

# Senate Calendar

THURSDAY, FEBRUARY 15, 2018

SENATE CONVENES AT: 10:25 A.M.

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### ACTION CALENDAR

#### UNFINISHED BUSINESS OF WEDNESDAY, FEBRUARY 14, 2018

##### Resolution for Action

##### S.R. 11.

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

**PENDING QUESTION:** Shall the Resolution be adopted?

**Text of Resolution:**

*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."

**NEW BUSINESS**

**Third Reading**

**S. 237.**

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

**H. 694.**

An act relating to captive insurance companies.

**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 40.**

An act relating to increasing the minimum wage.

**Reported favorably with recommendation of amendment by Senator Sirotkin for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends 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.

(Committee vote: 4-1-0)

**Reported favorably by Senator Sears for the Committee on Appropriations.**

(Committee vote: 6-1-0)

**Amendment to S. 40 to be offered by Senators Benning, Branagan and Collamore**

Senators Benning, Branagan and Collamore move 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.

\* \* \*

**Amendment to S. 40 to be offered by Senators Sears, Ashe, Kitchel, McCormack, Nitka, Starr and Westman**

Senators Sears, Ashe, Kitchel, McCormack, Nitka, Starr and Westman move 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:

(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:

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.

## NOTICE CALENDAR

### Second Reading

#### Favorable with Recommendation of Amendment

#### S. 123.

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

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.**

The Committee recommends 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.

(Committee vote: 5-0-0)

**S. 280.**

An act relating to the Child Poverty Advisory Council.

**Reported favorably by Senator Ingram for the Committee on Health and Welfare.**

(Committee vote: 5-0-0)

**Reported favorably with recommendation of amendment by Senator Kitchel for the Committee on Appropriations.**

The Committee recommends 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.

(Committee vote: 7-0-0)

## **CONCURRENT RESOLUTIONS FOR NOTICE**

### **Concurrent Resolutions For Notice Under Joint Rule 16**

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

**H.C.R. 239 - 248** (For text of Resolutions, see Addendum to House Calendar for February 15, 2018)

## **CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Rachel Feldman of Middlesex – Member, Capitol Complex Commission (term 10/2/17 – 2/28/18) – By Sen. Mazza for the Committee on Institutions. (2/13/18)

Robert Simpson of Burlington – Chair, State Board of Health (term 12/5/17 – 2/28/23) – By Sen. Ingram for the Committee on Health and Welfare. (2/15/18)

Margaret Bolton of Addison – Member, State Board of Health (term 12/12/16 – 2/28/17) – By Sen. Ayer for the Committee on Health and Welfare. (2/15/18)

Margaret Bolton of Addison – Member, State Board of Health (term 12/5/17 – 2/28/23) – By Sen. Ayer for the Committee on Health and Welfare. (2/15/18)

Don Meals of Burlington – Member, State Board of Health (9/12/16 – 2/28/19) – By Sen. Ingram for the Committee on Health and Welfare. (2/15/18)

Faisal Gill of Winooski – Member, Board of Medical Practice (term 1/1/17 – 12/31/22) – By Sen. Lyons for the Committee on Health and Welfare. (2/15/18)

Patricia Hunter of Rutland – Member, Board of Medical Practice (1/1/17 – 12/31/22) – By Sen. McCormack for the Committee on Health and Welfare. (2/15/18)

Ryan Sexton of Montpelier – Member, Board of Medical Practice (term 6/14/16 – 12/31/18) – By Sen. Cummings for the Committee on Health and Welfare. (2/15/18)

Alexandra Potter of Starksboro – Member, Vermont Tobacco Evaluation and Review Board (6/30/16 – 7/1/19) – By Sen. McCormack for the Committee on Health and Welfare. (2/15/18)

#### **PUBLIC HEARINGS**

**February 15, 2018 - 3:15 - 4:15 P.M.** - Room 11 - Re: Governor's Recommended FY2019 State Budget - House Committee on Appropriations.

**February 22, 2018 - 7:00 P.M.** - Room 11 - Re: Judicial Retention - Joint Committee on Judicial Retention.

#### **NOTICE OF JOINT ASSEMBLY**

**Thursday, February 15, 2018 - 10:30 A.M.** - Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than Thursday, February 8, 2018, by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

## **FOR INFORMATION ONLY**

### **CROSS OVER DATES**

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 2, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Fee Bill).**