

From: Dudley, Jahala [Jahala.Dudley@vermont.gov]

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BCC: Allen, Susan; Byrne, Emily; Clasen, Michael; Coriell, Scott; Dudley, Jahala; Gingras, Jessica; GPS; Gray, Laura; Green, Geoff; Johnson, Harriet; Johnson, Justin; Kunin, Lisa; London, Sarah; Miller, Lawrence; Mishaan, Jessica; Pepper, James; Trombley, Shana

Subject: Conf. Exec Priv: Daily Legislative Report for Friday: February 19, 2016

House will reconvene on Tuesday at 10:00am

Senate will reconvene on Tuesday at 9:30am

HOUSE

Bill Amended, Read Third Time and Passed:

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

*Rep. Mike Mrowicki, with all members of HHS co-sponsoring, presented a floor amendment to substitute the word "confirmed" with "written confirmation" in referring to a report of child abuse/neglect that has already been made to DCF. **Now off to Senate.***

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

Third Reading; Bill Passed

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

SENATE

Bill Amended; Third Reading Ordered

S. 154. An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

Bills Referred

H. 249 An act relating to intermunicipal services.
Referred to the Committee on Government Operations.

H. 539 An act relating to establishment of a Pollinator Protection Committee.
Referred to the Committee on Agriculture.

H. 625 An act relating to extending the exemption from encumbrance on title of properties subject to a pre-transition stormwater permit.
Referred to the Committee on Natural Resources & Energy.

COMMITTEE INTEL/TESTIMONY:

SENATE HEALTH & WELFARE: **S.198 Foster Parent Bill of Rights** [Ken Schatz Testimony Below]

Thank you for the opportunity to provide testimony on S.189. Foster parents are Vermont families who open the hearts and their homes to children in need. We agree with the spirit of this bill, that they deserve our support and recognition of their role in our child welfare system.

However, many of the-proposed provisions are already contained in DCF policy or regulation. We have provided a point-by-point analysis below, which will inform the committee about existing policy content. We have also noted those sections where more discussion is needed in order to avoid unintended consequences, including conflict with existing state or federal law.

If you do decide to proceed with this bill, please know that we are concerned about the inclusion of whistleblower provisions. These provisions would suggest that there is an employer-employee relationship between DCF and licensed foster parents. This is not the case. Foster parents provide a highly valued service to vulnerable children in Vermont, but they do so as volunteers. They are compensated only for the expenses they incur – room and board, clothing and incidentals for the child.

We note that the primary provisions have been borrowed from similar statutes in other states. Here is a link to those statutes:

<http://www.ncsl.org/research/human-services/foster-care-bill-of-rights.aspx#Parents>

SENATE AGRICULTURE: **205 - An act relating to renewable energy development and protecting agricultural and forest soils**: [Jon Copans] testified. He let us know that Agriculture committee came out with new language today. It gives bill-back authority. The agency has two issues. First, it requires the Agency of Agriculture to participate instead of opting in. And second, it takes language from 250, Section 9b and 9c and puts them in Section 248. Does not believe this fits. The bill should be passed out of Senate Ag next week and will go on to Natural Resources. Likely to be incorporated into S.230.

SENATE JUDIARY: **Marijuana – S.241**: Senate Judiciary had some concerns with changes to the bill and Senator Sirotkin testified for Finance and himself.

- Senate Judiciary is concerned with an issue related to criminal procedure- when a police officer searches a person based on probable cause for possession of marijuana and discovers other contra band, will the search hold up in court? Answer- it turns on whether there was probable cause of crime or whether there was a search warrant. Legalization will not change this and decriminalization of marijuana has already reduced the ability of police to search a person based on merely smelling marijuana.
- Senate Finance reduced the amount of marijuana that can be purchased at once from 1 ounce to ½ ounce. Judiciary was not very pleased about this change.
- There were questions about Senate Finance's decision to phase in the licensed retailers and cultivators rather than allowing all licenses to be issued right away. Legislative counsel clarified

that the phase in only temporarily reduces the number of licensed establishment- after two years, there will be 30 cultivators and 30 retailers, as Senate Judiciary requested.

- Senator Sirotkin asked the committee how it would feel about an amendment that encourages banking for marijuana businesses. He did not mention the problems caused to government departments by a cash economy. Some committee members (White and Benning) were skeptical.

HOUSE HEALTH CARE: **Ambulance Reimbursement**: Seems clear that the committee intends to pass some sort of legislation to address the issue. Shocked to hear that saving someone from overdosing is not reimbursed by Medicaid when that person doesn't go to hospital. Seems entirely counterintuitive. Poirier is pushing for a straight up rate increase closer to Medicare. Lippert is looking more broadly at changing regs for oversight. Thinks there's a bigger issue here, which is not recognizing ambulance as being part of the healthcare system as a whole. Need to create more central oversight of this with HC system. Looking at GMCB oversight. Reps were intrigued by notion of Blueprint-like payment (not much detailed discussion though).

HOUSE WAYS & MEANS: **Fee Bill**: Commissioner Schuren and Secretary Cole testified this morning in Ways & Means on the proposed increase from \$1 to \$2 for the motor vehicle emissions fee. Commissioner Schuren explained the work of DEC's Air Quality and Control Division, and how it is supported by the fee. The committee was especially interested in DEC's wood stove change-out program, which will be launched in mid-March. There was also some discussion about Vermont's high asthma levels, and whether they are caused by air quality issues, cigarette smoking, or some combination. The committee seemed supportive of the fee increase. DEC will respond to some of the committee members' specific questions with an email.

SENATE EDUCATION: **School Discipline**: Senator Cummings and the committee seem like they're backing off a bill and will do a resolution instead – more to come.

HOUSE HEALTH CARE: **H. 812 - consumer protections for ACOs**. Rep. Pearson posted a potential draft amendment to H. 812. Stressed it is still very much in draft form. Available here: <http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Health%20Care/Bills/H.812/H.812~Chris%20Pearson~Potential%20draft%20amendment%20to%20H.812~2-19-2016.pdf>

This draft amendment gives the GMCB regulatory authority over the ACOs. The GMCB would review and approve the budget for each ACO operating in this state. The bold text is related to Quality. This mirrors the hospital budget review. GMCB already reviews rates and hospital budgets. The language is lifted from hospital budget process.

HOUSE GOV OP: **Divestment** (Willis took notes on Just the beginning): McKibbon stated that he wanted to be clear that he would not make his testimony about climate change and would instead focus on the issue of divestment. Claims coal is the worst performing economic sector currently. He also stated that by divesting in the fossil fuel industry we would be in companies of institutions such as the Norwegian Sovereign Wealth Fund and a family name molded in fossil fuel; the Rockefeller family. McKibbon addresses the two arguments he consistently hears as it pertains to divesting.

- Put state on slippery slope that legislatures will have to continuously make investment decisions

- Claims that history will prove that this is not the case and only occurs in extraordinary circumstances; apartheid, tobacco, etc...
- It is better to engage with the industry to change rather than shut them out
 - McKibbon claims this directly counteracts fossil fuel business plans. Also claims that change would be cosmetic at best

Firmly supports Governor's call to divest. The witness immediately following McKibbon, Jackson Robinson, represented an asset management company that primarily focused on CSR with investments. Robinson, made clear that to divest from fossil fuels is a fiscally responsible decision.

HOUSE HEALTH CARE: **GMCB Budget**: Discussion continued re Act 54, APM (funding and staff levels).

Rep. Pearson asked about reserves and understanding of how money would be spent and what would happen to it if APM is not agreed to. Answer: funds will be reverted to original source.

Rep. Pearson: Will there be money left over at the end of the year due to delay in the process. Answer: more than likely there will be some money left.

Rep. Briglin: Asks for review of FY17, before Act 54, and definition of base. If APM goes forward is money built in. Answer: Yes. APM is in ask.

Rep. Lippert: asked about ACO and the ability to take on risk. Should ACOs be reviewed by GMCB? Asked GMCB to consider H.812. Should this happen. Answer: Depends. Thinking internally about regulator functions. Rep. Lippert asked if there is anything in current budget to provide for regulatory role? Answer: No. Will Start thinking about it.

Committee will take testimony next week.

Rep. Pearson: Should GMCB regulate ACOs? Answer: unsure how GMBC would enforce regulations.

Rep. Lippert: asked about Shared Savings and One Care's Next Gen opportunity if all payer does not move forward. Answer: Current programs will end.

Rep. Gage: reporting requirements go away. Answer: Yes.

Some discussion on getting ambulance data. GMCB will look at expenditure analysis. Will talk to Mike Davis.

Rep. Lippert: need additional authority to ask hospitals for spending authority? Answer: Can ask questions now. Will report back.

Rep. Briglin: Requests update of Crosswalk.

Yesterday:

HOUSE EDUCATION: **After School Programs**: Representatives from Leland and Gray Union Middle and High School spoke on their support for expanding learning opportunities, mainly after school options.

These representatives included students offering their insight of the positive impact the programs have made in their lives.

- The representatives requested 2.5 million to expand opportunities so that all students can benefit from these programs—currently 200 of 300 students are actively engaged in these after school activities.
- The chair proposed the idea of extending school hours to 6pm, when parents are off from work. It was received well by the committee and even the witness. However, the witness stated that it would be more expensive than simply the 2.5 million to expand the existing programs.

Despite overwhelming support from the committee, there were qualms regarding where the money could possibly come from. There were no members opposed to expanding these programs.

HOUSE TRANSPORTATION: **Bicycles and other Vulnerable users, Rights and Obligations.**

[Testifying: Michele Boomhower, PPAID; Jon Kaplan, MAB; Jake Elovirta, DMV Enforcement; John Flannigan, VSP; Emily Boedecker, Local Motion.] Presentation of revised/additional sections of statute in Title 23 that were originally part of the larger “traffic safety” bill, H.560. Main discussion centered around language that would specify a distance by which it is considered safe to pass a vulnerable user. Other discussion around some proposed language that essentially presumes fault by motor vehicle drivers if a collision occurs with a vulnerable user.

HOUSE HEALTH CARE: **GMCB Budget Discussion.** [Kate Jones & Susan Barrett, GMCB]: Discussion and questioning focused around the positions funded in Act 54 for the All Payer Model and the new ask for 4 APM positions in FY17. The committee spent time trying to understand the Board’s current funding, current funding that is not being used for positions, and how that will increase or level fund the ask going forward. GMCB reiterated that if we do not go forward with the APM that money will not be used and will go back to the state. Committee wants to know if they will ask for the money for other things. The questions they are getting at are highlighted below. Committee comes back to this topic at 11:00.

HOUSE CORRECTIONS & INSTITUTIONS: [Lisa Menard]

This morning we had a 90 minute discussion of **results based accountability and DOC programs.** This was basically a collaborative conversation with the committee to achieve mutual understanding of performance measure and outcomes.

Offender records and files- committee discussion of draft 6.4. myself and 5 attorneys met to hammer out details. We all came to agreement on this version (overall) and it is likely to pass out of committee this week. The senate is also working on a records bill (s.116)

The committee scheduled directly with the Director of the CHSVT and an employee (Wilhelmina Picard and John Howe)- to discuss the **DOC budget proposal** regarding a reduction to the field sites of the school. DC Elovirta will sit in on this today. I requested to be placed on the agenda to represent the DOC administration perspective on our proposal and to discuss our planning going forward. I was assured I would be scheduled in next week.