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**Sec. 6. APPLICATION**

This act shall apply to all contracts for Internet service entered into or renewed on or after July 1, 2018.

**Sec. 7. EFFECTIVE DATE**

This act shall take effect on passage.

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

An act relating to protecting consumers and promoting an open Internet in Vermont.

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 Brock moved to amend the recommendation of the Committee on Finance in Sec. 1, 3 V.S.A. § 348(b), subdivision (1) before the colon by inserting the words: in Vermont

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Finance, as amended?, Senator Flory moved that action on the bill be postponed until, Friday, February 2, 2018, which was disagreed to.

Thereupon, the recurring question, Shall the bill be amended as recommended by the Committee on Finance, 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, February 1, 2018.

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**THURSDAY, FEBRUARY 1, 2018**

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Action Reconsidered; Bill Amended; Bill Passed****S. 29.**

Assuring the Chair that he voted with the majority whereby the

recommendation of amendment of Senators Benning and Flory was amended by recommendation of amendment in the *Second* instance and the passage of the bill by the Senate, Senator Sears moved that the Senate reconsider its action on Senate bill entitled:

An act relating to decedents' estates.

Which was agreed to.

Thereupon, upon reconsideration of the bill, the question, Shall the recommendation of amendment of Senators Benning and Flory be amended as recommended by Senator Benning in the *Second* recommendation of amendment?, was disagreed to.

Thereupon, the question, Shall the bill be amended as recommended by Senators Benning and Flory? was agreed to.

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

#### **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:

Kimel, David of St. Albans - Director of the Vermont Municipal Bond Bank - from February 1, 2018, to January 31, 2020.

To the Committee on Finance.

Winters, Deborah of Swanton - Director of the Vermont Municipal Bond Bank - from February 1, 2018, to January 31, 2020.

To the Committee on Finance.

Wobby, Richard J. of Northfield - Member of the Liquor Control Board - from February 1, 2018, to January 31, 2023.

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

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

##### **J.R.S. 44.**

Joint Senate resolution entitled:

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

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

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**Message from the House No. 10**

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. 549.** An act relating to the Petroleum Cleanup Fund.

**H. 566.** An act relating to animal cruelty.

**H. 611.** An act relating to compensation for victims of crime.

**H. 694.** An act relating to captive insurance companies.

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

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

**S. 19.** An act relating to allowing silver-level nonqualified health benefit plans to be offered outside the Vermont Health Benefit Exchange.

And has passed the same in concurrence.

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

**J.R.S. 43.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

**Adjournment**

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

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**FRIDAY, FEBRUARY 2, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Bill Referred to Committee on Appropriations****S. 280.**

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 Child Poverty Advisory Council.

**Joint Resolution Placed on Calendar**

**J.R.S. 45.**

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

By Senator Ashe,

**J.R.S. 45.** Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2018.

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

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

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

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 15, 2018, shall be governed by the following procedure:

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

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

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

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

**Bills Referred**

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

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**H. 549.**

An act relating to the Petroleum Cleanup Fund.

To the Committee on Natural Resources and Energy.

**H. 566.**

An act relating to animal cruelty.

To the Committee on Judiciary.

**H. 611.**

An act relating to compensation for victims of crime.

To the Committee on Judiciary.

**H. 694.**

An act relating to captive insurance companies.

To the Committee on Finance.

**Bill Amended; Third Reading Ordered****S. 179.**

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

An act relating to community justice centers.

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

Sec. 1. 24 V.S.A. § 1964 is amended to read:

§ 1964. STRUCTURE OF THE COMMUNITY JUSTICE BOARDS;  
CONFIDENTIALITY OF CERTAIN RESTORATIVE JUSTICE  
MEETINGS

(a) Each community justice center:

(1) shall have an advisory board or board of directors comprising at least 51 percent citizen volunteers;

(2) may use a variety of community-based restorative justice approaches, including restorative justice panels, group conferencing, or mediation; and

(3) shall include programs to resolve disputes, address the needs of victims, address the wrongdoing of the offender, and promote the rehabilitation of youthful and adult offenders.

(b) Meetings of restorative justice panels and meetings to conduct

restorative justice group conferencing or mediation shall not be subject to the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2.

Sec. 2. 24 V.S.A. § 1965 is amended to read:

§ 1965. ~~DUTIES~~ SCOPE OF WORK OF THE COMMUNITY JUSTICE CENTERS

Each community justice center:

(1) shall work in close coordination with State agencies, law enforcement agencies, State's Attorneys, social service providers, victim advocacy organizations, and other community resources in administering the programs defined in subdivision 1964(a)(3) of this title;

(2) shall, in collaboration with State and local agencies, provide training on the approaches to restorative justice ~~process~~ to citizen volunteers to enable their participation in the local community justice center;

(3) may address ~~quality-of-life~~ quality-of-life issues in the community it serves by providing informational and educational resources to the community; ~~and~~

(4) may apply for funding from private foundations, other governmental sources, or other sources; and

(5) may receive cases referred by:

(A) local or State law enforcement prior to filing a charge;

(B) the State's Attorney prior to filing a charge; or

(C) the court as a part of a sentence or a term of a suspended sentence.

Sec. 3. 24 V.S.A. § 1966 is amended to read:

§ 1966. COMMUNITY JUSTICE CENTERS' RELATIONSHIP WITH STATE GOVERNMENT ENTITIES

(a) Support from the Agency of Human Services. The Agency of Human Services shall provide to the community justice centers the information, analysis, and technical support that the community justice centers, in collaboration with the Agency of Human Services, determine are necessary to further ~~their~~ the Agency's policy of restorative justice.

(b) Funding from the Agency of Human Services. The Agency of Human Services may provide funding and authorize community justice centers to participate in the implementation of State restorative programs related to juvenile ~~and~~, criminal, ~~and~~ civil offenses.

(c) Access to information. Community justice center employees and volunteers participating in State-funded programs shall have access to

information, analysis, and technical support as necessary to carry out their duties within the program in accordance with State and federal confidentiality statutes and policies. Victim information that is not part of the public record shall not be released without the victim's consent.

(d) Liability.

(1) For the purposes of defining liability, community justice center volunteers participating in programs funded by the Agency of Human Services pursuant to subsection (b) of this section shall be considered volunteers of ~~that agency~~ the Agency.

(2) In all other cases, the State ~~and the~~ municipality, or any other entity operating a State-funded community justice center shall each be liable for the acts and omissions of employees operating within the scope of their employment.

Sec. 4. 28 V.S.A. § 910 is amended to read:

§ 910. RESTORATIVE JUSTICE PROGRAM

This chapter establishes a program of restorative justice for use with offenders required to participate in such a program as a condition of a sentence of probation ~~or as ordered for civil contempt of a child support order under 15 V.S.A. § 603~~. The ~~Program~~ program shall be carried out by community ~~reparative boards~~ justice centers under the supervision of the Commissioner, as provided by this chapter.

Sec. 5. 28 V.S.A. § 910a is amended to read:

§ 910a. ~~REPARATIVE BOARDS~~ RESTORATIVE JUSTICE PANELS;  
REENTRY; FUNCTIONS

(a) ~~The Commissioner~~ Each community justice center shall establish ~~reparative boards~~ restorative justice panels and appoint to them members of the community with the advice and recommendation of local nonprofit organizations or municipal entities ~~in the localities concerned~~. ~~The Commissioner shall appoint each board member to a term of one to three years, may reappoint a member to consecutive terms, and may remove a member for good cause.~~ The local probation and parole office and the volunteer services coordinator together shall screen the volunteer prior to the volunteer's commencing service on a restorative justice panel.

(b) ~~Each board shall elect its chair from its membership. A chair may serve for no more than one year uninterrupted. All meetings of a board shall comply with open meeting law requirements of 1 V.S.A. chapter 5, subchapter 2, consistent with probationer confidentiality requirements of this title, and as may be imposed by the court.~~ Each community justice center shall establish a

reentry program to address the local needs of the individual probation and parole office. The programs may include navigation services, circles of support and accountability (CoSAs), or other community-based resource and referral services. The community justice center shall appoint to the programs members of the community with the advice and recommendation of local nonprofit organizations or municipal entities. The local probation and parole office and the volunteer services coordinator together shall screen volunteers prior to the volunteer commencing service in the program.

(c) ~~Each board shall adopt bylaws approved by the Commissioner. Such bylaws may authorize each board to establish panels to conduct reparative board activities. [Repealed.]~~

(d) ~~Each board~~ restorative justice panel or reentry CoSA shall conduct its meetings in a manner that promotes safe interactions among an offender, victim or victims, and community members, and shall:

(1) ~~In collaboration with the Department~~ community organizations, municipalities, the courts, and other entities of the criminal justice system, implement the Restorative Justice Program restorative justice program of seeking to obtain offender accountability, repair harm and compensate a victim or victims and the community, increase an offender's awareness of the effect of his or her behavior on a victim or victims and the community, and identify ways to help ~~an offender comply~~ offenders' compliance with the law.

(2) ~~Educate the public about, and promote community support for, the Restorative Justice Program~~ restorative justice program.

(e) ~~Each board~~ community justice center shall have access to the central file of any offender required to participate with that ~~board in the Restorative Justice Program~~ panel or reentry program.

(f) ~~When engaged in board~~ restorative justice activities, a ~~board panel or CoSA~~ member shall be considered a volunteer with regard to any grievance or other matter governed by 3 V.S.A. § 1101.

#### Sec. 6. 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 Passed**

**S. 289.**

Senate bill entitled:

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An act relating to the Vermont Broadband Internet Privacy Act.

Was taken up.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the bill by striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 3 V.S.A. § 349 is added to read:

§ 349. STATE CONTRACTING; INTERNET SERVICE

(a) Certification. The Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State procurement contracts for broadband Internet access service, as defined in subdivision 348(d)(3) of this title, include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in section 348 of this title.

(b) Waiver. Notwithstanding the certification requirement in subsection (a) of this section, the Secretary may waive such requirement if he or she determines that a waiver is the sole option available to mitigate an imminent threat to the continuity of critical government operations, that the waiver is in the best interests of the State, and that the waiver is first approved by the Emergency Board. A contract entered into pursuant to a waiver shall not exceed the minimum duration necessary to mitigate an imminent threat to the continuity of critical government operations, and shall be rebid as soon as reasonably possible.

(c) Intent. It is the intent of the General Assembly that the Secretary will not seek a waiver under subsection (b) of this section until after he or she has made all reasonable efforts to enter into a contract consistent with the terms and conditions specified in subsection (a) of this section and has determined that, without a waiver, critical functions of government will be at risk.

(d) Publication. The Secretary shall disclose on a publicly available website the names of all Internet service providers awarded government contracts under this section and whether the provider is in compliance with the consumer protection and net neutrality standards in section 348 of this title. If a provider is granted a waiver under subsection (b) of this section, the Secretary shall provide the reasons for granting the waiver.

Which was disagreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 23, Nays 5.

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

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**Roll Call**

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

**Those Senators who voted in the negative were:** \*Benning, Branagan, \*Brock, Collamore, Soucy.

**Those Senators absent and not voting were:** Baruth, Flory.

\*Senator Benning explained his vote as follows:

“I am in favor of the concept of preserving net neutrality, but I cannot support a bill that I feel has not been properly vetted by our committee of jurisdiction. We should not be passing any bill without fully understanding potential consequences.”

\*Senator Brock explained his vote as follows:

“I strongly support the principle of net neutrality. My “No” vote is based on the absence of any effective means to mitigate an imminent threat to the continuity of critical government operations, especially when certain operations are dependent upon a single provider. I believe it would be irresponsible to pass a bill simply to ‘make a statement’.”

**Appointments Confirmed**

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

The nomination of

George, Dean of Middlebury - Chair, Parole Board - July 18, 2017, to February 29, 2020.

Was confirmed by the Senate.

The nomination of

Boyde, Glenn O. of Colchester - Member, State Police Advisory Commission - September 6, 2017, to June 30, 2021.

Was confirmed by the Senate.

The nomination of

DeMag, Alison of South Burlington - Member, State Police Advisory Commission - August 5, 2017, to June 30, 2020.

Was confirmed by the Senate.

The nomination of

Jefferson, Shirley of South Royalton - Member, State Police Advisory Commission - September 6, 2017, to June 30, 2021.

Was confirmed by the Senate.

The nomination of

McKenzie, Mary Alice of Burlington - Member, State Police Advisory Commission - August 5, 2017, to June 30, 2020.

Was confirmed by the Senate.

The nomination of

Pallito, Patti of Richmond - Member, State Police Advisory Commission - September 6, 2017, to June 30, 2021.

Was confirmed by the Senate.

**Appointment of Senate Members of the Legislative Committee on  
Administrative Rules**

Pursuant to the provisions of 3 V.S.A. §817, the President, on behalf of the Committee on Committees, announced the appointment of the following Senators to serve on the Legislative Committee on Administrative Rules for terms of two years ending February 1, 2019:

Senator MacDonald  
[Senator Sirotkin]  
Senator Benning  
Senator Lyons  
*Senator Bray*

**Message from the House No. 11**

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. 132.** An act relating to limiting landowner liability for posting the dangers of swimming holes.

**H. 271.** An act relating to administration of the Supplemental Nutrition Assistance Program.

**H. 410.** An act relating to adding products to Vermont's energy efficiency standards for appliances and equipment.

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. 233.** House concurrent resolution recognizing January 2018 as National Mentoring Month in Vermont.

**H.C.R. 234.** House concurrent resolution designating Wednesday, January 31, 2018 as Mental Health Advocacy Day at the State House.

In the adoption 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. 44.** Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

And has adopted the same in concurrence.

#### **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 All Members of the House,

#### **H.C.R. 233.**

House concurrent resolution recognizing January 2018 as National Mentoring Month in Vermont.

By the House Committee on Health Care,

#### **H.C.R. 234.**

House concurrent resolution designating Wednesday, January 31, 2018 as Mental Health Advocacy Day at the State House.

#### **Adjournment**

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, February 6, 2018, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 43.

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### **TUESDAY, FEBRUARY 6, 2018**

The Senate was called to order by the President.

#### **Devotional Exercises**

Devotional exercises were conducted by the Pastor Bruce Wilkinson of Williston.

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**Pledge of Allegiance**

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

**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.

**Joint Senate Resolution Adopted on the Part of the Senate****J.R.S. 46.**

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

By Senator Ashe,

**J.R.S. 46.** Joint resolution relating to weekend adjournment.

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

That when the two Houses adjourn on Friday, February 9, 2018, it be to meet again no later than Tuesday, February 13, 2018.

**Bills Referred**

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

**H. 132.**

An act relating to limiting landowner liability for posting the dangers of swimming holes.

To the Committee on Judiciary.

**H. 271.**

An act relating to administration of the Supplemental Nutrition Assistance Program.

To the Committee on Health and Welfare.

**H. 410.**

An act relating to adding products to Vermont's energy efficiency standards for appliances and equipment.

To the Committee on Natural Resources and Energy.

**Bill Passed**

**S. 179.**

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

An act relating to community justice centers.

**Bill Amended; Third Reading Ordered**

**S. 182.**

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

An act relating to the investment authority of municipal trustees of public funds.

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

Sec. 1. 24 V.S.A. § 2432 is amended to read:

§ 2432. POWERS AND DUTIES; INVESTMENTS

(a)(1) The trustees shall apply ~~the estate income of such estate~~ to the purpose for which it is held, and deeds or contracts made by them shall be in the name of the town. ~~They~~

(2) The trustees may:

(A) lease, sell, or convey real estate so held, and invest the funds received therefrom; and

(B) ~~They may loan~~ lend estate money belonging to such estate, at annual or ~~semi-annual~~ semiannual interest, and as security for ~~such loans~~ each loan shall take deeds or mortgages of real estate in this State.

(b) The trustees may invest in:

(1) any security, including a revenue obligation, issued, insured, or guaranteed by the United States;

(2) ~~such~~ municipal bonds or other bonds that are rated at the time of the transaction by a nationally recognized statistical rating organization, as defined in 15 U.S.C. § 78c(a)(62) as may be amended, in one of its four highest categories;

(3) repurchase agreements or debt securities of any federally insured financial institution as defined in 8 V.S.A. § 11101(32);

(4) the shares of an investment company, or an investment trust, such as a mutual fund, closed-end fund, or a unit investment trust, ~~which that is~~

registered under the federal Investment Company Act of 1940, as amended, if ~~such~~ the mutual investment fund has been in operation for at least ~~ten~~ five years and has net assets of at least ~~\$500,000,000.00~~ \$100,000,000.00; or

(5) deposits in federally insured financial institutions as defined in 8 V.S.A. § 11101(32).

(c)(1) The trustees shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds ~~shall~~ have been invested, as well as the proceeds of ~~such~~ the investments.

(2) The trustees are encouraged to invest in financial institutions operating in the State and in investments within the State that will result in reinvestment in Vermont.

(3) The provisions of this section as to future investments shall not require the liquidation or disposition of securities legally acquired and held.

(4) If the municipality has adopted an investment policy, the trustees shall invest in accordance with the provisions of the municipal policy that do not conflict with this section.

(d) The trustees may delegate management and investment of funds under their charge to the extent that is prudent under the terms of the trust or endowment, and in accordance with the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. § 3415 (delegation of investment functions). Notwithstanding the limitations on investments set forth in subsection (b) of this section, an agent exercising a delegated management or investment function may invest the funds in any security or investment that is prudent under the Uniform Prudent Management of Institutional Funds Act.

Sec. 2. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

\* \* \*

(16) Include in its charter and bylaws adopted pursuant to section 4343 of this chapter the power to:

\* \* \*

(D) Enter into contracts with public and private entities, including the State of Vermont and the federal government to provide regional planning services and fulfill its duties pursuant to this section and section 4345a of this title.

(E) Invest funds held in reserve in any security or investment that is prudent under the Uniform Prudent Management of Institutional Funds Act. This subdivision (E) only shall apply to funds whose investment is not otherwise restricted by State or federal law; the terms of a grant, gift, or devise; or the terms of a contract or service agreement formed under this chapter.

\* \* \*

Sec. 3. 18 V.S.A. § 5384 is amended to read:

§ 5384. PAYMENT TO TREASURER; RECORD; INVESTMENT

(a) Unless otherwise directed by the donor, all monies received by a town for cemetery purposes shall be paid to the town treasurer, who shall give a receipt therefor, which shall be recorded in the office of the town clerk in a book kept for that purpose. In such book shall also be stated the amount received from each donor, the time when, and the specific purpose to which the use thereof is appropriated.

(b)(1) All monies so received by the town may be invested and reinvested by the treasurer, with the approval of the selectboard, by deposit in:

\* \* \*

(3) The treasurer, selectboard, or trustees of public funds may delegate management and investment of town cemetery funds to the extent that it is prudent under the terms of the trust or endowment, and in accordance with the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. § 3415 (delegation of investment functions). ~~An~~ Notwithstanding the limitations on investments set forth in this subsection, an agent exercising a delegated management or investment function may invest cemetery funds only in the securities enumerated in this section in any security or investment that is prudent under the Uniform Prudent Management of Institutional Funds Act.

(4) If the municipality has adopted an investment policy, the treasurer, selectboard, or trustees of public funds shall invest in accordance with the provisions of the municipal policy that do not conflict with this section.

Sec. 4. 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.

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**Joint Resolution Adopted on the Part of the Senate****J.R.S. 45.**

Joint Senate resolution entitled:

Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2018.

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

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 7, 2018.

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**WEDNESDAY, FEBRUARY 7, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Bill Referred to Committee on Appropriations****S. 40.**

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 increasing the minimum wage.

**Bill Passed****S. 182.**

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

An act relating to the investment authority of municipal trustees of public funds.

**Message from the House No. 12**

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. 562.** An act relating to parentage proceedings.

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

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, February 8, 2018.

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**THURSDAY, FEBRUARY 8, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

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

**Bill Referred to Committee on Finance**

**S. 175.**

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 the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

**Bill Referred to Committee on Appropriations**

**S. 234.**

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 juvenile justice.

**Bill Referred**

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

**H. 562.**

An act relating to parentage proceedings.

To the Committee on Judiciary.

**Appointment of Senate Members to the Joint Committee on Judicial Retention**

Pursuant to the provisions of 4 V.S.A. §607, the President, on behalf of the Committee on Committees, announced the appointment of the following

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Senators to serve on the Joint Committee on Judicial Retention during this biennium:

Senator Nitka  
Senator Flory  
Senator Benning  
[Senator Sirotkin]  
*Senator McCormack*

### **Adjournment**

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

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### **FRIDAY, FEBRUARY 9, 2018**

The Senate was called to order by the President.

### **Devotional Exercises**

Devotional exercises were conducted by the Reverend Daniel Jordan of Williston.

### **Message from the House No. 13**

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. 589.** An act relating to the reasonable and prudent parent standard.

**H. 603.** An act relating to human trafficking.

**H. 686.** An act relating to establishing the Child Fatality Review Team.

**H. 719.** An act relating to insurance companies and trust companies.

**H. 799.** An act relating to notice of sale of property subject to unpaid property taxes.

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

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

**J.R.S. 45.** Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2018.

**J.R.S. 46.** Joint resolution relating to weekend adjournment.  
And has adopted the same in concurrence.

### **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.

Joshua Amones of Orange  
Sabina Brochu of Williston  
Linnea Colwell of Montpelier  
Hazel Fay of St. Johnsbury  
Gabriel Groveman of Marshfield  
Eloise Harris of Moretown  
Iris Hsiang of Essex  
Alaena Hunt of Stowe  
Zee Totten of Burlington  
Andrew Trottier of Barre

### **Bills Referred**

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

#### **H. 589.**

An act relating to the reasonable and prudent parent standard.  
To the Committee on Judiciary.

#### **H. 603.**

An act relating to human trafficking.  
To the Committee on Judiciary.

#### **H. 686.**

An act relating to establishing the Child Fatality Review Team.  
To the Committee on Health and Welfare.

#### **H. 719.**

An act relating to insurance companies and trust companies.  
To the Committee on Finance.

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**H. 799.**

An act relating to notice of sale of property subject to unpaid property taxes.

To the Committee on Judiciary.

**Third Readings Ordered****H. 552.**

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

An act relating to approval of the adoption and codification of the charter of the Town of Ferrisburgh.

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. 568.**

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

An act relating to approval of amendments to the charter of the Town of Barre.

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. 573.**

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

An act relating to approval of an amendment to the charter of the City of Rutland.

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 Amended; Third Reading Ordered****S. 164.**

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

An act relating to establishing the Unused Prescription Drug Repository Program.

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

Sec. 1. UNUSED PRESCRIPTION DRUG REPOSITORY PROGRAM;  
FEASIBILITY ANALYSIS; REPORT

(a) The Agency of Human Services, in consultation with the Board of Pharmacy and the Board of Medical Practice and after making reasonable efforts to consult with representatives from Vermont pharmacies, hospitals, long-term care facilities, and other health care facilities, shall evaluate the feasibility of implementing an unused prescription drug repository program to accept and dispense donated prescription drugs and supplies to Vermont residents who meet specified eligibility standards. In determining the feasibility of an unused prescription drug repository program in Vermont, the Agency of Human Services shall consider:

(1) the potential benefits of the program to Vermont consumers, the health care system, the environment, and the State;

(2) the costs of implementing and administering the program, including through a contractual arrangement with a third party;

(3) one or more funding sources to support the program;

(4) the criteria under which pharmacies, hospitals, long-term care facilities, and other health care facilities would accept and dispense donated prescription drugs and supplies under the program, including:

(A) eligibility criteria for participation by pharmacies, hospitals, long-term care facilities, and other health care facilities;

(B) standards and procedures for accepting, safely storing, and dispensing donated prescription drugs and supplies; and

(C) standards and procedures for inspecting donated prescription drugs and supplies to determine if the prescription drugs are in their original sealed and tamper-evident packaging and to ensure that the prescription drugs and supplies are not adulterated, misbranded, or otherwise unsafe for dispensing;

(5) eligibility criteria for individuals to receive donated prescription drugs and supplies dispensed by pharmacies, hospitals, long-term care facilities, and other health care facilities under the program;

(6) the fees that a pharmacy, hospital, long-term care facility, or other health care facility would be permitted to charge for accepting, distributing, or dispensing donated prescription drugs and supplies under the program;

(7) the types of prescription drugs and supplies that the program would accept; and

(8) an outreach and education plan to inform the public of the availability of the program, including information regarding:

(A) who may be eligible to receive donated prescription drugs and supplies under the program;

(B) how to demonstrate eligibility; and

(C) whether individuals may donate prescription drugs and supplies and, if so, how to donate them.

(b) On or before December 1, 2018, the Agency of Human Services shall provide to the House Committee on Health Care and the Senate Committee on Health and Welfare its analysis and recommendations regarding the implementation of an unused prescription drug repository program in Vermont.

## 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.

### **Appointment Confirmed**

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

The nomination of

Roisman, Anthony Z. of Weathersfield - Chair, Public Utility Commission - June 12, 2017, to February 28, 2023.

Was confirmed by the Senate.

### **Appointments Confirmed**

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

The nominations of

Shouldice, Heather of Montpelier - Chair, Capitol Complex Commission - September 6, 2017, to October 31, 2019.

Hayward, Susan of North Middlesex - Member, Capitol Complex Commission - September 6, 2017, to October 31, 2019.

Were collectively confirmed by the Senate.

#### **Message from the House No. 14**

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. 585.** An act relating to management of records.

**H. 748.** An act relating to electronic filing of proposed plans, plan amendments, and bylaws under Title 24.

**H. 846.** An act relating to the application of general law to chartered municipalities.

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

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

**H.C.R. 235.** House concurrent resolution honoring William Olney for his accomplishments as a softball player and coach.

**H.C.R. 236.** House concurrent resolution honoring Thomas W. Huebner for his administrative career at the Rutland Regional Medical Center.

**H.C.R. 237.** House concurrent resolution designating Wednesday, February 7, 2018 as Farm to School Awareness Day at the State House.

**H.C.R. 238.** House concurrent resolution in memory of decorated U.S. Army combat veteran and distinguished Boy Scout leader Stanley Burnham.

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

#### **House Concurrent Resolutions**

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

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By Reps. Devereux and others,

By Senators Collamore, Nitka and Sears,

**H.C.R. 235.**

House concurrent resolution honoring William Olney for his accomplishments as a softball player and coach.

By Reps. Shaw and others,

By Senators Collamore, Flory and Soucy,

**H.C.R. 236.**

House concurrent resolution honoring Thomas W. Huebner for his administrative career at the Rutland Regional Medical Center.

By Reps. Partridge and others,

**H.C.R. 237.**

House concurrent resolution designating Wednesday, February 7, 2018 as Farm to School Awareness Day at the State House.

By Reps. Christie and others,

By Senators Clarkson, McCormack and Nitka,

**H.C.R. 238.**

House concurrent resolution in memory of decorated U.S. Army combat veteran and distinguished Boy Scout leader Stanley Burnham.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 13, 2018, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 46.

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**TUESDAY, FEBRUARY 13, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Joan Javier-Duval of Montpelier.

**Pledge of Allegiance**

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

**Bill Referred to Committee on Appropriations****S. 162.**

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 services for individuals who are Deaf, Hard of Hearing, or DeafBlind.

**Joint Senate Resolution Adopted on the Part of the Senate****J.R.S. 47.**

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

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

That when the two Houses adjourn on Friday, February 16, 2018, it be to meet again no later than Tuesday, February 20, 2018.

**Senate Resolution Placed on Calendar****S.R. 11.**

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

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

**S.R. 11.** Senate resolution relating to encouraging its members, in 2019, to initiate an amendment to the Vermont Constitution regarding equal rights.

*Whereas*, equal protection is a fundamental legal principle of Vermont's system of justice and a core societal value in the Green Mountain State, and

*Whereas*, the original Vermont Constitution of 1777, in Chapter I, Clause 1, placed restrictions on the continued holding of male slaves who were 21 years of age or older and female slaves once they reached 18 years of age, and

*Whereas*, Chapter I, Article 1 of the current Vermont Constitution declares "That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights," and Chapter I, Article 7 states "That

government is, or ought to be, instituted for the common benefit, protection, and security of the people,” and

*Whereas*, in 1999, the Vermont Supreme Court held that the Vermont Constitution’s Common Benefits Clause entitled couples of the same gender to the equivalent legal marital rights as those granted to couples of opposite genders, and

*Whereas*, in 2000, the General Assembly established civil unions, making Vermont the first State to recognize, in statute, the marital rights of same-sex couples, and

*Whereas*, nine years later, the General Assembly established marriage equality, and

*Whereas*, Vermont’s statutes prohibit discrimination against a broad list of categories in the offering of public accommodations, the sale and rental of housing, and employment, and

*Whereas*, the most recent FBI report of hate crime statistics, released on November 13, 2017, indicates the occurrence, during 2016, of a high number of hate crimes based on race, gender, ethnicity, religion, and other factors, and

*Whereas*, even with federal and State statutory prohibitions, there are indications that pay inequity based on gender and race continues; a proposed Vermont constitutional amendment would reassert the broad principle of equality in our State’s fundamental legal document, and

*Whereas*, despite Vermont’s strong statutory protections for members of groups subject to discrimination, a statute still lacks the authoritative impact and longevity of a constitutional provision, *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont encourages its members, in 2019, to initiate a Vermont constitutional amendment to read as follows: “Equal protection under the law shall not be denied or abridged because of race, sex, age, religion, creed, color, familial status, disability, sexual orientation, gender identity, or national origin.”

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

**Bills Referred**

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

**H. 585.**

An act relating to management of records.

To the Committee on Government Operations.

**H. 748.**

An act relating to State designations and electronic filing of proposed plans, plan amendments, and bylaws under Title 24.

To the Committee on Natural Resources and Energy.

**H. 846.**

An act relating to the application of general law to chartered municipalities.

To the Committee on Government Operations.

**Bill Passed****S. 164.**

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

An act relating to establishing the Unused Prescription Drug Repository Program.

**Bills Passed in Concurrence**

House bills of the following titles were severally read the third time and passed in concurrence:

**H. 552.** An act relating to approval of the adoption and codification of the charter of the Town of Ferrisburgh.

**H. 568.** An act relating to approval of amendments to the charter of the Town of Barre.

**H. 573.** An act relating to approval of an amendment to the charter of the City of Rutland.

**Bill Amended; Third Reading Ordered****S. 105.**

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

An act relating to consumer justice enforcement.

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

Sec. 1. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT  
ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM  
CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. An inconvenient venue is defined for State law claims as a place other than the state in which the individual resides or the contract was consummated and for federal law claims as a place other than the federal judicial district where the individual resides or the contract was consummated.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code. In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(c) Severability. If a court finds that a standard-form contract contains an illegal or unconscionable term, the court shall:

(1) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(2) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(d) Unfair and deceptive act and practice. It is an unfair and deceptive practice in violation of section 2453 of this title to include one of the presumptively unconscionable terms identified in subsection (a) of this section in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract. Notwithstanding any other provisions to the contrary, a party who prevails in a claim under this section shall be entitled to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(e) Each term found to be unconscionable pursuant to subsection (a) shall constitute a separate violation of this section.

(f) This section shall not apply to contracts to which one party is:

- (1) regulated by the Vermont Department of Financial Regulation; or
- (2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 2. 12 V.S.A. § 5652 is amended to read:

#### § 5652. VALIDITY OF ARBITRATION AGREEMENTS

(a) General rule. Unless otherwise provided in the agreement, a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties creates a duty to arbitrate, and is valid, enforceable and irrevocable, except:

- (1) upon such grounds as exist for the revocation of a contract; and
- (2) as provided in 9 V.S.A. chapter 152.

\* \* \*

#### Sec. 3. EFFECTIVE DATE

This act shall take effect on October 1, 2019.

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 on a roll call, Yeas 27, Nays 0.

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

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**Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Balint, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent and not voting were:** Ashe, Baruth, Flory.

**Bill Amended; Third Reading Ordered****S. 244.**

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

An act relating to repealing the guidelines for spousal maintenance awards.

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

**Sec. 1. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE**

(a) Creation. There is created the Spousal Support and Maintenance Task Force for the purpose of reviewing and making legislative recommendations to Vermont's laws concerning spousal support and maintenance.

(b) Membership. The Task Force shall be composed of the following nine members:

(1) a current member of the House of Representatives appointed by the Speaker of the House;

(2) a current member of the Senate appointed by the Committee on Committees;

(3) a Superior Court judge who has significant experience in the Family Division of Superior Court appointed by the Chief Justice;

(4) the Chief Superior Judge;

(5) two experienced family law attorneys appointed by the Family Law Section of the Vermont Bar Association;

(6) a representative of Vermont Alimony Reform who is domiciled in Vermont;

(7) the Executive Director of the Vermont Commission on Women or a designee who is domiciled in Vermont; and

(8) a member of the public, to be appointed by the Governor.

(c) Powers and duties. The Task Force shall make legislative recommendations to Vermont's spousal support and maintenance laws aimed to improve clarity, fairness, predictability, and consistency across the State in recognition of changes to the family structure in recent decades. The Task Force shall consider:

(1) the impact of the federal tax law passed by Congress in December 2017 on Vermont's spousal support laws;

(2) whether the term "permanent" in 15 V.S.A. § 752(a) should be changed to "long term";

(3) adding the impact of retirement of either the payor or the recipient as a factor in determining the duration or amount of a spousal support award;

(4) the effect of prenuptial agreements on spousal support awards;

(5) the effect of remarriage, cohabitation, or the death of a payor on spousal support judgments;

(6) how the standard of living affects spousal support awards;

(7) the appropriate balance between judicial discretion and consistency in awards; and

(8) whether judicial discretion or the spousal support guidelines are presumptive.

(d) Assistance. The legislative members of the Task Force shall have the assistance of Legislative Council. The Vermont Bar Association shall provide support with any surveys undertaken by the Task Force.

(e) Reports.

(1) On or before November 1, 2018, the Task Force shall submit an interim report on the impact of the federal tax law passed by Congress in December 2017 on Vermont's spousal support laws, including its effects on existing spousal support payors and recipients.

(2) On or before March 1, 2019, the Task Force shall submit a majority and, if necessary, a minority report to the Senate and House Committees on Judiciary with its recommendations with respect to subdivisions (c)(2)-(8) of this section.

(f) Meetings.

(1) The Superior Court judge appointed in accordance with subdivision (b)(3) of this section shall serve as the Chair.

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(2) A majority of the membership shall constitute a quorum.

(3) The Task Force shall cease to exist on March 1, 2019.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than ten regular meetings.

(2) Other members of the Task Force who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten regular meetings.

Sec. 2. 2017 Acts and Resolves No. 60, Sec. 3 is amended to read:

Sec. 3. REPEAL

On July 1, ~~2019~~ 2021, 15 V.S.A. § 752(b)(8) (spousal support and maintenance guidelines) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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, and third reading of the bill was ordered.

### **Message from the House No. 15**

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. 663.** An act relating to municipal land use regulation of accessory on-farm businesses.

**H. 690.** An act relating to explanation of advance directives and treating clinicians who may sign a DNR/COLST.

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

### **Adjournment**

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 14, 2018.

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## **WEDNESDAY, FEBRUARY 14, 2018**

The Senate was called to order by the President.

### **Devotional Exercises**

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

### **Bill Referred to Committee on Appropriations**

#### **S. 175.**

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 wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

### **Bills Referred**

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

#### **H. 663.**

An act relating to municipal land use regulation of accessory on-farm businesses.

To the Committee on Agriculture.

#### **H. 690.**

An act relating to explanation of advance directives and treating clinicians who may sign a DNR/COLST.

To the Committee on Health and Welfare.

### **Bills Passed**

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

**S. 105.** An act relating to consumer justice enforcement.

**S. 244.** An act relating to repealing the guidelines for spousal maintenance awards.

### **Third Reading Ordered**

#### **H. 694.**

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

An act relating to captive insurance companies.

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 Amended; Third Reading Ordered**

#### **S. 237.**

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

An act relating to providing representation to needy persons concerning immigration matters.

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. § 5203 is amended to read:

§ 5203. FEDERAL COURTS

This chapter applies only to representation in or with respect to the courts of this ~~state~~ State. It does not prohibit the ~~defender general~~ Defender General, the ~~deputy defender general~~ Deputy Defender General, or public defenders from representing a needy person in a federal court of the United States, if:

(1) ~~The~~ the matter arises out of or is related to an action pending or recently pending in a court of criminal jurisdiction of the ~~state~~ State; ~~or~~

(2) ~~Representation~~ representation is under a plan of the ~~United States~~ U.S. District Court as required by the Criminal Justice Act of 1964 (18 U.S.C. § 3006A); ~~or~~

(3) representation is in or with respect to a matter arising out of or relating to immigration status.

Sec. 2. 13 V.S.A. § 5241 is amended to read:

§ 5241. INEFFECTIVE ASSISTANCE CLAIM

\* \* \*

(b) In the performance of duties pursuant to a contract with or providing ad hoc legal services to the Office of the Defender General, an attorney shall have the benefit of ~~sovereign~~ immunity to the same extent as an attorney employed by the Defender General.

Sec. 3. EFFECTIVE DATE

This act 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, on a roll call, Yeas 28, Nays 2.

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

**Roll Call**

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

**Those Senators who voted in the negative were:** Branagan, Brock.

Thereupon, third reading of the bill was ordered.

**House Proposal of Amendment Concurred In with Amendment**

**S. 103.**

House proposal of amendment to Senate bill entitled:

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

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

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\* \* \* Toxics Use Reduction and Reporting \* \* \*

Sec. 1. 10 V.S.A. § 6633 is added to read:

§ 6633. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL  
MANAGEMENT

(a) Creation. There is created the Intergovernmental 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 Intergovernmental Committee on Chemical Management shall be composed of the following nine members:

- (1) one member of the House of Representatives, appointed by the Speaker of the House;
- (2) one member of the Senate, appointed by the Committee on Committees;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Secretary of Natural Resources or designee;
- (5) the Commissioner of Health or designee;
- (6) the Commissioner of Labor or designee;
- (7) the Commissioner of Public Safety or designee;
- (8) the Secretary of Commerce and Community Development or designee;
- (9) the Commissioner of Information and Innovation, or the Commissioner of the successor department, or designee.

(c) Powers and duties. The Intergovernmental 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) chemical management by academic institutions;  
(L) retail sales; and  
(M) development and administration of information reporting technology or databases.

(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 Intergovernmental 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; the Department of Labor; the Agency of Commerce and Community Development; and the Department of Information and Innovation. The Intergovernmental Committee on Chemical Management shall have the assistance of the Office of Legislative Council for legislative drafting and the assistance of the Joint Fiscal Office for the fiscal and economic analyses.

(e) Report. On or before January 15, and annually thereafter, the Intergovernmental 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, as determined by metrics or measures established by the Committee;

(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) recommended 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 Intergovernmental Committee on Chemical Management.

(2) The Secretary of Natural Resources shall call the first meeting of the Intergovernmental Committee on Chemical Management to occur on or before July 1, 2017.

(3) A majority of the membership of the Intergovernmental Committee on Chemical Management shall constitute a quorum.

(4) The Intergovernmental Committee on Chemical Management shall meet no more than four times in a calendar year.

(g) Authority of agencies. The establishment of the Intergovernmental 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. INTERGOVERNMENTAL COMMITTEE ON CHEMICAL  
MANAGEMENT; REPORT ON TOXIC USE REDUCTION AND  
REPORTING

On or before February 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 Intergovernmental 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 a 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 timeline 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 businesses 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 on-site and off-site 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, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) 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 Department of Health, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Secretary.

(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 sample the source;

(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.

(f) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title or create a defect in title of a property, provided water test results required under this section are forwarded, prior to the conveyance of the property, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Agency.

#### Sec. 4. AGENCY OF NATURAL RESOURCES; GROUNDWATER SOURCE TESTING; RULEMAKING

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 for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), including under the requirements of 10 V.S.A. § 1982, shall submit the results of groundwater analyses to the ~~department of health and the agency of natural resources~~ Department of Health in a format required by the ~~department of health~~ Department of Health.

Sec. 6. 10 V.S.A. § 1974 is amended to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

\* \* \*

(8) From the permit required for operation of failed supply under subdivision 1973(a)(4) of this title for the use or operation of a failed supply that consists of only one groundwater source that provides water to only one single family residence.

\* \* \* Chemicals of High Concern to Children \* \* \*

Sec. 7. 18 V.S.A. § 1775(b) is amended to read:

(b) Format for notice. The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the chemical, including: the brand name, the product model, and the universal product code if the product has such a code;

(3) the amount of the chemical contained in each unit of the product or product component, reported by weight or parts per million as authorized by the Commissioner;

(4) the name and address of the manufacturer of the children's product and the name, address, and telephone number of a contact person for the manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

Sec. 8. 18 V.S.A. § 1776 is amended to read:

§ 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO CHILDREN; PROHIBITION OF SALE

\* \* \*

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of ~~the weight of credible~~ independent, peer-reviewed, scientific evidence ~~has research,~~

~~determined~~ determines that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The Commissioner of Health has determined that an authoritative governmental entity or accredited research university has demonstrated that the chemical:

(A) harms the normal development of a fetus or child or causes other developmental toxicity;

(B) causes cancer, genetic damage, or reproductive harm;

(C) disrupts the endocrine system;

(D) damages the nervous system, immune system, or organs or causes other systemic toxicity; or

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

\* \* \*

(d) Rule to regulate sale or distribution.

(1) The Commissioner, ~~upon the recommendation of~~ after consultation with the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

~~(A) children will~~ may be exposed to a chemical of high concern to children in the children's product; ~~and~~

~~(B) there is a probability that, due to the degree of exposure or frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.~~

(2) In determining whether children ~~will~~ may be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

- (A) the market presence of the children's product in the State;
- (B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;
- (C) the household and workplace presence of the children's product; or
- (D) the potential ~~and frequency~~ of exposure of children to the chemical of high concern to children in the children's product.

(3) A rule adopted under this section may:

- (A) prohibit the children's product containing the chemical of high concern to children from sale, offer for sale, or distribution in the State; or
- (B) require that the children's product containing the chemical of high concern to children be labeled prior to sale, offer for sale, or distribution in the State.

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(5) The Chemicals of High Concern to Children Working Group may, at its discretion, submit to the House Committees on Natural Resources, Fish and Wildlife and on Human Services and the Senate Committees on Natural Resources and Energy and on Health and Welfare the recommendations or information from a consultation provided to the Commissioner under subdivision (1) of this subsection.

\* \* \*

\* \* \* Effective Dates \* \* \*

#### Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1 (Intergovernmental 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(e) in Sec. 3 shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Lyons for the Committee on Health and

Welfare to which the bill was referred reported recommending that the Senate concur in the House proposal of amendment with further amendment as follows:

First: In Sec. 1, 10 V.S.A. § 6633, in subdivision (f)(2), after “July 1,” and before the period by striking out “2017” and inserting in lieu thereof the following: 2018

Second: In Sec. 2 (Intergovernmental committee on chemical management report), in the first sentence, after “February 15,” and before “, after consultation” by striking out “2018” and inserting in lieu thereof the following: 2019

Third: In Sec. 4 (ANR groundwater source testing rule) in the first sentence, by striking out “2017” where it appears and inserting in lieu thereof the following: 2018 and in the second sentence, by striking out “2018” where it appears and inserting in lieu thereof the following: 2019

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with a proposal of amendment as recommended by the Committee on Health and Welfare?, Senator McCormack for the Committee on Appropriations to which the bill was referred reported recommending a substitute proposal of amendment for the proposal of amendment as follows:

First: by striking out the word “Intergovernmental” wherever it appears in the bill and inserting in lieu thereof the word Interagency

Second: In Sec. 1, 10 V.S.A. § 6633, in subsection (b), after the word “following” by striking out the word “nine” and inserting in lieu thereof the word seven

and by striking out subdivisions (b)(1) and (2) in their entirety and renumbering the remaining subdivisions in subsection (b) to be numerically correct

Third: In Sec. 1, 10 V.S.A. § 6633, in subdivision (f)(2), after “July 1,” by striking out “2017” and inserting in lieu thereof 2018

Fourth: In Sec. 2 (Intergovernmental committee on chemical management report), in the first sentence, after “February 15,” by striking out “2018” and inserting in lieu thereof 2019

Fifth: In Sec. 4 (ANR groundwater source testing rule), in the first sentence, by striking out “2017” where it appears and inserting in lieu thereof 2018

and in the second sentence, by striking out “2018” where it appears and inserting in lieu thereof 2019

Sixth: In Sec. 9 (Effective Dates), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Sec. 3 (groundwater source testing) shall take effect on July 1, 2019, except that 10 V.S.A. § 1982(e) shall take effect of passage.

(c) All other sections shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate substitute the proposal of amendment as recommended by the Committee on Appropriations? Senator McCormack requested and was granted leave to withdraw the proposal of amendment.

Thereupon, Senator Kitchel moved to substitute a proposal of amendment for the proposal of amendment of the Committee on Health and Welfare as follows:

First: By striking out “Intergovernmental” wherever it appears in the bill and inserting in lieu thereof Interagency

Second: In Sec. 1, 10 V.S.A. § 6633, in subsection (b), after the word “following” by striking out “nine” and inserting in lieu thereof eight

and by striking out subdivisions (b)(1) and (2) in their entirety and renumbering the remaining subdivisions in subsection (b) to be numerically correct

and by striking out the period after the renumbered (b)(7) and inserting in lieu thereof a new semicolon

and by adding a new subdivision (b)(8) to read:

(8) the Secretary of Transportation or designee.

Third: In Sec. 1, 10 V.S.A. § 6633, in subdivision (f)(2), after “July 1,” by striking out “2017” and inserting in lieu thereof 2018

Fourth: In Sec. 2 (Intergovernmental Committee on Chemical Management report), in the first sentence, after “February 15,” by striking out “2018” and inserting in lieu thereof 2019

Fifth: In Sec. 4 (ANR groundwater source testing rule), in the first sentence, by striking out “2017” where it appears and inserting in lieu thereof 2018

and in the second sentence, by striking out “2018” where it appears and inserting in lieu thereof 2019

Sixth: In Sec. 9 (Effective Dates), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Sec. 3 (groundwater source testing) shall take effect on July 1, 2019, except that 10 V.S.A. § 1982(e) shall take effect on passage.

(c) All other sections shall take effect on July 1, 2018.

Which was agreed to.

Thereupon, Senator Benning moved to substitute a proposal of amendment for the proposal of amendment of the Committee on Health and Welfare as substituted as follows:

First: By striking out “Intergovernmental” wherever it appears in the bill and inserting in lieu thereof Interagency

Second: In Sec. 1, 10 V.S.A. § 6633, in subsection (b), after the word “following” by striking out “nine” and inserting in lieu thereof eight

and by striking out subdivisions (b)(1) and (2) in their entirety and renumbering the remaining subdivisions in subsection (b) to be numerically correct

and by striking out the period after the renumbered (b)(7) and inserting in lieu thereof a new semicolon

and by adding a new subdivision (b)(8) to read:

(8) the Secretary of Transportation or designee.

Third: In Sec. 1, 10 V.S.A. § 6633, in subdivision (f)(2), after “July 1,” by striking out “2017” and inserting in lieu thereof 2018

Fourth: In Sec. 2 (Intergovernmental Committee on Chemical Management report), in the first sentence, after “February 15,” by striking out “2018” and inserting in lieu thereof 2019

Fifth: In Sec. 4 (ANR groundwater source testing rule), in the first sentence, by striking out “2017” where it appears and inserting in lieu thereof 2018

and in the second sentence, by striking out “2018” where it appears and inserting in lieu thereof 2019

Sixth: By striking out Sec. 8 in its entirety

Seventh: In Sec. 9 (Effective Dates), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Sec. 3 (groundwater source testing) shall take effect on July 1, 2019, except that 10 V.S.A. § 1982(e) shall take effect on passage.

(c) All other sections shall take effect on July 1, 2018.

Which was disagreed to.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as recommended by the Committee on Health and Welfare, as substituted?, was agreed to.

### **Adjournment**

On motion of Senator Ashe, the Senate adjourned until ten o'clock and twenty-five minutes in the morning on Thursday, February 15, 2018.

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### **THURSDAY, FEBRUARY 15, 2018**

The Senate was called to order by the President.

### **Joint Assembly**

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

**J.R.S. 44.** Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

The Senate repaired to the hall of the House.

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

### **Message from the House No. 16**

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. 616.** An act relating to thermal efficiency monies and biomass-led district heat.

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

And has adopted the same in concurrence.

The Governor has informed the House that on February 13, 2018, he approved and signed a bill originating in the House of the following title:

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**H. 633.** An act relating to fiscal year 2018 budget adjustments.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon.

**Afternoon**

**Called to Order**

The Senate was called to order by the President.

**Devotional Exercises**

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

**Rules Suspended; Bill Committed**

**S. 260.**

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

An act relating to funding the cleanup of State waters.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Bray moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Agriculture with the report of the Committee on Natural Resources and Energy *intact*,

Which was agreed to.

**Bill Referred**

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

**H. 616.**

An act relating to thermal efficiency monies and biomass-led district heat.

To the Committee on Finance.

**Senate Resolution Adopted**

**S.R. 11.**

Senate resolution entitled:

Senate resolution encouraging its members, in 2019, to initiate an amendment to the Vermont Constitution regarding equal rights

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

**Bill Passed****S. 237.**

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

An act relating to providing representation to needy persons concerning immigration matters.

**Bill Passed in Concurrence****H. 694.**

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

An act relating to captive insurance companies.

**Bill Amended; Third Reading Ordered****S. 40.**

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

An act relating to increasing the minimum wage.

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

Sec. 1. 21 V.S.A. § 384 is amended to read:

**§ 384. EMPLOYMENT; WAGES**

(a) An employer shall not employ any employee at a rate of less than ~~\$9.15. Beginning January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and beginning~~ Beginning on January 1, 2019, an employer shall not employ any employee at a rate of less than \$11.10. Beginning on January 1, 2020, an employer shall not employ any employee at a rate of less than \$11.75. Beginning on January 1, 2021, an employer shall not employ any employee at a rate of less than \$12.50. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than \$13.25. Beginning on January 1, 2023, an employer shall not employ any employee at a rate of less than \$14.10. Beginning on January 1, 2024, an employer shall not employ any employee at a rate of less than \$15.00, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S.

Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service. If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.

\* \* \*

## Sec. 2. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; STATE PLAN

To the extent funds are appropriated, the Commissioner for Children and Families shall amend the Department for Children and Families' federal Child Care and Development Fund State Plan to:

(1) adjust the sliding scale of the Child Care Financial Assistance Program benefit to correspond with each minimum wage increase required pursuant to this act to ensure that the benefit percentage at each new minimum wage level remains the same as the percentage applied under the former minimum wage; and

(2) adjust the market rate used to inform the fee scale in a manner that offsets the estimated increased cost of child care in Vermont resulting from the increase in the minimum wage required pursuant to this act.

## Sec. 3. MINIMUM WAGE; ADJUSTMENT FOR INFLATION; REPORT

On or before January 15, 2023, the Legislative Council and the Joint Fiscal Office shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding potential mechanisms for indexing the minimum wage established pursuant to 21 V.S.A. § 384 to inflation after 2024. In particular, the report shall:

(1) identify and examine mechanisms that other jurisdictions use to index their minimum wages to inflation and the potential benefits and disadvantages of each mechanism; and

(2) identify and examine any alternative mechanisms to index the minimum wage to inflation, including alternative measures of inflation, and the potential benefits and disadvantages of each mechanism.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported 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 third time?, Senators Benning, Branagan and Collamore moved to amend the bill in Sec. 1, 21 V.S.A. § 384, by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

~~(a)(1) An employer shall not employ any employee at a rate of less than \$9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018~~ Except as otherwise provided in subdivision (2) of this subsection, an employer shall not employ any employee at a rate of less than \$10.50, and beginning on January 1, 2019 and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased.

(2) An employer shall not employ any employee working in Chittenden County at a rate of less than:

(A) \$10.50;

(B) \$11.10 beginning on January 1, 2019;

(C) \$11.75 beginning on January 1, 2020;

(D) \$12.50 beginning on January 1, 2021;

(E) \$13.25 beginning on January 1, 2022;

(F) \$14.10 beginning on January 1, 2023;

(G) \$15.00 beginning on January 1, 2024; and

(H) a minimum wage rate on each subsequent January 1 that equals the previous minimum wage rate increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage established pursuant to this subdivision (2) be decreased.

(3) The minimum wage shall be rounded off to the nearest \$0.01.

(4) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the applicable minimum wage. As used in this subsection, “a service or tipped employee” means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service.

(5) If the minimum wage rate established by the U.S. government is greater than the rate established ~~for Vermont~~ established pursuant to subdivision (1) or (2) of this subsection for any year, the minimum wage rate pursuant to the affected subdivision for that year shall be the rate established by the U.S. government.

\* \* \*

Which was disagreed to on a roll call, Yeas 6, Nays 24.

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

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Branagan, Brock, Collamore, Flory, Westman.

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

Thereupon, pending the question, Shall the bill be read third time?, Senators Sears, Ashe, Kitchel, McCormack, Nitka, Starr and Westman moved to amend the bill as follows:

First: In Sec. 1, 21 V.S.A. § 384, after the ellipsis, by inserting a subsection (e) to read as follows:

(e)(1) A tip shall be the sole property of the employee or employees to whom it was paid, given, or left. An employer that permits patrons to pay tips by credit card shall pay an employee the full amount of the tip that the customer indicated, without any deductions for credit card processing fees or costs that may be charged to the employer by the credit card company.

(2) An employer shall not collect, deduct, or receive any portion of a tip left for an employee or credit any portion of a tip left for an employee against the wages due to the employee pursuant to subsection (a) of this section.

(3) This subsection shall not be construed to prohibit the pooling of tips among service or tipped employees as defined pursuant to subsection (a) of this section.

Second: After Sec. 3, report regarding adjusting the minimum wage for inflation, by inserting a new Sec. 4 to read as follows:

Sec. 4. 21 V.S.A. § 383 is amended to read:

#### § 383. DEFINITIONS

Terms used in this subchapter have the following meanings, unless a different meaning is clearly apparent from the language or context:

- (1) “Commissioner,” means the Commissioner of Labor or designee;
- (2) “Employee,” means any individual employed or permitted to work by an employer except:

\* \* \*

- (3) “Occupation,” means an industry, trade, or business or branch thereof, or a class of work in which workers are gainfully employed.

- (4) “Tip” means a sum of money gratuitously and voluntarily left by a customer for service, or indicated on a bill or charge statement, to be paid to a service or tipped employee for directly and personally serving the customer in a hotel, motel, tourist place, or restaurant. An employer-mandated service charge shall not be considered a tip.

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senators Flory, Branagan, Brock, Collamore and Westman moved to amend the bill in Sec. 1, 21 V.S.A. § 384, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

(a)(1) An Except as otherwise provided pursuant to subdivision (2) of this subsection, an employer shall not employ any employee at a rate of less than \$9.15. Beginning January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and beginning. Beginning on January 1, 2019, an employer shall not employ any employee at a rate of less than \$11.10. Beginning on January 1, 2020, an employer shall not employ any employee at a rate of less than \$11.75. Beginning on January 1, 2021, an employer shall not employ any employee at a rate of less than \$12.50. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than \$13.25. Beginning on January 1, 2023, an employer shall not employ any employee at a rate of less than \$14.10. Beginning on January 1, 2024, an employer shall not employ any employee at a rate of less than \$15.00, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01.

(2)(A) An employer may employ an employee at a rate equal to not less than 90 percent of the minimum wage rate established pursuant to subdivision (1) of this subsection (a) if:

(i) the employer offers one or more of the following benefits to the employee:

(I) contributions to employer-sponsored health insurance benefits;

(II) contributions to retirement benefits;

(III) contributions to life, disability, or similar insurance benefits;

(IV) paid time off in excess of the minimum required by law;

(V) other tangible employment benefits that have a fixed value, including complimentary services or products; and

(ii) the aggregate monetary value of the benefits is, on a monthly basis, equal to or greater than 15 times the minimum wage rate established pursuant to subdivision (1) of this subsection (a).

(B) In determining the aggregate monetary value of an employee's benefits pursuant to subdivision (A)(ii) of this subdivision (2), the value of any paid time off in excess of the minimum required by law shall be equal to the monthly amount of paid time off that is provided or accrues in excess of the minimum required by law multiplied by the employee's wage rate.

(3) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service.

(4) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.

\* \* \*

Which was disagreed to on a roll call, Yeas 11, Nays 19.

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

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Branagan, Brock, Collamore, Cummings, Flory, Mazza, Rodgers, Soucy, Westman, White.

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

#### **Senator Ashe Assumes the Chair**

Thereupon, pending the question, Shall the bill be read third time?, Senators Brock and Flory moved to amend the bill in Sec. 1, 21 V.S.A. § 384, after the ellipsis by inserting a subsection (e) to read as follows:

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

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

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

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

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

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

### **President Resumes the Chair**

Thereupon, third reading of the bill was ordered on a roll call, Yeas 20, Nays 10.

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:** Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Pollina, Sears, Sirotkin, White.

**Those Senators who voted in the negative were:** Benning, Branagan, Brock, Collamore, Flory, Mazza, Rodgers, Soucy, Starr, Westman.

**Adjournment**

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

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**FRIDAY, FEBRUARY 16, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 17**

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 559.** An act relating to miscellaneous environmental subjects.

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

**Bills Referred to Committee on Appropriations**

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

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

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

**Bill Referred to Committee on Finance**

**S. 272.**

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to miscellaneous changes to laws related to motor vehicles and motorboats.

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

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

By Committee on Institutions,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Bill Referred**

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

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

An act relating to miscellaneous environmental subjects.

To the Committee on Natural Resources and Energy.

#### **Bill Passed**

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

Senate bill entitled:

An act relating to increasing the minimum wage.

Was taken up.

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

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

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

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

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

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

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

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

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Branagan, Brock, Collamore, Flory, Soucy, Westman.

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

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

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

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

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

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

**Roll Call**

**Those Senators who voted in the affirmative were:** Benning, Branagan, Brock, Collamore, Flory, Soucy, Westman.

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

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

**Bill Amended; Third Reading Ordered**

**S. 123.**

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

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

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

Sec. 1. 20 V.S.A. § 3903 is amended to read:

§ 3903. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) [Repealed.]

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

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

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

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

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

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

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

An act relating to the Child Poverty Advisory Council.

Reported recommending that the bill ought to pass in concurrence.

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

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

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

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

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

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

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

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

(E) a member appointed by Vermont Legal Aid;

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

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

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

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

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

An act relating to the Advisory Council for Strengthening Families.

And that when so amended the bill ought to pass.

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

### **Appointments Confirmed**

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

The nominations of

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

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

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

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

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

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

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

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

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

Were collectively confirmed by the Senate.

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

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

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 829.** An act relating to appointing town grand jurors.

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

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

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

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

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

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

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

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

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

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

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

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

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

### **House Concurrent Resolutions**

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

By Reps. Fagan and others,

By All Members of the Senate,

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

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

By Reps. Lefebvre and others,

By Senators Benning, Rodgers and Starr,

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

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

By Rep. Haas,

By Senators Clarkson, McCormack and Nitka,

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

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

By Reps. Jessup and others,

By Senators Brooks, Cummings and Pollina,

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

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

By Reps. Ancel and others,

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

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

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

By All Members of the House,

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

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

By Reps. Gardner and others,

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

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

By Rep. Toll,

By Senators Brooks, Cummings and Pollina,

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

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

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By Reps. Myers and others,

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

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

By Reps. Bissonnette and others,

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

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

**Adjournment**

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, February 20, 2018, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 46.

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**TUESDAY, FEBRUARY 20, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

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

**Pledge of Allegiance**

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

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

**J.R.S. 49.**

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

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

That when the two Houses adjourn on Friday, February 23, 2018, it be to meet again no later than Tuesday, February 27, 2018.

**Bill Referred**

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

**H. 829.**

An act relating to appointing town grand jurors.

To the Committee on Government Operations.

**Bills Passed**

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

**S. 123.** An act relating to limiting liability for animal shelter and rescue organizations assisting law enforcement in animal cruelty investigations.

**S. 280.** An act relating to the Child Poverty Advisory Council.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 21, 2018.

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**WEDNESDAY, FEBRUARY 21, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend John H. D. Lucy 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 twentieth day of February, 2018, he approved and signed a bill originating in the Senate of the following title:

**S. 19.** An act relating to allowing silver-level nonqualified health benefit plans to be offered outside the Vermont Health Benefit Exchange.

**Message from the House No. 19**

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. 294.** An act relating to inquiries about an applicant's salary history.

**H. 624.** An act relating to the protection of information in the statewide voter checklist.

**H. 673.** An act relating to miscellaneous amendments to the Reach Up program.

**H. 764.** An act relating to data brokers and consumer protection.

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

**Message from the Governor  
Appointment Referred**

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

Barra, David A. of Essex Junction - Superior Judge - from February 21, 2018, to March 31, 2020.

To the Committee on Judiciary.

**Joint Resolution Placed on Calendar**

**J.R.S. 50.**

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

By Senator Nitka,

**J.R.S. 50.** Joint resolution providing for a Joint Assembly to vote on the retention of one Superior Judge and one Magistrate.

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

That the two Houses meet in Joint Assembly on Thursday, March 15, 2018, at ten o'clock and thirty minutes in the forenoon to vote on the retention of one Superior Judge and one Magistrate. In case the vote to retain said Judge and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

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

### **Bills Referred**

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

#### **H. 294.**

An act relating to inquiries about an applicant's salary history.

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

#### **H. 624.**

An act relating to the protection of information in the statewide voter checklist.

To the Committee on Government Operations.

#### **H. 673.**

An act relating to miscellaneous amendments to the Reach Up program.

To the Committee on Health and Welfare.

#### **H. 764.**

An act relating to data brokers and consumer protection.

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

### **Third Reading Ordered**

#### **J.R.S. 48.**

Joint Senate resolution entitled:

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

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

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.

### **Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, February 22, 2018.

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**THURSDAY, FEBRUARY 22, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Message from the House No. 20**

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. 581.** An act relating to Connectivity Initiative grant eligibility.

**H. 582.** An act relating to increased funding for the Connectivity Initiative.

**H. 843.** An act relating to technical corrections.

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

**Rules Suspended; Bill Committed**

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

**S. 276.** An act relating to rural economic development.

be committed to the Committee on Natural Resources and Energy with the report of the Committee on Agriculture *intact*,

Which was agreed to.

**Senate Resolution Placed on Calendar****S.R. 12.**

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

By Senator Ashe,

**S.R. 12.** 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 2, 2018 and March 16, 2018 shall be referred to the Committee on Rules. This provision shall not apply to the following measures:

- (1) transportation capital bill;
- (2) capital construction bill;
- (3) general appropriations bill (“The Big Bill”); and
- (4) fee and tax bills.

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

(c) This Temporary Rule 44A shall expire on the convening of the 2019 biennial session.

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

#### **Bills Referred**

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

#### **H. 581.**

An act relating to Connectivity Initiative grant eligibility.

To the Committee on Finance.

#### **H. 582.**

An act relating to increased funding for the Connectivity Initiative.

To the Committee on Finance.

#### **H. 843.**

An act relating to technical corrections.

To the Committee on Government Operations.

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

#### **J.R.S. 48.**

Joint Senate 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 the Department’s lease with the Stowe Mountain Resort and to amend a conservation easement in the Town of Plymouth.

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**Joint Resolution Adopted on the Part of the Senate****J.R.S. 50.**

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of one Superior Judge and one Magistrate.

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

**Appointment Confirmed**

The following Gubernatorial appointment was confirmed separately by the Senate, upon full report given by the Committee to which it was referred:

The nomination of

Treadwell, John R. of Burlington - Superior Judge - November 17, 2017, to March 31, 2018.

Was confirmed by the Senate on a roll call Yeas 28, Nays 0.

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, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent and not voting were:** Baruth, Nitka.

\*\*\*On a point of personal privilege, Senator Nitka addressed the Chair in support of the confirmation of John R. Treadwell, and on motion of Senator McCormack, her remarks were ordered enter in the Journal, and are as follows:

“Mr. President:

“I support the confirmation of John Treadwell as a Superior Court Judge for the State of Vermont. He is well qualified and I have worked with him while serving on Senate Judiciary. We are fortunate to have a person so well qualified to serve the State of Vermont.”

**Adjournment**

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

**FRIDAY, FEBRUARY 23, 2018**

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

**Devotional Exercises**

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

**Message from the House No. 21**

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. 571.** An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

**H. 576.** An act relating to stormwater management.

**H. 693.** An act relating to designating the Honor and Remember Flag as the State Veterans Flag.

**H. 779.** An act relating to the legislative directory prepared by the Secretary of State.

**H. 892.** An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans.

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

And has adopted the same in concurrence.

**Message from the House No. 22**

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:

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The House has passed a House bill of the following title:

**H. 636.** An act relating to miscellaneous fish and wildlife subjects.

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. 50.** Joint resolution providing for a Joint Assembly to vote on the retention of one Superior Judge and one Magistrate.

And has adopted the same in concurrence.

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

**H.C.R. 249.** House concurrent resolution commemorating the 100th Anniversary of the World War I Armistice.

**H.C.R. 250.** House concurrent resolution designating February 16, 2018 as After-school and Summer Learning Day at the State House.

**H.C.R. 251.** House concurrent resolution honoring Tim Fort, Malcolm Ewen, and Steve Stettler for their outstanding artistic leadership of the Weston Playhouse Theatre Company.

**H.C.R. 252.** House concurrent resolution honoring Karen Ameden for her devotion to community service in the town of Jamaica.

**H.C.R. 253.** House concurrent resolution in memory of Theodor H. Friedman of Winhall.

**H.C.R. 254.** House concurrent resolution honoring international volunteer health care provider and former Civil Air Patrol leader Kathleen R. Fellows of Perkinsville.

**H.C.R. 255.** House concurrent resolution honoring former University of Vermont Morgan Horse Farm Director Stephen P. Davis.

**H.C.R. 256.** House concurrent resolution honoring F. William Holiday Jr. of Dummerston on his life of athletic and scholastic accomplishments and outstanding municipal civic service.

**H.C.R. 257.** House concurrent resolution honoring former Caledonia County Victim Advocate Susan Carr.

**H.C.R. 258.** House concurrent resolution in memory of former Granby Selectboard Chair Fredrick W. Hodgdon Sr. of Granby.

**H.C.R. 259.** House concurrent resolution congratulating the 2017 Harwood Union High School Highlanders Division II championship boys' golf team.

**H.C.R. 260.** House concurrent resolution in memory of former Speaker of the House and Brattleboro Town Moderator Timothy J. O'Connor Jr.

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

**Bills Referred**

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

**H. 571.**

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

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

**H. 576.**

An act relating to stormwater management.

To the Committee on Natural Resources and Energy.

**H. 636.**

An act relating to miscellaneous fish and wildlife subjects.

To the Committee on Natural Resources and Energy.

**H. 693.**

An act relating to the Honor and Remember Flag.

To the Committee on Government Operations.

**H. 779.**

An act relating to the legislative directory prepared by the Secretary of State.

To the Committee on Government Operations.

**H. 892.**

An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans.

To the Committee on Finance.

**Bill Amended; Third Reading Ordered**

**S. 70.**

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

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An act relating to the nutritional requirements for children's meals.

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. § 4310 is added to read:

§ 4310. BEVERAGES IN CHILDREN'S MEALS

(a) A food service establishment serving a children's meal shall offer as a default beverage:

(1) water, sparkling water, or flavored water that does not contain added natural or artificial sweeteners;

(2) nonfat or one percent milk or a nondairy milk alternative containing not more than 130 calories per container or serving as offered for sale; or

(3) 100 percent fruit juice or fruit juice combined with water or carbonated water that does not contain added sweeteners, in a serving size of not more than eight ounces.

(b) Nothing in this section shall prohibit a food service establishment from selling or providing, or a customer from purchasing, a beverage other than the default beverage included with a children's meal if the customer requests a substitute beverage.

(c) As used in this section:

(1) "Children's meal" means a combination of food items and a beverage, primarily intended for consumption by children, sold together at a single price.

(2) "Default beverage" means the beverage automatically included as part of a children's meal.

Sec. 2. EFFECTIVE DATE

This act 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, and pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare?, Senators Branagan, Starr and White moved to amend the recommendation of the Committee on Health and Welfare in Sec. 1, 18 V.S.A. § 4310, in subdivision (a)(2), by striking out "nonfat or one percent" and by striking out "containing not more than 130 calories per container or serving as offered for sale"

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended?, Senator Nitka moved to amend the recommendation of amendment of the Committee on Health and Welfare, as amended in Sec. 1, 18 V.S.A. § 4310, in subdivision (a)(1) at the end of the subdivision by adding the word or

Which was agreed to on a division of the Senate, Yeas 16, Nays 12.

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

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

#### **S. 234.**

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

An act relating to juvenile justice.

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

\* \* \* Findings \* \* \*

Sec. 1. 33 V.S.A. § 5101 is amended to read:

#### § 5101. LEGISLATIVE FINDINGS AND PURPOSES

(a) The General Assembly finds and declares as public policy that an effective youth justice system: protects public safety; connects youths and young adults to age-appropriate services that reduce the risk of reoffense; and, when appropriate, shields youths from the adverse impact of a criminal record.

(b) In order to accomplish these goals, the system should be based on the implementation of data-driven evidence-based practices that offer a broad range of alternatives, such that the degree of intervention is commensurate with the risk of reoffense.

(c) High-intensity interventions with low-risk offenders not only decrease program effectiveness, but are contrary to the goal of public safety in that they increase the risk of recidivism. An effective youth justice system includes pre-charge options that keep low-risk offenders out of the criminal justice system altogether.

(d) The juvenile judicial proceedings chapters shall be construed in accordance with the following purposes:

(1) to provide for the care, protection, education, and healthy mental, physical, and social development of children coming within the provisions of the juvenile judicial proceedings chapters;

(2) to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to provide supervision, care, and rehabilitation ~~which~~ that ensure:

(A) balanced attention to the protection of the community;

(B) accountability to victims and the community for offenses; and

(C) the development of competencies to enable children to become responsible and productive members of the community;

(3) to preserve the family and to separate a child from his or her parents only when necessary to protect the child from serious harm or in the interests of public safety;

(4) to ensure that safety and timely permanency for children are the paramount concerns in the administration and conduct of proceedings under the juvenile judicial proceedings chapters;

(5) to achieve the foregoing purposes, whenever possible, in a family environment, recognizing the importance of positive parent-child relationships to the well-being and development of children; and

(6) to provide judicial proceedings through which the provisions of the juvenile judicial proceedings chapters are executed and enforced and in which the parties are ensured a fair hearing, and that their constitutional and other legal rights are recognized and enforced.

~~(b)~~(e) The provisions of the juvenile judicial proceedings chapters shall be construed as superseding the provisions of the criminal law of this State to the extent the same are inconsistent with this chapter.

\* \* \* Expungement \* \* \*

Sec. 2. 13 V.S.A. § 7609 is added to read:

§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN  
INDIVIDUAL 18-21 YEARS OF AGE

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18-21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an

order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution has been paid in full.

(b) Exceptions.

(1) A criminal record that includes both qualifying and nonqualifying offenses shall not be eligible for expungement pursuant to this section.

(2) The Vermont Crime Information Center shall retain a special index of sentences for sex offenses that require registration pursuant to chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and shall be accessed only by the director of the Vermont Crime Information Center and an individual designated for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

\* \* \* Juvenile Delinquency Proceedings \* \* \*

Sec. 3. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) Preliminary hearing. A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing. Counsel for the child shall be assigned prior to the preliminary hearing.

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation

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for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney. ~~Except on agreement of the parties, the results shall not be provided to the court until after a merits finding has been made.~~

(c) ~~Counsel for the child shall be assigned prior to the preliminary hearing.~~ Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(d) Guardian ad litem. At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the court may appoint a guardian ad litem other than a parent, guardian, or custodian.

(e) Admission; denial. At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian ad litem, and the Department agree.

(f) Conditions. The court may order the child to abide by conditions of release pending a merits or disposition hearing.

Sec. 4. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 18 years of age at the time the offense charged was alleged to have been committed and the offense charged is ~~a misdemeanor, that court shall forthwith transfer the case to the Family Division of the Superior Court under the authority of this chapter~~ an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant ~~was under 18 years of age at the time a felony offense not specified in subsection 5204(a) of this title was alleged to have been committed, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act~~ had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

\* \* \*

\* \* \* Youthful Offender Proceedings \* \* \*

Sec. 5. 33 V.S.A. § 5280 is amended to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER  
PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

- (1) the filing of a youthful offender petition by a State's Attorney; or
- (2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

(d) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the youth shall be offered a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the Family Division shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days.

(1) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(2) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

(e) If a youth presents a low to moderate risk to reoffend based on the results of the risk and needs screening, the State's Attorney shall refer a youth directly to court diversion unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

Sec. 6. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, youth has completed the risk and needs screening pursuant to section 5280 of this title, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.

\* \* \*

Sec. 7. 33 V.S.A. § 5801 is amended to read:

§ 5801. WOODSIDE JUVENILE REHABILITATION CENTER

(a) The Woodside Juvenile Rehabilitation Center in the town of Essex shall be operated by the Department for Children and Families as a residential treatment facility that provides in-patient psychiatric, mental health, and substance abuse services in a secure setting for adolescents who have been adjudicated or charged with a delinquency or criminal act.

(b) The total capacity of the facility shall not exceed 30 beds.

(c) The purpose or capacity of the Woodside Juvenile Rehabilitation Center shall not be altered except by act of the General Assembly following a study recommending any change of use by the Agency of Human Services.

(d) No person who has reached his or her 18th birthday may be placed at Woodside. Notwithstanding any other provision of law, a person ~~under the age of 18 years of age~~ may be placed at Woodside, provided that he or she meets the admissions criteria for treatment as established by the Department for Children and Families. Any person already placed at Woodside may voluntarily continue receiving treatment at Woodside beyond his or her 18th birthday, provided that he or she continues to meet the criteria established by the Department for continued treatment. The Commissioner shall ensure that a child placed at Woodside has the same or equivalent due process rights as a child placed at Woodside in its previous role as a detention facility ~~prior to the enactment of this act.~~

Sec. 8. DEPARTMENT FOR CHILDREN AND FAMILIES; EXPANDING JUVENILE JURISDICTION; REPORT

The Department for Children and Families, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Court Administrator, and the Commissioner of Corrections, shall:

(1) consider the implications of expanding juvenile jurisdiction under 33 V.S.A. chapters 52 and 52a to encompass 18- and 19-year-olds beginning in fiscal year 2021;

(2) report on the status and plan for the expansion, including necessary funding, to the Joint Legislative Justice Oversight Committee on or before November 1, 2018; and

(3) provide status update reports to the Joint Legislative Justice Oversight Committee on or before November 1, 2019 and November 1, 2020.

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\* \* \* Effective July 1, 2020 \* \* \*

Sec. 9. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed a ~~misdemeanor~~ any offense other than those specified in subsection 5204(a) of this title before attaining 18 19 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

~~(e) Any proceeding concerning a child who is alleged to have committed a felony offense other than those specified in subsection 5204(a) of this title before attaining 18 years of age shall originate in the Family Division of the Superior Court provided that jurisdiction may be transferred in accordance with this chapter. [Repealed.]~~

(f) If the State requests that custody of the child be transferred to the Department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

(g) A petition may be withdrawn by the State's Attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

Sec. 10. 33 V.S.A. § 5202 is amended as follows:

§ 5202. ORDER OF ADJUDICATION; NONCRIMINAL

(a)(1) An order of the Family Division of the Superior Court in proceedings under this chapter shall not:

(A) be deemed a conviction of crime;

(B) impose any civil disabilities sanctions ordinarily resulting from a conviction; or

(C) operate to disqualify the child in any civil service application or appointment.

(2) Notwithstanding subdivision (1) of this subsection, an order of delinquency in proceedings ~~transferred under subsection 5203(b) of this title, where the offense charged in the initial criminal proceedings was concerning a child who is alleged to have committed~~ a violation of those sections of Title 23 specified in ~~subdivision 23 V.S.A. § 801(a)(1);~~ shall be an event in addition to those specified therein, enabling the Commissioner of Motor Vehicles to require proof of financial responsibility under 23 V.S.A. chapter 11.

(b) The disposition of a child and evidence given in a hearing in a juvenile proceeding shall not be admissible as evidence against the child in any case or proceeding in any other court except after a subsequent conviction of a felony in proceedings to determine the sentence.

Sec. 11. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~18~~ 19 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~18~~ 19 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 12. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~18~~ 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;

- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

\* \* \*

\* \* \* Effective July 1, 2022 \* \* \*

Sec. 13. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in subsection (c) of this section; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

\* \* \*

Sec. 14. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition

alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 15. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~19~~ 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction

shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

\* \* \*

\* \* \* Appropriation \* \* \*

#### Sec. 16. APPROPRIATION

In fiscal year 2019 there is appropriated the sum of \$200,000.00 to the Department for Children and Families from the General Fund to prepare for the expansion of services to 18 and 19 year old juvenile offenders pursuant to 33 V.S.A. chapters 52 and 52A beginning in fiscal year 2021, with any unexpended funds to carry forward.

\* \* \* Effective Dates \* \* \*

#### Sec. 17. EFFECTIVE DATES

- (a) This section, Sec. 4, and Sec. 16 shall take effect on passage.
- (b) Secs. 1-3 and 5-8 shall take effect on July 1, 2018.
- (c) Secs. 9-12 shall take effect on July 1, 2020.
- (d) Secs. 13-15 shall take effect on July 1, 2022.

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

An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

By striking out Sec. 16 (Appropriation) in its entirety and inserting in lieu thereof the following:

#### Sec. 16. FUNDING

To the extent the sum of \$200,000.00 is appropriated in fiscal year 2019 from the General Fund to the Department for Children and Families, the Department shall prepare for the expansion of services to juvenile offenders 18 and 19 years of age pursuant to 33 V.S.A. chapters 52 and 52A beginning in fiscal year 2021, and shall carry forward any unexpended funds.

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 Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Judiciary, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 28, Nays 0.

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:** Ayer, Balint, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent or not voting were:** Ashe (presiding), Baruth.

### **Senate Resolution Adopted**

#### **S.R. 12.**

Senate resolution entitled:

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

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

### **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. Devereux and others,

By Senators Nitka, Benning, Branagan, Brock, Collamore and Sears,

#### **H.C.R. 249.**

House concurrent resolution commemorating the 100th Anniversary of the World War I Armistice.

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By Reps. Lanpher and others,

**H.C.R. 250.**

House concurrent resolution designating February 16, 2018 as After-school and Summer Learning Day at the State House.

By Rep. Pajala,

By Senators Clarkson, McCormack and Nitka,

**H.C.R. 251.**

House concurrent resolution honoring Tim Fort, Malcolm Ewen, and Steve Stettler for their outstanding artistic leadership of the Weston Playhouse Theatre Company.

By Rep. Pajala,

By Senators Balint and White,

**H.C.R. 252.**

House concurrent resolution honoring Karen Ameden for her devotion to community service in the town of Jamaica.

By Rep. Pajala,

By Senators Campion and Sears,

**H.C.R. 253.**

House concurrent resolution in memory of Theodor H. Friedman of Winhall.

By Reps. Christensen and Partridge,

**H.C.R. 254.**

House concurrent resolution honoring international volunteer health care provider and former Civil Air Patrol leader Kathleen R. Fellows of Perkinsville.

By Rep. Smith,

By Senators Ayer and Bray,

**H.C.R. 255.**

House concurrent resolution honoring former University of Vermont Morgan Horse Farm Director Stephen P. Davis.

By Reps. Mrowicki and Deen,

By Senators Balint and White,

**H.C.R. 256.**

House concurrent resolution honoring F. William Holiday Jr. of Dummerston on his life of athletic and scholastic accomplishments and outstanding municipal civic service.

By Reps. Willhoit and others,

By Senators Benning and Kitchel,

**H.C.R. 257.**

House concurrent resolution honoring former Caledonia County Victim Advocate Susan Carr.

By Rep. Quimby,

**H.C.R. 258.**

House concurrent resolution in memory of former Granby Selectboard Chair Fredrick W. Hodgdon Sr. of Granby.

By Reps. Stevens and others,

**H.C.R. 259.**

House concurrent resolution congratulating the 2017 Harwood Union High School Highlanders Division II championship boys' golf team.

By All Members of the House,

By Senators Balint and White,

**H.C.R. 260.**

House concurrent resolution in memory of former Speaker of the House and Brattleboro Town Moderator Timothy J. O'Connor Jr.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, February 27, 2018, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 49.

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**TUESDAY, FEBRUARY 27, 2018**

The Senate was called to order by the President.

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**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 Passed**

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

**S. 70.** An act relating to the nutritional requirements for children's meals.

**S. 234.** An act relating to juvenile justice.

**Third Readings Ordered****S. 165.**

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

An act relating to preemployment health screenings for hospital employees.

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.

**H. 150.**

Senator Soucy, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to parole eligibility.

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 Amended; Third Reading Ordered****S. 203.**

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

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

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

Sec. 1. ORDER OF NON-HOSPITALIZATION STUDY COMMITTEE

(a) Creation. There is created the Order of Non-Hospitalization Study Committee to examine the strengths and weaknesses of Vermont's orders of non-hospitalizations for the purpose of improving patient care.

(b) Membership. The Committee shall be composed of the following 11 members:

(1) the Commissioner of Mental Health or designee;

(2) the Commissioner of Public Safety or designee;

(3) the Chief Superior Judge or designee;

(4) a member appointed by the Vermont Care Partners;

(5) a member appointed by the Vermont Association of Hospitals and Health Systems;

(6) a member appointed by Vermont Legal Aid's Mental Health Project;

(7) a member appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the Vermont Defender General or designee;

(9) the Executive Director of Vermont Psychiatric Survivors or designee;

(10) an individual who was previously under an order of non-hospitalization, appointed by Vermont Psychiatric Survivors; and

(11) the family member of an individual who is currently or was previously under an order of non-hospitalization, appointed by the Vermont chapter of the National Alliance on Mental Illness.

(c) Powers and duties. The Committee shall examine the strengths and weaknesses of Vermont's orders of non-hospitalization for the purpose of improving patient care and may propose a pilot project that seeks to redress any weaknesses and build upon any existing strengths. The Committee shall:

(1) review and understand existing laws pertaining to orders of non-hospitalization, including 1998 Acts and Resolves No. 114;

(2) review the 2017 Treatment Advocacy Center report entitled "Reimagining ONH," including the efficacy of each recommendation in the report;

(3) review existing data pertaining to orders of non-hospitalization, including data pertaining to individuals entering the mental health system through both civil and forensic procedures;

(4) if appropriate, propose a pilot project for the purpose of improving the efficacy of orders of non-hospitalization;

(5) if appropriate, recommend any changes necessary to approve the efficacy of orders of non-hospitalization; and

(6) identify statutory changes necessary to implement recommended changes to orders of non-hospitalization, if any.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Mental Health.

(e) Report. On or before November 1, 2018, the Committee shall submit a written report to the House Committee on Health Care and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Mental Health or designee shall call the first meeting of the Committee to occur on or before August 1, 2018.

(2) The Commissioner of Mental Health or designee shall be the Chair.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on December 1, 2018.

(g) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than four meetings. These payments shall be made from monies appropriated to the Department of Mental Health.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that when so amended the bill ought to pass.

Senator McCormack, 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.

**Committee Relieved of Further Consideration; Bill Committed****S. 174.**

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

An act relating to the Exchange special enrollment period for pregnancy, and the bill was committed to the Committee on Finance.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, February 28, 2018.

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**WEDNESDAY, FEBRUARY 28, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Julian Asucan of Montpelier.

**Message from the House No. 23**

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. 828.** An act relating to disclosures in campaign finance law.

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

**Message from the Governor  
Appointment Referred**

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

O'Neill, Karen of Hinesburg - Member of the State Labor Relations Board, - from February 26, 2018, to June 30, 2021.

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

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**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. 85.** An act relating to simplifying government for small businesses.

**S. 192.** An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

**S. 260.** An act relating to funding the cleanup of State waters.

**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. 180.** An act relating to the Vermont Fair Repair Act.

**S. 262.** An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access.

**Bill Referred**

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

**H. 828.**

An act relating to disclosures in campaign finance law.

To the Committee on Government Operations.

**Bill Amended; Third Reading Ordered****S. 221.**

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

An act relating to establishing extreme risk protection orders.

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 85 is amended to read:

## CHAPTER 85. WEAPONS

Subchapter 1. Generally

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Subchapter 2. Extreme Risk Protection Orders§ 4051. DEFINITIONS

As used in this subchapter:

(1) “Court” means the Family Division of the Superior Court.

(2) “Dangerous weapon” means an explosive or a firearm.

(3) “Explosive” means dynamite, or any explosive compound of which nitroglycerin forms a part, or fulminate in bulk or dry condition, or blasting caps, or detonating fuses, or blasting powder or any other similar explosive. The term does not include a firearm or ammunition therefor or any components of ammunition for a firearm, including primers, smokeless powder, or black gunpowder.

(4) “Federally licensed firearms dealer” means a licensed importer, licensed manufacturer, or licensed dealer required to conduct national instant criminal background checks under 18 U.S.C. § 922(t).

(5) “Firearm” shall have the same meaning as in subsection 4017(d) of this title.

(6) “Law enforcement agency” means the Vermont State Police, a municipal police department, or a sheriff’s department.

§ 4052. JURISDICTION AND VENUE

(a) The Family Division of the Superior Court shall have jurisdiction over proceedings under this subchapter.

(b) Emergency orders under section 4054 of this title may be issued by a judge of the Criminal, Civil, or Family Division of the Superior Court.

(c) Proceedings under this chapter shall be commenced in the county where the law enforcement agency is located, the county where the respondent resides, or the county where the events giving rise to the petition occur.

§ 4053. PETITION FOR EXTREME RISK PROTECTION ORDER

(a) A State’s Attorney or the Office of the Attorney General may file a petition requesting that the court issue an extreme risk protection order prohibiting a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person’s custody or control. The petitioner shall submit an affidavit in support of the petition.

(b) Except as provided in section 4054 of this title, the court shall grant relief only after notice to the respondent and a hearing. The petitioner shall have the burden of proof by clear and convincing evidence.

(c)(1) A petition filed pursuant to this section shall allege that the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(2)(A) An extreme risk of harm to others may be shown by establishing that:

(i) the respondent has inflicted or attempted to inflict bodily harm on another; or

(ii) by his or her threats or actions the respondent has intended to place others in reasonable fear of physical harm to themselves; or

(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.

(B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm.

(3) The affidavit in support of the petition shall state:

(A) the specific facts supporting the allegations in the petition;

(B) any dangerous weapons the petitioner believes to be in the respondent's possession, custody, or control; and

(C) whether the petitioner knows of an existing order with respect to the respondent under 15 V.S.A. chapter 21 (abuse prevention orders) or 12 V.S.A. chapter 178 (orders against stalking or sexual assault).

(d) The court shall hold a hearing within 14 days after a petition is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the petition and any ex parte order issued under section 4054 of this title.

(e)(1) The court shall grant the petition and issue an extreme risk protection order if it finds by clear and convincing evidence that at the time of the hearing the respondent poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control.

(2) An order issued under this subsection shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to 60 days. The order shall be signed by the judge and include the following provisions:

(A) A statement of the grounds for issuance of the order.

(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.

(C) A description of how to appeal the order.

(D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title.

(E) A description of how to request termination of the order under section 4055 of this title. The court shall include with the order a form for a motion to terminate the order.

(F) A statement directing the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of the firearm to release it to the owner upon expiration of the order.

(G) A statement in substantially the following form:

“To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. You have the right to request one hearing to terminate this order during the period that this order is in effect, starting from the date of this order. You may seek the advice of an attorney regarding any matter connected with this order.”

(f) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision.

(g) No filing fee shall be required for a petition filed under this section.

(h) Form petitions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(i) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

(j) Every final order issued under this section shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

(k) Affidavit forms required pursuant to this section shall bear the following language: “MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058.”

§ 4054. EMERGENCY RELIEF; TEMPORARY EX PARTE ORDER

(a)(1) A State’s Attorney or the Office of the Attorney General may file a motion requesting that the court issue an extreme risk protection order ex parte, without notice to the respondent. A law enforcement officer may notify the court that an ex parte extreme risk protection order is being requested pursuant to this section, but the court shall not issue the order until after the motion is filed.

(2) The petitioner shall submit an affidavit in support of the motion alleging that the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The affidavit shall state:

(A) the specific facts supporting the allegations in the motion, including the imminent danger posed by the respondent; and

(B) any dangerous weapons the petitioner believes to be in the respondent’s possession, custody, or control.

(b)(1) The court shall grant the motion and issue a temporary ex parte extreme risk protection order if it finds by a preponderance of the evidence that at the time the order is requested the respondent poses an imminent and extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title.

(2)(A) An extreme risk of harm to others may be shown by establishing that:

(i) the respondent has inflicted or attempted to inflict bodily harm on another; or

(ii) by his or her threats or actions the respondent has intended to place others in reasonable fear of physical harm to themselves; or

(iii) by his or her actions or inactions the respondent has presented a danger to persons in his or her care.

(B) An extreme risk of harm to himself or herself may be shown by establishing that the respondent has threatened or attempted suicide or serious bodily harm.

(c)(1) Unless the petition is voluntarily dismissed pursuant to subdivision (2) of this subsection, the court shall hold a hearing within 14 days after the issuance of a temporary ex parte extreme risk protection order to determine if a final extreme risk protection order should be issued. If not voluntarily dismissed, the temporary ex parte extreme risk protection order shall expire when the court grants or denies a motion for an extreme risk protection order under section 4053 of this title.

(2) The prosecutor may voluntarily dismiss a motion filed under this section at any time prior to the hearing if the prosecutor determines that the respondent no longer poses an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent's custody or control. If the prosecutor voluntarily dismisses the motion pursuant to this subdivision, the court shall vacate the temporary ex parte extreme risk protection order and direct the person in possession of the dangerous weapon to return it to the respondent consistent with section 4059 of this title.

(d)(1) An order issued under this section shall prohibit a person from purchasing, possessing, or receiving a dangerous weapon or having a dangerous weapon within the person's custody or control for a period of up to 14 days. The order shall be in writing and signed by the judge and shall include the following provisions:

(A) A statement of the grounds for issuance of the order.

(B) The name and address of the court where any filings should be made, the names of the parties, the date of the petition, the date and time of the order, and the date and time the order expires.

(C) The date and time of the hearing when the respondent may appear to contest the order before the court. This opportunity to contest shall be scheduled as soon as reasonably possible, which in no event shall be more than 14 days after the date of issuance of the order.

(D) A description of the requirements for relinquishment of dangerous weapons under section 4059 of this title.

(E) A statement in substantially the following form:

"To the subject of this protection order: This order shall be in effect until the date and time stated above. If you have not done so already, you are required to surrender all dangerous weapons in your custody, control, or

possession to [insert name of law enforcement agency], a federally licensed firearms dealer, or a person approved by the court. While this order is in effect, you are not allowed to purchase, possess, or receive a dangerous weapon; attempt to purchase, possess, or receive a dangerous weapon; or have a dangerous weapon in your custody or control. A hearing will be held on the date and time noted above to determine if a final extreme risk prevention order should be issued. Failure to appear at that hearing may result in a court making an order against you that is valid for up to 60 days. You may seek the advice of an attorney regarding any matter connected with this order.”

(2)(A) The court may issue an ex parte extreme risk protection order by telephone or by reliable electronic means pursuant to this subdivision if requested by the petitioner.

(B) Upon receipt of a request for electronic issuance of an ex parte extreme risk protection order, the judicial officer shall inform the petitioner that a signed or unsigned motion and affidavit may be submitted electronically. The affidavit shall be sworn to or affirmed by administration of the oath over the telephone to the petitioner by the judicial officer. The administration of the oath need not be made part of the affidavit or recorded, but the judicial officer shall note on the affidavit that the oath was administered.

(C) The judicial officer shall decide whether to grant or deny the motion and issue the order solely on the basis of the contents of the motion and the affidavit or affidavits provided. If the motion is granted, the judicial officer shall immediately sign the original order, enter on its face the exact date and time it is issued, and transmit a copy to the petitioner by reliable electronic means. The petitioner shall cause a copy of the order to be served on the respondent pursuant to section 4056 of this title.

(D) On or before the next business day after the order is issued:

(i) the petitioner shall file the original motion and affidavit with the court; and

(ii) the judicial officer shall file the signed order, the motion, and the affidavit with the clerk. The clerk shall enter the documents on the docket immediately after filing.

(e) Form motions and form orders shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(f) Every order issued under this section shall bear the following language: “VIOLATION OF THIS ORDER IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058, AND MAY ALSO BE PROSECUTED AS CRIMINAL CONTEMPT PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.”

(g) Affidavit forms required pursuant to this section shall bear the following language: “MAKING A FALSE STATEMENT IN THIS AFFIDAVIT IS A CRIME SUBJECT TO A TERM OF IMPRISONMENT OR A FINE, OR BOTH, AS PROVIDED BY 13 V.S.A. § 4058.”

(h) If the court denies a petition filed under this section, the court shall state the particular reasons for the denial in its decision.

#### § 4055. TERMINATION AND RENEWAL MOTIONS

(a)(1) The respondent may file a motion to terminate an extreme risk protection order issued under section 4053 of this title or an order renewed under subsection (b) of this section. A motion to terminate shall not be filed more than once during the effective period of the order. The State shall have the burden of proof by clear and convincing evidence.

(2) The court shall grant the motion and terminate the extreme risk protection order unless it finds by clear and convincing evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control.

(b)(1) A State’s Attorney or the Office of the Attorney General may file a motion requesting that the court renew an extreme risk protection order issued under this section or section 4053 of this title for an additional period of up to 60 days. The motion shall be accompanied by an affidavit and shall be filed not more than 30 days and not less than 14 days before the expiration date of the order. The motion and affidavit shall comply with the requirements of subsection 4053(c) of this title, and the moving party shall have the burden of proof by clear and convincing evidence.

(2) The court shall grant the motion and renew the extreme risk protection order for an additional period of up to 60 days if it finds by clear and convincing evidence that the respondent continues to pose an extreme risk of causing harm to himself or herself or another person by purchasing, possessing, or receiving a dangerous weapon or by having a dangerous weapon within the respondent’s custody or control. The order shall comply with the requirements of subdivision 4053(f)(2) and subsections 4053(j) and (k) of this title.

(c) The court shall hold a hearing within 14 days after a motion to terminate or a motion to renew is filed under this section. Notice of the hearing shall be served pursuant to section 4056 of this title concurrently with the motion.

(d) If the court denies a motion filed under this section, the court shall state the particular reasons for the denial in its decision.

(e) Form termination and form renewal motions shall be provided by the Court Administrator and shall be maintained by the clerks of the courts.

(f) When findings are required under this section, the court shall make either written findings of fact or oral findings of fact on the record.

#### § 4056. SERVICE

(a) A petition, ex parte temporary order, or final order issued under this subchapter shall be served in accordance with the Vermont Rules of Civil Procedure and may be served by any law enforcement officer. A court that issues an order under this chapter during court hours shall promptly transmit the order electronically or by other means to a law enforcement agency for service.

(b) A respondent who attends a hearing held under section 4053, 4054, or 4055 of this title at which a temporary or final order under this subchapter is issued and who receives notice from the court on the record that the order has been issued shall be deemed to have been served. A respondent notified by the court on the record shall be required to adhere immediately to the provisions of the order. However, even when the court has previously notified the respondent of the order, the court shall transmit the order for additional service by a law enforcement agency.

(c) Extreme risk protection orders shall be served by the law enforcement agency at the earliest possible time and shall take precedence over other summonses and orders. Orders shall be served in a manner calculated to ensure the safety of the parties. Methods of service that include advance notification to the respondent shall not be used. The person making service shall file a return of service with the court stating the date, time, and place at which the order was delivered personally to the respondent.

(d) If service of a notice of hearing issued under section 4053 or 4055 of this title cannot be made before the scheduled hearing, the court shall continue the hearing and extend the terms of the order upon request of the petitioner for such additional time as it deems necessary to achieve service on the respondent.

#### § 4057. PROCEDURE

(a) Except as otherwise specified, proceedings commenced under this subchapter shall be in accordance with the Vermont Rules for Family Proceedings and shall be in addition to any other available civil or criminal remedies.

(b) The Court Administrator shall establish procedures to ensure access to relief after regular court hours or on weekends and holidays. The Court Administrator is authorized to contract with public or private agencies to assist petitioners to seek relief and to gain access to Superior Courts. Law enforcement agencies shall assist in carrying out the intent of this section.

(c) The Court Administrator shall ensure that the Superior Court has procedures in place so that the contents of orders and pendency of other proceedings can be known to all courts for cases in which an extreme risk protection order proceeding is related to a criminal proceeding.

#### § 4058. ENFORCEMENT; CRIMINAL PENALTIES

(a) Law enforcement officers are authorized to enforce orders issued under this chapter. Enforcement may include collecting and disposing of dangerous weapons pursuant to section 4059 of this title and making an arrest in accordance with the provisions of Rule 3 of the Vermont Rules of Criminal Procedure.

(b)(1) A person who intentionally commits an act prohibited by a court or fails to perform an act ordered by a court, in violation of an extreme risk protection order issued pursuant to section 4053, 4054, or 4055 of this title, after the person has been served with notice of the contents of the order as provided for in this subchapter, shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(2) A person who files a petition for an extreme risk protection order under this subchapter knowing that information in the petition is false or with the intent to harass the respondent shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) In addition to the provisions of subsections (a) and (b) of this section, violation of an order issued under this subchapter may be prosecuted as criminal contempt under Rule 42 of Vermont Rules of Criminal Procedure. The prosecution for criminal contempt may be initiated by the State's Attorney in the county in which the violation occurred. The maximum penalty that may be imposed under this subsection shall be a fine of \$1,000.00 or imprisonment for six months, or both. A sentence of imprisonment upon conviction for criminal contempt may be stayed, in the discretion of the court, pending the expiration of the time allowed for filing notice of appeal or pending appeal if any appeal is taken.

#### § 4059. RELINQUISHMENT, STORAGE, AND RETURN OF DANGEROUS WEAPONS

(a) A person who is required to relinquish a dangerous weapon other than a firearm in the person's possession, custody, or control by an extreme risk

protection order issued under section 4053, 4054, or 4055 of this title shall upon service of the order immediately relinquish the dangerous weapon to a cooperating law enforcement agency. The law enforcement agency shall transfer the weapon to the Bureau of Alcohol, Tobacco, Firearms and Explosives for proper disposition.

(b)(1) A person who is required to relinquish a firearm in the person's possession, custody, or control by an extreme risk protection order issued under section 4053, 4054, or 4055 of this title shall, unless the court orders an alternative relinquishment pursuant to subdivision (2) of this subsection, upon service of the order immediately relinquish the firearm to a cooperating law enforcement agency or an approved federally licensed firearms dealer.

(2)(A) The court may order that the person relinquish a firearm to a person other than a cooperating law enforcement agency or an approved federally licensed firearms dealer unless the court finds that relinquishment to the other person will not adequately protect the safety of any person.

(B) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall execute an affidavit on a form approved by the Court Administrator stating that the person:

(i) acknowledges receipt of the firearm;

(ii) assumes responsibility for storage of the firearm until further order of the court and specifies the manner in which he or she will provide secure storage;

(iii) is not prohibited from owning or possessing firearms under State or federal law; and

(iv) understands the obligations and requirements of the court order, including the potential for the person to be subject to civil contempt proceedings pursuant to subdivision (C) of this subdivision (2) if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so.

(C) A person to whom a firearm is relinquished pursuant to subdivision (A) of this subdivision (2) shall be subject to civil contempt proceedings under 12 V.S.A. chapter 5 if the person permits the firearm to be possessed, accessed, or used by the person who relinquished the item or by any other person not authorized by law to do so. In the event that the person required to relinquish the firearm or any other person not authorized by law to possess the relinquished item obtains access to, possession of, or use of a relinquished item, all relinquished items shall be immediately transferred to the possession of a law enforcement agency or approved federally licensed firearms dealer pursuant to subdivision (b)(1) of this section.

(b) A law enforcement agency or an approved federally licensed firearms dealer that takes possession of a firearm pursuant to subdivision (b)(1) of this section shall photograph, catalogue, and store the item in accordance with standards and guidelines established by the Department of Public Safety pursuant to 20 V.S.A. § 2307(i)(3).

(c) Nothing in this section shall be construed to prohibit the lawful sale of firearms or other items.

(d) An extreme risk protection order issued pursuant to section 4053 of this title or renewed pursuant to section 4055 of this title shall direct the law enforcement agency, approved federally licensed firearms dealer, or other person in possession of a firearm under subsection (b) of this section to release it to the owner upon expiration of the order.

(e)(1) A law enforcement agency, an approved federally licensed firearms dealer, or any other person who takes possession of a firearm for storage purposes pursuant to this section shall not release it to the owner without a court order unless the firearm is to be sold pursuant to subdivision (2)(A) of this subsection. If a court orders the release of a firearm stored under this section, the law enforcement agency or firearms dealer in possession of the firearm shall make it available to the owner within three business days after receipt of the order and in a manner consistent with federal law.

(2)(A)(i) If the owner fails to retrieve the firearm within 90 days after the court order releasing it, the firearm may be sold for fair market value. Title to the firearm shall pass to the law enforcement agency or firearms dealer for the purpose of transferring ownership.

(ii) The law enforcement agency or firearms dealer shall make a reasonable effort to notify the owner of the sale before it occurs. In no event shall the sale occur until after the court issues a final extreme risk protection order pursuant to section 4053 of this title.

(iii) As used in this subdivision (2)(A), “reasonable effort” shall mean notice shall be served as provided for by Rule 4 of the Vermont Rules of Civil Procedure.

(B) Proceeds from the sale of a firearm pursuant to subdivision (A) of this subdivision (2) shall be apportioned as follows:

(i) associated costs, including the costs of sale and of locating and serving the owner, shall be paid to the law enforcement agency or firearms dealer that incurred the cost; and

(ii) any proceeds remaining after payment is made to the law enforcement agency or firearms dealer pursuant to subdivision (i) of this subdivision (2)(B) shall be paid to the original owner.

(f) A law enforcement agency shall be immune from civil or criminal liability for any damage or deterioration of a firearm stored or transported pursuant to this section. This subsection shall not apply if the damage or deterioration occurred as a result of recklessness, gross negligence, or intentional misconduct by the law enforcement agency.

(g) This section shall be implemented consistent with the standards and guidelines established by the Department of Public Safety under 20 V.S.A. § 2307(i).

(h) Notwithstanding any other provision of this chapter:

(1) A dangerous weapon shall not be returned to the respondent if the respondent's possession of the weapon would be prohibited by state or federal law.

(2) A dangerous weapon shall not be taken into possession pursuant to this section if it is being or may be used as evidence in a pending criminal matter.

#### § 4060. APPEALS

An extreme risk protection order issued by the court under section 4053 or 4055 of this title shall be treated as a final order for the purposes of appeal. Appeal may be taken by either party to the Supreme Court under the Vermont Rules of Appellate Procedure, and the appeal shall be determined forthwith.

#### 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 on a roll call, Yeas 30, 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, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

**Those Senators who voted in the negative were:** None.

**Bills Passed**

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

**S. 165.** An act relating to preemployment health screenings for hospital employees.

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

**Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment****H. 150.**

House bill entitled:

An act relating to parole eligibility.

Was taken up.

Thereupon, pending third reading of the bill, Senator Soucy moved to amend the Senate proposal of amendment in Sec. 3 (EFFECTIVE DATE), by striking out the following: "2017" and inserting in lieu thereof the following: 2018

Which was agreed to.

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

**Third Reading Ordered****S. 282.**

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

An act relating to health care providers participating in Vermont's Medicaid program.

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. 120.**

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

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An act relating to limiting corporate campaign contributions.

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. § 2941 is amended to read:

§ 2941. LIMITATIONS OF CONTRIBUTIONS

(a) In any election cycle:

(1)(A) A candidate for State Representative or for local office shall not accept contributions totaling more than:

- (i) \$1,000.00 from a single source; or
- (ii) \$1,000.00 from a political committee.

(B) Such a candidate may accept unlimited contributions from a political party.

(2)(A) A candidate for State Senator or for county office shall not accept contributions totaling more than:

- (i) \$1,500.00 from a single source; or
- (ii) \$1,500.00 from a political committee.

(B) Such a candidate may accept unlimited contributions from a political party.

(3)(A) A candidate for the office of Governor, Lieutenant Governor, Secretary of State, State Treasurer, Auditor of Accounts, or Attorney General shall not accept contributions totaling more than:

- (i) \$4,000.00 from a single source; or
- (ii) \$4,000.00 from a political committee.

(B) Such a candidate may accept unlimited contributions from a political party.

(4) A political committee shall not accept contributions totaling more than:

- (A) \$4,000.00 from a single source;
- (B) \$4,000.00 from a political committee; or
- (C) \$4,000.00 from a political party.

(5) A political party shall not accept contributions totaling more than:

- (A) \$10,000.00 from a single source;

(B) \$10,000.00 from a political committee; or

(C) \$60,000.00 from a political party.

(6) [Repealed.]

(b) A single source, political committee, or political party shall not contribute more to a candidate, political committee, or political party than the candidate, political committee, or political party is permitted to accept under this section.

(c)(1) Notwithstanding any provision of law to the contrary, only an individual, a political committee, or a political party may make a contribution to a candidate or to a political party.

(2) A candidate or a political party shall not accept a contribution from any person other than those permitted to make such a contribution under subdivision (1) of this subsection.

(d) As used in this section:

(1) For a candidate described in subdivisions (a)(1)-(3) of this section, an “election cycle” means:

(A) in the case of a general or local election, the period that begins 38 days after the previous general or local election for the office and ends 38 days after the general or local election for the office for which that person is a candidate, and includes any primary or run-off election related to that general or local election; or

(B) in the case of a special election, the period that begins on the date the special election for the office was ordered and ends 38 days after that special election, and includes any special primary or run-off election related to that special election.

(2) For a political committee, political party, or single source described in subdivisions (4)-(6) of subsection (a), an “election cycle” means a two-year general election cycle.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on December 14, 2018.

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

An act relating to the persons authorized to make contributions to candidates and political parties.

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 on a roll call, Yeas 23, Nays 7.

Senator Pollina 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, Branagan, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr, White.

**Those Senators who voted in the negative were:** Benning, Brock, Collamore, Flory, Rodgers, Soucy, Westman.

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

#### **S. 175.**

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

An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

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

\* \* \* Wholesale Importation Program \* \* \*

Sec. 1. 18 V.S.A. chapter 91, subchapter 4 is added to read:

#### Subchapter 4. Wholesale Prescription Drug Importation Program

#### § 4651. WHOLESALE IMPORTATION PROGRAM FOR PRESCRIPTION DRUGS; DESIGN

(a) The Agency of Human Services, in consultation with interested stakeholders and appropriate federal officials, shall design a wholesale prescription drug importation program that complies with the applicable requirements of 21 U.S.C. § 384, including the requirements regarding safety and cost savings. The program design shall:

(1) designate a State agency that shall either become a licensed drug wholesaler or contract with a licensed drug wholesaler in order to seek federal certification and approval to import safe prescription drugs and provide significant prescription drug cost savings to Vermont consumers;

(2) use Canadian prescription drug suppliers regulated under the laws of Canada or of one or more Canadian provinces, or both;

(3) ensure that only prescription drugs meeting the U.S. Food and Drug Administration's safety, effectiveness, and other standards shall be imported by or on behalf of the State;

(4) import only those prescription drugs expected to generate substantial savings for Vermont consumers;

(5) ensure that the program complies with the tracking and tracing requirements of 21 U.S.C. §§ 360eee and 360eee-1 to the extent feasible and practical prior to imported drugs coming into the possession of the State wholesaler and that it complies fully after imported drugs are in the possession of the State wholesaler;

(6) prohibit the distribution, dispensing, or sale of imported products outside Vermont's borders;

(7) establish a fee on each prescription or establish another financing mechanism to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

(8) include a robust audit function.

(b) On or before January 1, 2019, the Secretary of Human Services shall submit the proposed design for a wholesale prescription drug importation program to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

#### § 4652. MONITORING FOR ANTICOMPETITIVE BEHAVIOR

The Agency of Human Services shall consult with the Office of the Attorney General to identify the potential, and to monitor, for anticompetitive behavior in industries that would be affected by a wholesale prescription drug importation program.

#### § 4653. FEDERAL COMPLIANCE

(a) On or before July 1, 2019, the Agency of Human Services shall submit a formal request to the Secretary of the U.S. Department of Health and Human Services for certification of the State's wholesale prescription drug importation program.

(b) The Agency of Human Services shall seek the appropriate federal approvals, waivers, exemptions, or agreements, or a combination thereof, as needed to enable all covered entities enrolled in or eligible for the federal 340B Drug Pricing Program to participate in the State's wholesale prescription drug importation program to the fullest extent possible without jeopardizing their eligibility for the 340B Program.

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§ 4654. IMPLEMENTATION PROVISIONS

Upon certification and approval by the Secretary of the U.S. Department of Health and Human Services, the Agency of Human Services shall begin implementation of the wholesale prescription drug importation program and shall begin operating the program within six months following the date of the Secretary's approval. As part of the implementation process, the Agency of Human Services shall, in accordance with State procurement and contract laws, rules, and procedures as appropriate:

(1) become licensed as a wholesaler or enter into a contract with a Vermont-licensed wholesaler;

(2) contract with one or more Vermont-licensed distributors;

(3) contract with one or more licensed and regulated Canadian suppliers;

(4) engage with health insurance plans, employers, pharmacies, health care providers, and consumers;

(5) develop a registration process for health insurance plans, pharmacies, and prescription drug-administering health care providers who are willing to participate in the program;

(6) create a publicly available source for listing the prices of imported prescription drug products that shall be made available to all participating entities and consumers;

(7) create an outreach and marketing plan to generate program awareness;

(8) starting in the weeks before the program becomes operational, create and staff a hotline to answer questions and address the needs of consumers, employers, health insurance plans, pharmacies, health care providers, and other affected sectors;

(9) establish the audit function and a two-year audit work-plan cycle; and

(10) conduct any other activities that the Agency determines to be important for successful implementation of the program.

§ 4655. ANNUAL REPORTING

(a) Annually on or before January 15, the Agency of Human Services shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding the operation of the wholesale prescription drug importation program during the previous calendar year, including:

(1) which prescription drugs were included in the wholesale importation program;

(2) the number of participating pharmacies, health care providers, and health insurance plans;

(3) the number of prescriptions dispensed through the program;

(4) the estimated savings to consumers, health plans, employers, and the State during the previous calendar year and to date;

(5) information regarding implementation of the audit plan and audit findings; and

(6) any other information the Secretary of Human Services deems relevant.

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

\* \* \* Bulk Purchasing of Prescription Drugs \* \* \*

Sec. 2. 18 V.S.A. chapter 91, subchapter 5 is added to read:

#### Subchapter 5. Bulk Purchasing

##### § 4671. DEFINITIONS

As used in this subchapter:

(1) "Pharmacy benefit manager" shall have the same meaning as in section 9471 of this title.

(2) "Prescription drug claims processor" means a person who does one or more of the following:

(A) processes and pays prescription drug claims;

(B) adjudicates pharmacy claims;

(C) transmits prescription drug prices and claims data between pharmacies and the bulk purchasing program established in this subchapter; or

(D) processes payments to pharmacies related to the bulk purchasing program established in this subchapter.

(3) "Wholesale drug distributor" shall have the same meaning as in 26 V.S.A. § 2022.

##### § 4672. PRESCRIPTION DRUG BULK PURCHASING PROGRAM

(a) Purposes. There is established a bulk purchasing program for prescription drugs in the Department of Health for the purposes of:

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(1) purchasing prescription drugs or reimbursing pharmacies for prescription drugs, or both, in order to receive discounted prices and rebates;

(2) making prescription drugs available at the lowest possible cost to participants in the program; and

(3) maximizing the purchasing power of prescription drug consumers in this State in order to negotiate the lowest possible prices for these consumers.

(b) Administration. The Department of Health shall administer the program, with the assistance of a wholesale drug distributor if the Department deems it appropriate, by:

(1) negotiating price discounts and rebates on prescription drugs with prescription drug manufacturers;

(2) purchasing prescription drugs on behalf of participants in the program;

(3) determining program prices and reimbursing pharmacies for prescription drugs;

(4) developing a system for allocating and distributing among program participants the program's operational costs and any rebates obtained;

(5) cooperating with other states or regional consortia in the bulk purchase of prescription drugs; and

(6) establishing terms and conditions for pharmacies to enroll in the program.

(c) Contracts. The Department may enter into contracts with one or more of the following:

(1) pharmacy benefit managers;

(2) prescription drug claims processors; or

(3) wholesale drug distributors.

(d) Application process.

(1) The Department shall create and distribute an application for enrollment in the program.

(2) The Department may charge a participant a nominal fee to:

(A) process the application for enrollment in the program; and

(B) produce and distribute identification cards for the program.

(e) Program prices.

(1) The Department shall calculate and transmit to each enrolled pharmacy the program price for each prescription drug included in the program.

(2) An enrolled pharmacy shall charge a program participant the program price for a prescription drug if the participant presents a valid program identification card.

(f) Enrollment.

(1) Subject to subdivision (2) of this subsection and notwithstanding any other provision of law to the contrary, the Department shall automatically enroll in the program all consumers receiving prescription drugs through any other State agency or department.

(2) Notwithstanding subdivision (1) of this subsection, if another State agency or department demonstrates to the Department that program enrollment would result in a net increase in costs to either the State or the consumers, the other agency or department shall be exempt from automatic enrollment in the bulk purchasing program established in this subchapter.

§ 4673. FEDERAL WAIVER

If a federal waiver is necessary to enable the participation of any Vermont consumer in the bulk purchasing program established in this subchapter, the Department shall take all necessary steps to obtain the waiver, and any other State agency or department that provides prescription drugs to Vermont consumers shall cooperate with the Department in obtaining the waiver.

§ 4674. RULES

The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 as needed to carry out the purposes of this subchapter. At a minimum, the rules shall address:

(1) the enrollment of pharmacies in the program; and

(2) the issuance of prescription drug identification cards to participants in the program.

§ 4675. REPORTING REQUIREMENTS

(a) Annually on or before January 15, the Department of Health shall provide a report on the progress of program implementation to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

(b) Each report shall include the following information:

(1) the number of participants in the program during the previous calendar year and the number of participants the Department anticipates for the upcoming calendar year;

(2) the number of participants for whom the program has purchased prescription drugs during the previous calendar year and to date, as well as the number of participants for whom the program expects to purchase prescription drugs during the upcoming calendar year;

(3) the total and average individual savings on prescription drug prices for participants for the previous calendar year and to date, as well as the projected total and average individual savings on prescription drug prices for participants during the upcoming calendar year;

(4) progress toward expanding the program; and

(5) any recommendations for legislation that the Department feels are necessary to implement the program further and to expand program participation.

\* \* \* Health Insurance Plan Reporting \* \* \*

Sec. 3. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

\* \* \*

(b)(1) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection (c) of this section. In addition, the insurer shall post the summaries on its website.

(2)(A) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall disclose to the Board:

(i) for all covered prescription drugs, including generic drugs, brand-name drugs excluding specialty drugs, and specialty drugs dispensed at a pharmacy, network pharmacy, or mail-order pharmacy for outpatient use;

(I) the percentage of the premium rate attributable to prescription drug costs for the prior year for each category of prescription drugs;

(II) the year-over-year increase or decrease, expressed as a percentage, in per-member, per-month total health plan spending on each category of prescription drugs; and

(III) the year-over-year increase or decrease in per-member, per-month costs for prescription drugs compared to other components of the premium rate; and

(ii) the specialty tier formulary list.

(B) The insurer shall provide, if available, the percentage of the premium rate attributable to prescription drugs administered by a health care provider in an outpatient setting that are part of the medical benefit as separate from the pharmacy benefit.

(C) The insurer shall include information on its use of a pharmacy benefit manager, if any, including which components of the prescription drug coverage described in subdivisions (A) and (B) of this subdivision (2) are managed by the pharmacy benefit manager, as well as the name of the pharmacy benefit manager or managers used.

(c)(1) The Board shall provide information to the public on the Board's website about the public availability of the filings and summaries required under this section.

(2)(A) ~~Beginning no later than January 1, 2014, the~~ The Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection (b) of this section on the Board's website within five calendar days ~~of following~~ filing. The Board shall also establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

\* \* \*

Sec. 4. 18 V.S.A. § 4636 is added to read:

§ 4636. IMPACT OF PRESCRIPTION DRUG COSTS ON HEALTH INSURANCE PREMIUMS; REPORT

(a) Each health insurer with more than 200 covered lives in this State shall report to the Green Mountain Care Board, for all covered prescription drugs, including generic drugs, brand-name drugs, and specialty drugs provided in an outpatient setting or sold in a retail setting:

(1) the 25 most frequently prescribed drugs and the average wholesale price for each drug;

(2) the 25 most costly drugs by total plan spending and the average wholesale price for each drug; and

(3) the 25 drugs with the highest year-over-year price increases and the average wholesale price for each drug.

(b) The Green Mountain Care Board shall compile the information reported pursuant to subsection (a) of this section into a consumer-friendly report that demonstrates the overall impact of drug costs on health insurance premiums. The data in the report shall be aggregated and shall not reveal information as specific to a particular health benefit plan.

(c) The Board shall publish the report required pursuant to subsection (b) of this section on its website on or before January 1 of each year. Information provided to the Board pursuant to this section is exempt from inspection and copying under the Public Records Act and shall be kept confidential except to the extent it is aggregated and included in the report described in subsection (b) of this section.

\* \* \* Notice of New High-Cost Drugs \* \* \*

Sec. 5. 18 V.S.A. § 4637 is added to read:

§ 4637. NOTICE OF INTRODUCTION OF NEW HIGH-COST  
PRESCRIPTION DRUGS

(a) As used in this section:

(1) “Manufacturer” shall have the same meaning as “pharmaceutical manufacturer” in section 4631a of this title.

(2) “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

(b) A prescription drug manufacturer shall notify the Office of the Attorney General in writing if it is introducing a new prescription drug to market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program. The manufacturer shall provide the written notice within three calendar days following the release of the drug in the commercial market. A manufacturer may make the notification pending approval by the U.S. Food and Drug Administration (FDA) if commercial availability is expected within three calendar days following the approval.

(c) Not later than 30 calendar days following notification pursuant to subsection (b) of this section, the manufacturer shall provide all of the

following information to the Office of the Attorney General in a format that the Office prescribes:

(1) a description of the marketing and pricing plans used in the launch of the new drug in the United States and internationally;

(2) the estimated volume of patients who may be prescribed the drug;

(3) whether the drug was granted breakthrough therapy designation or priority review by the FDA prior to final approval; and

(4) the date and price of acquisition if the drug was not developed by the manufacturer.

(d) The manufacturer may limit the information reported pursuant to subsection (c) of this section to that which is otherwise in the public domain or publicly available.

(e) The Office of the Attorney General shall publish on its website at least quarterly the information reported to it pursuant to this section. The information shall be published in a manner that identifies the information that is disclosed on a per-drug basis and shall not be aggregated in a manner that would not allow identification of the drug.

(f) The Attorney General may bring an action in the Civil Division of the Superior Court, Washington County for injunctive relief, costs, and attorney's fees and to impose on a manufacturer that fails to provide the information required by subsection (c) of this section a civil penalty of not more than \$1,000.00 per day for every day after the notification period described in subsection (b) of this section that the required information is not reported. In any action brought pursuant to this section, the Attorney General shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Protection Act, 9 V.S.A. chapter 63.

\* \* \* Disclosures by Pharmacists \* \* \*

Sec. 6. 18 V.S.A. § 9473(b) is amended to read:

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; or

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer;

(4) prohibit or penalize a pharmacy or pharmacist for providing information to an insured regarding the insured's cost-sharing amount for a prescription drug; or

(5) prohibit or penalize a pharmacy or pharmacist for the pharmacist or other pharmacy employee disclosing to an insured the cash price for a prescription drug or selling a lower cost drug to the insured if one is available.

\* \* \* Effective Dates \* \* \*

#### Sec. 7. EFFECTIVE DATES

(a) Sec. 6 (18 V.S.A. § 9473; disclosures by pharmacists) shall take effect on July 1, 2018 and shall apply to all contracts taking effect on or after that date.

(b) The remaining sections shall take effect on passage.

And that when so amended the bill ought to pass.

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

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

By adding a new section and reader assistance heading to be Sec. 2a to read as follows:

\* \* \* Condition for Implementation of Secs. 1 and 2 \* \* \*

#### Sec. 2a. WHOLESALE IMPORTATION AND BULK PURCHASING PROGRAMS; CONDITION FOR IMPLEMENTATION

The Agency of Human Services and the Department of Health shall be required to design and commence implementation of the wholesale prescription drug importation program described in Sec. 1 of this act and the bulk purchasing program described in Sec. 2 of this act only to the extent that funds are appropriated for either or both of these purposes in the budget bill enacted by the General Assembly for fiscal year 2019.

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 Health and Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended? was agreed to and third reading of the bill was ordered.

**Message from the House No. 24**

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. 895.** An act relating to legislative review of certain report requirements.

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

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, March 1, 2018.

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**THURSDAY, MARCH 1, 2018**

The Senate was called to order by the President.

**Devotional Exercises**

Devotional exercises were conducted by the Reverend Sally May of Mallets Bay.

**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 February, 2018, he approved and signed a bill originating in the Senate of the following title:

**S. 149.** An act relating to the authority of the Department of Forests, Parks and Recreation to enter into land transactions.

**Bill Referred**

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

**H. 895.**

An act relating to legislative review of certain report requirements.

To the Committee on Government Operations.