

Journal of the House

Wednesday, April 3, 2024

At one o'clock in the afternoon, the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Joan Javier-Duval, Unitarian Church of Montpelier.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time, and referred to committee as follows:

S. 181

Senate bill, entitled

An act relating to establishing a television assessment and community media

To the Committee on Environment and Energy.

S. 195

Senate bill, entitled

An act relating to how a defendant's criminal record is considered in imposing conditions of release

To the Committee on Judiciary.

S. 253

Senate bill, entitled

An act relating to building energy codes

To the Committee on Environment and Energy.

Joint Resolution Adopted in Concurrence

J.R.S. 51

By Senator Baruth,

J.R.S. 51. Joint resolution relating to weekend adjournment on April 5, 2024.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 5, 2024, it be to meet again no later than Tuesday, April 9, 2024.

Was taken up, read, and adopted in concurrence.

Ceremonial Reading**H.C.R. 197**

House concurrent resolution designating April 3, 2024 as Prevention Day in Vermont

Offered by: Representatives Goldman of Rockingham, Andrews of Westford, Anthony of Barre City, Austin of Colchester, Berbeco of Winooski, Black of Essex, Bos-Lun of Westminster, Branagan of Georgia, Burrows of West Windsor, Buss of Woodstock, Carpenter of Hyde Park, Chase of Chester, Corcoran of Bennington, Cordes of Lincoln, Demar of Enosburgh, Dolan of Essex Junction, Farlice-Rubio of Barnet, Garofano of Essex, Houghton of Essex Junction, McCoy of Poultney, McFaun of Barre Town, McGill of Bridport, Noyes of Wolcott, Pajala of Londonderry, Peterson of Clarendon, Pouech of Hinesburg, Sims of Craftsbury, Small of Winooski, Taylor of Colchester, and Wood of Waterbury

Offered by: Senator Perchlik

Whereas, Prevention Day is an annual event created to call attention to the issue of substance misuse prevention in Vermont, and

Whereas, this observance is designed to bring together youth, prevention organizations, and supporters to educate public policy decision-makers and to celebrate the substance misuse prevention community in Vermont, and

Whereas, the General Assembly recognizes the struggles that Vermonters continue to encounter with the misuse of alcohol, marijuana, tobacco, and other substances, as well as the economic, emotional, and psychological toll that this misuse takes on individuals, families, schools, workplaces, and communities, and

Whereas, the network of community organizations, service providers, youth, and individuals dedicated to substance misuse prevention share a common goal of supporting healthy living for all Vermonters, and

Whereas, celebrating Prevention Day is an opportunity for communities across the State to raise their voices in order to create a strong, sustainable, and unified system that promotes substance misuse prevention, healthy living, and wellness in Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly designates April 3, 2024 as Prevention Day in Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Prevention Works!VT.

Having been adopted in concurrence on Friday, March 29, 2024 in accord with Joint Rule 16b, was read.

Third Reading; Bill Passed

H. 862

House bill, entitled

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

Was taken up, read the third time, and passed.

Bill Amended; Third Reading; Bill Passed

H. 874

House bill, entitled

An act relating to miscellaneous changes in education laws

Was taken up and, pending third reading of the bill, **Rep. Graning of Jericho** moved to amend the bill as follows:

First: In Sec. 10, postgraduation career and settlement behaviors of students attending Vermont postsecondary institutions; report, in subsection (b), following the words “the report required under this section shall also include the following” by inserting “, organized by significant demographic group”

Second: In Sec. 10, postgraduation career and settlement behaviors of students attending Vermont postsecondary institutions; report, in subdivision (b)(1), by striking out “by significant demographic group.”

Which was agreed to. Thereupon, the bill was read the third time and passed.

Third Reading; Bill Passed**H. 884**

House bill, entitled

An act relating to the modernization of governance for the St. Albans Cemetery Association

Was taken up, read the third time, and passed.

**Third Reading; Bill Passed in Concurrence
with Proposal of Amendment****S. 278**

Senate bill, entitled

An act relating to prohibiting a comparative negligence defense in an action for a negligence claim relating to a sexual act or sexual conduct

Was taken up, read the third time, and passed in concurrence with proposal of amendment.

Favorable Report; Second Reading; Third Reading Ordered**S. 190**

Rep. Arsenault of Williston, for the Committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to statements made by a child victim of an offense involving serious bodily injury

Reported in favor of its passage in concurrence.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, and third reading ordered.

**Amendment Offered; Question Divided; Bill Amended;
Third Reading; Bill Passed****H. 876**

House bill, entitled

An act relating to miscellaneous amendments to the corrections laws

Was taken up and, pending third reading of the bill, **Rep. Cina of Burlington** moved to amend the bill as follows:

First: By striking out Sec. 4, Joint Legislative Justice Oversight Committee review; earned time educational credits, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE;
CORRECTIONS EARNED TIME AND ALLOWANCE; HEALTH
CARE EXPANSION; REVIEW

(a) Earned time and earned allowance.

(1) The Joint Legislative Justice Oversight Committee shall review whether the Department of Corrections' earned time program should permit earned time for educational credits and whether the Department should create an earned allowance program. The Committee's review shall include consideration of the following:

(A) testimony from justice-involved individuals with lived experience in a correctional facility, as well as others who have worked with such individuals;

(B) expanding the earned time program to include offenders and parolees;

(C) examining the current operation and effectiveness of the Department's victim notification system and whether it has the capabilities to handle an expansion of the earned time program; and

(D) creating an earned allowance program for all sentenced and incarcerated individuals, including those on furlough, probation, and parole, that permits such individuals to accrue monetary allowances to use towards the costs associated with victim restitution, educational advancement, health care, housing, occupation, taxes, and any fines.

(2) On or before November 15, 2024, the Committee shall submit any recommendations to the Senate Committee on Judiciary and the House Committee on Corrections and Institutions.

(b) Mental health and substance use disorder services continuity of care pilot.

(1) The Joint Legislative Justice Oversight Committee shall review and determine the feasibility of implementing a pilot for the provision of community-based mental health and substance use disorder services to detained or incarcerated individuals and individuals reentering the community. The Committee's review shall include:

(A) receipt of testimony from the Agency of Human Services, stakeholders providing the perspective of justice-involved individuals with lived experience of a mental health condition or substance use disorder, community-based housing and services providers, and Department of Corrections' staff and contractors;

(B) an assessment of how community-based services provided pursuant to this pilot would be reimbursed when provided both within and outside a correctional setting;

(C) an assessment of how community-based services provided pursuant to this pilot would be coordinated both within and outside a correctional setting;

(D) an assessment of how community-based services provided pursuant to this pilot would be delivered both within and outside a correctional setting; and

(E) any recommended data collection necessary to measure the success of the pilot.

(2) On or before November 1, 2024, the Committee shall submit any recommendations to the Senate Committees on Health and Welfare and on Judiciary and to the House Committees on Corrections and Institutions, on Health Care, and on Human Services.

Second: In Sec. 7, out-of-state correctional facilities; transition; report, in subsection (b), by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) plans to enhance the capabilities of Vermont-based correctional facilities and to employ the use of alternatives to incarceration in anticipation of any changes to Vermont's incarcerative population resulting from the termination of contracts with privately operated, for-profit, or out-of-state correctional facilities; and

Thereupon, **Rep. Cina of Burlington** asked that the question be divided by its two instances of amendment, and the Speaker ruled the question was divisible in that manner.

Thereafter, the question, Shall the bill be amended as offered by Rep. Cina of Burlington in the first instance of amendment?, was disagreed to.

Thereafter, the question, Shall the bill be amended as offered by Rep. Cina of Burlington in the second instance of amendment?, was agreed to.

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

Amendment Offered; Third Reading; Bill Passed

H. 882

House bill, entitled

An act relating to capital construction and State bonding budget adjustment

Was taken up and, pending third reading of the bill, **Rep. Cina of Burlington** moved to amend the bill as follows:

First: In Sec. 3, 2023 Acts and Resolves No. 69, Sec. 3, human services, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) The following sums are appropriated in FY 2025 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

(1) Northwest State Correctional Facility, booking expansion, planning, design, and construction: ~~\$2,500,000.00~~ \$2,600,000.00

(2) ~~Women's correctional facility and reentry facility, replacement, planning and design~~ Statewide, correctional facilities, planning, design, and construction of building improvements and upgrades to create wellness environments for supporting trauma-informed practices: \$13,000,000.00

(3) Statewide, correctional facilities, HVAC systems, planning, design, and construction for upgrades and replacements:

~~\$700,000.00~~ \$5,150,000.00

(4) Statewide, correctional facilities, accessibility upgrades:

\$822,000.00

(5) Statewide, study of State-owned properties for construction of residential treatment facilities and transitional housing for justice-involved individuals:

\$200,000.00

Second: By striking out Sec. 24, 2023 Acts and Resolves No. 69, Sec. 28, replacement women's facility, site location proposal, design intent, and inserting in lieu thereof a new Sec. 24 to read as follows:

Sec. 24. 2023 Acts and Resolves No. 69, Sec. 28 is amended to read:

Sec. 28. ~~REPLACEMENT WOMEN'S FACILITIES; SITE LOCATION PROPOSAL; DESIGN INTENT~~

~~(a)(1) Site location proposal. On or before January 15, 2024, the Commissioner of Buildings and General Services shall submit a site location proposal for replacement women's facilities for justice-involved women to the House Committee on Corrections and Institutions and the Senate Committee on Institutions. It is the intent of the General Assembly that when evaluating site locations, preference shall be given to State-owned property. The proposal shall consider both colocating facilities in a campus-style approach for~~

~~operational efficiencies and the need for separate facilities at different locations.~~

~~(2) Beginning September 15, 2023 and ending December 15, 2023, the Commissioner of Buildings and General Services shall submit monthly status reports on the site location proposal described in subdivision (1) of this subsection (a).~~

~~(b) Design intent. It is the intent of the General Assembly that the Commissioner of Buildings and General Services, in consultation with the Commissioner of Corrections, shall incorporate into the design of any women's replacement facility the use of evidence-based principles for wellness environments for supporting trauma-informed practices. [Repealed.]~~

Third: By striking out Sec. 25, replacement women's facilities, authority to purchase land, and Sec. 26, potential reuse of Chittenden Regional Correctional Facility Site, feasibility, report, in their entireties and inserting in lieu thereof new Secs. 25 and 26 to read as follows:

Sec. 25. 29 V.S.A. § 170b is added to read:

§ 170b. CORRECTIONAL FACILITY; CONSTRUCTION, RENOVATION,
OR EXPANSION; MORATORIUM

Notwithstanding section 152 of this title or any other provision of law, the State shall not:

(1) study, plan, design, acquire, lease, search for site locations for, or construct a new correctional facility;

(2) expand the capacity of an existing correctional facility beyond its current design or rated capacity;

(3) convert any part of an existing or dormant correctional facility for the purpose of detention or incarceration, including to change or expand the populations incarcerated in that facility;

(4) renovate an existing or dormant correctional facility beyond requirements for maintenance or to comply with building code requirements;
or

(5) repair an existing or dormant correctional facility for the purposes of expanding the facility or increasing its bed capacity.

Sec. 26. CORRECTIONAL FACILITY; CONSTRUCTION, RENOVATION,
OR EXPANSION; MORATORIUM; REPEAL

29 V.S.A. § 170b shall be repealed on July 1, 2029.

Fourth: After Sec. 23, 29 V.S.A. § 152, by inserting a Sec. 23a to read as follows:

Sec. 23a. STATE PROPERTY; CONSTRUCTION OF RESIDENTIAL
TREATMENT FACILITIES FOR JUSTICE-INVOLVED
INDIVIDUALS; REPORT

(a) On or before January 15, 2025, the Commissioner of Buildings and General Services shall report to the House Committees on Corrections and Institutions, on Health Care, and on Human Services and to the Senate Committees on Health and Welfare and on Institutions regarding State properties that could be utilized to provide residential treatment and housing for justice-involved individuals. The report shall be prepared in consultation with the Commissioner of Corrections, the Secretary of Human Services, regional planning commissions for the areas in which the State properties under consideration are located, and other appropriate stakeholders.

(b) The report shall specifically identify:

(1) State properties that could be utilized to provide transitional housing, secure residential recovery facilities, therapeutic community residences, and other residential treatment facilities for justice-involved individuals; with preference given to site locations near support services, programming, and work opportunities needed to facilitate successful reentry into the community; and

(2) properties identified pursuant to subdivision (1) of this subsection that are located adjacent to or in reasonable proximity to publicly or privately owned sites that could be utilized for residential or mixed-use development that could be facilitated through the construction of infrastructure or improvements, including utilities and roads, needed for the development of the property identified pursuant to subdivision (1) of this subsection.

Which was disagreed to. Thereupon, the bill was read the third time and passed.

Message from the Senate No. 41

A message was received from the Senate by Ms. Gradel, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 167. An act relating to miscellaneous amendments to education law.

S. 259. An act relating to climate change cost recovery.

S. 301. An act relating to miscellaneous agricultural subjects.

S. 304. An act relating to Vermont's career and technical education programs.

S. 310. An act relating to natural disaster government response, recovery, and resiliency.

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

The Senate has adopted a proposed amendment to the Vermont Constitution entitled:

Prop 3. Declaration of Rights; right to collectively bargain.

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

The Governor has informed the Senate that on April 3, 2024, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 18. An act relating to banning flavored tobacco products and e-liquids.

Text of Communication from Governor

The text of the communication from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. S. 18**, to the Senate is as follows:

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I'm returning S.18, *An act relating to banning flavored tobacco products and e-liquids*, without my signature because of my objections described herein.

Admittedly, I've struggled with this bill, as it seems hypocritical and out of step with other initiatives that have passed into law recently and over time.

To be clear, I too feel we have an obligation to protect our children, but it must be balanced in such a way that we honor the rights and freedoms of adults to make decisions about their individual lives.

That's why, in 2019, I signed a bill raising the legal age to buy tobacco or e-cigarette products from 18 to 21 and even increased a tax on some of those

products to deter use. In my mind, these were reasonable steps that struck the right balance.

From my perspective, this bill is inconsistent with other laws related to legalized substance use. In 2020, the Legislature legalized the commercial sale of cannabis, including edibles and other flavored products, which are now widely available, despite the known risks to youth and their developing brains. Yet, to my knowledge, I'm not aware of an initiative to ban such products, even considering their obvious appeal to minors and negative health impacts.

In addition, we (the State) allow, and in fact actively advertise and profit from, the sale of flavored alcohol products. We also promote and highlight our distilleries and breweries with all their unique flavors, which has been incredibly successful, not only financially, but also from a branding and tourism standpoint. But it can't be denied alcohol abuse has been the root cause of many societal challenges.

I've found people lose faith in government when policies have these types of inconsistencies, because they contradict common sense.

Furthermore, from a purely practical point of view, these products would continue to be widely available just across the river in New Hampshire, and through online sales.

Regardless of what becomes of this bill, the Legislature should direct the Attorney General and the Department of Liquor and Lottery to further crack down on direct online sales to minors.

In conclusion, I'm not convinced the in-state prohibition of flavored tobacco, e-liquids and tobacco substitutes only, is justified when sales will remain online, and when State law plainly encourages sales of other unhealthy adult products to continue.

Sincerely,

Philip B. Scott

Governor

April 3, 2024

Adjournment

At two o'clock and twenty-one minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at one o'clock in the afternoon.