

House Calendar

FRIDAY, FEBRUARY 27, 2009

52nd DAY OF BIENNIAL SESSION

House Convenes at 9:30 A.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

H. 26

An act relating to plans for treatment of unmarked burial sites.

H. 62

An act relating to an exemption from municipal dog-control ordinances for working farm dogs.

H. 91

An act relating to technical correction to the juvenile judicial proceedings act of 2008.

H. 109

An act relating to uniform limited cooperative association act.

Senate Proposal of Amendment

H. 232

An act relating to the fiscal year 2009 budget adjustment.

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 15, by striking out the figure “917,330,704” where it twice appears and inserting in lieu thereof the figure 921,131,468 and by striking out the figure “76,506,839” and inserting in lieu thereof the figure 77,189,310 and by striking out the figure “629,035,365” and inserting in lieu thereof the figure 632,153,658

Second: In Sec. 46, by striking out the figure “465,265,683” and inserting in lieu thereof the figure 465,694,096 and by striking out the figure “23,063,620” and inserting in lieu thereof the figure 23,132,361 and by striking out the figure “1,010,911,056” and inserting in lieu thereof the figure 1,010,413,902

Third: By striking out Sec. 69 in its entirety and inserting in lieu thereof a new Sec. 69 to read as follows:

Sec. 69. CARRY FORWARD AUTHORITY

(a) Notwithstanding any other provisions of law and subject to the approval of the secretary of administration, general, transportation and education fund

appropriations remaining unexpended on June 30, 2009 in the executive branch of state government shall be carried forward and shall be designated for expenditure.

(b) Notwithstanding any other provisions of law, general and transportation fund appropriations remaining unexpended on June 30, 2009 in the legislative and judicial branch of state government shall be carried forward and shall be designated for expenditure.

Fourth: After Sec. 83, by adding a new section to be numbered Sec. 83a to read as follows:

Sec. 83a. FEDERAL ECONOMIC RECOVERY FUNDS

(a) The secretary of administration is authorized, in fiscal year 2009, to obligate up to 51 percent of the federal funds allocated to the state under Division A - Title XII in the American Recovery and Reinvestment Act. These funds may be allocated to transportation projects in the state's approved transportation program. This authority is granted for a period of 120 days following the Federal Highway Administration notice of apportionment of such funds. The secretary of administration shall report to the house and senate transportation committees or joint transportation oversight committee as requested on the projects for which funds have been obligated and the status of meeting the time constraints for obligating these funds as required by the federal legislation.

(b) Notwithstanding any other provision of law, and subject to all applicable federal rules and regulations, the secretary of transportation is authorized to obligate up to 75 percent of all Federal Transit Administration funds made available to the state by the American Recovery and Investment Act of 2009.

(c) Notwithstanding any other provision of law, and subject to all applicable federal rules and regulations, the secretary of transportation is authorized to request additional federal funds through any discretionary or competitive grant transportation program in the American Recovery and Investment Act of 2009 with respect to projects in the state's approved transportation program.

Fifth: By striking out Sec. 86 in its entirety and inserting in lieu thereof a new Sec. 86 to read as follows:

Sec. 86. 16 V.S.A. § 2856(a) is amended to read:

(a) An active member of the Vermont army national guard or the air national guard may be eligible for an interest-free loan in an academic year for financial assistance to pay for tuition and fees for courses taken at a Vermont colleges, university, or regional technical center or other programs approved pursuant to policies adopted in accordance with subsection (f) of this section. Academic year

awards may be up to the in-state tuition rate at the University of Vermont for that year. ~~Traditional airmen may receive academic year awards up to \$9,500.00 per year.~~

Sixth: By striking out Sec. 93 in its entirety and inserting in lieu thereof a new Sec. 93 to read as follows:

Sec. 93. 32 V.S.A. § 305a(c) is amended to read:

(c) The January estimates shall include estimated caseloads and estimated per member per month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the agency and the joint fiscal office for state health care assistance programs or premium assistance programs supported by the state health care resources and Global Commitment funds, for VermontRx, and for the programs under the Choices for Care Medicaid Section 1115 waiver. For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category. The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down state contribution payment and for the disproportionate share hospital payments. In July, the administration and the joint fiscal office shall make a report to the emergency board on the most recently ended fiscal year for all Medicaid and Medicaid related programs including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the emergency board may adopt revised estimates for the current and next succeeding fiscal year.

Seventh: In Sec. 101, Sec. 5.005(k), in the last sentence, by striking out the word “should” and inserting in lieu thereof the word shall

Eighth: After Sec. 104, by adding a new section to be numbered Sec. 104a to read as follows:

Sec. 104a. 26 V.S.A. § 2032(g) is amended to read:

(g)(1) The board may develop procedures to permit it to oversee, at no more than three locations and for no more than two years each in duration, pilot experiments for remote pharmacies. In addition, the board may develop a pilot experiment, for no more than two years in duration, to use telepharmacy to dispense prescriptions from secure automatic dispensing units at locations in Vermont recognized as a covered entity under Section 340B of the Public Health Service Act.

(2) On December 1 of each year, the board shall report to the house committee on health care and senate ~~committees~~ committee on government operations ~~health and welfare~~ its findings with regard to pilot experiments

initiated in the previous calendar year. If the board determines that the pilot experiments should be extended statewide, the board shall include in its final report proposed rules governing remote pharmacy and telepharmacy practice.

Ninth: After Sec. 106, by adding a new section to be numbered Sec. 106a to read as follows:

Sec. 106a. Sec. 26 of No. 30 of the Acts of 2007, as amended by Sec. 5.902 of No. 192 of the Acts of 2008, is amended to read:

Sec. 26. EFFECTIVE DATES; IMPLEMENTATION

* * *

(b) The amendments to 33 V.S.A. chapter 11 contained in Secs. 2-13 (Reach Up), 14 (solely state-funded programs), and 16 (Reach Up transitions) of this act shall take effect immediately when the rule changes necessary to implement the sections become final, but no later than April 1, 2008. Until the time that the rule modifications are final, the Reach Up program shall operate under current law. Any provisions in these sections relating to Reach Ahead shall take effect as soon as possible but no later than ~~on April 1, 2009~~ July 1, 2009.

* * *

(d) Reach First established in Sec. 1 of this act shall be implemented no later than April 1, 2008. Reach Ahead established in Sec. 18 shall be implemented for families who leave Reach Up on or after ~~April 1, 2009~~ October 1, 2010, as provided for in 33 V.S.A. § 1203(1). Subject to appropriation, Reach Ahead shall be implemented for all other families as provided for in 33 V.S.A. § 1203 no later than ~~July 1, 2009~~ October 1, 2009.

Tenth: By striking out Sec. 110 in its entirety and inserting in lieu thereof a new Sec. 110 to read as follows:

Sec. 110. Sec. 5.224(f) of No. 192 of the Acts of 2008 is added to read:

(f) In fiscal year 2009, the secretary of administration may upon recommendation of commissioner of corrections transfer unexpended funds between the respective appropriations for correctional services and for correctional services – out-of-state beds. At least three days prior to any such transfer being made, the secretary shall report the intended transfer to the joint fiscal office and shall report any completed transfers to the joint fiscal committee at its next scheduled meeting.

Eleventh: At the end of Sec. 121(a) by adding the following sentence:

The assistant judges of Bennington County shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services.

Twelfth: At the end of Sec. 125(a), by adding the following sentence:

The assistant judges of these counties shall maintain offices for the newly formed district in the former districts which may be used by the probate court full or part time to provide access to probate services.

Thirteenth: By inserting three new sections to be numbered Sec. 128, Sec. 129 and Sec. 130 to read as follows:

Sec. 128. 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

(a) Fuel efficiency fund. There is established the fuel efficiency fund to be administered by a fund administrator appointed by the board. Balances in the fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund. The fund shall contain such sums as appropriated by the general assembly or as otherwise provided by law, ~~in addition to revenues from the sale of credits under the RGGI cap and trade program established under section 255 of this title.~~

* * *

Sec. 129. 30 V.S.A. § 209(d)(8) is added to read:

(8) Effective January 1, 2010, net proceeds above costs from the sale of carbon credits under section 255 of this title shall be deposited into the electric efficiency fund established by this section and be used by the entity or entities appointed under subdivision (2) of this subsection to deliver fossil fuel energy efficiency services to Vermont heating and process-fuel consumers to help meet the state's building efficiency goals established by 10 V.S.A. § 581.

Sec. 130. 30 V.S.A. § 255(d) is amended to read:

(d) Appointment of consumer trustees. The public service board, by rule, order, or competitive solicitation, may appoint one or more consumer trustees to receive, hold, bank, and sell tradable carbon credits created under this program. Trustees may include Vermont electric distribution utilities, the fiscal agent collecting and disbursing funds to support the statewide efficiency utility, or a financial institution or other entity with the expertise and financial resources to manage a portfolio of carbon credits for the long-term benefit of Vermont energy consumers. Notwithstanding any other provision of this

section, Proceeds net proceeds above costs from the sale of carbon credits shall be deposited into the fuel electric efficiency fund established under section 203a subsection 209(d)(2) of this title for use as specified in subsection 209(d)(8) of this title.

Fourteenth: By striking out Sec. 75 in its entirety and inserting in lieu thereof a new Sec. 75 to read as follows:

Sec. 75. REINSTATEMENT OF MEDICAID CHIROPRACTIC SERVICES

(a) The office of Vermont health access shall restore chiropractic services in the Medicaid program effective April 1, 2009 that were eliminated in the rescission actions of the joint fiscal committee on December 19, 2008. The funds allocated for this include \$81,193 of the general funds and \$156,352 of the federal funds appropriated in Sec. 15 of this act and \$237,545 global commitment funds appropriated in Sec. 18 of this act.

(b) The office of Vermont health access shall reinstate chiropractic services effective April 1, 2009 through the emergency rulemaking process contained in section 844 of Title 3. The general assembly deems this reinstatement to meet the public health, safety, or welfare requirement in subsection 844(a) of Title 3.

Fifteenth: By striking out Sec. 18 and inserting in lieu thereof a new Sec. 18 to read as follows:

Sec. 18. Sec. 2.207 of No. 192 of the Acts of 2008 is amended to read:

Sec. 2.207. Office of Vermont health access - Medicaid program - Global Commitment

Grants	461,385,056	<u>468,105,861</u>
Source of funds		
Global Commitment fund	461,385,056	<u>468,105,861</u>

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

(For text see House Journal February 20, 2009 – P. 243)

For Action Under Rule 52

J. R. H. 10

Joint resolution recognizing the commitment to quality service of Vermont's locally owned banks.

J. R. S. 22

Joint resolution providing for a Joint Assembly to vote on the retention of three Superior Judges, and one District Judge.

(For text see House Journal February 26, 2009)

NOTICE CALENDAR

Favorable with Amendment

H. 16

An act relating to deer doing damage to forest resources.

Rep. Lewis of Derby, for the Committee on **Fish, Wildlife and Water Resources**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4826 is amended to read:

§ 4826. TAKING DEER DAMAGING CROPS

(a) A person, including an authorized member of the person's family, an authorized regular on-premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, may take, on land owned or occupied by the person, up to four deer per year which the person can prove were doing damage to the following:

(1) a tree which is being grown in a plantation or being cultivated for the purpose of harvesting an annual or perennial crop or producing any marketable item; or

(2) a crop-bearing plant; or

(3) a crop, except grass.

(b)(1) The commissioner may issue in writing an approval for a person, including an authorized member of the person's family, an on-premises employee, or an agent who holds a Vermont hunting license and who is designated by the person, to take, on land owned or occupied by the person, up to ten deer per year that are doing damage to forestland managed for the production, now or in the future, of a sawlog or sawlog product of a commercial species of any grade, provided that:

(A) The land owned by the person is not posted against hunting;

(B) The person possesses for the forestland in question a forest management plan that is current and in effect;

(C) A consulting forester or county forester has:

- (i) inspected the forestland at issue;
- (ii) determined that deer overbrowsing jeopardizes the regeneration of commercial timber species on the forestland; and
- (iii) submitted a summary of inspection to the commissioner of fish and wildlife.

(2) Within 30 days of submission of an inspection summary under subdivision (1) of this subsection, the commissioner shall issue written approval to take deer under this subsection or shall request that a forester selected by the commissioner conduct a second inspection of the forestland at issue in order to confirm that deer overbrowsing on the forestland jeopardizes regeneration of commercial timber species on that land. If the determination of the forester selected by the commissioner conflicts with the original determination in the submitted inspection summary, the commissioner may refuse to authorize the taking of deer on the forestland at issue.

(3) No later than 180 days after the submission of the original inspection summary under subdivision (1) of this subsection, the commissioner shall notify the person who owns the forestland at issue of the outcome of the second inspection and shall issue written approval or denial to take deer.

(c) A person by whom, or under whose direction, a deer is wounded or killed, shall report in writing signed by him or her within 12 hours all the facts relative to the act to a game warden. The report shall state the time and place of the wounding or killing.

~~(e)~~(d) A person who kills a deer shall immediately properly dress the carcass and care for the meat.

~~(d)~~(e) The game warden shall immediately investigate the case and if satisfied that the deer was taken as provided in this section, shall give the person a certificate of the finding in the matter. The certificate shall entitle the person to the ownership of the carcass, but the person shall not sell or give away the same. However, the head and the antlers, if any, shall be turned over to a warden. In addition, any carcass not needed for home consumption in the household of the certificate-holder shall be turned over to a game warden.

~~(e)~~(f) When a game warden finds that a deer has been wounded or killed contrary to the provisions of this section, he or she shall dispose of the deer under the direction of the commissioner, and any monies received therefor shall be paid to the commissioner.

~~(f)~~(g) "Person" includes all people who jointly own or occupy the land. Therefore, if two or more people jointly own or occupy land, they may jointly take or authorize the taking of only up to four deer.

~~(g)~~(h) The commissioner may issue a permit to a person to take more than ~~four deer under section~~ the maximum limit of deer doing damage set forth in subsection (a) or (b) if:

- (1) the land owned by the person is not posted against hunting;
- (2) the person can prove that the property is sustaining additional and ongoing damage; and
- (3) the person has taken reasonable measures to prevent the deer from continuing to damage the crop or continuing to damage forestland managed for the production of a sawlog or sawlog product of a commercial species of any grade.

~~(h)~~(i) The commissioner is authorized to issue an order requiring any person to remove food or bait which has the effect of luring deer into the vicinity of the property sustaining damage. In this subsection, food does not include a crop or crop-bearing plant.

Sec. 2. DEPARTMENT OF FISH AND WILDLIFE REPORT ON TAKING OF DEER DOING DAMAGE

On or before January 15, 2012, and annually thereafter, the commissioner of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding implementation of the commissioner's authority to approve the taking of deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species. The report shall include:

- (1) A summary of how the commissioner has exercised his or her authority to approve the taking of deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species;
- (2) The number of requests that the commissioner received for approval to take deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species;
- (3) The number of approvals that the commissioner issued to take deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species.
- (4) An estimate of the number of deer taken under the commissioner's authority to approve the taking of deer doing damage to forestland managed for the production of sawlogs or sawlog products from commercial species.

(Committee vote: 9-0-0)

H. 160

An act relating to approval of the charter of the town of Hartford.

Rep. Townsend of Randolph, for the Committee on **Government Operations**, recommends the bill be amended by adding a Sec. 2a to read as follows:

Sec. 2a. APPLICATION

The requirements set forth in 24 V.S.A. App. chapter 123A §§ 202(e)(1) and 203(a)(1)(A), that the selectboard of the town of Hartford consist of seven members, shall apply so that the two additional members of the selectboard shall be elected at the 2010 annual meeting; and the requirement set forth in 24 V.S.A. App. chapter 123A § 203(a)(2)(E), that the presence of four members of the selectboard shall constitute a quorum, shall apply following the election of those two additional members of the selectboard at the 2010 annual meeting.

(Committee vote: 8-2-1)

Favorable

H. 131

An act relating to codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1.

Rep. Hubert of Milton, for the Committee on **Government Operations**, recommends the bill ought to pass.

(Committee Vote: 8-1-2)

H. 204

An act relating to payment of diversion program fees.

Rep. French of Shrewsbury, for the Committee on **Judiciary**, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

J. R. S. 17

Joint resolution requesting the Department of Health to complete and update its study on the relationship of the closed Vermont Asbestos Group mine in the towns of Eden and Lowell to occurrences of asbestos-related illness.

Rep. Mrowicki of Putney, for the Committee on **Human Services**, recommends the resolution ought to be adopted in concurrence.

(Committee vote: 9-0-2)

CONSENT CALENDAR

Concurrent Resolutions for Notice Under Joint Rule 16

The following concurrent resolutions have been introduced for approval by the House and Senate and have been printed in the Senate and House Addendum to today's calendars. These will be adopted automatically unless a member requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Clerk of the House or to a member of his staff.

(For text of Resolutions, see Addendum to House and Senate Notice Calendar for Friday, February 27, 2009)

H.C.R. 63

House concurrent resolution congratulating the Pico Ski Club on its 60th anniversary

H.C.R. 64

House concurrent resolution in memory of John C. Donahue Jr. of Northfield

H.C.R. 65

House concurrent resolution congratulating the Roxbury Free Library on its 75th anniversary

H.C.R. 66

House concurrent resolution commemorating the 60th anniversary of U.S. Senator George Aiken's popularizing the geographic designation Northeast Kingdom

H.C.R. 67

House concurrent resolution honoring retiring Putney town moderator John Caldwell

H.C.R. 68

House concurrent resolution recognizing the 62 years of extraordinary school board service of Dr. Harry Rowe

S.C.R. 12.

Senate concurrent resolution commemorating the tenth anniversary of the sister-state relationship between the state of Vermont and the province of Taiwan.

S.C.R. 13.

Senate concurrent resolution honoring the civic education role of the Bridport Grange's legislative breakfast.

HOUSE DEADLINES

To All House Members:

During the first year of the biennium, a member may request introduction of a bill drafted in *short* form and submitted to the Legislative Council anytime during the session.

Introduction Deadline - Except with prior consent of the Committee on Rules, all bills drafted in standard form, shall be introduced by February 27, 2009.

During the first year of the biennium Committee bills may be introduced at anytime.

CROSSOVER

Joint Rules Committee has adopted the following:

All bills must be reported out by the committees of reference by the end of the day of Friday, March 20.

Bills that are then referred to a money committee must be reported out of the money committees by the end of the day of the following Friday, March 27.

Exceptions to the foregoing deadlines include the major money bills (Appropriations, Transportation, Capital, and Miscellaneous Taxes) and other bills as determined by the President *pro tempore* and the Speaker.

PUBLIC HEARINGS

Wednesday, March 4, 2009 – Room 11 – 5:00 – 7:00 PM; Washington County Delegation – Impact of economy on Washington County

Tuesday, March 17, 2009 – Room 11 – 2:45 – 4:30 PM; 6:30-8:00 PM - House Committee on Ways and Means – Vermont's Revenue Situation

INFORMATION NOTICE

The following item was recently received by the Joint Fiscal Committee:

JFO #2369 — \$31,799 grant from WomenSafe to States' Attorneys and Sheriffs. These grant funds will be used to partially cover the cost of a temporary domestic violence prosecutor in Addison County.
[JFO received 2/26/09]