss Vermont USA 2017.

H.C.R. 62. House concurrent resolution in memory of former Pownal Town Clerk Rachel Mason.

H.C.R. 63. House concurrent resolution congratulating Nancy Coleman of Woodford on being selected as the 2016 Vermont State School Nurse of the Year.

H.C.R. 64. House concurrent resolution honoring Tunbridge Fire Chief John W. Durkee for 20 years of exemplary leadership.

H.C.R. 65. House concurrent resolution honoring Judy Stratton for her 35 years of exemplary public service as the Shaftsbury Town Clerk.

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. 9. Senate concurrent resolution honoring former Representative Jennifer R. Nelson of Ryegate for her exemplary career in public service and agriculture.

And has adopted the same in concurrence.

Senate Resolution Placed on Calendar

S.R. 8.

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

By Senator Ashe,

S.R. 8. Senate resolution relating to adoption of a temporary Rule 44A.

Resolved by the Senate:

That a temporary rule, to be designated Rule 44A, be adopted by the Senate, to read as follows:

Rule 44A. (a) Any bill failing to make the crossover dates of March 17, 2017 and March 24, 2017 shall be referred to the Committee on Rules. This provision shall not apply to the following measures:

- (1) The transportation capital bill;
- (2) The capital construction bill
- (3) The general appropriations bill (“The Big Bill”);
- (4) The pay bill;
- (5) The fees bill.

(b) The Rules Committee may report any bills referred to it for reference to another committee of jurisdiction pursuant to Senate Rule 24.

(c) All bills referred to the Committee on Rules and still in the Committee on Rules on the convening of the 2018 adjourned session shall be referred to another committee of jurisdiction pursuant to Senate Rule 24

(d) This Temporary Rule 44A shall expire on the convening of the 2018 adjourned session.

Thereupon, under Rule 34, the resolution was placed on the Calendar for notice.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 112.

By the Committee on Judiciary,

An act relating to creating the Spousal Support and Maintenance Task Force.

Bills Introduced

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

S. 113.

By Senators Lyons and Sirotkin,

An act relating to food and lodging establishments.

To the Committee on Health and Welfare.

S. 114.

By Senators Flory, Collamore, Mullin and Rodgers,
An act relating to the Judicial Nominating Board.
To the Committee on Judiciary.

S. 115.

By Senators Rodgers and Starr,
An act relating to new generation on transmission lines subject to curtailment.
To the Committee on Finance.

S. 116.

By Senators Pollina, Brooks, Ingram and White,
An act relating to the Racial Justice Oversight Board.
To the Committee on Judiciary.

Bills Referred

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

H. 144.

An act relating to the membership of the Nuclear Decommissioning Citizens Advisory Panel.
To the Committee on Finance.

H. 171.

An act relating to expungement.
To the Committee on Judiciary.

H. 297.

An act relating to miscellaneous court operations procedures.
To the Committee on Judiciary.

Bill Passed**S. 31.**

Senate bill of the following title was read the third time and passed:
An act relating to circulating nurses in hospital operating rooms.

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, Ashe, Benning, Branagan, Brooks, Collamore, Degree, Mazza, Pollina, Rodgers, Sears, Starr, and Westman,

By Reps. Conquest and others,

S.C.R. 9.

Senate concurrent resolution honoring former Representative Jennifer R. Nelson of Ryegate for her exemplary career in public service and agriculture.

House Concurrent Resolutions

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

By Reps. Frenier and others,

H.C.R. 54.

House concurrent resolution in memory of Marilyn Carlson Childs of Chelsea.

By Reps. Sibia and others,

By Senators Balint and White,

H.C.R. 55.

House concurrent resolution honoring Wardsboro Town Moderator Robert Backus M.D. for his nearly four decades of exemplary practice of medicine in southern Vermont.

By Rep. Smith,

By Senators Ayer and Bray,

H.C.R. 56.

House concurrent resolution remembering the late Grace Weber for her enthusiastic dedication to serving the Town of Weybridge.

By Reps. Jickling and others,

H.C.R. 57.

House concurrent resolution congratulating the winners of the 2017 Entrepreneurship Education student competition.

By Reps. Kitzmiller and others,

By Senators Cummings, Brooks, and Pollina,

H.C.R. 58.

House concurrent resolution honoring Michael Arnowitt for his musical contributions to the Vermont artistic scene.

By Reps. Rosenquist and others,

By Senators Branagan and Degree,

H.C.R. 59.

House concurrent resolution in memory of former St. Albans Fire Chief Gary Glendon Palmer of Georgia.

By Reps. Sibia and others,

By Senators Champion, Sears, Balint, and White,

H.C.R. 60.

House concurrent resolution in memory of John William Reagan of Wilmington and West Wardsboro.

By Reps. Partridge and others,

H.C.R. 61.

House concurrent resolution congratulating Madison Cota of Bellows Falls on being named Miss Vermont USA 2017.

By Reps. Botzow and others,

By Senators Champion and Sears,

H.C.R. 62.

House concurrent resolution in memory of former Pownal Town Clerk Rachel Mason.

By Reps. Botzow and others,

By Senators Campion and Sears,

H.C.R. 63.

House concurrent resolution congratulating Nancy Coleman of Woodford on being selected as the 2016 Vermont State School Nurse of the Year.

By Rep. Ainsworth,

H.C.R. 64.

House concurrent resolution honoring Tunbridge Fire Chief John W. Durkee for 20 years of exemplary leadership.

By Representative Miller,

By Senators Campion and Sears,

H.C.R. 65.

House concurrent resolution honoring Judy Stratton for her 35 years of exemplary public service as the Shaftsbury Town Clerk.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, March 14, 2017, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 5.

TUESDAY, MARCH 14, 2017

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

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

Message from the House No. 28

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 passed House bills of the following titles:

- H. 4.** An act relating to calculating time periods in court proceedings.
- H. 5.** An act relating to investment of town cemetery funds.
- H. 9.** An act relating to deferred sentences.
- H. 50.** An act relating to the telecommunications siting law.
- H. 182.** An act relating to certain businesses regulated by the Department of Financial Regulation.
- H. 493.** An act relating to relief from abuse orders.
- H. 495.** An act relating to miscellaneous agriculture subjects.
- H. 497.** An act relating to health requirements for animals used in agriculture.

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

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 23.

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

By Senator Ashe,

J.R.S. 23. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 17, 2017, it be to meet again no later than Tuesday, March 21, 2017.

Bill Referred to Committee on Appropriations

S. 112.

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 creating the Spousal Support and Maintenance Task Force.

Bills Introduced

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

S. 117.

By Senators Pearson and Lyons,

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

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

S. 118.

By Senators Bray, Ayer, Balint, Ingram and MacDonald,
An act relating to making building energy performance visible.
To the Committee on Finance.

S. 119.

By Senators Campion and Sears,
An act relating to the creation of a tax increment financing district in Bennington.
To the Committee on Finance.

Bills Referred

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

H. 4.

An act relating to calculating time periods in court proceedings.
To the Committee on Judiciary.

H. 5.

An act relating to investment of town cemetery funds.
To the Committee on Government Operations.

H. 9.

An act relating to deferred sentences.
To the Committee on Judiciary.

H. 50.

An act relating to the telecommunications siting law.
To the Committee on Finance.

H. 182.

An act relating to certain businesses regulated by the Department of Financial Regulation.
To the Committee on Finance.

H. 493.

An act relating to relief from abuse orders.

To the Committee on Judiciary.

H. 495.

An act relating to miscellaneous agriculture subjects.

To the Committee on Agriculture.

H. 497.

An act relating to health requirements for animals used in agriculture.

To the Committee on Agriculture.

Third Reading Ordered**S. 39.**

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

An act relating to the repeal of the crime of obtaining maps and plans while at war.

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.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 15, 2017.

WEDNESDAY, MARCH 15, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Rabbi Tobie Weisman of Montpelier.

Rules Suspended; Bill Committed

Senator Cummings moved that the rules be suspended and that Senate bill entitled:

S. 72. An act relating to requiring telemarketers to provide accurate caller identification information.

be committed to the Committee on Economic Development, Housing and General Affairs with the report of the Committee on Finance *intact*,

Which was agreed to.

Bills Introduced

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

S. 120.

By Senator Pollina,

An act relating to limiting corporate campaign contributions.

To the Committee on Government Operations.

S. 121.

By Senator Lyons,

An act relating to the use of colored lights on fire department and emergency medical service vehicles.

To the Committee on Transportation.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 122.

By the Committee on Education,

An act relating to increased flexibility for school district mergers.

Bill Passed

S. 39.

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

An act relating to the repeal of the crime of obtaining maps and plans while at war.

Bill Amended; Third Reading Ordered

S. 20.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

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

Sec. 1 10 V.S.A. § 4255(c) is amended to read:

(c) A permanent or free license may be secured on application to the Department by a person qualifying as follows:

(1) A Vermont resident ~~70~~ 66 years of age or older may receive one or all of the following licenses ~~at no cost~~ for \$60.00:

(A) a permanent fishing license;

(B) if the person qualifies for a hunting license, a permanent combination fishing and hunting license, which shall include all big game licenses, except for a moose license;

(C) if the person qualifies for a trapping license, a permanent trapping license; and

(D) if the person qualifies for an archery license, ~~an~~ a permanent archery license.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on January 1, 2018.

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

An act relating to permanent licenses for persons 66 years of age or older.

And that when so amended the bill ought to pass.

Senator Degree, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

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

Bill Amended; Third Reading Ordered

S. 44.

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

An act relating to shared candidate campaign expenditures.

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

Sec. 1. 17 V.S.A. § 2944 is amended to read:

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) As used in this section, a "related campaign expenditure made on the candidate's behalf" means any expenditure intended to promote the election of a specific candidate or group of candidates or the defeat of an opposing candidate or group of candidates if intentionally facilitated by, solicited by, or approved by the candidate or the candidate's committee.

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on behalf of those candidates, except that the acquisition, use, or dissemination of the images of those candidates by the political party or political committee shall not be presumed to be a related expenditure made on behalf of those candidates.

(2) An expenditure made by a political party or by a political committee that recruits or endorses candidates that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion, or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf.

(d)(1) As used in this section, an expenditure by a person shall not be considered a "related expenditure made on the candidate's behalf" if all:

(1)(A) All of the following apply:

~~(A)~~(i) the expenditure was made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet a candidate;

~~(B)~~(ii) the expenditure was made for:

~~(i)~~(I) invitations and any postage for those invitations to invite voters to the event; or

~~(ii)~~(II) any food or beverages consumed at the event and any related supplies thereof; and

~~(C)~~(iii) the cumulative value of any expenditure by the person made under this subsection does not exceed \$500.00 per event.

~~(2)(B)~~ For the purposes of this ~~subsection~~ subdivision (1):

~~(A)(i)~~ if the cumulative value of any expenditure by a person made under this subsection exceeds \$500.00 per event, the amount equal to the difference between the two shall be considered a “related expenditure made on the candidate’s behalf”; and

~~(B)(ii)~~ any reimbursement to the person by the candidate for the costs of the expenditure shall be subtracted from the cumulative value of the expenditures.

(2) All of the following apply:

(A) the expenditure is for an electioneering communication that promotes or supports all of the candidates who are named or pictured in it and no others, and those candidates:

(i) have filed or been nominated as described in subdivision 2901(1)(B) of this chapter for a legislative, county, or local office;

(ii) are on the same ballot for the same election; and

(iii) each make an expenditure for the electioneering communication of an equal amount in order to share the cost of the electioneering communication equally; and

(B) no other person has made an expenditure for the electioneering communication.

(e)(1) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the Superior Court of the county in which either candidate resides.

(2) Within 24 hours of the filing of a petition, the ~~Court~~ court shall schedule the petition for hearing. Except as to cases the ~~Court~~ court considers of greater importance, proceedings before the Superior Court, as authorized by this section, and appeals from there take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(3) The findings and determination of the ~~Court~~ court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(f) The Secretary of State may adopt rules necessary to administer the provisions of this section.

Sec. 2. 17 V.S.A. § 2971 is amended to read:

§ 2971. REPORT OF MASS MEDIA ACTIVITIES

(a)(1) In addition to any other reports required to be filed under this chapter, a person who makes expenditures for any one mass media activity totaling \$500.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within the timeframe of 45 days before a primary; through the date of a general, county, election or within the timeframe of 45 days before a local election through the date of that local election shall, for each activity, file a mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each such candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other such candidate by mail.

(3) The mass media report shall be filed and the copy of the report shall be sent within 24 hours of the expenditure or activity, whichever occurs first. For the purposes of this section, a person shall be treated as having made an expenditure if the person has executed a contract to make the expenditure.

~~(b)~~(4) The report shall identify the person who made the expenditure; the name of each candidate whose name or likeness was included in the activity; the amount and date of the expenditure; to whom it was paid; and the purpose of the expenditure.

(b) [Reserved.]

(c) If ~~the a mass media~~ activity described in this section occurs within 45 days before the election and the timeframe described in subdivision (a)(1) or (d)(1) of this section but the expenditure was previously reported prior to that timeframe, an additional report shall be required under this section.

(d)(1) In addition to the reporting requirements of subsection (a) of this section, an independent expenditure-only political committee that makes an expenditure for any one mass media activity totaling \$5,000.00 or more, adjusted for inflation pursuant to the Consumer Price Index as provided in section 2905 of this chapter, within the timeframe of 45 days before a primary; through the date of a general, county, election or within the timeframe of 45 days before a local election through the date of that local election shall, for each such activity and within 24 hours of the expenditure or activity, whichever occurs first, file an independent expenditure-only political committee mass media report with the Secretary of State and send a copy of the report to each candidate whose name or likeness is included in the activity without that candidate's knowledge.

(2) The copy of the mass media report shall be sent by e-mail to each such candidate who has provided the Secretary of State with an e-mail address on his or her consent form and to any other such candidate by mail.

(3) The report shall include all of the information required under ~~subsection (b)~~ subdivision (a)(4) of this section, as well as the names of the contributors, dates, and amounts for all contributions in excess of \$100.00 accepted since the filing of the committee's last report.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

An act relating to shared candidate campaign expenditures and to the report of mass media activities.

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?, Senators Pearson, Ayer, Clarkson, Collamore and White moved to amend the recommendation of the Committee on Government Operations by striking out Sec. 2, 17 V.S.A. § 2971 (report of mass media activities) and inserting in lieu thereof the following:

Sec. 2. [Deleted.]

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

An act relating to equally shared candidate campaign expenditures.

Which was agreed to.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, March 16, 2017.

THURSDAY, MARCH 16, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rona Kinsley of Greensboro.

Bill Referred to Committee on Finance**S. 122.**

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 increased flexibility for school district mergers.

Bill Referred to Committee on Appropriations**S. 52.**

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 the Public Service Board and its proceedings.

Bills Introduced

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

S. 123.

By Senators Sears and Ashe,

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

To the Committee on Judiciary.

S. 124.

By Senator Sears,

An act relating to community-based electronic monitoring.

To the Committee on Judiciary.

Bill Passed**S. 20.**

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

An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

Bill Amended; Bill Passed**S. 44.**

Senate bill entitled:

An act relating to shared candidate campaign expenditures.

Was taken up.

Thereupon, pending third reading of the bill, Senator Flory moved to amend the bill in Sec. 1, 17 V.S.A. § 2944(d)(2)(A) (accountability for related expenditures) following the words: the candidates who are named or pictured in it and no by striking out the following: “others, and those candidates” and inserting in lieu thereof the words: other candidates, and those candidates named or pictured

Which was agreed to.

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

Bill Amended; Third Reading Ordered**S. 4.**

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

An act relating to publicly accessible meetings of an accountable care organization’s governing body.

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. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

~~(13) meetings of the ACO's governing body include a public session at which all business that is not confidential or proprietary is conducted and members of the public are provided an opportunity to comment~~ comply with the provisions of section 9572 of this title;

* * *

Sec. 2. 18 V.S.A. chapter 227 is amended to read:

CHAPTER 227. ALL-PAYER MODEL AND ACCOUNTABLE CARE ORGANIZATIONS

Subchapter 1. All-Payer Model

§ 9551. ALL-PAYER MODEL

* * *

Subchapter 2. Accountable Care Organizations

§ 9571. DEFINITIONS

As used in this subchapter:

(1) "Accountable care organization" and "ACO" means an organization of health care providers that has a formal legal structure, is identified by a federal Taxpayer Identification Number, and agrees to be accountable for the quality, cost, and overall care of the patients assigned to it.

(2) "Health care provider" means a person, partnership, or corporation, including a health care facility, that is licensed, certified, or otherwise authorized by law to provide professional health care services in this State to an individual during that individual's medical care, treatment, or confinement.

§ 9572. MEETINGS OF AN ACCOUNTABLE CARE ORGANIZATION'S GOVERNING BODY

(a) Application. This section shall apply to all regular, special, and emergency meetings of an accountable care organization's governing body, whether in person or by electronic means, as well as to any other assemblage of governing body members at which binding action is taken.

(b) Public meetings; exceptions. Meetings of an accountable care organization's governing body shall be open to the public and shall provide members of the public an opportunity to comment, except that the ACO's governing body may meet in executive session to consider business related to the following:

(1) contracts or contract negotiations for which premature general public knowledge would reasonably place the ACO or another person at a substantial disadvantage;

(2) pending or probable prosecution or civil litigation to which the ACO is or is likely to be a party;

(3) personnel matters;

(4) information that reasonably could be considered a trade secret, as defined in 1 V.S.A. § 317(c)(9);

(5) confidential attorney-client communications;

(6) information prohibited from public disclosure by the terms of an enforceable data use contract to which the ACO is bound; and

(7) information prohibited from public disclosure by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or by any other State or federal law.

(c) Notice. An accountable care organization shall make its governing board's meeting schedule available to the public by posting notice of the time and place of each meeting on the ACO's website at least one week before the meeting and the agenda for each meeting at least 48 hours before the meeting, except that if an unforeseen occurrence or condition requires the governing body's immediate attention at an emergency meeting, the ACO shall provide public notice as soon as possible before the meeting occurs.

(d)(1) Minutes and recordings. All portions of each meeting of an ACO's governing body that are open to the public shall either be recorded or minutes shall be taken, and the recordings and minutes shall be made available to the public.

(2) Meeting minutes shall include the names of all governing body members present at the meeting in person or by electronic means, the names of any other individuals who participated in the meeting, a summary of any public comments provided at the meeting, and all actions taken or considered by the governing body during the meeting.

(e) Participation by electronic or other means.

(1) One or more members of an ACO's governing body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location.

(2) Any member of the governing body attending a meeting by electronic or other means may participate fully in discussing the governing body's business and voting to take an action, but any vote of the governing body that is not unanimous shall be taken by roll call.

(3) Each member of the governing body who attends a meeting without being physically present at a designated meeting location shall:

(A) identify himself or herself when the meeting is convened; and

(B) be able to hear the conduct of the meeting and be heard throughout the meeting.

(4) If a quorum or more of the members of the governing body attend a meeting without being physically present at a designated meeting location, the agenda required to be posted pursuant to subsection (c) 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 governing body or one or more members of the ACO's staff shall be present at each designated meeting location.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 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, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Senate Resolution Amended; Senate Resolution Adopted

S.R. 8.

Senate resolution entitled:

Senate resolution relating to adoption of a temporary Rule 44A.

Having been placed on the Calendar for action, was taken up.

Thereupon, pending the question, Shall the resolution be adopted?, Senator Ashe moved to amend the Senate Resolution after the words: "to the following measures:" by striking out subdivisions (1) through (5) and inserting in lieu thereof the following:

(1) transportation capital bill;

(2) capital construction bill;

(3) general appropriations bill ("The Big Bill");

(4) fee and tax bills.

Which was agreed to.

Thereupon, the question, Shall the resolution be adopted?, was decided in the affirmative.

Message from the House No. 29

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 42. An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

H. 59. An act relating to technical corrections.

H. 218. An act relating to the adequate shelter of dogs and cats.

H. 219. An act relating to the Vermont spaying and neutering program.

H. 265. An act relating to the State Long-Term Care Ombudsman.

H. 379. An act relating to providing an extension for the repeal of the Search and Rescue Council.

H. 494. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

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

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

S. 38. An act relating to the Government Accountability Committee and the State Outcomes Report.

S. 79. An act relating to freedom from compulsory collection of personal information.

And has passed the same in concurrence.

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

J.R.S. 23. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the House No. 30

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on the March 6, 2017, he approved and signed a bill originating in the House of the following title:

H. 53. An act relating to permitting planting projects in flood hazard areas.

Adjournment

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

FRIDAY, MARCH 17, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Nancy McHugh of Waitsfield.

Message from the House No. 31

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H.C.R. 66. House concurrent resolution honoring the green industry in Vermont and celebrating the 2017 Vermont Flower Show.

H.C.R. 67. House concurrent resolution honoring Joe DeGray of Bridport.

H.C.R. 68. House concurrent resolution honoring those who care for, educate, and advocate for the youngest Vermonters, and designating March 15, 2017 as Early Childhood Day at the State House.

H.C.R. 69. House concurrent resolution in memory of former Craftsbury Assistant Fire Chief Randi Calderwood.

H.C.R. 70. House concurrent resolution congratulating the 2017 Essex High School Hornets' 12th consecutive State championship gymnastics team.

H.C.R. 71. House concurrent resolution in memory of Thomas C. Davis of Barre Town.

H.C.R. 72. House concurrent resolution congratulating the Vermont Choral Union on its 50th anniversary.

H.C.R. 73. House concurrent resolution designating July 2017 as Parks and Recreation Month in Vermont.

H.C.R. 74. House concurrent resolution congratulating the 2017 St. Johnsbury Academy Hilltoppers Division I championship boys' indoor track and field team.

H.C.R. 75. House concurrent resolution congratulating Florilla Ames on her 106th birthday.

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

Bills Introduced

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

S. 125.

By Rodgers,

An act relating to whether an energy facility promotes the general good of the State.

To the Committee on Finance.

S. 126.

By Senator Flory,

An act relating to tie votes in the Legislative Committee on Administrative Rules.

To the Committee on Government Operations.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 127.

By the Committee on Transportation,

An act relating to miscellaneous changes to laws related to vehicles and vessels.

Bills Introduced

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

S. 128.

By Senator Flory,

An act relating to executive sessions under the Open Meeting Law.

To the Committee on Government Operations.

S. 129.

By Senators Champion, Pearson and Sirotkin,

An act relating to consumer protections related to involuntary towing and storage of motor vehicles and abandoned motor vehicles.

To the Committee on Transportation.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 130.

By the Committee on Education,

An act relating to miscellaneous changes to education laws.

Bills Referred

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

H. 42.

An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

To the Committee on Government Operations.

H. 59.

An act relating to technical corrections.

To the Committee on Government Operations.

H. 218.

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

To the Committee on Agriculture.

H. 219.

An act relating to the Vermont spaying and neutering program.

To the Committee on Government Operations.

H. 265.

An act relating to the State Long-Term Care Ombudsman.

To the Committee on Health and Welfare.

H. 379.

An act relating to providing an extension for the repeal of the Search and Rescue Council.

To the Committee on Government Operations.

H. 494.

An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

To the Committee on Transportation.

Bill Amended; Bill Passed

S. 4.

Senate bill entitled:

An act relating to publicly accessible meetings of an accountable care organization's governing body.

Was taken up.

Thereupon, pending third reading of the bill, Senator Lyons moved to amend the bill in Sec. 2, in 18 V.S.A. § 9572(a), following the words: assemblage of by striking out the remainder of the sentence and inserting in lieu thereof the following: members of the ACO's governing body at which binding action is taken on behalf of the ACO

Which was agreed to.

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

Third Reading Ordered

S. 112.

Senate committee bill entitled:

An act relating to creating the Spousal Support and Maintenance Task Force.

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

Senator Sears, for the Committee on Appropriations, to which the bill was referred, 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. 22.

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

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

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. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Possession.

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

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(c) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(d) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 2. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

(a) Possession.

(1) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than one year or fined not more than \$2,000.00, or both.

(2) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(3) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 10,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be

imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 3. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) murder in the first or second degree;
- (2) arson under sections 501-504 and 506 of this title;
- (3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;
- (4) receiving stolen property under sections 2561-2564 of this title; or
- (5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:

- (A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;
- (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;
- (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;
- (D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine; ~~or~~
- (E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or
- (F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 4. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

-
- (i) the name and address of the purchaser;
 - (ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;
 - (iii) the date and time of purchase;
 - (iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and
 - (v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) “Distributor” means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) “Knowingly” means having actual knowledge of the relevant facts.

(3) “Manufacturer” means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) “Wholesaler” means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Moore, Julie of Middlesex - Secretary, Agency of Natural Resources - January 5, 2017, to February 28, 2017.

Was confirmed by the Senate.

The nomination of

Moore, Julia of Middlesex - Secretary, Agency of Natural Resources - March 1, 2017, to February 28, 2019.

Was confirmed by the Senate on a roll call Yeas 30, Nays 0.

Senator White 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The nominations of

Porter, Louis of Adamant - Commissioner, Department of Fish and Wildlife - January 5, 2017, to February 28, 2017.

Porter, Louis of Adamant - Commissioner, Department of Fish and Wildlife - March 1, 2017, to February 28, 2019.

Were collectively confirmed by the Senate.

Appointment of Senate Member to New England Board of Higher Education

Pursuant to the provisions of 16 V.S.A. §2731, the President announced the appointment of the following Senator to serve on the New England Board of Higher Education for a term of six years:

Senator Mullin

Appointment of Senate Members to Government Accountability Committee

Pursuant to the provisions of Sec. 5(b) of No. 206 of the Acts of 2008, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Joint Legislative Government Accountability for the current biennium:

Senator White
Senator Collamore
Senator McCormack
Senator Branagan

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 Rep. Yantachka,

H.C.R. 66.

House concurrent resolution honoring the green industry in Vermont and celebrating the 2017 Vermont Flower Show.

By Rep. Smith,

By Senators Ayer and Bray,

H.C.R. 67.

House concurrent resolution honoring Joe DeGray of Bridport.

By Reps. Miller and Mrowicki,

H.C.R. 68.

House concurrent resolution honoring those who care for, educate, and advocate for the youngest Vermonters, and designating March 15, 2017 as Early Childhood Day at the State House.

By Reps. Strong and Young,

By Senators Rodgers and Starr,

H.C.R. 69.

House concurrent resolution in memory of former Craftsbury Assistant Fire Chief Randi Calderwood.

By Reps. Myers and others,

H.C.R. 70.

House concurrent resolution congratulating the 2017 Essex High School Hornets' 12th consecutive State championship gymnastics team.

By Reps. Poirier and others,

By Senators Brooks, Cummings and Pollina,

H.C.R. 71.

House concurrent resolution in memory of Thomas C. Davis of Barre Town.

By Reps. Keenan and others,

H.C.R. 72.

House concurrent resolution congratulating the Vermont Choral Union on its 50th anniversary.

By All Members of the House,

By Senators Ashe, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman and White,

H.C.R. 73.

House concurrent resolution designating July 2017 as Parks and Recreation Month in Vermont.

By Reps. Beck and others,

By Senators Benning and Kitchel,

H.C.R. 74.

House concurrent resolution congratulating the 2017 St. Johnsbury Academy Hilltoppers Division I championship boys' indoor track and field team.

By Reps. Wood and Stevens,

H.C.R. 75.

House concurrent resolution congratulating Florilla Ames on her 106th birthday.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, March 21, 2017, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 23.

TUESDAY, MARCH 21, 2017

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.

Bills Referred to Committee on Finance

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

S. 34. An act relating to cross-promoting development incentives and State policy goals.

S. 103. An act relating to the regulation of toxic substances and hazardous materials.

S. 127. An act relating to miscellaneous changes to laws related to vehicles and vessels.

Bills Referred to Committee on Appropriations

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

S. 95. An act relating to sexual assault nurse examiners.

S. 130. An act relating to miscellaneous changes to education laws.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 24.

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

By Senator Ashe,

J.R.S. 24. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 24, 2017, it be to meet again no later than Tuesday, March 28, 2017.

Joint Resolution Placed on Calendar

J.R.S. 25.

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

By Committee on Institutions,

J.R.S. 25. Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land.

Whereas, in 1996, the Department of Forests, Parks and Recreation acquired from the John Hancock Mutual Life Insurance Company a conservation easement for certain lands (known as the Hancock Lands) in

Warren's Gore, and separately in 2005, the Department acquired a second conservation easement for inholdings within the former Hancock Lands in the town of Averill, and

Whereas, these easements envisioned that the covered lands could be subdivided and would be dedicated primarily to conservation purposes but commercial forestry management, including maple sugaring and syrup activities, were permissible, and

Whereas, the Department has now determined that the language in both easements is ambiguous concerning the construction of forestry-related structures such as a sugarhouse, and

Whereas, upon consultation with the U.S. Forest Service, whose Forest Legacy Program facilitated the Department's acquisition of the easements, the Department has determined the easements should be amended with clarifying language subject to the approval of the owners of the parcels that resulted from the subdivision, and

Whereas, the Department owns the Bertha Tract in Mendon and the adjacent Burch Tract in Killington, both of which contain Green Mountain Club-held easements for segments of the Long Trail, and

Whereas, the Department proposes to sell these tracts to the Trust for Public Land in anticipation of their eventual transfer to the U.S. Forest Service for inclusion in the Green Mountain National Forest at which time the Green Mountain Club's easements would terminate and the covered Long Trail segments would be subject to federal protection, and

Whereas, pursuant to the authority granted in 10 V.S.A. § 2606(b), the Commissioner of Forests, Parks and Recreation believes that these land transactions are in the best interest of the State, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the Commissioner of Forests, Parks and Recreation:

First: To amend certain terms and conditions of the conservation easements that the Department acquired with federal Forest Legacy funding on (i) approximately 31,000 acres (known as the Hancock Lands) from the John Hancock Mutual Life Insurance Company on December 17, 1996, and (ii) on 210 acres (known as the Averill Inholdings) from the Trust for Public Land on December 7, 2005 in order to clarify the allowed uses for forest-management-related structures and facilities, including their associated infrastructure and utilities.

Second: To sell to the Trust for Public Land two tracts: (i) an approximately 113-acre tract in the town of Mendon (known as the Bertha Tract), and (ii) a 581-acre tract in the town of Killington (known as the Burch Tract), both of which the Department acquired from the Green Mountain Club on March 31, 2003 and that the sale shall be pursuant to the terms of a mutually satisfactory purchase and sale agreement. The selling price shall be based on the tracts' fair market value that an appraisal shall determine. The sale of these tracts is contingent on support from the towns of Mendon and Killington. The sale's proceeds shall be deposited in the Agency of Natural Resources Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes, *and be it further*

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

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

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 131.

By the Committee on Government Operations,
An act relating to State's Attorneys and sheriffs.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 132.

By Senators Champion, Ayer, Lyons, Pearson and Sirotkin,
An act relating to the disclosure of lobbyist employer membership.
To the Committee on Government Operations.

Committee Bills Introduced

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 133.

By the Committee on Health and Welfare,
An act relating to examining mental health care and care coordination.

S. 134.

By the Committee on Judiciary,

An act relating to court diversion and pretrial services.

S. 135.

By the Committee on Economic Development, Housing and General Affairs,

An act relating to promoting economic development.

S. 136.

By the Committee on Economic Development, Housing and General Affairs,

An act relating to miscellaneous consumer protection provisions.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 137.

By Senator Ashe,

An act relating to promoting workforce development.

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

Bill Amended; Third Reading Ordered**S. 61.**

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

An act relating to offenders with mental illness.

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. § 4820 is amended to read:

§ 4820. HEARING REGARDING COMMITMENT

(a) The court before which a person is tried or is to be tried for a criminal offense shall hold a hearing for the purpose of determining whether the person should be committed to the custody of the Commissioner of Mental Health or, as provided in 18 V.S.A. chapter 206, to the Commissioner of Disabilities,

Aging, and Independent Living, if the person is charged on information, complaint, or indictment with the offense and:

(1) is reported by the examining psychiatrist following examination pursuant to sections 4814–4816 of this title to have been insane at the time of the alleged offense;

(2) is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to a mental illness, ~~intellectual~~ developmental disability, or traumatic brain injury;

(3) is not indicted upon hearing by grand jury by reason of insanity at the time of the alleged offense, duly certified to the court; or

(4) upon trial by court or jury is acquitted by reason of insanity at the time of the alleged offense.

(b) A person subject to a hearing under subsection (a) of this section may be confined in jail or some other suitable place by order of the court pending hearing for a period not exceeding 15 days.

(c) For a person who is found upon hearing pursuant to section 4817 of this title to be incompetent to stand trial due to mental illness or developmental disability, the court shall appoint counsel from the Mental Health Law Project to represent the person who is the subject of the proceedings and from the Office of the Attorney General to represent the State in the proceedings.

Sec. 2. 13 V.S.A. § 4821 is amended to read:

§ 4821. NOTICE OF HEARING; PROCEDURES

The person who is the subject of the proceedings, his or her attorney, the legal guardian, if any, the Commissioner of Mental Health or the Commissioner of Disabilities, Aging, and Independent Living, and the ~~State's Attorney or other prosecuting officer representing~~ counsel appointed pursuant to subsection 4820(c) of this title to represent the State in the case, shall be given notice of the time and place of a hearing under 4820 of this title. Procedures for hearings for persons who are mentally ill shall be as provided in 18 V.S.A. chapter 181. Procedures for hearings for persons who are intellectually disabled or have a traumatic brain injury shall be as provided in 18 V.S.A. chapter 206, subchapter 3.

Sec. 3. 28 V.S.A. § 3 is amended to read:

§ 3. GENERAL DEFINITIONS

As used in this title:

* * *

(12) Despite other names this concept has been given in the past or may be given in the future, “segregation” means a form of separation from the general population that may or may not include placement in a single occupancy cell and that is used for disciplinary, administrative, or other reasons, but shall not mean confinement to an infirmary or a residential treatment setting for purposes of evaluation, treatment, or provision of services.

Sec. 4. 28 V.S.A. § 701a(b) is amended to read:

~~(b) For purposes of this title, and despite other names this concept has been given in the past or may be given in the future, “segregation” means a form of separation from the general population which may or may not include placement in a single occupancy cell and which is used for disciplinary, administrative, or other reasons~~ As used in this section, “segregation” shall have the same meaning as in subdivision 3(12) of this title.

Sec. 5. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

The Commissioner shall administer a program of trauma-informed mental health services which shall be available to all inmates and shall provide adequate staff to support the program. The program shall provide the following services:

~~(1)(A)~~ (1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition or, psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and ~~community based~~ community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services shall, within 24 hours of the screening, be referred for such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 6. 28 V.S.A. § 907 is amended to read:

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

The Commissioner shall administer a program of trauma-informed mental health services ~~which~~ that shall be available to all inmates and shall provide adequate staff to support the program. The program shall provide the following services:

(1)(A) Within 24 hours of admittance to a correctional facility, all inmates shall be screened for any signs of mental illness, mental condition, psychiatric disability or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental disabilities home and ~~community-based~~ community-based services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(B) Every inmate who is identified as a result of screening by a mental health professional as requiring inpatient evaluation, treatment, or services shall, within ~~24~~ 48 hours of the screening, be ~~referred for~~ provided with such treatment, evaluation, or services in a setting appropriate to the clinical needs of the inmate.

* * *

Sec. 7. AGENCY OF HUMAN SERVICES; OFFICE OF THE ATTORNEY GENERAL; REPORT TO JUSTICE OVERSIGHT COMMITTEE

On or before October 15, 2017:

(1) the Secretary of Human Services shall report to the Justice Oversight Committee on how best to provide mental health treatment and services to offenders in the custody of the Department of Corrections, including recommendations on whether those services should be provided by a classified State employee working within the Agency of Human Services, by designated agencies, or by other professionals contracted for professional mental health care services within the Department; and

(2) the Attorney General, in consultation with the Secretary of Human Services, shall report to the Justice Oversight Committee on the resources necessary for the State to comply with the requirements set forth in 13 V.S.A. § 4820(c).

Sec. 8. LEGISLATIVE INTENT; DEPARTMENT OF CORRECTIONS; USE OF SEGREGATION

It is the intent of the General Assembly that the Department of Corrections continue to house inmates in the least restrictive setting necessary to ensure their own safety as well as the safety of staff and other inmates, and to use segregation only in instances when it serves a specific disciplinary or administrative purpose, pursuant to 28 V.S.A. § 3, and to ensure that inmates

designated as seriously functionally impaired or inmates with a serious mental illness receive the support and rehabilitative services they need.

Sec. 9. DEPARTMENT OF CORRECTIONS; DEPARTMENT OF MENTAL HEALTH; FORENSIC MENTAL HEALTH CENTER; MEMORANDUM OF UNDERSTANDING FOR PROVISION OF MENTAL HEALTH SERVICES; REPORT TO JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE

On or before July 1, 2017, the Department of Corrections shall:

(1) in accordance with the principles set forth in 18 V.S.A. § 7251, and in consultation with the Department of Health and the designated agencies, develop a plan to create or establish access to a forensic mental health center on or before January 2, 2018 to provide comprehensive assessment, evaluation, and treatment for detainees and inmates with mental illness, while preventing inappropriate segregation;

(2) jointly with the Department of Mental Health, execute a memorandum of understanding to coordinate the provision of mental health treatment and services to inmates and detainees prior to January 2, 2018; and

(3) together with the Department of Mental Health, report on the status of the memorandum of understanding and the forensic mental health center plan to the Joint Legislative Justice Oversight Committee.

Sec. 10. EFFECTIVE DATES

(a) This section and Sec. 9 (Department of Corrections; Department of Mental Health; forensic mental health center; memorandum of understanding for provision of mental health services; report to Joint Legislative Justice Oversight Committee) shall take effect on passage.

(b) Secs. 3 (general definitions), 4 (28 V.S.A. § 701a(b)), 5 (mental health service for inmates; powers and responsibilities of commissioner), 7 (Agency of Human Services; Office of the Attorney General Report to Justice Oversight Committee), and 8 (legislative intent, Department of Corrections; use of segregation) shall take effect on July 1, 2017.

(c) Sec. 6 (mental health service for inmates; powers and responsibilities of Commissioner) shall take effect on January 2, 2018.

(d) Secs. 1 (hearing regarding commitment) and 2 (notice of hearing; procedures) shall take effect on July 1, 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, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 22.

Senate bill entitled:

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by striking out Sec. 5, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 5. EFFECTIVE DATES

This section and Sec. 4 (ephedrine and pseudoephedrine) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

Which was agreed to.

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

Bill Passed

S. 112.

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

An act relating to creating the Spousal Support and Maintenance Task Force.

Rules Suspended; Bills Taken Up for Immediate Consideration; Bills Referred

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

S. 131. An act relating to State's Attorneys and sheriffs.

S. 133. An act relating to examining mental health care and care coordination.

S. 135. An act relating to promoting economic development.

Were taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and these bills carrying appropriations or requiring the expenditure of funds, were severally referred to the Committee on Appropriations under Senate Rule 31.

Rules Suspended; Bills Taken Up for Immediate Consideration; Bill Referred

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

S. 136. An act relating to miscellaneous consumer protection provisions.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill affecting the revenue of the state, was referred to the Committee on Finance under Senate Rule 31.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 22, 2017.

WEDNESDAY, MARCH 22, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Thomas Harty of Bethel.

Message from the House No. 32

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 184. An act relating to evaluation of suicide profiles.

H. 376. An act relating to occupational safety and workers' compensation.

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

Joint Senate Resolution Referred to Committee on Appropriations**J.R.S. 25.**

Joint Senate resolution 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:

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land.

Bill Referred to Committee on Appropriations

S. 103.

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 the regulation of toxic substances and hazardous materials.

**Message from the Governor
Appointments Referred**

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

Snyder, Michael of Stowe - Commissioner of the Department of Forests, Parks and Recreation - from January 5, 2017, to February 28, 2019.

To the Committee on Natural Resources and Energy.

Thompson, Darwin of Woodbury - Commissioner of the Department of Information and Innovation - from January 5, 2017, to February 28, 2019.

To the Committee on Government Operations.

**Message from the Governor
Appointments Referred**

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

Guy, Sam of Morrisville - Member of the Liquor Control Board, - from February 1, 2017, to January 31, 2022.

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

Campo, Robert of Barre - Member of the Vermont State Lottery Commission, - from March 1, 2017, to February 29, 2020.

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

Carroll, John of Norwich - Member of the State Board of Education, - from March 1, 2017, to February 28, 2022.

To the Committee on Education.

Haskell, Sabina of Burlington - Chair of the Vermont State Lottery Commission, - from March 1, 2017, to February 29, 2020.

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

O'Keefe, John of Manchester - Member of the State Board of Education, - from March 1, 2017, to February 28, 2022.

To the Committee on Education.

Manahan, Martin of St. Albans - Member of the Liquor Control Board, - from February 1, 2017, to January 31, 2022.

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

Joint Resolution Referred

J.R.S. 26.

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

By Senator Flory,

J.R.S. 26. Joint resolution requesting that the State of Vermont refrain temporarily from supporting or opposing the fluoridation of drinking water and that the Departments of Health and of Environmental Conservation conduct a joint study on the human health and water quality impacts of fluoridated water.

Whereas, fluoridation has been practiced in the United States since the original trials in Grand Rapids, Michigan, and Newburgh, New York, beginning in 1945, and

Whereas, the scientific foundation for fluoridation has been and remains insufficient when current standards for human therapeutic treatment are applied, and

Whereas, a recent study in the prestigious *Cochrane Review* failed to confirm the effectiveness of fluoridation, documenting that water fluoridation remains a matter of public debate, and

Whereas, the U.S. Food and Drug Administration has declared fluoride, for the purpose of promoting tooth decay prevention, to be a drug, and

Whereas, inserting a drug into the water supply of a municipality constitutes a breach of the medical ethics principle of informed consent, and

Whereas, there exists scientific evidence indicating the likelihood of harm to a portion of the population from the ingestion of fluoride in the combined concentrations found in drinking water, foods, beverages, pesticides and toothpaste, and

Whereas, the dental profession and public health agencies of government fail to acknowledge the above-mentioned risks in their zeal to defend and promote fluoridation, and

Whereas, the fluoridating chemicals municipalities use most frequently are hazardous waste by-products of the phosphate fertilizer industry and lack sufficient guarantees of purity and safety, and

Whereas, civil rights advocates Andrew Young, whose father was a dentist; the Rev. Gerald Durley; and the League of United Latin American Citizens have challenged and oppose the validity of fluoridation as a benefit for the poor, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly requests that the State of Vermont refrain temporarily from supporting or opposing the fluoridation of drinking water and that the Departments of Health and of Environmental Conservation conduct a joint study on the human health and water quality impacts of fluoridated water, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioners of Health and of Environmental Conservation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Health and Welfare.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 138.

By Senator Flory,

An act relating to an exemption from the motorcycle helmet law for parade participants.

To the Committee on Transportation.

Bills Referred

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

H. 184.

An act relating to evaluation of suicide profiles.

To the Committee on Health and Welfare.

H. 376.

An act relating to occupational safety and workers' compensation.

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

Bill Passed**S. 61.**

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

An act relating to offenders with mental illness.

Bill Amended; Third Reading Ordered**S. 72.**

Senator Campion, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to requiring telemarketers to provide accurate caller identification information.

Reported recommending that the bill be amended in Sec. 1, in 9 V.S.A. chapter 63, subchapter 1, in § 2464a(b), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read:

(3) No person, telephone solicitor, or telemarketer engaged in a telephone solicitation shall cause a caller identification service to transmit misleading, inaccurate, or false caller identification information, provided that the person, telephone solicitor, or telemarketer may substitute the name and telephone number of the person on whose behalf he or she places the call.

And that when so amended the bill ought to pass.

Senator Baruth, for the Committee on Economic Development, Housing and General Affairs, to which the bill was referred, reported recommending that the bill be amended in Sec. 1, in 9 V.S.A. § 2464a(b), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read:

(3)(A) A telephone solicitor engaged in a telephone solicitation shall transmit, or cause to be transmitted, to a caller identification service in use by a consumer:

(i) the telephone solicitor's telephone number; and

(ii) if made available by the telephone solicitor's carrier, the telephone solicitor's name.

(B) Notwithstanding subdivision (3)(A) of this subsection, a telephone solicitor may substitute for its own name and number the name and the number, which is answered during regular business hours, of the person on whose behalf the telephone solicitor makes the telephone solicitation.

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 Finance?, Senator Champion moved that the recommendation of amendment of the Committee on Finance be withdrawn, which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs? was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 75.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to aquatic nuisance species control.

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

Sec. 1. 10 V.S.A. § 1452 is amended to read:

§ 1452. DEFINITIONS

As used in this chapter:

(1) "Agency" means the ~~agency of natural resources~~ Agency of Natural Resources.

(2) "Aquatic nuisance" means undesirable or excessive substances or populations that interfere with the recreational potential or aquatic habitat of a body of water, including rooted aquatic plants and animal and algal populations. Aquatic nuisances include ~~rooted aquatic plants and animal and algal populations~~ zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), Asian clam (*Corbicula fluminea*), fishhook waterflea

(Cercopagis pengoi), rusty crayfish (Orconectes rusticus), spiny waterflea (Bythotrephes longimanus), or other species identified by the Secretary by rule.

(3) “Aquatic plant” means a plant that naturally grows in water, saturated soils, or seasonally saturated soils, including algae and submerged, floating-leafed, floating, or emergent plants.

(4) “Biological controls” ~~mean~~ means multi-cellular organisms.

(5) ~~“Board” means the water resources panel of the natural resources board.~~ [Repealed.]

* * *

(9) “Secretary” means the ~~secretary of natural resources~~ Secretary of Natural Resources.

(10) “Water resources” means the waters and the values inherent or potential in waters and their uses.

(11) “Waters” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs and all bodies of surface waters, artificial or natural, which that are contained within, flow through, or border upon the ~~state~~ State or any portion of it.

(12) “Baitbox” means a receptacle, not exceeding 25 cubic feet in volume, used for holding or keeping baitfish alive for personal use.

(13) “Live well” means a well for keeping fish alive in a vessel by allowing water to circulate through the well.

(14) “Ballast tank” means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(15) “Bilge area” means the area in a vessel below a height of four inches measured from the lowest point in the vessel where water can collect when the vessel is in its static floating position.

(16) “Decontaminate” means a process used to kill, destroy, or remove aquatic nuisance species and other organic material that may be present in or on a vessel, motor vehicle transporting the vessel, trailer, or other equipment. Decontamination may include washing a vessel, motor vehicle transporting the vessel, trailer, or other equipment with water at a sufficient temperature to kill or remove aquatic nuisance species.

(17) “Lake association” means a lake protection organization registered with the Secretary of Natural Resources on a form provided by the Secretary.

(18) "Marina" means a property, other than a public access or landing area regulated under section 4145 of this title, on the shoreline of a water of the State that contains a dock, basin, or ramp that, at no cost or for remuneration, provides to the public secure moorings or access to the water.

(19) "Motor vehicle" means any vehicle propelled or drawn by power other than muscular power, including a snowmobile, motorcycle, all-terrain vehicle, farm tractor, or tracked vehicle.

(20) "Personal watercraft" shall have the same meaning as set forth in 23 V.S.A. § 3302.

(21) "Transport" means to move motor vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment over land, but does not include movement within the immediate area required for loading and preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment prior to movement into or away from a body of water.

(22) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft.

Sec. 2. 10 V.S.A. § 1454 is amended to read:

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC NUISANCE SPECIES

(a) ~~No~~ Transport of aquatic nuisance species; prohibition. A person shall not transport an aquatic plant ~~or~~, aquatic plant part, ~~zebra mussels (Dreissena polymorpha), quagga mussels (Dreissena bugensis), or other aquatic nuisance species identified by the Secretary by rule to or from any Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer, or other equipment~~ water. This section shall not restrict:

(1) proper harvesting or other control activities undertaken for the purpose of eliminating or controlling the growth or propagation of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species; or

(2) proper collection of water samples for the purpose of water quality monitoring.

(b) Inspection of vessel entering or leaving water. A person transporting a vessel to or from a water shall, prior to launching the vessel and upon leaving a water, inspect the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment, and shall remove any aquatic plants, aquatic plant parts, and aquatic nuisance species.

(c) Aquatic nuisance species inspection station. A person transporting a vessel to or from a water shall, prior to launching the vessel and upon leaving a

water, have the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment inspected and decontaminated at an approved aquatic nuisance species inspection station if:

(1) an aquatic nuisance species inspection station is maintained at the area where the vessel is entering or leaving the water;

(2) the aquatic nuisance species inspection station is open; and

(3) an individual operating the aquatic nuisance species inspection station identifies the vessel for inspection or decontamination.

(d) Draining of vessel; transport.

(1) When leaving a water of the State and prior to transport away from the area where the vessel left the water, a person operating a vessel shall drain the vessel, vehicle transporting the vessel, trailer, and other equipment of water, including water in live wells, ballast tanks, and bilge areas. A person is not required to drain baitboxes or vehicles and trailers specifically designed and used for water hauling. A person operating a vessel shall drain the vessel, vehicle transporting the vessel, trailer, and other equipment of water in a manner to avoid a discharge to the water of the State. This subdivision does not authorize a person to discharge waste, as defined in section 1251 of this title, to waters of the State. A person shall dispose of waste in the manner required by law.

(2) When a person transports a vessel, the person shall remove or open the drain plugs, bailers, valves, and other devices that are used to control the draining of water from ballast tanks, bilge areas, and live wells of the vessel, vehicle transporting the vessel, trailer, and other equipment, except for vehicles and trailers specifically designed and used for water hauling and emergency response vehicles and equipment.

(e) Exceptions to transport prohibition. The Secretary may ~~grant exceptions to persons to~~ allow the transport of aquatic plants, ~~zebra mussels, quagga mussels,~~ aquatic plant parts, or ~~other~~ aquatic nuisance species for scientific ~~or~~ purposes, educational purposes, or other purposes specifically authorized by the Secretary. When ~~granting exceptions~~ allowing the transport of aquatic plants, aquatic plant parts, or aquatic nuisance species under this subsection, the Secretary shall take into consideration both the value of the scientific or educational purpose and the risk to Vermont surface waters posed by the transport and ultimate use of the specimens. A letter from the Secretary authorizing the transport must accompany the specimens during transport.

(~~e~~)f) Signage; access areas and marinas. Signage shall be posted at all public access and landing areas regulated under section 4145 of this title and at all marinas regarding the requirements of subsections (a)-(d) of this section

relating to aquatic nuisance transport and inspection and decontamination of vessels, motor vehicles transporting vessels, trailers, or other equipment. The Secretary shall provide marinas with the signs required under this section.

(g) Violations. Pursuant to 4 V.S.A. § 1102, a violation of this section may be brought in the Judicial Bureau by any law enforcement officer, as that term is defined in 23 V.S.A. § 3302(2), or, pursuant to section 8007 or 8008 of this title, a violation of this section may be brought in the Environmental Division of the Superior Court. ~~When a violation is brought by an enforcement officer other than an environmental enforcement officer employed by the Agency of Natural Resources, the enforcement officer shall submit to the Secretary a copy of the citation for purposes of compliance with the public participation requirements of section 8020 of this title.~~ If a violation is brought in one body, the same violation shall not be brought in the other body.

Sec. 3. 10 V.S.A. § 1455 is amended to read:

§ 1455. AQUATIC NUISANCE CONTROL PERMIT

(a) ~~No~~ A person ~~may~~ shall not use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices in waters of the State to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the ~~secretary~~ Secretary.

(b) Notwithstanding other requirements set forth in chapter 47 of this title to the contrary, the Secretary may issue permits under this section.

(c) Persons desiring a permit under this section shall make application to the Secretary on a form prescribed by the Secretary.

(d) The Secretary shall issue a permit for the use of pesticides in waters of the State for the control of nuisance aquatic plants, insects, or other aquatic life, including lamprey, when the applicant demonstrates and the Secretary finds:

- (1) there is no reasonable nonchemical alternative available;
- (2) there is acceptable risk to the nontarget environment;
- (3) there is negligible risk to public health;
- (4) a long-range management plan has been developed ~~which~~ that incorporates a schedule of pesticide minimization; and
- (5) there is a public benefit to be achieved from the application of a pesticide or, in the case of a pond located entirely on a landowner's property, there is no undue adverse effect upon the public good.

(e) A landowner applying to use a pesticide on a pond located entirely on the landowner's property is exempt from the requirement of subdivision (d)(4) of this section.

(f) The Secretary shall issue a permit for the control of aquatic nuisances by biological controls, bottom barriers, structural barriers, structural controls, powered mechanical devices, or chemicals other than pesticides when the Secretary finds:

(1) there is acceptable risk to the nontarget environment;

(2) there is negligible risk to public health; and

(3) there is either benefit to or no undue adverse effect upon the public good.

(g) The use of bottom barriers, structural barriers, structural controls, powered mechanical devices, and copper compounds as an algaecide in waters with a surface area of one acre or less located entirely on a person's property and with an outlet where the flow can be controlled for at least three days is exempt from the permit requirements of this section.

* * *

(i) An aquatic nuisance control permit issued under this section shall:

(1) ~~specify~~ Specify in writing the Secretary's findings under subsection (d) or (f) of this section;

(2) ~~specify~~ Specify the location, manner, nature, and frequency of the permitted activity;

(3) ~~contain~~ Contain additional conditions, requirements, and restrictions as the Secretary deems necessary to preserve and protect the quality of the receiving waters, to protect the public health, and to minimize the impact on the nontarget environment. ~~Such conditions~~ Conditions may include requirements concerning recording, reporting, and monitoring;

(4) ~~be~~ Be valid for the period of time specified in the permit, not to exceed five years for chemical control; and not to exceed ten years for nonchemical control.

(j) An aquatic nuisance control permit issued under this chapter may be renewed from time to time upon application to the Secretary. The process of permit renewal will be consistent with the requirements of this section.

* * *

(l) No permit shall be required under this section for mosquito control activities that are regulated by the Agency of Agriculture, Food and Markets, provided that:

(1) Prior to authorizing the use of larvicides or pupicides in waters of the State, the Secretary of Agriculture, Food and Markets shall designate acceptable control products and methods for their use and issue permits pursuant to 6 V.S.A. § 1083(a)(5); and

(2) [Repealed.]

(m) The Secretary may issue general permits for the use of nonchemical aquatic nuisance control activities, provided that the Secretary makes the findings required in subsection (f) of this section. A general permit issued under this subsection is not required to specify the exact location or the frequency of the permitted activity.

(n) The Secretary shall not require a permit under this section for the use of up to 15 bottom barriers on an inland lake to control aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed: in an area where they create a hazard to public health; or in area where they unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers within three days of placement in a water; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

Sec. 4. 10 V.S.A. § 1461 is added to read:

§ 1461. AQUATIC NUISANCE INSPECTION STATIONS; TRAINING PROGRAM

(a) The Secretary of Natural Resources shall establish a training program regarding how to conduct inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall include online training, recorded material, training manuals, or other material that allows a person to complete training remotely.

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and aquatic nuisance species.

(c) In order to establish an aquatic nuisance species inspection station for the purposes of the vessel inspection and decontamination requirements of subsection 1454(c) of this title, a lake association, municipality, or the Commissioner of Environmental Conservation shall apply to the Secretary for approval. As a condition of approval, a representative of an lake association or municipality shall complete the training programs established under subsections (a) and (b) of this section. A lake association or municipality seeking to operate an aquatic nuisance species inspection station shall designate a representative to complete the training programs established under subsections (a) and (b) of this section.

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (b) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to conduct inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species.

Sec. 5. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(27) Violations of 10 V.S.A. § 1454(a)-(d) relating to the transport of aquatic plants and aquatic nuisance species.

Sec. 6. 23 V.S.A. § 3317(b) is amended to read:

(b) A person who violates a requirement under 10 V.S.A. § 1454 shall be subject to enforcement under 10 V.S.A. ~~chapter 201~~ § 8007 or 8008 or a fine under this chapter, provided that the person shall be assessed a penalty or fine of not more than \$1,000.00 for each violation. A person who violates a rule adopted under 10 V.S.A. § 1424 shall be subject to enforcement under 10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of not more than \$300.00 for each violation. A person who violates any of the following sections of this title shall be subject to a penalty of not more than \$300.00 for each violation:

§ 3306(e) marine toilet

§ 3312a operation of personal watercraft

Sec. 7. AQUATIC NUISANCE CONTROL GENERAL PERMIT

On or before February 1, 2018, the Secretary of Natural Resources shall issue a general permit for aquatic nuisance control activities. The general permit shall allow for nonchemical aquatic nuisance control activities and any other management or control measures that the Secretary considers appropriate and for which the Secretary has general permit authority under 10 V.S.A. chapter 50. The general permit shall authorize rapid response activities that an individual or lake association may take to control aquatic nuisance species. The provisions of 10 V.S.A. § 1456(a) and (c)–(f) related to the rapid response permits for aquatic nuisance control shall apply to the rapid response activities authorized in the permit required under this section.

Sec. 8. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

Beginning on July 1, 2017, the Secretary of Natural Resources shall provide education and outreach to the public regarding the transport and inspection requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic nuisance species. The education and outreach shall include a notification in the Department of Fish and Wildlife guides to hunting and fishing in Vermont regarding the aquatic nuisance transport prohibition and the requirements to inspect vessels for aquatic nuisance species when entering or leaving a water.

Sec. 9. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE CHAMPLAIN

(a) On or before November 15, 2017, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish and Wildlife a report regarding how to control the transport of aquatic nuisances to and from Lake Champlain. The report shall include:

(1) an inventory of the boat decontamination facilities or other aquatic nuisance control measures currently employed at boat launches, marinas, or other areas on Lake Champlain;

(2) a summary of whether the current measures to control aquatic nuisance transport to and from Lake Champlain are adequate;

(3) a proposal for siting boat decontamination facilities or other comparable aquatic nuisance control measures at boat launches, marinas, or other areas on Lake Champlain, including where proposed facilities or other aquatic nuisance control measures would be located;

(4) a summary of how proposed boat decontamination facilities or comparable aquatic nuisance control measures would be staffed, including whether staff would possess sufficient authority to inspect a vessel entering or

leaving Lake Champlain in order to require boat decontamination or another aquatic nuisance control measure;

(5) an estimate of the cost to implement proposed boat decontamination facilities or other aquatic nuisance control measures on Lake Champlain; and

(6) a recommendation of whether and how vessels leaving Lake Champlain should be quarantined from entering other waters of the State for a defined time period or until a specific condition is satisfied;

(7) draft legislation that the Secretary determines is necessary to implement any boat decontamination facility or other aquatic nuisance control measure proposed in the report.

(b) As used in this section, “aquatic nuisance” and “vessel” shall have the same meanings as set forth in 10 V.S.A. § 1452.

Sec. 10. REPEAL

10 V.S.A. § 1455(n) (bottom barriers for aquatic nuisance control) shall be repealed on March 1, 2018.

Sec. 11. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Bill Amended; Third Reading Ordered

S. 92.

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

An act relating to interchangeable biological products.

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. § 4601 is amended to read:

§ 4601. DEFINITIONS

~~For the purposes of this chapter, unless the context otherwise clearly requires~~ As used in this chapter:

~~(1) “Brand name” means the registered trademark name given to a drug product by its manufacturer or distributor; “Biological product” means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or~~

derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition in human beings.

~~(2) “Generic name” means the official name of a drug product as established by the United States Adopted Names Council (USAN) or its successor, if applicable; “Brand name” means the registered trademark name given to a drug product by its manufacturer or distributor.~~

~~(3) “Pharmacist” means a natural person licensed by the state board of pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons;~~

~~(4) “Generic drug” means a drug listed by generic name and considered to be chemically and therapeutically equivalent to a drug listed by brand name, as both names are identified in the most recent edition of or supplement to the federal U.S. Food and Drug Administration’s “Orange Book” of approved drug products; Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).~~

~~(4) “Generic name” means the official name of a drug product as established by the U. S. Adopted Names Council (USAN) or its successor, if applicable.~~

~~(5) “Interchangeable biological product” means a biological product that the U.S. Food and Drug Administration has:~~

~~(A) licensed and determined, pursuant to 42 U.S.C. § 262(k)(4), to be interchangeable with the reference product against which it was evaluated; or~~

~~(B) determined to be therapeutically equivalent as set forth in the latest edition of or supplement to the U.S. Food and Drug Administration’s Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).~~

~~(6) “Pharmacist” means a natural person licensed by the State Board of Pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons.~~

~~(5)(7) “Prescriber” means any duly licensed physician, dentist, veterinarian, or other practitioner licensed to write prescriptions for the treatment or prevention of disease in man or animal.~~

~~(8) “Proper name” means the non-proprietary name of a biological product.~~

~~(9) “Reference product” means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which the interchangeable biological~~

product was evaluated by the U.S. Food and Drug Administration pursuant to 42 U.S.C. § 262(k).

Sec. 2. 18 V.S.A. § 4605 is amended to read:

§ 4605. ALTERNATIVE DRUG OR BIOLOGICAL PRODUCT
SELECTION

(a)(1) When a pharmacist receives a prescription for a drug which is listed either by generic name or brand name in the most recent edition of or supplement to the U.S. Department of Health and Human Services' publication Approved Drug Products With Therapeutic Equivalence Evaluations (the "Orange Book") of approved drug products, the pharmacist shall select the lowest priced drug from the list which is equivalent as defined by the "Orange Book," unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug.

(2) When a pharmacist receives a prescription for a biological product, the pharmacist shall select the lowest priced interchangeable biological product unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced biological product.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, when a pharmacist receives a prescription from a Medicaid beneficiary, the pharmacist shall select the preferred brand-name or generic drug or biological product from the Department of Vermont Health Access's preferred drug list.

(b) The purchaser shall be informed by the pharmacist or his or her representative that an alternative selection as provided under subsection (a) of this section will be made unless the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(c) When refilling a prescription, pharmacists shall receive the consent of the prescriber to dispense a drug or biological product different from that originally dispensed, and shall inform the purchaser that a ~~generic~~ substitution shall be made pursuant to this section unless the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health

benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(d) Any pharmacist substituting a generically equivalent drug or interchangeable biological product shall charge no more than the usual and customary retail price for that selected drug or biological product. This charge shall not exceed the usual and customary retail price for the prescribed brand.

(e)(1) Except as described in subdivision (4) of this subsection, within five business days following the dispensing of a biological product, the dispensing pharmacist or designee shall communicate the specific biological product provided to the patient, including the biological product's name and manufacturer, by submitting the information in a format that is accessible to the prescriber electronically through one of the following:

(A) an interoperable electronic medical records system;

(B) an electronic prescribing technology;

(C) a pharmacy benefit management system; or

(D) a pharmacy record.

(2) Entry into an electronic records system as described in subdivision (1) of this subsection shall be presumed to provide notice to the prescriber.

(3)(A) If a pharmacy does not have access to one or more of the electronic systems described in subdivision (1) of this subsection, the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using telephone, facsimile, electronic transmission, or other prevailing means.

(B) If a prescription is communicated to the pharmacy by means other than electronic prescribing technology, the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using the electronic process described in subdivision (1) of this subsection unless the prescriber requests a different means of communication on the prescription.

(4) Notwithstanding any provision of this subsection to the contrary, a pharmacist shall not be required to communicate information regarding the biological product dispensed in the following circumstances:

(A) the U.S. Food and Drug Administration has not approved any interchangeable biological products for the product prescribed; or

(B) the pharmacist dispensed a refill prescription in which the product dispensed was unchanged from the product dispensed at the prior filling of the prescription.

(f) The Board of Pharmacy shall maintain a link on its website to the current lists of all biological products that the U.S. Food and Drug Administration has determined to be interchangeable biological products.

Sec. 3. 18 V.S.A. § 4606 is amended to read:

§ 4606. BRAND CERTIFICATION

If the prescriber has determined that the generic equivalent of a drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall indicate "brand necessary," "no substitution," "dispense as written," or "DAW" in the prescriber's own handwriting on the prescription blank or shall indicate the same using electronic prescribing technology and the pharmacist shall not substitute the generic equivalent or interchangeable biological product. If a prescription is unwritten and the prescriber has determined that the generic equivalent of the drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall expressly indicate to the pharmacist that the brand-name drug or biological product is necessary and substitution is not allowed and the pharmacist shall not substitute the generic equivalent drug or interchangeable biological product.

Sec. 4. 18 V.S.A. § 4607 is amended to read:

§ 4607. INFORMATION; LABELING

(a) Every pharmacy in the ~~state~~ State shall have posted a sign in a prominent place that is in clear unobstructed view which shall read: "Vermont law requires pharmacists in some cases to select a less expensive generic equivalent drug or interchangeable biological product for the drug or biological product prescribed unless you or your physician direct otherwise. Ask your pharmacist."

(b) The label of the container of all drugs and biological products dispensed by a pharmacist under this chapter shall indicate the generic or proper name using an abbreviation if necessary, the strength of the drug or biological product, if applicable, and the name or number of the manufacturer or distributor.

Sec. 5. 18 V.S.A. § 4608 is amended to read:

§ 4608. LIABILITY

(a) Nothing in this chapter shall affect a licensed hospital with the development and maintenance of a hospital formulary system in accordance with that institution's policies and procedures that pertain to its drug distribution system developed by the medical staff in cooperation with the hospital's pharmacist and administration.

(b) The substitution of a generic drug or interchangeable biological product by a pharmacist under the provisions of this chapter does not constitute the practice of medicine.

Sec. 6. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

* * *

(g) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall apply the same cost-sharing requirements to interchangeable biological products as apply to generic drugs under the plan.

(h) As used in this section:

* * *

(6) "Interchangeable biological products" shall have the same meaning as in 18 V.S.A. § 4601.

~~(h)~~(i) The Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

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

Bill Amended; Third Reading Ordered

S. 96.

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

An act relating to a news media privilege.

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

Sec. 1. 12 V.S.A. § 1616 is added to read:

§ 1616. JOURNALIST'S PRIVILEGE

(a) Definitions. As used in this section:

(1) "Journalist" means:

(A) an individual or organization engaging in journalism or assisting an individual or organization engaging in journalism at the time the news or information sought to be compelled pursuant to subsection (b) of this section was obtained; or

(B) any supervisor, employer, parent company, subsidiary, or affiliate of an individual or organization engaging in journalism at the time the news or information sought to be compelled pursuant to subsection (b) of this section was obtained.

(2) "Journalism" means:

(A) investigating issues or events of public interest for the primary purpose of reporting, publishing, or distributing news or information to the public, whether or not the news or information is ultimately published or distributed; or

(B) preparing news or information concerning issues or events of public interest for publishing or distributing to the public, whether or not the news or information is ultimately published or distributed.

(b) Compelled disclosure.

(1) No court or legislative, administrative, or other body with the power to issue a subpoena shall compel:

(A) a journalist to disclose news or information obtained or received in confidence, including:

(i) the identity of the source of that news or information; or

(ii) news or information that is not published or disseminated, including notes, outtakes, photographs, photographic negatives, video or audio recordings, film, or other data.

(B) a person other than a journalist to disclose news or information obtained or received from a journalist if a journalist could not be compelled to

disclose the news or information pursuant to subdivision (A) of this subdivision (1).

(2) No court or legislative, administrative, or other body with the power to issue a subpoena shall compel:

(A) a journalist to disclose news or information that was not obtained or received in confidence unless it finds that the party seeking the news or information establishes by clear and convincing evidence that:

(i) the news or information is highly material or relevant to a significant legal issue before the court or other body;

(ii) the news or information could not, with due diligence, be obtained by alternative means; and

(iii) there is a compelling need for disclosure.

(B) a person other than a journalist to disclose news or information obtained or received from a journalist if a journalist could not be compelled to disclose the news or information pursuant to subdivision (A) of this subdivision (2).

(c) No implication of waiver. The publication or dissemination of news or information shall not constitute a waiver of the protection from compelled disclosure as provided in subsection (b) of this section.

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.

Committee Relieved of Further Consideration; Bills Committed

S. 58.

On motion of Senator Cummings, the Committee on Finance was relieved of further consideration of Senate bill entitled:

An act relating to creating an education property tax that is adjusted by income for all taxpayers,

and the bill was committed to the Committee on Education.

S. 118.

On motion of Senator Cummings, the Committee on Finance was relieved of further consideration of Senate bill entitled:

An act relating to making building energy performance visible,
and the bill was committed to the Committee on Natural Resources and
Energy.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the
afternoon on Thursday, March 23, 2017.

THURSDAY, MARCH 23, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Chris Autry of Barre.

Message from the House No. 33

A message was received from the House of Representatives by Ms.
Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following
title:

S. 13. An act relating to fees and costs allowed at a tax sale.

And has passed the same in concurrence.

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

J.R.S. 24. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the House No. 34

A message was received from the House of Representatives by Ms.
Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 22. An act relating to the professional regulation of law enforcement
officers by the Vermont Criminal Justice Training Council.

H. 29. An act relating to permitting Medicare supplemental plans to offer expense discounts.

H. 136. An act relating to accommodations for pregnant employees.

H. 145. An act relating to establishing the Mental Health Crisis Response Commission.

H. 152. An act relating to the Vermont Revised Uniform Fiduciary Access to Digital Assets Act.

H. 167. An act relating to establishing drug possession thresholds to distinguish misdemeanor and felony crimes.

H. 347. An act relating to the State Telecommunications Plan.

H. 422. An act relating to confiscation of dangerous or deadly weapons from a person arrested or cited for domestic assault.

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

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 139.

By Senator Sirotkin,

An act relating to requiring the removal of snow and ice from vehicles operated on public highways.

To the Committee on Transportation.

Bills Referred

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

H. 22.

An act relating to the professional regulation of law enforcement officers by the Vermont Criminal Justice Training Council.

To the Committee on Government Operations.

H. 29.

An act relating to permitting Medicare supplemental plans to offer expense discounts.

To the Committee on Finance.

H. 136.

An act relating to accommodations for pregnant employees.

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

H. 145.

An act relating to establishing the Mental Health Crisis Response Commission.

To the Committee on Health and Welfare.

H. 152.

An act relating to the Vermont Revised Uniform Fiduciary Access to Digital Assets Act.

To the Committee on Judiciary.

H. 167.

An act relating to alternative approaches to addressing low-level illicit drug use.

To the Committee on Judiciary.

H. 347.

An act relating to the State Telecommunications Plan.

To the Committee on Finance.

H. 422.

An act relating to removal of firearms from a person arrested or cited for domestic assault.

To the Committee on Judiciary.

Bill Referred**S. 88.**

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

An act relating to increasing the smoking age from 18 to 21 years of age.

Reported recommending that the bill be amended in Sec. 1, findings, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) A 2015 National Academy of Medicine report found that increasing the minimum age of legal access to tobacco products from 18 to 21 years of age would reduce the rate of tobacco use by 12 percent and would decrease smoking-related deaths by 10 percent.

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 Health and Welfare?, Senator Ingram moved to amend the recommendation of the Committee on Health and Welfare as follows:

By adding a new section to be numbered Sec. 8 to read as follows:

Sec. 8. EXEMPTIONS; PERSONS ATTAINING 18 YEARS OF AGE ON OR BEFORE JULY 1, 2017

(a) Notwithstanding any provision of this act to the contrary, the prohibition on the sale or furnishing of tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 21 years of age shall not apply to any person who attained 18 years of age on or before July 1, 2017.

(b) Notwithstanding any provision of this act to the contrary, the prohibition on the possession of, purchase of, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia by a person under 21 years of age shall not apply to any person who attained 18 years of age on or before July 1, 2017.

And by renumbering the remaining section of the bill to be numerically correct.

Thereupon, pending the question, Shall the report of the Committee on Health and Welfare be amended as recommended by Senator Ingram?, Senator Degree moved that the bill be referred to the Committee on Finance.

Thereupon, pending the question, Shall the bill be referred to the Committee on Finance?, Senator Mazza requested and was granted leave to be excused from voting on S. 88 pursuant to the provisions of Senate Rule 69.

Thereupon, the question, Shall the bill be referred to the Committee on Finance?, was agreed to on a roll call, Yeas 15, Nays 13.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Benning, Branagan, Campion, Collamore, Degree, Flory, Kitchel, Mullin, Nitka, Pearson, Rodgers, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ayer, Balint, Baruth, Bray, Brooks, Clarkson, Cummings, Ingram, Lyons, McCormack, Pollina, Sirotkin, White.

The Senators absent or excused and not voting were: MacDonald, Mazza.

Bills Passed

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

S. 72. An act relating to requiring telemarketers to provide accurate caller identification information.

S. 75. An act relating to aquatic nuisance species control.

S. 92. An act relating to interchangeable biological products.

Bill Passed

S. 96.

Senate bill of the following title:

An act relating to a news media privilege.

Was taken up.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 29, Nays 0.

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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: MacDonald.

Third Reading Ordered

S. 134.

Senate committee bill entitled:

An act relating to court diversion and pretrial services.

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

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. 52.

Senator Lyons, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to the Public Service Board and its proceedings.

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

* * * Preapplication Submittals; Energy Facilities * * *

Sec. 1. 30 V.S.A. § 248(f) is amended to read:

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) ~~Such~~ The municipal or regional planning commission may take one or more of the following actions:

(A) ~~hold~~ Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Board on the application and in determining whether to retain additional personnel under subdivision (1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

~~(C) Such commissions shall make~~ Make recommendations, if any, to ~~the Public Service Board and to the petitioner at least seven days~~ prior to filing of the petition with the Public Service Board.

(D) Once the petition is filed with the Public Service Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * * Energy and Telecommunications Facilities; Service of Application
When Determined Complete * * *

Sec. 2. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the Board:

(1) Shall develop a simple application form and shall require that ~~completed applications be filed~~ the applicant first file the application with the Board; ~~and that, within two business days of notification from the Board that the application is complete, the applicant serve copies of the complete application on~~ the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days of the ~~Board's receipt of a complete application~~ date of service of the complete application under subdivision (1) of this subsection, and the Board determines

that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

* * *

Sec. 3. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located. From the comments made at the public hearing, the Board shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. If the record does not contain evidence on such an area, the Board shall direct the parties to provide evidence on the area. This subdivision does not require the Board to respond to each individual comment.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) ~~At the time of filing its application with the Board, copies shall be given by the petitioner to~~ Within two business days of notification from the Board that the petition is complete, the petitioner shall serve copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

* * *

Sec. 4. 30 V.S.A. § 248(j)(2) is amended to read:

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. The Within two business days of notification by the Board that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the Board shall give written notice of the proposed certificate and its determination that the filing is complete to the those parties specified in subdivision (a)(4)(C) of this section, to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Board to have a substantial interest in the matter. Such notice also shall be published on the Board's website within two days of issuing the determination that the filing is complete and shall request comment within ~~28~~ 30 days of the ~~initial publication~~ date of service of the complete filing on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application, ~~and provide~~. Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact ~~to~~ on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural

Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. ~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall ~~give~~ serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board within ~~21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application ~~filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules, within 45~~ 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules, within 90~~ days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an

objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~24~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

* * *

* * * Notice of Petitions for a CPG to Do Business * * *

Sec. 6. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association, ~~which~~ that desires to own or operate a business over which the Public Service Board has jurisdiction under the provisions of this chapter shall first petition the Board to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, ~~and shall make an order for the publication of the substance thereof and the time~~

~~and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing. At least 12 days before this hearing, notice of the hearing shall be published on the Board's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed.~~ The Director for Public Advocacy shall represent the public at ~~such~~ the hearing. If the Board finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

* * *

* * * Enforcement * * *

Sec. 7. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT POWERS

* * *

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c.

Sec. 8. 30 V.S.A. § 30 is amended to read:

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

* * *

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes violated section 246, 248, 248a, or 8010 of this title, any rule adopted

pursuant to those sections, or any certificate of public good issued pursuant to those sections.

(1) An administrative citation, whether draft or final, shall:

(A) state each provision of statute and rule and each condition of a certificate of public good alleged to have been violated;

(B) include a concise statement of the facts giving rise to the alleged violation and the evidence supporting the existence of those facts;

(C) request that the person take the remedial action specified in the notice or pay a civil penalty of not more than \$5,000.00 for the violation, or both; and

(D) if remedial action is requested, state the reasons for seeking the action.

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

(A) At the time the draft citation is issued, the Department shall file a copy with the Board and post the draft citation on its website.

(B) Commencing with the date of issuance, the Department shall provide an opportunity of 30 days for public comment on the draft citation. The Department shall include information on this opportunity in the draft citation.

(C) Once the public comment period closes, the Department:

(i) Shall provide the Board with a copy of each comment received.

(ii) May file a revised draft citation with the Board. The revised draft citation may be accompanied by a stipulation or agreed settlement with a request for Board approval.

(D) The Board may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Board shall take any such action within 15 days of the close of the public comment period, or the filing of a revised draft citation, whichever is later. Such a Board proceeding shall supersede the draft citation.

(3) If the Board has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative

citation to the person. Within 30 days of receipt of a final administrative citation, the person shall respond in one of the following ways:

(A) Request a hearing before the Board on the existence of the alleged violation, the proposed penalty, and the proposed remedial action.

(B) Pay any civil penalty set forth in the notice and agree to undertake such remedial action as is set forth in the notice and submit to the Department for its approval a plan for compliance. In such a case, the final administrative citation shall be enforceable in the same manner as an order of the Board.

(C) Decline to contest the existence of the alleged violation and request a hearing on either the proposed penalty or remedial action, or both. When exercising this option, a person may agree to either the proposed penalty or remedial action and seek a hearing only on the penalty or action with which the person disagrees.

(4) When a person requests a hearing under subdivision (3) of this subsection, the Board shall open a proceeding and conduct a hearing in accordance with the provisions of this section on the alleged violation and such remedial action and penalty as are set forth in the notice. Notwithstanding any contrary provision of this section, a penalty under this subdivision (4) shall not exceed \$5,000.00.

(5) If a person pays the civil penalty set forth in a final administrative citation, then the Department shall be precluded from seeking and the Board from imposing additional civil penalties for the same alleged violation unless the violation is continuing or is repeated.

(6) If a person agrees to undertake the remedial action set forth in a final administrative citation, failure to undertake the action or comply with a compliance plan approved by the Department shall constitute a separate violation.

(7) The Board may approve disposition of a final administrative citation by stipulation or agreed settlement submitted before entry of a final order.

(8) Penalties assessed under this subsection shall be deposited in the General Fund.

* * * Name Change to Public Utility Commission * * *

Sec. 9. 30 V.S.A. § 3 is amended to read:

§ 3. ~~PUBLIC SERVICE BOARD~~ UTILITY COMMISSION

(a) The Vermont Public Service Board Utility Commission shall consist of a Chair and two members. The Chair and each member shall not be required to be admitted to the practice of law in this State.

(b) The Chair shall be nominated, appointed, and confirmed in the manner of a Superior judge.

(c) Members of the ~~Board~~ Commission other than the Chair shall be appointed in accordance with this subsection. Whenever a vacancy occurs, public announcement of the vacancy shall be made. The Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall review the candidates in respect to judicial criteria and standards only and shall recommend to the Governor those candidates the Board considers qualified. The Governor shall make the appointment from the list of qualified candidates. The appointment shall be subject to the consent of the Senate.

(d) The term of each member shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member wishing to succeed himself or herself in office may seek reappointment under the terms of this section.

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the ~~Board~~ Commission may be removed only for cause. When a ~~Board~~ Commission member who hears all or a substantial part of a case retires from office before such case is completed, he or she shall remain a member of the ~~Board~~ Commission for the purpose of concluding and deciding such case, and signing the findings, orders, decrees, and judgments therein. A retiring Chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive a reasonable compensation to be fixed by the remaining members of the ~~Board~~ Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the ~~Board~~ Commission enters a final order therein even though such order is appealed to the Supreme Court and the case remanded by that court to the ~~Board~~ Commission. Upon remand the ~~Board~~ Commission then in office may in its discretion consider relevant evidence including any part of the transcript of testimony in the proceedings prior to appeal.

(g) The Chair shall have general charge of the offices and employees of the ~~Board~~ Commission.

Sec. 10. 30 V.S.A. § 7001(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the Public ~~Service Board~~ Utility Commission under section 3 of this title.

Sec. 11. 30 V.S.A. § 8002(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the Public ~~Service Board~~ Utility Commission under section 3 of this title, ~~except when used to refer to the Clean Energy Development Board.~~

Sec. 12. REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the statutes as needed for consistency with Secs. 9–11 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Public Service Board” with “Public Utility Commission”; and

(2) replace “Board” with “Commission” when the existing term “Board” refers to the Public Service Board.

Sec. 13. RULES; NAME CHANGE

(a) The rules of the Public Service Board in effect on July 1, 2017 shall become rules of the Vermont Public Utility Commission (the Commission).

(b) In those rules, the Commission is authorized to change all references to the Public Service Board so that they refer to the Commission. Unless accompanied by one or more other revisions to the rules, such a change need not be made through the rulemaking process under the Administrative Procedure Act.

* * * Remote Location Access by Citizens to PSB Hearings * * *

Sec. 14. PLAN; CITIZENS’ ACCESS TO PSB HEARINGS FROM
REMOTE LOCATIONS; SPENDING AUTHORITY

(a) On or before December 15, 2017, the Division for Telecommunications and Connectivity within the Department of Public Service, in consultation with relevant organizations such as the Vermont Access Network and Vermont access management organizations, shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a plan to achieve citizen access to hearings and workshops of the Public Service Board from remote locations across the State. The access shall include interactive capability and the ability to use multiple remote locations simultaneously. The plan may build on the Department’s Vermont Video Connect proposal described in the Report to the General

Assembly by the Vermont Interactive Technologies Working Group dated Dec. 9, 2015, submitted pursuant to 2015 Acts and Resolves No. 58, Sec. E.602.1.

(b) The plan shall include each of the following:

- (1) assessment of cost-effective interactive video technologies;
- (2) identification of at least five locations across Vermont that are willing and able to host the access described in subsection (a) of this section;
- (3) the estimated capital costs of providing such access; and
- (4) the estimated operating costs for hosting and connecting.

(c) For the purpose of this section, the Department is authorized to spend \$10,000.00 from its approved budget for fiscal year 2018.

* * * Citizen Access to Public Service Board; Implementation Report * * *

Sec. 15. REPORT; IMPLEMENTATION OF WORKING GROUP RECOMMENDATIONS

On or before December 15, 2017, the Public Service Board shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including those recommendations that the Group identified as not requiring statutory change.

* * * Effective Dates * * *

Sec.16. EFFECTIVE DATES

This section and Secs. 14 and 15 shall take effect on passage. The remainder of this act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Finance with the following amendment thereto:

In Sec. 14 (plan; citizens' access to PSB hearings from remote locations; spending authority), in subsection (c), after the word: spend by inserting the words: an amount not to exceed

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, the question, Shall the bill be amended as recommended by the Committee on Finance, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Recess

On motion of Senator Ashe, the Senate recessed until three o'clock and fifty-five minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Rules Suspended; Bill Taken Up for Immediate Consideration; Bill Referred

S. 135.

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

An act relating to promoting economic development.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill affecting the revenue of the state, was referred to the Committee on Finance under Senate Rule 31.

Rules Suspended; Bill Taken Up for Immediate Consideration; Bill Referred

S. 127.

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

An act relating to miscellaneous changes to laws related to vehicles and vessels.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill carrying an appropriation or requiring the expenditure of funds, was referred to the Committee on Appropriations under Senate Rule 31.

Joint Assembly

At four o'clock in the afternoon, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 21. Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and three Justices of the Supreme Court and ten Superior Court Judges.

The Senate repaired to the hall of the House.

Having returned therefrom, at six o'clock and fifteen minutes in the evening, the President assumed the Chair.

Rules Suspended; Bill Taken Up for Immediate Consideration; Bill Referred

S. 122.

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

An act relating to increased flexibility for school district mergers.

Was taken up for immediate consideration.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill carrying an appropriation or requiring the expenditure of funds, was referred to the Committee on Appropriations under Senate Rule 31.

Adjournment

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

FRIDAY, MARCH 24, 2017

The Senate was called to order by the President.

Devotional Exercises

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

Message from the House No. 35

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 230. An act relating to consent by minors for mental health treatment related to sexual orientation and gender identity.

H. 290. An act relating to clarifying ambiguities relating to real estate titles and conveyances.

H. 312. An act relating to retirement and pensions.

H. 411. An act relating to Vermont's energy efficiency standards for appliances and equipment.

H. 462. An act relating to social media privacy for employees.

H. 502. An act relating to modernizing Vermont's parentage laws.

H. 503. An act relating to bail.

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

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

H.C.R. 76. House concurrent resolution congratulating the 2016 Milton High School Yellow Jackets Division II championship girls' soccer team.

H.C.R. 77. House concurrent resolution congratulating the 2017 St. Johnsbury Academy girls' indoor track and field team on winning a third consecutive Division I indoor championship.

H.C.R. 78. House concurrent resolution honoring the TRIO academic programs in Vermont and designating March 17, 2017 as TRIO Day at the State House.

H.C.R. 79. House concurrent resolution congratulating the 2017 Mt. Anthony Union High School Patriots championship wrestling team.

H.C.R. 80. House concurrent resolution congratulating the 2016 St. Johnsbury Academy Hilltoppers Division I championship baseball team.

H.C.R. 81. House concurrent resolution congratulating the 2016 St. Johnsbury Academy Hilltoppers girls' track and field team on winning a second straight Division I outdoor championship.

H.C.R. 82. House concurrent resolution designating the month of March 2017 as Professional Social Workers Month.

H.C.R. 83. House concurrent resolution honoring the outstanding municipal service of Stowe Town Clerk and Treasurer Alison Kaiser and expressing best wishes as she continues her rehabilitation process.

H.C.R. 84. House concurrent resolution congratulating the Holton Home Inc. on its 125th anniversary.

H.C.R. 85. House concurrent resolution congratulating the 2017 Burr and Burton Academy Bulldogs championship girls' snowboarding team.

H.C.R. 86. House concurrent resolution congratulating Rylee Field of Montpelier on her being crowned Miss Vermont 2016.

H.C.R. 87. House concurrent resolution designating March 23, 2017 as Vermont Nonprofit Legislative Day at the State House.

H.C.R. 88. House concurrent resolution congratulating the Montpelier Senior Activity Center on its 50th Anniversary.

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. 10. Senate concurrent resolution designating Friday, March 24, 2017 as Northeast Kingdom Day in Vermont.

And has adopted the same in concurrence.

Action Reconsidered; Consideration Interrupted by Recess

S. 88.

Assuring the Chair that he voted with the majority whereby the bill was referred to the Committee on Finance, Senator Rodgers moved that the Senate reconsider its action on Senate bill entitled:

An act relating to increasing the smoking age from 18 to 21 years of age.

Which was agreed to.

Thereupon, the pending question, Shall the bill be committed to the Committee on Finance?, was disagreed to on a roll call, Yeas 14, Nays 14.

There being a tie, the Secretary took the casting vote of the President, who voted "Nay".

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, Benning, Branagan, Campion, Collamore, Degree, Flory, Kitchel, Mullin, Nitka, Pearson, Sears, Starr, Westman.

Those Senators who voted in the negative were: Ayer, Balint, Baruth, Bray, Brooks, Clarkson, Cummings, Ingram, Lyons, McCormack, Pollina, Rodgers, Sirotkin, White.

Those Senators absent and not voting were: MacDonald, Mazza.

Thereupon, the pending question, Shall the report of the Committee on Health and Welfare be amended as recommended by Senator Ingram?, Senator Ashe moved that the Senate recess until one o'clock and fifteen minutes in the afternoon.

Which was agreed to.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Bill Ordered to Lie

S. 88.

Consideration was resumed on Senate bill entitled:

An act relating to increasing the smoking age from 18 to 21 years of age.

Thereupon, pending the question, Shall the report of the Committee on Health and Welfare be amended as recommended by Senator Ingram?, Senator Ayer moved that the bill be ordered to lie.

Which was agreed to.

Bills Referred to Committee on Appropriations

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

S. 34. An act relating to cross-promoting development incentives and State policy goals.

S. 100. An act relating to promoting affordable and sustainable housing.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 140.

By Senator Mullin,

An act relating to using a single wholesale drug distributor to supply prescription drugs for Vermont Medicaid.

To the Committee on Health and Welfare.

Bills Referred

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

H. 230.

An act relating to consent by minors for mental health treatment related to sexual orientation and gender identity.

To the Committee on Health and Welfare.

H. 290.

An act relating to clarifying ambiguities relating to real estate titles and conveyances.

To the Committee on Judiciary.

H. 312.

An act relating to retirement and pensions.

To the Committee on Government Operations.

H. 411.

An act relating to Vermont's energy efficiency standards for appliances and equipment.

To the Committee on Natural Resources and Energy.

H. 462.

An act relating to social media privacy for employees.

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

H. 502.

An act relating to modernizing Vermont's parentage laws.

To the Committee on Judiciary.

H. 503.

An act relating to bail.

To the Committee on Judiciary.

Bills Passed

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

S. 52. An act relating to the Public Service Board and its proceedings.

S. 134. An act relating to court diversion and pretrial services.

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, Rodgers, Starr and Westman,

By Reps. Beck and others,

S.C.R. 10.

Senate concurrent resolution designating Friday, March 24, 2017 as Northeast Kingdom Day in Vermont.

House Concurrent Resolutions

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

By Reps. Turner and others,

H.C.R. 76.

House concurrent resolution congratulating the 2016 Milton High School Yellow Jackets Division II championship girls' soccer team.

By Reps. Beck and others,

By Senators Benning and Kitchel,

H.C.R. 77.

House concurrent resolution congratulating the 2017 St. Johnsbury Academy girls' indoor track and field team on winning a third consecutive Division I indoor championship.

By Reps. Giambatista and others,

H.C.R. 78.

House concurrent resolution honoring the TRIO academic programs in Vermont and designating March 17, 2017 as TRIO Day at the State House.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 79.

House concurrent resolution congratulating the 2017 Mt. Anthony Union High School Patriots championship wrestling team.

By Reps. Beck and others,

By Senators Benning and Kitchel,

H.C.R. 80.

House concurrent resolution congratulating the 2016 St. Johnsbury Academy Hilltoppers Division I championship baseball team.

By Reps. Beck and others,

By Senators Benning and Kitchel,

H.C.R. 81.

House concurrent resolution congratulating the 2016 St. Johnsbury Academy Hilltoppers girls' track and field team on winning a second straight Division I outdoor championship.

By Reps. Cina and others,

By Senator Ingram,

H.C.R. 82.

House concurrent resolution designating the month of March 2017 as Professional Social Workers Month.

By Rep. Scheuermann,

By Senator Westman,

H.C.R. 83.

House concurrent resolution honoring the outstanding municipal service of Stowe Town Clerk and Treasurer Alison Kaiser and expressing best wishes as she continues her rehabilitation process.

By Reps. Stuart and others,

By Senators White and Balint,

H.C.R. 84.

House concurrent resolution congratulating the Holton Home Inc. on its 125th anniversary.

By Reps. Olsen and others,

H.C.R. 85.

House concurrent resolution congratulating the 2017 Burr and Burton Academy Bulldogs championship girls' snowboarding team.

By Reps. Kitzmiller and Hooper,

By Senators Brooks, Cummings and Pollina,

H.C.R. 86.

House concurrent resolution congratulating Rylee Field of Montpelier on her being crowned Miss Vermont 2016.

By Reps. Rachelson and others,

By Senators Balint, Baruth, Clarkson and Ingram,

H.C.R. 87.

House concurrent resolution designating March 23, 2017 as Vermont Nonprofit Legislative Day at the State House.

By Reps. Hooper and Kitzmiller,

By Senators Brooks, Cummings and Pollina,

H.C.R. 88.

House concurrent resolution congratulating the Montpelier Senior Activity Center on its 50th Anniversary.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, March 28, 2017, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 24.

TUESDAY, MARCH 28, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Michael Caldwell of North Wolcott.

Pledge of Allegiance

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

Message from the House No. 36

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 passed House bills of the following titles:

H. 506. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 507. An act relating to Next Generation Medicaid ACO pilot project reporting requirements.

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

Rules Suspended; Bill Committed**S. 32.**

On motion of Senator White, the rules were suspended and Senate bill entitled:

An act relating to climate change considerations in State procurement.

Was taken up for immediate consideration.

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

Which was agreed to.

Joint Senate Resolution Adopted on the Part of the Senate**J.R.S. 27.**

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

By Senator Ashe,

J.R.S. 27. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 31, 2017, it be to meet again no later than Tuesday, April 4, 2017.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 141.

By Senators Rodgers, Branagan, Degree and Starr,

An act relating to the classification of employees and independent contractors.

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

Bills Referred

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

H. 506.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

To the Committee on Government Operations.

H. 507.

An act relating to Next Generation Medicaid ACO pilot project reporting requirements.

To the Committee on Health and Welfare.

Bill Amended; Third Reading Ordered**S. 95.**

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

An act relating to sexual assault nurse examiners.

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. chapter 167, subchapter 5 is amended to read:

Subchapter 5. Sexual Assault Nurse Examiners

§ 5431. DEFINITION; CERTIFICATION

(a) As used in this subchapter, "SANE" means a sexual assault nurse examiner.

(b) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board.

§ 5432. SANE BOARD

(a) The SANE Board is created for the purpose of ~~regulating sexual assault nurse examiners~~ advising the Sexual Assault Nurse Examiners Program.

(b) The SANE Board shall be composed of the following members:

(1) the Executive Director of the Vermont State Nurses Association or designee;

(2) the President of the Vermont Association of Hospitals and Health Systems;

(3) the Director of the Vermont Forensic Laboratory or designee;

(4) the Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(5) an attorney with experience prosecuting sexual assault crimes, appointed by the Attorney General;

(6) the Executive Director of the Vermont Center for Crime Victim Services or designee;

(7) a law enforcement officer assigned to one of Vermont's special units of investigation, appointed by the Commissioner of Public Safety;

(8) a law enforcement officer employed by a municipal police department, appointed by the Executive Director of the Vermont Criminal Justice Training Council;

(9) three sexual assault nurse examiners, appointed by the Attorney General;

(10) a ~~physician~~ health care provider as defined in 18 V.S.A. § 9402 whose practice includes the care of victims of sexual assault, appointed by the ~~Vermont Medical Society~~ Commissioner on Health;

(11) a pediatrician whose practice includes the care of victims of sexual assault, appointed by the Vermont Chapter of the American Academy of Pediatrics;

(12) the Coordinator of the Vermont Victim Assistance Program or designee;

(13) the President of the Vermont Alliance of Child Advocacy Centers or designee;

(14) the Chair of the Vermont State Board of Nursing or designee; ~~and~~

(15) the Commissioner for Children and Families or designee; and

(16) the Commissioner of Health or designee.

(c) The SANE Board shall advise the SANE Program on the following:

(1) statewide program priorities;

(2) training and educational requirements;

(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses; and

(4) statewide policy development related to sexual assault nurse examiner programs.

§ 5433. SANE PROGRAM CLINICAL COORDINATOR

~~A grant program shall be established by the~~ A clinical coordinator position shall be funded by either the Vermont Center for Crime Victim Services, subject to available funding, to fund a clinical coordinator position or through other identified State funding options for the purpose of staffing the SANE ~~program~~ Program. The position shall be contracted through the Vermont Network Against Domestic and Sexual Violence. The Clinical Coordinator shall consult with the SANE Board in performing the following duties:

(1) overseeing the recruitment and retention of SANEs in the State of Vermont;

(2) administering a statewide ~~training~~ educational program, including:

(A) the initial SANE certification training;

(B) ongoing training to ensure currency of practice for SANEs; and

(C) advanced training programs as needed;

(3) providing consultation ~~and~~, technical assistance, and training to SANEs and acute care hospitals regarding the ~~standardized sexual assault protocol~~ standards of care for sexual assault patients; and

(4) providing training and outreach to criminal justice and community-based agencies as needed; and

(5) coordinating and managing a system for ensuring best practices, including as they apply to certification of sexual assault nurse examiners.

§ 5434. SANE BOARD DUTIES

~~(a) A person licensed under 26 V.S.A. chapter 28 (nursing) may obtain a specialized certification as a sexual assault nurse examiner if he or she demonstrates compliance with the requirements for specialized certification as established by the SANE Board by rule.~~

~~(b) The SANE Board shall adopt the following by rule:~~

~~(1) educational requirements for obtaining specialized certification as a sexual assault nurse examiner and statewide standards for the provision of education;~~

~~(2) continuing education requirements and clinical experience necessary for maintenance of the SANE specialized certification;~~

~~(3) a standardized sexual assault protocol and kit to be used by all physicians and hospitals in this State when providing forensic examinations of victims of alleged sexual offenses;~~

~~(4) a system of monitoring for compliance; and~~

~~(5) processes for investigating complaints, revoking certification, and appealing decisions of the Board.~~

~~(e) The SANE Board may investigate complaints against a sexual assault nurse examiner and may revoke certification as appropriate. [Repealed.]~~

§ 5435. ACCESS TO A SEXUAL ASSAULT NURSE EXAMINER

(a) On or before September 1, 2017, the Vermont Association of Hospitals and Health Systems (VAHHS) and the Vermont SANE Program shall enter into a memorandum of understanding (MOU) to ensure improved access to Sexual Assault Nurse Examiners (SANE) for victims of sexual assault in underserved regions. Improved access may include all acute care hospitals to provide patients with care from a paid employee who is also a certified sexual assault nurse examiner or access to a shared regional staffing pool that includes certified sexual assault nurse examiners.

(b) The Vermont SANE Program shall develop and offer an annual training regarding standards of care and forensic evidence collection to emergency department appropriate health care providers at acute care hospitals in Vermont. Personnel who are certified sexual assault nurse examiners shall not be subject to this subsection.

(c) On or before January 1, 2018, The SANE Program shall report to the General Assembly on training participation rates pursuant to subsection (b) of this section.

Sec. 3. SEXUAL ASSAULT EVIDENCE KITS; STUDY COMMITTEE

(a) Creation. There is created the Sexual Assault Evidence Kit Study Committee for the purpose of conducting a comprehensive examination of issues related to sexual assault evidence kits.

(b) Membership. The Committee shall be composed of the following six members:

(1) the Director of the Vermont Forensic Laboratory or designee;

(2) the Executive Director of the Vermont Center for Crime Victims Services or designee;

(3) the Commissioner of Health or designee;

(4) a representative of the Vermont Sexual Assault Nurse Examiners (SANE) program;

(5) a representative of the county special investigative units appointed by the Executive Director of the State's Attorneys and Sheriffs; and

(6) a law enforcement professional appointed by the Commissioner of Public Safety.

(c) Powers and duties. The Committee shall address the following issues:

(1) the current practices for kit tracking;

(2) the effectiveness and cost of a system allowing for the online completion of sexual assault evidence kit documentation, with electronic notification after reports are submitted;

(3) the feasibility and cost of a web-based tracking system to allow agencies involved in the response and prosecution of sexual assault to track sexual assault evidence kits, pediatric sexual assault evidence kits, and toxicology kits using a bar code number uniquely assigned to each kit;

(4) the effectiveness and challenges of the current system of police transport of evidence kits from hospitals to the Vermont Forensic Laboratory; and

(5) the feasibility and cost of alternative methods of transport of sexual assault evidence kits such as mail, delivery service, or courier.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Vermont Department of Health.

(e) Report. On or before November 1, 2017, the Committee shall submit a written report to the House and Senate Committees on Judiciary, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Health shall call the first meeting of the Committee to occur on or before August 1, 2017.

(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 January 15, 2018.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 29, 2017.

WEDNESDAY, MARCH 29, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Jeff Fuller of Waterbury Center.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-eighth day of March, 2017 he approved and signed a bill originating in the Senate of the following title:

S. 79. An act relating to freedom from compulsory collection of personal information.

**Message from the Governor
Appointments Referred**

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

Bombardier, Janette of Colchester - Member of the Vermont State Colleges Board of Trustees, - from March 1, 2017, to February 28, 2021.

To the Committee on Education.

Popowski, Susan of Northfield - Member of the Vermont State Lottery Commission, - from March 23, 2017, to February 28, 2018.

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

Valerio, Matthew of Proctor - Defender General - from March 1, 2017, to February 28, 2021.

To the Committee on Judiciary.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 142.

By Senators Ingram, Bray and Lyons,
An act relating to renter rebate claims.
To the Committee on Finance.

Bill Passed

S. 95.

Senate bill of the following title was read the third time and passed:
An act relating to sexual assault nurse examiners.

Bill Amended; Third Reading Ordered

S. 34.

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

An act relating to cross-promoting development incentives and State policy goals.

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

* * * Rural Economic Development Team * * *

Sec. 1. 10 V.S.A. chapter 15, subchapter 4 is added to read:

Subchapter 4. Rural Economic Development Team

§ 325m. RURAL ECONOMIC DEVELOPMENT TEAM

(a) Definitions. As used in this subchapter:

(1) “Industrial park” means an area of land permitted as an industrial park under 10 V.S.A. chapter 151, under 24 V.S.A. chapter 117, or under both.

(2) “Rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

(3) “Small town” means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created within the Vermont Housing and Conservation Board a Rural Economic Development Team to promote and facilitate community economic development in the small towns and rural areas of the State. The Rural Economic Development Team shall collaborate with municipalities, businesses, industrial parks, regional development corporations, and other appropriate entities to access funding and other assistance available to small towns and rural areas of the State for development or recruitment of businesses and workforce development when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

(1) The Rural Economic Development Team shall provide the following services to small towns, rural areas, and businesses in small towns and rural areas:

(A) identification of grant or other funding opportunities available to small towns, rural areas, and industrial parks and businesses in small towns and rural areas that facilitate business development, siting of businesses, workforce development, broadband deployment, wastewater infrastructure, or other economic development opportunities;

(B) technical assistance to small towns, rural areas, and industrial parks and businesses in small towns and rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding.

(2) In providing services under this subsection, the Rural Economic Development Team shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation.

(d) Services; business development. The Rural Economic Development Team shall provide small towns and rural areas with services to facilitate the business development in these areas. These services shall include:

(1) Identifying businesses or business types suitable for a small town, rural area, or an industrial park in a small town or rural area. In identifying businesses or business types, the Rural Economic Development Team shall seek to identify businesses or business types in the following priority areas:

(A) milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

(B) the outdoor equipment or recreation industry;

(C) the value-added forest products industry;

(D) the value-added food industry;

(E) phosphorus removal technology; and

(F) composting facilities.

(2) Recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.

(3) Coordinating with small towns or rural areas on ways to establish or attract coworker spaces or generator spaces that facilitate the incubation and development of businesses. The Rural Economic Development Team shall explore with a small town or rural area whether underused or closed school buildings are appropriate sites for coworker or generator spaces.

(e) Report. Beginning on January 15, 2018, and annually thereafter, the Rural Economic Development Team shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Team. The report shall include:

(1) a summary of the Team's activities in the preceding calendar year;

(2) an evaluation of the effectiveness of the services provided by the Team to small towns, rural areas, and industrial parks;

(3) a summary of the Team's progress in attracting priority businesses to small towns and rural areas;

(4) an accounting of the grants or other funding that the Team facilitated or provided assistance with;

(5) an accounting of the funds acquired by the Rural Economic Development Team for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Team; and

(6) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State.

Sec. 2. APPROPRIATIONS; RURAL ECONOMIC DEVELOPMENT
TEAM

Of the funds appropriated to the Vermont Housing and Conservation Board in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund, \$200,000.00 shall be used to implement and administer the Rural Economic Development Team established under 10 V.S.A. § 325m.

* * * Vermont Milk Commission * * *

Sec. 3. VERMONT MILK COMMISSION; EQUITABLE DAIRY PRICING

(a) The General Assembly finds that:

(1) The price that farmers from northeastern states, including Vermont, receive for milk is not set by supply and demand in the free market, but instead is set by the terms of a federal marketing order known as the Northeast Marketing Area Federal Order 1 (Milk Marketing Order).

(2) The Milk Marketing Order does not reflect the actual cost to farmers of milk production.

(3) The Milk Marketing Order is dependent on commodity prices and other market influences that lead to significant fluctuations in the price provided to farmers.

(4) Because of the Milk Market Order, farmers lose money on milk production, and because of the volatility of the market, farmers cannot predictably plan for investment to decrease production costs.

(5) The Vermont Milk Commission was established, in part, to ensure the continuing economic vitality of the dairy industry by stabilizing the price received by farmers for milk at a level allowing them an equitable rate of return.

(6) The Secretary of Agriculture, Food and Markets should reconvene the Vermont Milk Commission to work with interested parties, including other states, to recommend to the U.S. Congress through the Vermont congressional delegation a replacement to the Milk Marketing Order that ensures farmers are provided with an equitable price for milk.

(b) As soon as practical and no later than September 1, 2017, the Secretary of Agriculture, Food and Markets shall convene the Vermont Milk Commission under 6 V.S.A. chapter 162 to propose changes to the federal Northeast Marketing Area Federal Order 1 that provide farmers in Vermont

with an equitable price for milk that reflects better the actual cost of dairy production. The Vermont Milk Commission shall:

(1) Analyze the current status of the milk market to identify areas or issues that could be addressed in an amendment to the Milk Marketing Order.

(2) Collaborate with interested parties, including other Northeastern states, to develop a proposed amendment to or replacement of the current Milk Marketing Order for the northeast. The proposed amendment or replacement shall be designed to:

(A) provide farmers with an equitable price for milk that is based on the costs of production; and

(B) eliminate or reduce provisions in the Milk Marketing Order that facilitate price volatility in the milk market.

(3) Submit a proposed amendment to or replacement of the Milk Marketing Order to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry on or before January 15, 2018.

(4) After review by the General Assembly, submit to the congressional delegation of Vermont the proposed amendment to or replacement of the Milk Marketing Order so that the U.S. Congress may amend the Milk Marketing Order.

(c) Except for the two legislative members of the Commission, the per diem compensation and reimbursement to which a member of the Commission is entitled shall be paid from the budget of the Agency of Agriculture, Food and Markets.

* * * Development Cabinet * * *

Sec. 4. 3 V.S.A. § 2293(b) is amended to read:

(b) Development Cabinet.

(1)(A) ~~A~~ The Development Cabinet is created, to consist of the Secretaries of ~~the Agencies of~~ Administration, of Agriculture, Food and Markets, of Commerce and Community Development, of Education, of Natural Resources, and of Transportation.

(B) The Governor or ~~the Governor's~~ designee shall chair the Development Cabinet.

(2) The Development Cabinet shall advise the Governor on how best to implement the purposes of this section; and shall recommend changes as appropriate to improve implementation of those purposes.

(3)(A) The Development Cabinet may establish interagency work groups to support its mission, drawing membership from any agency or department of State government.

(B) Any interagency work groups established under this subsection (b) shall evaluate, test the feasibility of, and suggest alternatives to economic development proposals, including proposals for public-private partnerships, submitted to them for consideration.

(C) The Development Cabinet shall refer to appropriate interagency workgroups any economic development proposal that has a significant impact on the inventory or use of State land or buildings.

(4) The Development Cabinet shall:

(A) Review State loan, grant, and other incentive programs to explore whether and how the expenditure of State funds can cross-promote relevant State policies, including the adoption of renewable energy, rural economic development, public access to conserved lands, and water quality improvements.

(B) Recommend to the Governor and the General Assembly areas for improvement, program changes, conditions on incentives, and other strategies to ensure cross-promotion of relevant State policies. The Cabinet's recommendations shall prioritize economic development opportunities in rural areas, small towns, and industrial parks in small towns and rural areas. As used in this subdivision, "rural area," "small town," and "industrial park" shall have the same meaning as set forth in 10 V.S.A. § 325m.

(C) On or before December 15, 2018 and biennially thereafter, submit a report to the Governor and the General Assembly on the implementation of its recommendations and the effectiveness of efforts to cross-promote incentive programs and State policies.

* * * Energy Efficiency * * *

Sec. 5. 30 V.S.A. § 209(d)(3) is amended to read:

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into an Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice

shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

(B) The charge established by the Board pursuant to this subdivision (3) shall be in an amount determined by the Board by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title.

(i) As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective, energy efficiency savings.

(ii) In setting the amount of the charge and its allocation, the Board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.

(iii) The Board, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00 may apply to the Board to self-administer energy efficiency through the use of an energy savings account, which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Board. The remaining portion of the charge shall be used for systemwide energy benefits. The Board in its rules or order shall establish criteria for approval of these applications.

(iv) For one three-year period, the customer for the account of a manufacturing facility located in an industrial park in a small town or rural area may apply to self-administer energy efficiency programs and measures in lieu of paying the energy efficiency charge on the account.

(I) As used in this subdivision (I), "rural area," "small town," and "industrial park" shall have the same meaning as set forth in 10 V.S.A. § 325m.

(II) A customer seeking approval under this subdivision (iv) shall agree to invest, over a three-year period, an average annual dollar amount on cost-effective energy programs and measures equivalent to:

(aa) 75 percent of its most recent annual energy efficiency charge amount; or

(bb) if the customer has not previously paid an annual energy efficiency charge, 75 percent of the customer's estimated net annual kilowatt hours to be consumed multiplied by the applicable energy efficiency charge, provided that the customer shall submit to the Board the actual amount of kilowatt hours consumed in the first calendar year of self-administration so that the Board can determine if the customer shall be responsible for additional investment in energy programs and measures.

(III) Cost-effective energy programs and measures may include investment in on-site renewable generation, if cost-effective and part of a comprehensive program for the facility that includes energy efficiency measures. Annual financing payments of a cost-effective energy program or measure under this subdivision are allowable investment in calculating a customer's average investment on cost-effective energy programs or measures over a three-year period.

(IV) The Board shall develop criteria for approval of these applications.

(V) A customer shall self-administer under this subdivision for one three-year period and may not reapply for successive terms. At the conclusion of the three-year period, the customer shall pay the energy efficiency charge as part of the customer's electric bill.

* * *

* * * Environmental Permitting * * *

Sec. 6. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

* * *

(h)(1) The Secretary shall reduce the fee for a permit or permit renewal under this section by 25 percent when the activity subject to the permit is located in an industrial park in a small town or rural area.

(2) If a fee for a stormwater permit or permit renewal is assessed on a per acre basis under subdivision (j)(2)(A) or (B) of this section, the maximum total fee for the permit shall be \$7,500.00 if the permitted activity is located in an industrial park in a small town or rural area.

(3) As used in this subdivision (I), “rural area,” “small town,” and “industrial park” shall have the same meaning as set forth in 10 V.S.A. § 325m.

(i)(1) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services. Municipalities shall pay fees prescribed in subdivisions (j)(2), (10), (11), (12), and (26), except that a municipality shall also be exempt from those fees for stormwater systems prescribed in subdivision (j)(2)(A)(iii)(I), (II), or (IV) and (j)(2)(B)(iv)(I), (II), or (V) of this section for which a municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

(2) An air contaminant source shall be exempt from the fees required under subdivisions (j)(1)(A) and (B) when the source of the emissions is the anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste.

* * *

* * * Phosphorus Removal Technology; Grants * * *

Sec. 7. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application, separation of phosphorus from manure, or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators, phosphorus separation equipment providers, and nonprofit organizations and that are located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site ~~which~~ that is located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(d) An applicant for a State grant under this section to purchase or implement phosphorus removal technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus removal technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed \$300,000.00.

* * * Forestry Equipment * * *

Sec. 8. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(50) Compost, animal manure, manipulated animal manure, and planting mix when any of these items are sold in bulk. As used in this section, the term “sold in bulk” shall mean sold in a form that is not prepackaged, or sold in a packaged form in volumes greater than one cubic yard.

(51) Machinery, equipment, implements, accessories, parts, and contrivances used predominantly in the commercial cutting, removal, or processing of timber or other solid wood forest products intended to be sold ultimately at retail, including: grapple and cable skidders; feller bunchers;

cut-to-length processors; forwarders; delimiters; loader slashers; log loaders; skid steer loaders; tracked excavators; bulldozers; whole tree chippers; stationary screening systems; and firewood processors, elevators, and screens; but excluding tracked vehicles subject to subdivision (38) of this section. As used in this subdivision, the term "predominantly" means 75 percent or more of the time the machinery or equipment is in use.

Sec. 9. 32 V.S.A. § 9706(kk) is added to read:

(kk) The statutory purpose of the exemption for timber cutting, removal, and processing machinery in subdivision 9741(51) of this title is to promote Vermont's commercial timber and forest products economy.

* * * Repeals * * *

Sec. 10. REPEALS

The following are repealed on July 1, 2023:

(1) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Team);

(2) 30 V.S.A. § 209(d)(3)(B)(iv) (self administration of electric efficiency charge; industrial parks);

(3) 3 V.S.A. § 2822(h) (ANR fees in industrial parks) and (i)(2) (anaerobic digesters; air contaminant fee); and

(4) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria).

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This section and Sec. 3 (Vermont Milk Commission) shall take effect on passage. All other sections shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Agriculture with the following amendments thereto:

First: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. PUBLIC SERVICE BOARD; REPORT ON INCREASED
PARTICIPATION IN SELF-ADMINISTRATION OF ENERGY
EFFICIENCY

(a) On or before December 1, 2017, the Public Service Board shall require all entities that are appointed under 30 V.S.A. § 209 to implement and

administer gas and electric energy efficiency and conservation programs to submit to the Board a plan for increasing participation in self administration of energy efficiency under 30 V.S.A. § 209(d)(3) by businesses located in small towns of the rural areas of the State. A plan submitted by appointed entities shall recommend:

(1) measures or criteria to incentivize increased participation in self-administration of energy efficiency;

(2) whether any incentives to increase participation in self-administration should be included as part of the demand resources plan for entities appointed to implement and administer gas and electric energy efficiency and conservation programs; and

(3) how the entities appointed to implement and administer gas and electric energy efficiency and conservation programs shall report in an annual plan or other report participation rates in self-administration of energy efficiency by businesses located in the small towns of rural areas of the State.

(b) On or before January 15, 2018, the Public Service Board shall submit to the Senate Committees on Finance, Natural Resources and Energy, and Agriculture and the House Committees on Ways and Means, Natural Resources, Fish and Wildlife, and Agriculture and Forestry the plans submitted to the Board under subsection (a) of this section and any recommendations, including legislative changes, by the Board to implement the submitted plans.

(c) As used in this section:

(1) “Rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

(2) “Small town” means a town in a rural area of the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

Second: By striking out Sec. 6 in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 3 V.S.A. § 2822(i) is amended to read:

(i)(1) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services. Municipalities shall pay fees

prescribed in subdivisions (j)(2), (10), (11), (12), and (26), except that a municipality shall also be exempt from those fees for stormwater systems prescribed in subdivision (j)(2)(A)(iii)(I), (II), or (IV) and (j)(2)(B)(iv)(I), (II), or (V) of this section for which a municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

(2) An air contaminant source shall be exempt from the fees required under subdivisions (j)(1)(A) and (B) when the source of the emissions is the anaerobic digestion of agricultural products, agricultural by-products, agricultural waste, or food waste.

Third: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(51) The following machinery, including repair parts, used for timber cutting, removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut to length processors, forwarders, delimiters, loader slashers, log loaders, whole tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes shall publish guidance relating to the application of this exemption.

Fourth: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. REPEALS

The following are repealed on July 1, 2023:

(1) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Team);

(2) 3 V.S.A. § 2822(i)(2) (anaerobic digesters; air contaminant fee); and

(3) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria).

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

In Sec. 2 (Appropriations; Rural Economic Development Team) after "Vermont Housing and Conservation Trust Fund," and before "\$200,000.00" by inserting up to

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee Agriculture was amended as recommended by the Committee on Finance.

Thereupon, the question, Shall the report of the Committee on Agriculture, as amended, be amended as recommended by the Committee Appropriations?, was decided in the affirmative.

Thereupon, the recommendation of amendment of the Committee on Agriculture, as amended, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Bray moved that the bill be amended as follows:

In Sec. 1, 10 V.S.A. § 325m, by adding subsections (f) and (g) to read:

(f) Coordination; other services. The Rural Economic Development Team shall coordinate with other State or local entities that provide technical assistance or other economic development or financial services to small towns, rural industrial parks, and businesses in small towns and rural industrial parks in order to reduce or limit overlap or duplication of services provided.

(g) Consistency with State land use goals. The services provided by the Rural Economic Development Team under subsections (c) and (d) of this section shall be consistent with the State's land use goals set forth in 24 V.S.A. § 4302, with consistency determined in the manner described under 24 V.S.A. § 4302(f)(1).

Which was disagreed to.

Thereupon, third reading of the bill was ordered.

Third Readings Ordered

S. 127.

Senate committee bill entitled:

An act relating to miscellaneous changes to laws related to vehicles and vessels.

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

Senator Degree, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass.

Senator Westman, for the Committee on Appropriations, to which the bill was referred, 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.

Third Reading Ordered

J.R.S. 25.

Joint Senate committee resolution entitled:

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land.

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

Senator Nitka, for the Committee on Appropriations, to which the joint resolution was referred, reported that the joint resolution ought to be adopted.

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

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, March 30, 2017.

THURSDAY, MARCH 30, 2017

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. 37

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 130. An act relating to approval of amendments to the charter of the Town of Hartford.

H. 308. An act relating to a committee to reorganize and reclassify Vermont's criminal statutes.

H. 326. An act relating to eligibility and calculation of grant or subsidy amount for Reach Up, Reach Ahead, and the Child Care Services Program.

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. 27. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-ninth day of March, 2017 he approved and signed a bill originating in the Senate of the following title:

S. 38. An act relating to the Government Accountability Committee and the State Outcomes Report.

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 143.

By White, Kitchel and Westman,

An act relating to volunteer immunity.

To the Committee on Judiciary.

Bills Referred

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

H. 130.

An act relating to approval of amendments to the charter of the Town of Hartford.

To the Committee on Government Operations.

H. 308.

An act relating to a committee to reorganize and reclassify Vermont's criminal statutes.

To the Committee on Judiciary.

H. 326.

An act relating to eligibility and calculation of grant or subsidy amount for Reach Up, Reach Ahead, and the Child Care Services Program.

To the Committee on Health and Welfare.

Committee Bill Amended; Third Reading Ordered**S. 131.**

Senate committee bill entitled:

An act relating to State's Attorneys and sheriffs.

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

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that 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 read third time?, Senators Sears, Ashe, Kitchel, McCormack, Nitka, Starr and Westman moved to amend the bill by inserting a new section to be numbered Sec. 10a to read as follows:

Sec. 10a. 24 V.S.A. § 367 is amended to read:

§ 367. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS

* * *

(c)(1) The Executive Director shall prepare and submit all budgetary and financial materials and forms ~~which~~ that are required of the head of a department of State government with respect to all State funds appropriated for all of the Vermont State's Attorneys and sheriffs. At the beginning of each fiscal year, the Executive Director, with the approval of the Executive Committee, shall establish allocations for each of the State's Attorneys' offices from the State's Attorneys' appropriation. Thereafter, the Executive Director shall exercise budgetary control over these allocations and the general appropriation for State's Attorneys. The Executive Director shall monitor the sheriff's transport budget and report to the sheriffs on a monthly basis the status of the budget. He or she shall provide centralized support services for the State's Attorneys and sheriffs with respect to budgetary planning, training, and office management, and perform such other duties as the Executive

Committee directs. The Executive Director may employ clerical staff as needed to carry out the functions of the Department.

(2) The Executive Director may enter into an agreement with the Commissioner of Human Resources to provide assistance and support in relation to negotiating and administering any collective bargaining agreement with the employees of the State's Attorneys' offices pursuant to 3 V.S.A. chapter 27.

* * *

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Sears and Starr moved to amend the bill by striking out Sec. 9, 13 V.S.A. § 5306, victim advocates, in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. [Deleted.]

Which was disagreed to.

Thereupon, third reading of the bill was ordered.

Committee Bill Amended; Third Reading Ordered

S. 122.

Senate committee bill entitled:

An act relating to increased flexibility for school district mergers.

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

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended in Sec.10, 2012 Acts and Resolves No. 156, Sec. 9, in subsection (a), by deleting the last sentence in its entirety and inserting in lieu thereof a new sentence to read as follows: Community outreach materials shall be limited to those that are reasonably designed to inform and educate.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Appropriations was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Baruth, Balint, Benning, Bray, Ingram and Mullin moved to amend the bill as follows:

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

Sec. 7. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) ~~On~~ Subject to subsection (b) of this section, on or before November 30, 2017, the board of each school district in the State that:

(1) has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019; or

(2) does not qualify for an exemption under Sec. 10(c) of this act, shall perform each of the following actions:

~~(1)(A)~~ (A) Self-evaluation. The board shall evaluate its current ability to meet or exceed each of the goals set forth in Sec. 2 of this act.

~~(2)(B)~~ (B) Meetings.

~~(A)(i)~~ (i) The board shall meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with the goals set forth in Sec. 2 of this act.

~~(B)(ii)~~ (ii) The districts do not need to be contiguous and do not need to be within the same supervisory union.

~~(3)(C)~~ (C) Proposal. The board of the district, solely on behalf of its own district or jointly with the boards of other districts, shall submit a proposal to the Secretary of Education and the State Board of Education in which the district:

~~(A)(i)~~ (i) proposes to retain its current governance structure, to work with other districts to form a different governance structure, or to enter into another model of joint activity;

~~(B)(ii)~~ (ii) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the proposal in subdivision ~~(A)(i)~~ (i) of this subdivision ~~(3)(C)~~ (C) supports the district's or districts' ability to meet or exceed each of the goals set forth in Sec. 2 of this act; ~~and~~

~~(c)~~(iii) identifies detailed actions it proposes to take to continue to improve its performance in connection with each of the goals set forth in Sec. 2 of this act; and

(iv) describes its history of merger, consolidation, or other models of joint activity with other school districts before the enactment of this act, and its consideration of merger, consolidation, or other models of joint activity with other school districts on or after the enactment of this act.

(b) The date by which a qualifying district must take the actions required by subsection (a) of this section is extended from November 30, 2017 to January 31, 2018. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

Second: By striking out Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a qualifying district must receive final approval from the electorate for its merger proposal is extended from July 1, 2017 to November 30, 2017. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

Third: By striking out Sec. 11 in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE
STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(d)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of \$10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

Which was agreed to.

Thereupon, the question, Shall the bill be read the third time?, was decided in the affirmative.

Senator Ashe Assumes the Chair

Committee Bill Amended; Third Reading Ordered

S. 130.

Senate committee bill entitled:

An act relating to miscellaneous changes to education laws.

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

President Resumes the Chair

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

First: In Sec. 2, in the first sentence, by striking out the following: “\$40,000.00” and inserting in lieu thereof the following: \$20,000.00

Second: By striking out Sec. 19 and its reader assistance in its entirety.

Third: By striking out the original Sec. 20 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 19 to read as follows:

Sec. 19. EFFECTIVE DATES

(a) This section, Secs. 1–5, 9–12, and 14–18 shall take effect on passage.

(b) Secs. 6–8 (speech-language pathologists) shall take effect on January 1, 2018.

(c) Sec. 13 (State-placed students) shall take effect beginning with the 2017–2018 school year.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Appropriations was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Balint, Baruth, Bray, Ingram and Mullin moved to amend the bill in Sec. 1, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) Report. On or before January 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education with its findings and any recommendations, including recommendations for any amendments to legislation.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators White, Ayer, Clarkson and Pearson moved to amend the bill as follows:

First: By striking out Secs. 6–8, with their reader assistance, in their entirety.

And by renumbering the remaining sections to be numerically correct.

Second: By striking out Sec. 19 and inserting in lieu thereof a new section to be numbered Sec. 16 to read as follows:

Sec. 16. EFFECTIVE DATES

(a) This section, Secs. 1–9 and 11–15 shall take effect on passage.

(b) Sec. 10 (State-placed students) shall take effect beginning with the 2017–2018 school year.

Which was disagreed to.

Thereupon, third reading of the bill was ordered.

Committee Bill Amended; Third Reading Ordered

S. 133.

Senate committee bill entitled:

An act relating to examining mental health care and care coordination.

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

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

First: By striking out Sec. 16 in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. PAY SCALE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES

It is the intent of the General Assembly that funds be appropriated to designated and specialized service agencies for the following purposes:

(1) in fiscal year 2018, to fund increases in the hourly wages of workers to \$14.00 and to increase the salaries for crisis response team personnel to be at least 85 percent of those salaries earned by regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment;

(2) in fiscal year 2019, to fund increases in the hourly wages of workers to \$15.00 and to increase the salaries for clinical employees and other personnel in a manner that advances the goal of achieving competitive compensation to regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment; and

(3) in fiscal year 2020, after the completion of a market rate analysis by the designated and specialized service agencies, to further increase the salaries for clinical employees and personnel in a manner that advances the goal of achieving competitive compensation to regionally equivalent State, health care, or school-based positions of equal skills, credentials, and lengths of employment.

Second: By striking out Sec. 17 in its entirety and renumbering the remaining section to be numerically correct.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Appropriations was agreed to.

Thereupon, third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 34.

Senate bill entitled:

An act relating to cross-promoting development incentives and State policy goals.

Was taken up.

Thereupon, pending third reading of the bill, Senators Ashe, Branagan, Brooks, Campion, Collamore, Cummings, Degree, Lyons, MacDonald, Pollina, Rodgers, Sirotkin and Starr moved to amend the bill by adding a new section to be numbered Sec. 9a to read as follows:

* * * Workers' Compensation * * *

Sec. 9a. WORKERS' COMPENSATION; FORESTRY, LOGGING, AND AGRICULTURE; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks, and Recreation, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study occupations in Vermont's forestry, logging, and agriculture sectors that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policy holders in the insurance pool. In particular, the Commissioner shall:

(1) examine differences in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the identified occupations and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for the identified occupations, without diminishing the rights and benefits of injured workers, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts, creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before November 15, 2017, the Commissioner of Financial Regulation shall submit a written report to the House Committees on Agriculture and Forestry and on Commerce and Economic Development and the Senate Committees on Agriculture and on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs, without diminishing the rights and benefits of injured workers, for the occupations identified in the study.

Which was agreed to.

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

Committee Bill Amended; Third Reading Ordered

S. 135.

Senate committee bill entitled:

An act relating to promoting economic development.

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

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended by striking out Secs. H.1–H.3. in their entirety and inserting in lieu thereof:

Secs. H.1–H.3. [Reserved.]

And that when so amended the bill ought to pass.

Senator Degree, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Appropriations was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Mullin, Balint, Baruth, Clarkson and Sirotkin moved to amend the bill as follows:

First: In Sec. C.1., by striking out subdivision (c)(5) in its entirety and inserting in lieu thereof a new subdivision (c)(5) to read as follows:

(5) be overseen by a board:

(A) that shall:

(i) set program terms;

(ii) prepare and design plan documents; and

(iii) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services; and

(B) that shall be composed of seven members as follows:

(i) an individual with investment experience, to be appointed by the Governor;

(ii) an individual with private sector retirement plan experience, to be appointed by the Governor;

(iii) an individual with investment experience, to be appointed by the State Treasurer;

(iv) an individual who is an employee or retiree, to be appointed by the State Treasurer;

(v) an individual who is an employee advocate or consumer advocate, to be appointed by the Speaker of the House;

(vi) an individual who is an employer, to be appointed by the Committee on Committees; and

(vii) the State Treasurer, who shall serve as chair.

Second: In Sec C.2., amending 2016 Acts and Resolves No. 157, Sec. F.1, in subdivision (a)(2), by striking out the following: “, and the board that will oversee the plan.”

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Bray, Campion and Pearson moved to amend the bill by striking out Sec. B.1 in its entirety and inserting in lieu thereof:

Sec. B.1. [Deleted.]

Which was agreed to on a roll call Yeas 18, Nays 11.

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: Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons, MacDonald, McCormack, Pearson, Pollina, Sears, Sirotkin, White.

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

The Senator absent and not voting was: Starr.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

Senator Nitka 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, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Baruth, Starr.

Senator Ashe Assumes the Chair

Committee Bill Amended; Consideration Postponed

S. 136.

Senate committee bill entitled:

An act relating to miscellaneous consumer protection provisions.

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

President Resumes the Chair

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

First: In Sec. 3, 9 V.S.A. chapter 116, in § 4185, by adding two subdivisions to be (6) and (7) to read as follows:

(6) "Net fantasy sports contest revenues" means the amount equal to the total of all entry fees that a fantasy sports operator collects from all fantasy sports players, less the total of all sums paid out as winnings to all fantasy sports players, multiplied by the location percentage for Vermont.

(7) "Location percentage" mean the percentage, rounded to the nearest tenth of a percent, of the total of all entry fees collected from fantasy sports players located in Vermont, divided by the total entry fees collected from all fantasy sports players in fantasy sports contests.

Second: In Sec. 3, 9 V.S.A. chapter 116, by striking out sections 4188–4190 in their entirety and inserting in lieu thereof new sections 4188–4190 to read as follows:

§ 4188. EXEMPTION

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

§ 4189. REGISTRATION

In addition to applicable requirements under Titles 11–11C for a business organization doing business in this State to register with the Secretary of State, on or before January 15 following each year in which a fantasy sports operator offers a fantasy sports contest to consumers in this State, the operator shall file an annual registration with the Secretary of State on a form adopted for that purpose and pay to the Secretary an annual registration fee in an amount equal to one-half of one percent of its annual net fantasy sports contest revenue for the prior calendar year.

§ 4190. ENFORCEMENT

(a) A person that violates a provision of this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General has the authority to adopt rules to implement the provisions of this chapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Third: By inserting a new section to be numbered Sec. 3a to read as follows:

Sec. 3a. 32 V.S.A. § chapter 221 is added to read:

CHAPTER 221. FANTASY SPORTS

§ 9001. DEFINITIONS

The terms used in this chapter shall have the same mean as the terms defined in 9 V.S.A. chapter 116.

§ 9002. TAX IMPOSED

A fantasy sports operator shall annually pay 11 percent of its annual net fantasy sports contest revenue to the Department of Taxes for deposit in the General Fund. The tax shall be on annual net fantasy sports contest revenue for each calendar year. To the extent it does not conflict with the terms of this chapter, the tax imposed by this section shall be implemented under the administrative and appeal provisions related to Vermont's personal income tax under chapter 151 of this title.

§ 9003. RETURNS

Any person liable for the tax imposed by this chapter shall, on or before the 15th day of March, return to the Commissioner under oath of a person with legal authority to bind the fantasy sports operator a statement containing its name and place of business, its net fantasy sports contest revenues for the preceding year, and any other information required by the Commissioner, along with the tax due for the prior calendar year.

§ 9004. PENALTIES

(a) Any person subject to the provisions of this chapter who fails to pay the tax imposed by this chapter by the date that payment is due or fails to submit a return as required by this chapter is subject to the provisions of section 3202 of this title.

Fourth: By striking out Sec. 4 (effective date) in its entirety and its reader assistance, and inserting in lieu thereof a new Sec 4 to read as follows:

* * * Effective Date * * *

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except Sec. 3a, which shall take effect on January 1, 2018 and apply to calendar year 2018 and after.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Finance was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Mullin, Balint, Baruth, Clarkson and Sirotkin moved to amend the bill as follows:

First: In Sec. 1, 9 V.S.A. § 4001, in subdivision (10), by striking out the word “four” and inserting in lieu thereof the word two

Second: In Sec. 1, in 9 V.S.A. § 4010(d)(1), by striking out the word “person” and inserting in lieu thereof the word contractor and by striking out the word “chapter” and inserting in lieu thereof the word section

Third: In Sec. 1, in 9 V.S.A. § 4010(d)(2), after the following: “civil actions” by inserting the following: to enforce the provisions of this section

Fourth: In Sec. 3, in 9 V.S.A. § 4186, by adding a new subdivision to be numbered subdivision (6) to read as follows:

(6) prohibit the use of computer scripts that provide a player with a competitive advantage over another player;

and renumbering the remaining subdivisions to be numerically correct

Fifth: By adding a new section to be numbered Sec. 3b to read as follows:

Sec. 3b. 32 V.S.A. § 3102(e)(19) is added to read:

(19) To the Secretary of State for the purpose of administering the registration fee for fantasy sports operators under 9 V.S.A. § 4189.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Ashe moved that action be postponed until tomorrow.

Which was agreed to.

Bill Amended; Third Reading Ordered

S. 103.

Senator Champion, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to the regulation of toxic substances and hazardous materials.

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

* * * Toxics Use Reduction and Reporting* * *

Sec. 1. 10 V.S.A. § 6633 is added to read:

§ 6633. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT

(a) Creation. There is created the Interagency Committee on Chemical Management in the State to:

(1) evaluate chemical inventories in the State on an annual basis;

(2) identify potential risks to human health and the environment from chemical inventories in the State; and

(3) propose measures or mechanisms to address the identified risks from chemical inventories in the State.

(b) Membership. The Interagency Committee on Chemical Management shall be composed of the following five members:

(1) the Secretary of Agriculture, Food and Markets or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Commissioner of Health or designee;

(4) the Commissioner of Labor or designee; and

(5) the Commissioner of Public Safety or designee.

(c) Powers and duties. The Interagency Committee on Chemical Management shall:

(1) Convene a citizen advisory panel to provide input and expertise to the Committee. The citizen advisory panel shall consist of persons with expertise in:

(A) toxicology;

(B) environmental law;

(C) manufacturing products;

(D) environmental health;

(E) public health;

(F) risk analysis;

(G) maternal and child health care;

(H) occupational health;

(I) industrial hygiene;

(J) public policy;

(K) the operation of academic institutions; and

(L) retail sales.

(2) Monitor actions taken by the U.S. Environmental Protection Agency (EPA) to regulate chemicals under the Toxic Substances Control Act, 15 U.S.C. chapter 53, and notify relevant State agencies of any EPA action relevant to the jurisdiction of the agency.

(3) Annually review chemical inventories in the State in relation to emerging scientific evidence in order to identify chemicals of high concern not regulated by the State.

(d) Assistance. The Interagency Committee on Chemical Management shall have the administrative, technical, and legal assistance of the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Department of Health; the Department of Public Safety; and the Department of Labor.

(e) Report. On or before January 15, and annually thereafter, the Interagency Committee on Chemical Management shall report to the Senate Committees on Natural Resources and Energy; on Health and Welfare; and on

Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife; on Human Services; and on Commerce and Economic Development regarding the actions of the Committee. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report to be made under this section. The report shall include:

(1) an estimate or summary of the known chemical inventories in the State;

(2) a summary of any change under federal statute or rule affecting the regulation of chemicals in the State;

(3) recommended legislative or regulatory action to address the risks posed by new or emerging chemicals of high concern; and

(4) recommend legislative or regulatory action to reduce health risks from exposure to chemicals of high concern and reduce risks of harm to the natural environment.

(f) Meetings.

(1) The Secretary of Natural Resources shall be the chair of the Interagency Committee on Chemical Management.

(2) The Secretary of Natural Resources call the first meeting of the Interagency Committee on Chemical Management to occur on or before July 1, 2017.

(3) A majority of the membership of the Interagency Committee on Chemical Management shall constitute a quorum.

(g) Authority of agencies. The establishment of the Interagency Committee on Chemical Management shall not limit the independent authority of a State agency to regulate chemical use or management under existing State or applicable federal law.

Sec. 2. INTERAGENCY COMMITTEE ON CHEMICAL MANAGEMENT;
REPORT ON TOXIC USE REDUCTION AND REPORTING

On or before January 15, 2018, after consultation with the citizen advisory panel and as part of the first report required under 10 V.S.A. § 6633(e), the Interagency Committee on Chemical Management shall:

(1) Recommend how the State shall establish a centralized or unified electronic reporting system to facilitate compliance by businesses and other entities with chemical reporting and other regulatory requirements in the State. The recommendation shall:

(A) identify a State agency or department to establish and administer the reporting system;

(B) estimate the staff and funding necessary to administer the reporting system;

(C) propose how businesses and the public can access information submitted to or maintained as part of the reporting systems, including whether access to certain information or categories of information should be limited due to statutory requirements, regulatory requirements, trade secret protection, or other considerations;

(D) propose how information maintained as part of the reporting system can be accessed, including whether the information should be searchable by: chemical name, common name, brand name, product model, Global Product Classification (GPC) product brick description, standard industrial classification, chemical facility, geographic area, zip code, or address;

(E) propose how manufacturers of consumer products or subsets of consumer products shall report or notify the State of the presence of designated chemicals of concern in a consumer product and how information reported by manufacturers is made available to the public;

(F) propose a method for displaying information or filtering or refining search results so that information maintained on the reporting system can be accessed or identified in serviceable or functional manner for all users of the system, including governmental agencies or departments, commercial and industrial businesses reporting to the system, nonprofit associations, and citizens; and

(G) estimate a time line for establishment of the reporting system.

(2) Recommend statutory amendments and regulatory revisions to existing State recordkeeping and reporting requirements for chemicals, hazardous materials, and hazardous wastes in order to facilitate assessment of risks to human health and the environment posed by the use of chemicals in the State. The recommendations shall include:

(A) the thresholds or amounts of chemicals used, manufactured, or distributed, and hazardous materials and hazardous wastes generated or managed, in the State that require recordkeeping and reporting;

(B) the persons or entities using, manufacturing, or distributing chemicals and generating or managing hazardous materials and hazardous wastes that are subject to recordkeeping and reporting requirements; and

(C) any changes required to streamline and modernize existing recordkeeping and reporting requirements to facilitate compliance by business and other entities.

(3) Recommend amendments to the requirements for Toxic Use Reduction and Hazardous Waste Reduction under 10 V.S.A. chapter 159, subchapter 2 that shall include:

(A) The list of chemicals or materials subject to the reporting and planning requirements. The list of chemicals or materials shall include and be in addition to the chemicals or substances listed under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986 and 18 V.S.A. § 1773 (chemicals of high concern to children).

(B) The thresholds or amounts of chemicals used or hazardous waste generated by a person that require reporting and planning.

(C) The information to be reported, including:

(i) the quantity of hazardous waste generated and the quantity of hazardous waste managed during a year;

(ii) the quantity of toxic substances, or raw material resulting in hazardous waste, used during a year;

(iii) an assessment of the effect of each hazardous waste reduction measure and toxics use reduction measure implemented; and

(iv) a description of factors during a year that have affected toxics use, hazardous waste generation, releases into the environment, and onsite and offsite hazardous waste management.

(D) The persons or entities using chemicals or generating hazardous waste that are subject to reporting and planning;

(E) Proposed revisions to the toxic chemical or hazardous waste reduction planning requirements, including conditions or criteria that qualify a person to complete a plan.

(F) Any changes to streamline and modernize the program to improve its effectiveness.

(4) Draft legislation to implement the Committee's recommendations under subdivisions (1), (2), and (3) of this section.

* * * Testing Groundwater * * *

Sec. 3. 10 V.S.A. § 1982 is added to read:

§ 1982. TESTING OF GROUNDWATER SOURCES

(a) Definition. As used in this section, “groundwater source” means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Testing prior to new use. Prior to use of a new groundwater source as a potable water supply, where testing is not otherwise required, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (d) of this section.

(c) Parameters of testing. A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) Submission of test results. Results of the testing required under subsection (b) shall be submitted, on a form provided by the Agency, to the Agency, and the Department of Health as required by rules adopted under subsection (e) of this section.

(e) Rulemaking. The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsections (b) and (c) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to conduct the test;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

Sec. 4. AGENCY OF NATURAL RESOURCES; GROUNDWATER SOURCE TESTING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2017. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2018.

Sec. 5. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The ~~commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the certificate; or

(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

* * *

(f) A laboratory certified to conduct testing of groundwater sources or water supplies from under 10 V.S.A. § 1982 or other statute for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), shall submit the results of groundwater analyses to the ~~department of health~~ Department of Health and the ~~agency of natural resources~~ Agency of Natural Resources in a format required by the ~~department of health~~ Department of Health.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (Interagency Committee on Chemical Management), 2 (report on toxic use reduction and reporting), and 4 (groundwater testing rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018, except that 10 V.S.A. § 1982(f) in Sec. 3 shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

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

Thereupon, pending the question, Shall the bill be read a third time?, Senator Branagan moved that the bill be committed to Committee on Health and Welfare, which was disagreed to.

Thereupon, the third reading of the bill was ordered.

Bill Passed

S. 127.

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

An act relating to miscellaneous changes to laws related to vehicles and vessels.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 25.

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

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land.

Adjournment

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

FRIDAY, MARCH 31, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Rabbi Tobie Weisman of Montpelier.

Message from the House No. 38

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 85. An act relating to captive insurance companies.

H. 216. An act relating to establishment of the Vermont Lifeline program.

H. 386. An act relating to home health agency provider taxes.

H. 424. An act relating to the Commission on Act 250: the Next 50 Years.

H. 508. An act relating to building resilience for individuals experiencing adverse childhood experiences.

H. 509. An act relating to calculating statewide education tax rates.

H. 510. An act relating to the cost share for State agricultural water quality financial assistance grants.

H. 511. An act relating to highway safety.

H. 512. An act relating to the procedure for conducting recounts.

H. 513. An act relating to making miscellaneous changes to education law.

H. 514. An act relating to elections corrections.

H. 515. An act relating to Executive Branch and Judiciary fees.

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

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.

Nina Belliveau of Brattleboro
Aiden Casey of Worcester
Ayla Fidel of Waitsfield
Dylan Haskins of Morrisville
Theresa Hoar of Northfield
Jordan Holmes of Hinesburg
Jaden Jagemann of Barre
Emma Steever of Wallingford
Cassandra Summarsell of Woodstock
Sylvan Zeitlyn of Burlington

Joint Resolution Referred**J.R.S. 28.**

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

By Senators Lyons, Cummings, Ingram, and Pollina,

J.R.S. 28. Joint resolution demanding that Congress abolish daylight saving time.

Whereas, the natural rhythm of daily life is set in accordance with the rising and setting of the sun, and

Whereas, before the 20th century, time in the United States was at the discretion of local communities, but they usually devised a time framework that was solar based, and

Whereas, as the nation entered the second decade of the 20th century, interstate passenger and freight rail service faced a plethora of local time changes as the trains steamed across the countryside, and

Whereas, to bring sanity to their daily operations, in 1912, the railroads established time zones for their operational purposes, and

Whereas, the Standard Time Act of 1918, 15 U.S.C. § 260, mandated time zones and unfortunately also included daylight saving time, but recognizing the error of its ways, Congress wisely repealed this second element of the law in 1919, and

Whereas, year-round daylight saving time was introduced in the War Time Act of 1942, 56 Stat. 9, and then promptly repealed late in 1945, and

Whereas, Congress, having not learned from past experience, enacted seasonal daylight saving time in 1966 with the Uniform Time Act, 15 U.S.C. § 260a, for a time-span lasting from the last Sunday in April to the last Sunday in October, extended it in 1986 to start on the first Sunday in April, and in 2007 this ill-advised practice was illogically lengthened to begin on the second Sunday in March and end on the first Sunday in November, and

Whereas, by extending daylight saving time to start before the arrival of the vernal equinox and end after the autumnal equinox, Congress made a colossal mistake, and

Whereas, farmers are forced to change their routines as dairy cows are oblivious to a change in the artificial human clock, and

Whereas, the delayed sunrise in March forces more children to travel to school in the dark, and

Whereas, the supposed energy savings that would result in the 2007 extension have not proven accurate, and

Whereas, daylight saving time is an unnecessary intrusion on nature's clock, and its drawbacks far outweigh any alleged advantages, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly demands that Congress abolish daylight saving time and return the nation's clocks to the auspices of the world's premiere timekeeper, the sun, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Economic Development, Housing and General Affairs.

Bills Introduced

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

S. 144.

By Westman,

An act relating to approval of amendments to the charter of the Town of Stowe.

To the Committee on Government Operations.

S. 145.

By Senator Campion,

An act relating to remedies for unfair insurance trade practices.

To the Committee on Finance.

Bills Referred

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

H. 85.

An act relating to captive insurance companies.

To the Committee on Finance.

H. 216.

An act relating to Lifeline benefits.

To the Committee on Finance.

H. 386.

An act relating to home health agency provider taxes.

To the Committee on Rules.

H. 424.

An act relating to the Commission on Act 250: the Next 50 Years.

To the Committee on Natural Resources and Energy.

H. 508.

An act relating to building resilience for individuals experiencing adverse childhood experiences.

To the Committee on Health and Welfare.

H. 509.

An act relating to calculating statewide education tax rates.

To the Committee on Finance.

H. 510.

An act relating to the cost share for State agricultural water quality financial assistance grants.

To the Committee on Natural Resources and Energy.

H. 511.

An act relating to highway safety.

To the Committee on Judiciary.

H. 512.

An act relating to the procedure for conducting recounts.

To the Committee on Government Operations.

H. 513.

An act relating to making miscellaneous changes to education law.

To the Committee on Education.

H. 514.

An act relating to elections corrections.

To the Committee on Rules.

H. 515.

An act relating to Executive Branch and Judiciary fees.

To the Committee on Finance.

**Consideration Resumed; Bill Amended; Third Reading Ordered; Rules
Suspended; Bill Passed**

S. 136.

Consideration was resumed on Senate bill entitled:

An act relating to miscellaneous consumer protection provisions.

Thereupon, pending the question, Shall the bill be read the third time? Senators Sirotkin, Balint, Baruth, Clarkson and Mullin moved to amend as follows:

First: In Sec. 1, in 9 V.S.A. § 4001, in subdivision (9), by striking out “\$5,000.00” and inserting in lieu thereof \$10,000.00

Second: In Sec. 1, in 9 V.S.A. § 4010, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Emergency work. If an owner requests a contractor to perform work in an emergency, the parties shall execute a residential home improvement contract not less than five days after the date on which the contractor completes the work.

Third: In Sec. 1, in 9 V.S.A. § 4010, by inserting a subsection (e) to read:

(e) Sample contract. The Attorney General shall adopt and make available on its website a sample residential home improvement contract, which a contractor may or may not use, that is consistent with the provisions of this section.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator White moved to amend the bill by striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Which was disagreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Rodgers moved to amend the bill in Sec. 1, in 9 V.S.A. § 4010, by adding a new subsection to be lettered subsection (f) to read as follows:

(f) Notwithstanding any provision of this section to the contrary, an owner and contractor may waive the requirements of this section in writing.

Which was disagreed to on a roll call, Yeas 12, Nays 16.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Branagan, Collamore, Degree, Kitchel, Mazza, Nitka, Pearson, Rodgers, Starr, Westman, White.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons, MacDonald, McCormack, Mullin, Sears, Sirotkin.

Those Senators absent and not voting were: Flory, Pollina.

Thereupon, pending the question, Shall the bill be read third time?, Senators Nitka and Kitchel moved to amend the bill as follows:

First: In Sec. 1, 9 V.S.A. § 4001(9) by striking out the following: “where the estimated value of the work and materials exceeds \$5,000.00”

Second: In Sec. 1, 9 V.S.A. § 4010, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) When written contract required; waiver in emergency.

(1) If the estimated or actual value of work and materials benefitting residential real estate is less than \$15,000.00, a written residential home improvement contract is not required by this section.

(2) If the estimated or actual value of work and materials benefitting residential real estate is more than \$15,000.00, a written residential home improvement contract that complies with the provisions of this section is required.

(3) If an owner requests a contractor to provide labor in an emergency, the parties may waive the requirements of this chapter in a writing within a reasonable time, not to exceed five days, of the date on which the contractor completes the work.

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

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative.

Thereupon, on motion of Senator Balint, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

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

Third Reading Ordered

H. 4.

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

An act relating to calculating time periods in court proceedings.

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.

***During debate of the measure, Senator Benning addressed the Chair in proposing his report to the bill, and on motion of Senator Degree, his remarks were ordered enter in the Journal, and are as follows:

“Mr. President:

I rise to report House bill #4

Which just last week arrived on our door.

A problem arose, with lawyers perplexed

Some statutes with dates had days all a mess.

So we’ve answered the question of how do we say

In really clear terms a day means a day.

We align several statutes with rules of law true
It's a lot of drudge work, so much we could do.
The bill it might scare you with pages forty-one
But in just a short moment my speech will be done.
We change upper and lower case forty-seven times
To make language consistent and looking sublime.
We add "business" before "days" to make short time quite clear
But if more than ten, it's calendar year.
Then ten we did change to the number 14
To avoid any weekends that fall in between.
We strike out "aforesaid" and send it to heaven
You'll find how we did that in the 17th Section.
On thirteen occasions we add "her or she"
Every place where connected to a "him or a he."
In Section 25 we eliminate a space
To make "non" and "frivolous" tightly embrace.
"Not earlier" goes away three times you will see
To become "not sooner," sounds corrector to me.
Now 72 hours is 3 business days
On two different pages we cut through that haze.
And the word "subdivision" in Section 61
Will now say "subsection," effective date July 1.
Leg Council Fitzpatrick gave us a report
And Emily Wetherell from our Supreme Court
Then followed Allen Keyes who chairs Civil Rules
And with Judge Grearson, we had all the tools.
So feeling quite confident we voted all five
We'll be technically correct if this bill stays alive.
Therefore Mr. President, your committee doth ask
That H.4 be supported, that completes my task."

Third Readings Ordered**H. 42.**

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

An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

Reported that the bill ought to pass in concurrence.

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

H. 379.

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

An act relating to providing an extension for the repeal of the Search and Rescue Council.

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.

Bill Passed**S. 103.**

Senate bill of the following title:

An act relating to the regulation of toxic substances and hazardous materials.

Was taken up.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 27, Nays 0.

Senator Bray 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Flory, Pollina, Starr.

Bill Amended; Bill Passed**S. 122.**

Senate bill entitled:

An act relating to increased flexibility for school district mergers.

Was taken up.

Thereupon, pending third reading of the bill, Senator Degree moved to amend the bill by striking out Sec. 10 in its entirety and inserting in lieu thereof the following:

Sec. 10. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;
MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

* * *

Which was agreed to.

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

Bills Passed

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

S. 130. An act relating to miscellaneous changes to education laws.

S. 131. An act relating to State's Attorneys and sheriffs.

S. 133. An act relating to examining mental health care and care coordination.

Bill Amended; Bill Passed**S. 135.**

Senate bill entitled:

An act relating to promoting economic development.

Was taken up.

Thereupon, pending third reading of the bill, Senators Balint, Baruth, Clarkson, Cummings, Mullin and Sirotkin move to amend the bill by striking out Secs. H.1–J.1 in their entirety and inserting in lieu thereof Secs. H.1–K.1 to read:

* * * Municipal Outreach; Sewerage and Water Service Connections * * *

Sec. H.1. AGENCY OF NATURAL RESOURCES; EDUCATION AND
OUTREACH; DELEGATION; SEWERAGE AND WATER
SERVICE CONNECTIONS

(a) The Secretary of Natural Resources, after consultation with the Vermont League of Cities and Towns, shall conduct outreach and education for municipalities regarding the ability of a municipality under 10 V.S.A. § 1976 to be delegated the authority to permit the connection of a municipal sewer or water service line to subdivided land, a building, or a campground.

(b) The education and outreach shall specify the conditions or requirements for delegation, how a municipality can seek delegation, and contact information or other resource to provide additional information regarding delegation. The education and outreach may include educational materials, workshops, or classes regarding the ability of a municipality to be delegated under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

(c) On or before January 15, 2018, the Secretary of Natural Resources shall submit a report to the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife and on Commerce and Economic Development summarizing the education and outreach conducted or planned by the Secretary under the requirements of this section and whether any municipality has sought delegation of sewer and water service connection permitting under 10 V.S.A. § 1976 since the effective date of this act.

* * * Municipal Land Use and Development; Affordable Housing * * *

Sec. H.2. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

(1) “Affordable housing” means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the~~

~~municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household's gross annual income.~~

Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

~~(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Act 250; Priority Housing Projects * * *

Sec. H.3. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) “Development” means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) ~~275 or more, in a municipality with a population of 15,000 or more; [Repealed.]~~

(bb) ~~150 or more, in a municipality with a population of 10,000 or more but less than 15,000; [Repealed.]~~

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000;

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000;

(ee) 25 or more, in a municipality with a population of less than 3,000; ~~and.~~

(ff) ~~notwithstanding~~ Notwithstanding subdivisions (aa)(cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

(D) The word “development” does not include:

* * *

(viii) The construction of a priority housing project in a municipality with a population of 10,000 or more. However, if the construction of the project involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

* * *

(27) “Mixed income housing” means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price which at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price which at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency;

(B) ~~Housing~~ housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of ~~no~~ not less than ~~20~~ 15 years.

(28) “Mixed use” means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. “Mixed use” does not include industrial use.

(29) “Affordable housing” means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association~~

~~fees is not more than 30 percent of the household's gross annual income. Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:~~

~~(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;~~

~~(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~

~~(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.~~

~~(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household's gross annual income. Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:~~

~~(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;~~

~~(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~

~~(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.~~

* * *

(35) "Priority housing project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

* * *

Sec. H.4. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A. ~~§ 2793~~ chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the basis of that designation.

(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below ~~the~~ any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

Sec. H.5. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF REVIEW

* * *

(f) This subsection concerns an application for a permit amendment to change the conditions of an existing permit or permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the permit or permit amendment or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party retained party status.

(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions proposed to be changed, the applicant shall file a permit application pursuant to this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

Sec. H.6. 30 V.S.A. § 55 is added to read:

§ 55. PRIORITY HOUSING PROJECTS; STRETCH CODE

A priority housing project as defined in 10 V.S.A. § 6001 shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

* * * ACCD; Publication of Median Household Income and Qualifying Costs for Affordable Housing * * *

Sec. H.7. 3 V.S.A. § 2472 is amended to read:

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

(a) The Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The Department shall:

* * *

(5) In conjunction with the Vermont Housing Finance Agency, annually publish data and information to enable the public to determine income levels and costs for owner-occupied and rental housing to qualify as affordable housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

(A) the median income for each Vermont county, as defined by the U.S. Department of Housing and Urban Development;

(B) the standard metropolitan statistical area median income for each municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; and

(C) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Downtown Tax Credits * * *

Sec. H.8. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~\$2,200,000.00~~ \$2,400,000.00;

* * *

* * * Tax Credit for Affordable Housing; Captive Insurance Companies * * *

Sec. H.9. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

* * *

(5) “Credit certificate” means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer’s individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

* * *

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer’s individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer’s credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

* * *

* * * Vermont State Housing Authority; Powers * * *

Sec. H.10. 24 V.S.A. § 4005 is amended to read:

§ 4005. VERMONT STATE HOUSING AUTHORITY; ESTABLISHMENT,
MEMBERS, POWERS

* * *

(e) Notwithstanding any provision of law, no person, ~~domestic or foreign,~~ shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

- (1) ~~a subcontractor of the State Authority; or~~
- (2) a State public body authorized by law to administer such allocations;
- (3) a person authorized to administer such allocations pursuant to an agreement with the State Authority; or
- (4) an organization, of which the State Authority is a promoter, member, associate, owner, or manager, that is authorized by a federal agency to administer such allocations in this State.

(f) In addition to the powers granted by this chapter, the State Authority shall have all the powers necessary or convenient for the administration of federal monies pursuant to subsection (e) of this section, including the power:

- (1) to enter into one or more agreements for the administration of federal monies;
- (2) to be a promoter, partner, member, associate, owner, or manager of any partnership, limited liability company, joint venture, association, trust, or other organization;
- (3) to conduct its activities, locate offices, and exercise the powers granted by this title within or outside this State;
- (4) to carry on a business in the furtherance of its purposes; and
- (5) to do all things necessary or convenient, consistent with law, to further the activities and affairs of the Authority.

* * * Repeal of Sunset on Sales and Use Tax Exemption;

Airplanes and Airplane Parts * * *

Sec. I.1. REPEALS

The following are repealed:

(1) 2007 Acts and Resolve No. 81, Secs. 7a (amendment to sales tax exemption for aircraft parts) and 7b (effective date).

(2) 2008 Acts and Resolve No. 190, Sec. 43 (effective date).

Sec. J.1. 24 V.S.A. chapter 53, subchapter 5 is amended to read:

Subchapter 5. Tax Increment Financing

* * *

§ 1892. CREATION OF DISTRICT

* * *

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district, ~~and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter:~~

- (1) the City of Burlington, Downtown;
- (2) the City of Burlington, Waterfront;
- (3) the Town of Milton, North and South;
- (4) the City of Newport;
- (5) the City of Winooski;
- (6) the Town of Colchester;
- (7) the Town of Hartford;
- (8) the City of St. Albans;
- (9) the City of Barre; ~~and~~
- (10) the Town of Milton, Town Core; and
- (11) the City of South Burlington, New Town Center.

* * *

§ 1894. POWER AND LIFE OF DISTRICT

* * *

(c) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, not less than an equal share plus five percent of the municipal tax increment pursuant to subsection (f) of this section shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

* * *

(f) Equal share required. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), no more than 75 percent of the State property tax increment and no less than an equal percent, plus five percent, of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

* * *

Sec. J.2. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

* * *

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply up to 75 percent of the State education property tax increment, and not less than an equal share plus five percent of the municipal tax increment, as defined in 24 V.S.A. § 1896, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt incurred for all of the districts in the municipality.

(2) The Council shall not approve more than two districts in a single county, and not more than an additional 14 districts in the State, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the 14-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the 14-district limit.

(3)(A) A municipality shall immediately notify the Council if it resolves not to incur debt for an approved district within five years of approval or a five-year extension period as required in 24 V.S.A. § 1894.

(B) Upon receiving notification pursuant to subdivision (3)(A) of this subsection, the Council shall terminate the district and may approve a new district, subject to the provisions of this section and 24 V.S.A. chapter 53, subchapter 5.

(4) The Council shall not approve any additional districts on or after July 1, 2024.

* * *

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

(1) Review each application to determine that the ~~new real property proposed infrastructure improvements and the proposed~~ development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. The review shall take into account:

(A) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(B) how the proposed development components and size would differ, if at all, without education property tax increment financing, including, if applicable to the development, the number of units of affordable housing, as defined in 24 V.S.A. § 4303; and

(C) the amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the education fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.

(2) Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro

forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont Economic Progress Council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements.

(3) Location criteria. Determine that each application meets one of the following criteria:

(A) The development or redevelopment is compact, high density, and located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, ~~or~~ new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the ~~area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values~~ municipality in which the area is located has at least one of the following:

(i) a median family income that is 80 percent or less of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data is available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is 80 percent or less than the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least ~~three~~ two of the following ~~five~~ four criteria:

~~(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.~~

~~(B) The development includes new or rehabilitated affordable housing that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. "Affordable" has the same meaning as in 10 V.S.A. § 6001(29), as defined in 24 V.S.A. § 4303.~~

~~(C)~~(B) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

~~(D)~~(C) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

~~(E)~~(D) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

* * *

Sec. J.3. IMPLEMENTATION

Secs. J.1 and J.2 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

Sec. K.1. EFFECTIVE DATES

(a) This section and Secs. J.1–J.3 (tax increment financing districts) shall take effect on passage.

(b) The remaining sections of this act shall take effect on July 1, 2017.

Which was agreed to on a roll call, Yeas 24, Nays 3.

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, Benning, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Ingram, Kitchel, Lyons, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, White.

Those Senators who voted in the negative were: Branagan, MacDonald, Westman.

Those Senators absent and not voting were: Flory, Pollina, Starr.

Thereupon, pending the question, Shall the bill be read third time?, Senator Bray moved to amend the bill in Sec. E.1, in 10 V.S.A. § 540(a)(2)(D), following the word “description” by inserting the following: including the gender of the trainees

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 26, Nays 1.

Senator MacDonald 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, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pearson, Rodgers, Sears, Sirotkin, White.

The Senator who voted in the negative was: Westman.

Those Senators absent and not voting were: Flory, Pollina, Starr.

Message from the House No. 39

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H. 111. An act relating to vital records.

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. 89. House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I girls' ice hockey championship team.

H.C.R. 90. House concurrent resolution congratulating the 2017 Bellows Free Academy-St. Albans Bobwhites Division I boys' ice hockey championship team.

H.C.R. 91. House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I boys' basketball championship team.

H.C.R. 92. House concurrent resolution congratulating the 2017 Lyndon Institute Vikings Division II championship girls' basketball team.

H.C.R. 93. House concurrent resolution designating April 26, 2017 as Vermont Lions Day.

H.C.R. 94. House concurrent resolution designating March 29, 2017 as Turkish Cultural Day at the State House.

H.C.R. 95. House concurrent resolution commending U.S. Armed Forces veterans honored at the Burlington Elks Lodge on Veterans Day 2016.

H.C.R. 96. House concurrent resolution congratulating the 2017 Rutland High School National and State championship cheerleading team.

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. 11. Senate concurrent resolution in memory of Springfield civic leader and consummate volunteer Jean Muriel (Follett) Willard.

And has adopted the same in concurrence.

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 McCormack, Clarkson and Nitka,

By Reps. Bock and others,

S.C.R. 11.

Senate concurrent resolution in memory of Springfield civic leader and consummate volunteer Jean Muriel (Follett) Willard.

House Concurrent Resolutions

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

By Reps. Fagan and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 89.

House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I girls' ice hockey championship team.

By Reps. Parent and others,

By Senators Degree and Branagan,

H.C.R. 90.

House concurrent resolution congratulating the 2017 Bellows Free Academy-St. Albans Bobwhites Division I boys' ice hockey championship team.

By Reps. Fagan and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 91.

House concurrent resolution congratulating the 2017 Rutland High School Raiders Division I boys' basketball championship team.

By Reps. Lawrence and Feltus,

By Senators Benning and Kitchel,

H.C.R. 92.

House concurrent resolution congratulating the 2017 Lyndon Institute Vikings Division II championship girls' basketball team.

By Reps. Walz and others,

H.C.R. 93.

House concurrent resolution designating April 26, 2017 as Vermont Lions Day.