

Journal of the House

Tuesday, May 4, 2010

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Becca Clark of Trinity United Methodist Church, Montpelier, Vt.

Pledge of Allegiance

Page Samantha Robertson of Pittsfield led the House in the Pledge of Allegiance.

Message from the Senate No. 51

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bill of the following title:

S. 290. An act relating to restoring solvency to the unemployment trust fund.

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

The Senate has on its part adopted Senate concurrent resolutions of the following titles:

S.C.R. 50. Senate concurrent resolution recognizing the efforts of the Vermont Fallen Families in building Vermont's Global War on Terror Memorial at the Vermont Veterans Memorial Cemetery in Randolph Center, Vermont.

S.C.R. 51. Senate concurrent resolution congratulating Central Vermont Public Service Corporation on its designation as one of Forbes' 100 Most Trustworthy Companies.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 342. House concurrent resolution congratulating the Vermont Youth Conservation Corps on its 25th anniversary.

H.C.R. 343. House concurrent resolution honoring Sally and Don Goodrich on the occasion of The Goodrich Dragonfly Celebration.

H.C.R. 344. House concurrent resolution congratulating the Mount Anthony Union High School Interact Club on winning a 2010 Governor's Award for Outstanding Community Service.

H.C.R. 345. House concurrent resolution honoring Tom Howard of East Montpelier for his career accomplishments in youth services.

H.C.R. 346. House concurrent resolution in memory of University of Vermont history professor emeritus and former senator Robert V. Daniels of Burlington.

H.C.R. 347. House concurrent resolution in memory of the American military personnel who have died in the service of their nation in Iraq or Afghanistan from January 1, 2001 to April 10, 2010.

H.C.R. 348. House concurrent resolution honoring retiring Bennington Police Chief Richard B. Gauthier.

H.C.R. 349. House concurrent resolution in memory of Junior Harwood of Shaftsbury.

H.C.R. 350. House concurrent resolution honoring the outstanding educators who are retiring from the Southwest Vermont Supervisory Union.

H.C.R. 351. House concurrent resolution in memory of Stevenson H. Waltien, Jr., of Shelburne.

H.C.R. 352. House concurrent resolution congratulating Gabriella Pacht of Thetford and Katie Ann Dutcher of Bennington on earning the Girl Scout Gold Award.

H.C.R. 353. House concurrent resolution congratulating GW Plastics on being named *Plastic News* magazine's 2010 Plastics Processor of the Year.

H.C.R. 354. House concurrent resolution congratulating the Rutland Regional Medical Center on its receipt of the American Nurses Credentialing Center's Magnet designation and the Vermont Council on Quality's 2009 Governor's Award for Performance Excellence.

H.C.R. 355. House concurrent resolution honoring the municipal public service of St. Johnsbury town manager Michael A. Welch.

Senate Bill Referred**S. 290**

Senate bill, entitled

An act relating to restoring solvency to the unemployment trust fund

Was read and referred to the committee on Commerce and Economic Development.

Bill Referred to Committee on Ways and Means**H. 780**

House bill, entitled

An act relating to approval of amendments to the charter of the city of St. Albans

Appearing on the Calendar, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Senate Proposal of Amendment Not Concurred in**H. 767**

The Senate proposed to the House to amend House bill, entitled

An act relating to the livestock care standards advisory council;

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 64 is added to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS**ADVISORY COUNCIL****§ 791. DEFINITIONS**

As used in this chapter:

- (1) "Agency" means the agency of agriculture, food and markets.
- (2) "Council" means the livestock care standards advisory council.
- (3) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, poultry, and any other animal that can or may be used in and for the preparation of meat, fiber, or poultry products.
- (4) "Secretary" means the secretary of agriculture, food and markets.

§ 792. ESTABLISHMENT OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) There is established a livestock care standards advisory council for the purposes of evaluating the laws of the state and of providing policy recommendations regarding the care, handling, and well-being of livestock in the state. The livestock care standards advisory council shall be composed of the following members, all of whom shall be residents of Vermont:

(1) The secretary of agriculture, food and markets or his or her designee, who shall serve as the chair of the council.

(2) The state veterinarian.

(3) The following four members appointed by the governor:

(A) A person with knowledge of food safety and food safety regulation in the state who is a representative of an agricultural department of a Vermont college or university.

(B) A representative of the Vermont slaughter industry.

(C) A representative of the Vermont livestock dealer, hauler, or auction industry.

(D) A representative of a local humane society or organization registered with the agency and organized under state law.

(4) The following two members appointed by the committee on committees:

(A) A Vermont resident with experience or expertise in equine husbandry practices or equine management.

(B) A Vermont licensed livestock or poultry veterinarian.

(5) The following two members appointed by the speaker of the house:

(A) An enforcement officer, as defined in 23 V.S.A. § 4, or an animal control officer elected, appointed, or employed by a municipality, provided that the enforcement officer or animal control officer has experience or expertise in investigations regarding livestock care and well-being and provided that no animal control officer receiving compensation from a national humane society or organization may be appointed under this subdivision.

(B) An operator of a Vermont dairy farm.

(b) Members of the board shall be appointed for staggered terms of three years. Except for the chair and the state veterinarian, no member of the council may serve for more than six consecutive years.

(c) With the concurrence of the chair, the council may use the services and staff of the agency in the performance of its duties.

§ 793. POWERS AND DUTIES OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) The council shall:

(1) Review and evaluate the laws and rules of the state applicable to the care and handling of livestock. In conducting the evaluation required by this section, the council shall consider the following:

(A) agricultural best management practices;

(B) biosecurity and disease prevention;

(C) animal morbidity and mortality data;

(D) food safety practices;

(E) the protection of local and affordable food supplies for consumers;

(F) the overall health and welfare of livestock species; and

(G) humane transport and slaughter practices.

(2) Submit policy recommendations to the secretary on any of the subject matter set forth under subdivision (1) of this subsection. A copy of the policy recommendations submitted to the secretary shall be provided to the house and senate committees on agriculture. Recommendations may be in the form of proposed legislation.

(3) Meet at least annually and at such other times as the chair determines to be necessary.

(b) The council may engage in education and outreach activities related to the laws and regulations for the care and handling of livestock. The council may accept funds from public or private sources in compliance with 32 V.S.A. § 5.

Sec. 1a. TRAINING OF SLAUGHTERHOUSE EMPLOYEES;
APPROPRIATIONS

In addition to any other funds appropriated to the agency of agriculture, food and markets in fiscal year 2011, there is transferred to the agency of

agriculture, food and markets up to \$50,000.00 from the funds appropriated to the agency of commerce and community development's Vermont training program for use by the agency of agriculture, food and markets for training employees of Vermont-licensed slaughterhouses regarding the humane treatment of animals that is required under state and federal law.

Sec. 2. 6 V.S.A. § 3134 is amended to read:

§ 3134. PENALTY

(a) A person who violates this chapter shall be fined not more than \$100.00 ~~nor less than \$50.00~~ \$5,000.00 for the first violation, not more than \$10,000.00 for the second violation, and not more than \$25,000.00 for the third violation, or imprisoned not more than ~~90 days~~ two years, or both. In addition to the penalty provided above, the secretary may seek an injunction against a slaughterer, packer, or stockyard operator who engages in practices which are prohibited by section 3132 of this title, by application to the superior court for the county in which such slaughterer, packer or stockyard operator resides, or where such violations occur. The secretary may also take any action authorized under chapter 1 of this title.

(b) The secretary shall permanently revoke the commercial operating license of any person who is found to be in violation of this chapter more than two times, and the secretary shall not relicense any business which includes as any director or owner of the business any director or owner of a business whose license has been permanently revoked.

(c) In addition to the penalties set forth in subsection (a) of this section, the secretary shall require a person who violates this chapter to install video monitoring equipment in all areas in which livestock is handled. The video equipment shall record continuously while live livestock are handled. As an alternative to video monitoring, a live video stream accessible by the secretary may be provided with prior approval of the secretary. The video tapes or recording files of the video monitoring required by this subsection shall be retained by the facility for 90 days and shall be readily retrievable and available for inspection by the secretary. After the retention period of 90 days has expired, the video tapes or recording files of the live video stream shall be submitted to the secretary by the 15th of the following month, on a monthly basis.

(d) The secretary shall refer a violation of this chapter to the attorney general or the state's attorney for prosecution.

Sec. 3. SUNSET

Sec. 1 of this act shall sunset on January 15, 2013, by which date any final recommendations to the general assembly and the secretary of agriculture, food and markets shall be submitted by the advisory council.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Conquest of Newbury** moved that the House refuse to concur.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 64

Senate bill, entitled

An act relating to growth center designations and appeals of such designations

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

Action on Bill Postponed

H. 213

House bill, entitled

An act to provide fairness to tenants in cases of contested housing security deposit withholding;

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Head of South Burlington**, action on the bill was postponed until the next legislative day.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 763

On motion of **Rep. Komline of Dorset**, the rules were suspended and House bill, entitled

An act relating to establishment of an agency of natural resources' river corridor management program;

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Senate proposed to the House to amend the bill by striking Sec. 9 in its entirety and inserting in lieu thereof the following:

Sec. 9. 6 V.S.A. § 4821(a) is amended to read:

(a) Program created. A program is created to provide state financial assistance to Vermont farmers in support of their voluntary construction of on-farm improvements and maintenance of acceptable operating standards designed to abate nonpoint source agricultural waste discharges into the waters of the state of Vermont, consistent with goals of the federal Water Pollution Control Act and with state water quality standards. The program shall be conducted in a manner which makes maximum use of federal financial aid for the same purpose, as provided by this subchapter, and which seeks to use the least costly methods available to accomplish the abatement required. The construction of temporary fencing intended to exclude livestock from entering surface waters of the state shall be an on-farm improvement eligible for assistance under this subchapter when subject to a maintenance agreement entered into with the agency of agriculture, food and markets.

Sec. 10. 6 V.S.A. § 4900 is amended to read:

§ 4900. VERMONT AGRICULTURAL BUFFER PROGRAM

(a) The secretary of agriculture, food and markets is authorized to develop a Vermont agricultural buffer program in addition to the federal conservation reserve enhancement program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative buffers and installing conservation practices in ditch networks on ~~annual cropland~~ agricultural land adjacent to the surface waters of the state.

(b) The establishment and annual incentive payments from the agency of agriculture, food and markets under the Vermont agricultural buffer program shall not exceed ~~40 percent of~~ the combined federal and state payment that the relevant ~~cropland~~ agricultural land or conservation practice would be eligible for under the federal conservation reserve enhancement program or another approved conservation program. The incentive payment shall be made annually at the end of the cropping season for a nonrenewable five-year period.

(c) The secretary of agriculture, food and markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont agricultural buffer program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

(e) As used in this section, “surface waters” means all rivers, streams, ditches, creeks, brooks, reservoirs, ponds, lakes, and springs which are contained within, flow through, or border upon the state or any portion of it.

Sec. 11. 6 V.S.A. § 4951 is amended to read:

§ 4951. FARM AGRONOMIC PRACTICES PROGRAM

(a) The farm agronomic practices assistance program is created in the agency of agriculture, food and markets to provide the farms of Vermont with state financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices shall be eligible for assistance to farms under the grant program:

(1) conservation crop rotation;

(2) cover cropping;

(3) strip cropping;

(4) cross-slope tillage;

(5) zone or no-tillage;

(6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a state or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$1,000.00 per year; ~~and~~

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;

(B) the federal and state requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

Sec. 12. 10 V.S.A. § 321(d) is amended to read:

(d) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in

land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection funds under this subsection, the board shall seek to maximize state participation in the federal wetlands reserve program in order to allow for increased or additional implementation of conservation practices on farmland protected or preserved under this chapter.

Sec. 13. 10 V.S.A. § 1002 is amended to read:

§ 1002. DEFINITIONS

Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(10) “Watercourse” means any ~~depression two feet or more below the elevation of surrounding land serving to give direction to a current or flow of water having a bed and well defined bank~~ perennial stream. “Watercourse” shall not include ditches or other constructed channels primarily associated with land drainage or water conveyance through or around private or public infrastructure.

Sec. 14. 10 V.S.A. § 1021(a) is amended to read:

(a) A person shall not change, alter, or modify the course, current, or cross-section of any watercourse ~~with a drainage area greater than ten square miles at the location of the proposed change, alteration or modification,~~ or of designated outstanding resource waters, within or along the boundaries of this state either by movement, fill, or by excavation of ten cubic yards or more in any year, unless authorized by the secretary.

Sec. 15. 10 V.S.A. § 7501 is amended to read:

§ 7501. GENERAL PERMITS

(a) When the secretary deems it to be appropriate and consistent with the purpose of this chapter, the secretary may issue a general permit under the following chapters of this title: chapter 23 (air pollution control) for stationary source construction permits; chapter 37 (water resources management) for aquatic nuisance control permits authorizing chemical treatment by the agency of natural resources, a department within that agency, or an appropriate federal agency; chapter 56 (public water supply) for construction permits; ~~and~~ chapter 159 (waste management) for solid waste transfer station and recycling

certifications and categorical certifications; and chapter 41 (regulation of stream flow) for stream alteration permits.

(b) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure that the category or class subject to the general permit will comply with the provisions of the statutes and the rules adopted under those statutes applicable to the category or class. These terms and conditions may include providing for specific emission or effluent limitations and levels of treatment technology; monitoring, recording, or reporting; the right of access for the secretary; and any additional conditions or requirements the secretary deems necessary to protect human health and the environment.

(c) This chapter is in addition to any other authority granted to the agency or department.

(d) The secretary may adopt rules to implement this chapter.

(e) The secretary may issue a nonreporting general permit for certain specific stream alteration activities under chapter 41 of this title.

Sec. 16. ANR REPORT ON GENERAL PERMIT PROGRAM FOR STREAM ALTERATION

(a) On or before January 15, 2011, the secretary of natural resources shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding a proposed general permit program for stream alteration under chapter 41 of Title 10.

(b) The report required under subsection (a) of this section shall:

(1) Define the thresholds, classes of activities, or other categories of activities that will be regulated under the general permit program.

(2) Summarize the requirements or management practices that stream alteration activities will be subject to under a general permit, including whether any activity or class of activities will be subject to a nonreporting general permit.

(3) Summarize the scientific basis for the thresholds, classes of activities, or categories of activities regulated under the proposed general permit program.

Sec. 17. 19 V.S.A. § 996 is added to read:

§ 996. HIGHWAY CONSTRUCTION, MAINTENANCE, AND REPAIR BEST MANAGEMENT PRACTICES

(a) The agency of transportation shall work with municipal representatives to revise the agency of transportation's town road and bridge standards in order to incorporate a suite of practical and cost-effective best management practices, as approved by the agency of natural resources, for the construction, maintenance, and repair of all existing and future state and town highways. These best management practices shall address activities which have a potential for causing pollutants to enter the groundwater and waters of the state, including stormwater runoff and direct discharges to state waters. The best management practices shall not supersede any requirements for stormwater management already set forth in 10 V.S.A. §§ 1264 and 1264a that apply to state and town highways. The agency of transportation shall report to the house and senate committees on transportation, the house committee on fish, wildlife and water resources, and the senate committee on natural resources and energy by January 15, 2011, on the best management practices to be incorporated into the agency of transportation's town road and bridge standards.

(b) Beginning January 15, 2013, and every four years thereafter, the secretary in consultation with municipal representatives and with approval from the agency of natural resources shall review and revise, as appropriate, town road and bridge standards in order to ensure the standards are protective of water quality.

Sec. 18. 19 V.S.A. § 309b is amended to read:

§ 309b. LOCAL MATCH; CERTAIN TOWN HIGHWAY PROGRAMS

(a) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the town highway structures program shall be matched by local funds sufficient to cover 20 percent of the project costs, unless the town has adopted road and bridge standards ~~and~~, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be sufficient to cover 10 percent of the project costs. The secretary may adopt rules to implement the town highway structures program. Town highway structures projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality.

(b) Notwithstanding subsection 309a(a) of this title, grants provided to towns under the class 2 town highway roadway program shall be matched by local funds sufficient to cover 30 percent of the project costs, unless the town has adopted road and bridge standards ~~and~~, has completed a network inventory, and has submitted an annual certification of compliance for town road and bridge standards to the secretary, in which event the local match shall be

sufficient to cover 20 percent of the project costs. The secretary may adopt rules to implement the class 2 town highway roadway program. Class 2 town highway roadway projects receiving funds pursuant to this subsection shall be the responsibility of the applicant municipality, and a municipality shall not receive a grant in excess of \$175,000.00.

* * *

Sec. 19. REPEAL OF SUNSET OF VERMONT AGRICULTURAL BUFFER PROGRAM

Sec. 56 of No. 147 of the Acts of the 2005 Adj. Sess. (2006) (sunset on Vermont agricultural buffer program) is repealed.

Sec. 20. Sec. 14 of No. 31 of the Acts of 2009 is amended to read:

Sec. 14. EFFECTIVE DATE

(a) This section and Secs. 1 (findings), 12 (ANR wetlands report), and 13 (Bristol Pond) of this act shall take effect July 1, 2009.

(b) Secs. 2 (retitling 10 V.S.A. chapter 37), 3 (wetlands definitions), 4 (ANR wetlands authority), 5 (wetlands permitting), 6 (recodification of aquatic nuisance control authority), 7 (water resources panel rulemaking authority), 8 (ANR enforcement authority), 9 (appeals), and 10 (marketability of title), ~~and 11 (transition)~~ of this act shall take effect 45 days after such time as the water resources panel has issued both a rule updating the Vermont significant wetlands inventory maps and a rule updating the Vermont wetland rules.

(c) Sec. 11 (transition) of this act shall take effect January 1, 2010.

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 9 (livestock fencing; best management practices), 10 (Vermont agricultural buffer program), 11 (farm agronomic practices program), 12 (VHCB; agricultural land preservation), 16 (ANR report on general permit program), 17 (agency of transportation best management practices), 19 (repeal of sunset on Vermont agricultural buffer program), and 20 (effective date of wetlands transition) of this act shall take effect upon passage.

(b) Secs. 1 (river corridor findings), 2 (navigable waters and shorelands policy), 3 (navigable waters and shorelands definitions), 4 (shoreland protection bylaws), 5 (river corridor buffers), 6 (zoning bylaws), 7 (zoning permissible types of regulations), and 8 (ANR report on river corridor,

shoreland, and buffer zoning) shall take effect July 1, 2010, except that 10 V.S.A. § 1427 shall take effect February 1, 2011.

(c) Secs. 13 (definition of watercourse) and 14 (stream alteration permits) of this act shall take effect March 31, 2011.

(c) Sec. 15 (ANR general permit authority) of this act shall take effect February 15, 2011.

(d) Sec. 18 (local match town highway programs) of this act shall take effect July 1, 2011.

Which proposal of amendment was considered and concurred in.

Recess

At ten o'clock and fifteen minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

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

Message from the Senate No. 52

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

Mr. Speaker:

I am directed to inform the House that:

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

H. 770. An act relating to approval of amendments to the charter of the city of Barre.

And has passed the same in concurrence.

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

H. 470. An act relating to restructuring of the judiciary.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon House bill of the following title:

H. 540. An act relating to motor vehicles passing vulnerable users on the highway and to bicycle operation.

And has accepted and adopted the same on its part.

The Senate has considered House proposals of amendment to Senate bills of the following titles:

S. 138. An act relating to unfair business practices of credit card companies and fraudulent use of scanning devices and re-encoders.

S. 161. An act relating to National Crime Prevention and Privacy Compact.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 524. An act relating to interference with or cruelty to a guide dog.

And has concurred therein.

The Senate has considered House proposals of amendment to the following Senate bills and has refused to concur therein and asks for Committees of Conference upon the disagreeing votes of the two Houses to which the President pro tempore announced the appointment as members of such Committees on the part of the Senate:

S. 103. An act relating to the study and recommendation of ignition interlock device legislation.

Senator Kitchel

Senator Scott

Senator Sears

S. 207. An act relating to handling of milk samples.

Senator Choate

Senator Kittell

Senator Starr

Bill Referred to Committee on Ways and Means

S. 290

On motion of **Rep. Komline of Dorset**, the rules were suspended and Senate bill, entitled

An act relating to restoring solvency to the unemployment trust fund;

Pending entrance on the Calendar for Notice, was taken up for immediate consideration.

Thereupon, the bill, affecting the revenue of the state, under the rule, was referred to the committee on Ways and Means.

Action on Bill Postponed

S. 297

Senate bill, entitled

An act relating to miscellaneous changes to education law

Was taken up and pending the question, Shall the House propose to the Senate to amend the bill as recommended by Rep. McAllister of Highgate? on motion of **Rep. Mook of Bennington**, action on the bill was postponed until the next legislative day.

Recess

At one o'clock and twenty-five minutes in the afternoon, the Speaker declared a recess until three o'clock in the afternoon.

At three o'clock and ten minutes in the afternoon, the Speaker called the House to order.

Rules Not Suspended to Take up Bill

S. 290

Pending entrance of the bill on the Calendar for notice **Rep. Nease of Johnson**, moved to suspend the rules to take up Senate bill, entitled

An act relating to restoring solvency to the unemployment trust fund;

Pending the question, Shall the rules be suspended to take up the bill for immediate consideration? **Rep. Komline of Dorset** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the rules be suspended to take up the bill for immediate consideration? was decided in the negative. Yeas, 86. Nays, 49. A vote of 102 needed.

Those who voted in the affirmative are:

Ancel of Calais	Bray of New Haven	Consejo of Sheldon
Andrews of Rutland City	Browning of Arlington	Copeland-Hanzas of
Atkins of Winooski	Cheney of Norwich	Bradford
Bissonnette of Winooski	Clarkson of Woodstock	Corcoran of Bennington
Bohi of Hartford	Condon of Colchester	Courcelle of Rutland City
Botzow of Pownal	Conquest of Newbury	Deen of Westminster

Donovan of Burlington	Leriche of Hardwick	Pellett of Chester
Evans of Essex	Lippert of Hinesburg	Peltz of Woodbury
Fisher of Lincoln	Lorber of Burlington	Potter of Clarendon
Frank of Underhill	Macaig of Williston	Pugh of South Burlington
French of Shrewsbury	Maier of Middlebury	Ram of Burlington
French of Randolph	Malcolm of Pawlet	Rodgers of Glover
Gilbert of Fairfax	Manwaring of Wilmington	Shand of Weathersfield
Grad of Moretown	Marek of Newfane	Sharpe of Bristol
Greshin of Warren	Martin of Springfield	Smith of Mendon
Head of South Burlington	Martin of Wolcott	South of St. Johnsbury
Heath of Westford	Masland of Thetford	Spengler of Colchester
Hooper of Montpelier	Milkey of Brattleboro	Stevens of Waterbury
Howard of Rutland City	Miller of Shaftsbury	Stevens of Shoreham
Jerman of Essex	Minter of Waterbury	Sweaney of Windsor
Jewett of Ripton	Mitchell of Barnard	Till of Jericho
Johnson of South Hero	Mook of Bennington	Toll of Danville
Keenan of St. Albans City	Moran of Wardsboro	Townsend of Randolph
Kitzmiller of Montpelier	Mrowicki of Putney	Waite-Simpson of Essex
Klein of East Montpelier	Nease of Johnson	Webb of Shelburne
Krebs of South Hero	Nuovo of Middlebury	Weston of Burlington
Lanpher of Vergennes	O'Brien of Richmond	Wilson of Manchester
Larson of Burlington	Obuchowski of Rockingham	Wizowaty of Burlington
Lenes of Shelburne	Partridge of Windham	Zenie of Colchester

Those who voted in the negative are:

Acinapura of Brandon	Fagan of Rutland City	McNeil of Rutland Town
Ainsworth of Royalton	Geier of South Burlington	Morrissey of Bennington
Baker of West Rutland	Haas of Rochester	Olsen of Jamaica
Branagan of Georgia	Higley of Lowell	Pearce of Richford
Brennan of Colchester	Howard of Cambridge	Peaslee of Guildhall
Burke of Brattleboro	Hubert of Milton	Poirier of Barre City
Canfield of Fair Haven	Kilmartin of Newport City	Reis of St. Johnsbury
Clark of Vergennes	Koch of Barre Town	Savage of Swanton
Clerkin of Hartford	Komline of Dorset	Scheuermann of Stowe
Crawford of Burke	Krawczyk of Bennington	Shaw of Pittsford
Davis of Washington	Larocque of Barnet	Taylor of Barre City
Devereux of Mount Holly	Lawrence of Lyndon	Turner of Milton
Dickinson of St. Albans Town	Lewis of Derby	Wheeler of Derby
Donaghy of Poultney	Marcotte of Coventry	Winters of Williamstown
Donahue of Northfield	McAllister of Highgate	Wright of Burlington
Edwards of Brattleboro	McDonald of Berlin	Zuckerman of Burlington *
	McFaun of Barre Town	

Those members absent with leave of the House and not voting are:

Adams of Hartland	Helm of Castleton	Morley of Barton
Aswad of Burlington	Howrigan of Fairfield	Myers of Essex
Audette of South Burlington	Johnson of Canaan	O'Donnell of Vernon
Emmons of Springfield	McCullough of Williston	Orr of Charlotte

Perley of Enosburg

Young of St. Albans City

Rep. Zuckerman of Burlington explained his vote as follows:

“Mr. Speaker:

This legislation is significant for current and future unemployed workers. It is also important for employers. The public ought to get at least one day to try to understand the changes that are being proposed before we take action that will affect so many.”

**Rules Suspended; Proposal of Amendment Agreed to
and Third Reading Ordered; Rules Suspended; Bill Read Third Time and
Passed in Concurrence with Proposal of Amendment**

S. 205

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Komline of Dorset**, the rules were suspended and Senate bill, entitled

An act relating to the Revised Uniform Anatomical Gift Act

Was taken up for immediate consideration.

Rep. Mrowicki of Putney, for the committee on Human Services, to which had been referred the bill reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 1, 18 V.S.A. § 6002, by inserting a new subdivision (10) to read:

(10) “Emancipated” with respect to a minor shall have the same meaning as in 12 V.S.A. § 7151.

and by renumbering the remaining subdivisions to be numerically correct

Second: In Sec. 1, 18 V.S.A. § 6005, in subsection (a), by inserting a new subdivision (2) to read:

(2) in an advance directive executed pursuant to chapter 231 of this title;

and by renumbering the remaining subdivisions in that subsection to be numerically correct

Third: In Sec. 1, 18 V.S.A. § 6007, in subsection (a), by inserting a new subdivision (1) to read:

(1) an advance directive executed pursuant to chapter 231 of this title;

and by renumbering the remaining subdivisions in that subsection to be numerically correct

Fourth: In Sec. 1, 18 V.S.A. § 6007, in subsection (b), by striking “subdivision (a)(1)(B)” and inserting in lieu thereof “subdivision (a)(2)(B)”

Fifth: In Sec. 1, 18 V.S.A. § 6020, in subsection (a), by striking the words “and shall oversee the operation of the registry”

Sixth: In Sec. 1, by striking 18 V.S.A. § 6022 in its entirety and inserting in lieu thereof the following:

§ 6022. COOPERATION BETWEEN MEDICAL EXAMINER AND
PROCUREMENT ORGANIZATION

The chief medical examiner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education, except when the chief medical examiner believes such cooperation would be inconsistent with death investigation procedures or would negatively affect a death investigation.

Seventh: In Sec. 1, by striking 18 V.S.A. § 6027 in its entirety

Eighth: By striking Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. 18 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

As used in this chapter:

* * *

(3) “Anatomical gift” shall have the same meaning as provided in subdivision ~~5238(4)~~ 6002(3) of this title.

* * *

(26) “Procurement organization” shall have the same meaning as in subdivision ~~5238(10)~~ 6002(21) of this title.

* * *

Ninth: By adding a Sec. 11 to read:

Sec. 11. FUNDING FOR ADULT PROTECTIVE SERVICES

EVALUATION

(a) In the event that an interested party identifies sources of funding for the adult protective services evaluation authorized by Sec. 12 of this act and

prepares the documents necessary to obtain the funds, the agency of human services shall cooperate with the interested party to take such steps as are needed to secure the funds.

(b) In the event that the agency of human services receives federal funds for the purposes of protecting vulnerable adults, such funds shall be used to conduct the evaluation authorized by Sec. 12 of this act, up to the full cost of the evaluation.

(c) No later than March 15 of each year, the agency of human services shall provide an update to the house committee on human services and the senate committee on health and welfare regarding the status of efforts to secure funding for the evaluation authorized by Sec. 12 of this act and the issuance of a request for proposals to conduct the evaluation.

Tenth: By adding a Sec. 12 to read:

Sec. 12. ADULT PROTECTIVE SERVICES EVALUATION

(a) Upon securing appropriate funding as provided in Sec. 11 of this act, the agency of human services shall issue a request for proposals to conduct an independent evaluation of the adult protective services provided by the department of disabilities, aging, and independent living's division of licensing and protection.

(b) The evaluation shall examine:

- (1) the effectiveness of the adult protective services provided;
- (2) the division's responsiveness to complaints;
- (3) the appropriateness of the level of investigation into complaints;
- (4) the adequacy of training for adult protective services staff;
- (5) the ability of vulnerable adults to access adult protective services;
- (6) the division's rules, protocols, and practices for prioritizing, responding to, and investigating complaints;
- (7) the sufficiency of adult protective services staffing levels in the division;
- (8) the number of reports, substantiations, and reversals by the commissioner or the human services board;
- (9) the role that the division does or should play in assessing and providing emergency protective services to vulnerable adults;

(10) best practices from other states that would improve the division's ability to protect vulnerable adults from abuse and exploitation;

(11) the scope and effectiveness of current adult protective services public education efforts;

(12) public perception of and satisfaction with adult protective services;

(13) the relationship between the units of survey and certification and adult protective services in the division of licensing and protection in the department of disabilities, aging, and independent living with respect to investigations of abuse, exploitation, and neglect; and

(14) such other areas as the entity conducting the evaluation deems appropriate.

(c) Upon completion of the evaluation authorized by this section but in no event later than January 15, 2015, the entity conducting the evaluation shall report its findings and recommendations to the house committee on human services and the senate committee on health and welfare.

Eleventh: By adding a Sec. 13 to read:

Sec. 13. 13 V.S.A. § 4815(g) is amended to read:

(g)(1) Inpatient examination at the state hospital or a designated hospital. The court shall not order an inpatient examination unless the designated mental health professional determines that the defendant is a person in need of treatment as defined in 18 V.S.A. § 7101(17).

(2) Before ordering the inpatient examination, the court shall also determine what terms, if any, shall govern the defendant's release from custody under sections 7553-7554 of this title ~~once the examination has been completed.~~

(3) An order for inpatient examination shall provide for placement of the defendant in the custody and care of the commissioner of mental health.

(A) If a Vermont state hospital or a designated hospital psychiatrist determines that the defendant is not in need of inpatient hospitalization prior to admission, the commissioner shall release the defendant pursuant to the terms governing the defendant's release from the commissioner's custody as ordered by the court. The commissioner of mental health shall ensure that all individuals who are determined not to be in need of inpatient hospitalization receive appropriate referrals for outpatient mental health services.

(B) If a Vermont state hospital or designated hospital psychiatrist determines

that the defendant is in need of inpatient hospitalization:

(i) The commissioner shall obtain an appropriate inpatient placement for the defendant at the Vermont state hospital or a designated hospital and, based on the defendant's clinical needs, may transfer the defendant between hospitals at any time while the order is in effect.

(ii) The defendant shall be returned to court for further appearance on the following business day if the defendant is no longer in need of inpatient hospitalization, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

(C) The defendant shall be returned to court for further appearance within two business days after the commissioner notifies the court that the examination has been completed, unless the terms established by the court pursuant to subdivision (2) of this section permit the defendant to be released from custody.

(4) If a return to court is not ordered and the defendant is to be released pursuant to subdivisions (3)(A), (3)(B)(ii), or (3)(C) of this subsection and is not in the custody of the commissioner of corrections, the defendant shall be returned to the defendant's residence or such other appropriate place within the state of Vermont by the department of mental health at the expense of the court.

(5) If it appears that an inpatient examination cannot reasonably be completed within 30 days, the court issuing the original order, on request of the commissioner and upon good cause shown may order placement at the hospital extended for additional periods of 15 days in order to complete the examination, and the defendant on the expiration of the period provided for in such order shall be returned in accordance with this subsection.

(6) For the purposes of this subsection, "in need of inpatient hospitalization" means an individual has been determined under clinical standards of care to require inpatient treatment.

Twelfth: By adding a Sec. 14 to read:

Sec. 14. WORK GROUP ON FORENSIC EXAMINATIONS OF MENTAL
HEALTH PATIENTS

(a) The commissioner of mental health shall convene a work group to address issues relating to forensic examinations of mental health patients and defendants. The work group shall consist of the same members identified to

participate in the study committee established in Sec. 113d of No. 71 of the Acts of 2005, as well as the commissioner of corrections or designee and any additional members whose participation the commissioner of mental health finds to be necessary and appropriate.

(b) The department of mental health shall provide administrative support to the work group.

(c) The commissioner of mental health shall report to the house committees on human services and on judiciary and the senate committees on health and welfare and on judiciary no later than January 31, 2012 and shall make recommendations regarding the following issues:

(1) disposition of defendants if it is determined at or after the time of admission that they do not meet the standards for hospitalization, including how subacute treatment needs can be met, consistent with the work of the agency of human services on interagency collaboration and the Vermont chief justice task force on criminal justice and mental health collaboration;

(2) any statutory revisions necessary to enable designated hospitals to accept referrals of defendants for inpatient forensic examinations;

(3) means to enable forensic examinations to occur during a voluntary inpatient hospitalization when that is the least restrictive setting, consistent with the requirements of 13 V.S.A. § 4815;

(4) appropriate discharge plan requirements; and

(5) the capacities that may be required to address the treatment needs of persons who were previously served with secure, subacute care at the Vermont state hospital following a forensic examination.

(d) The work group may discuss relationships between programs within the continuum of care in the department of mental health, including replacement services for the Vermont state hospital and inmates under the department of corrections who were or may have been in need of such services, within the context of the goals of interagency collaboration and best planning models. Such discussions shall be for the purposes of providing input to the agency of human services.

(e) The department of mental health shall collect data on the outcomes of patients referred for inpatient examinations at the Vermont state hospital and designated hospitals during the period from the effective date of this act through December 31, 2011 and report such information to the committees of jurisdiction no later than January 31, 2012.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the house propose to the Senate to amend the bill as recommended by the committee on Human Services? **Rep. Fisher of Lincoln** moved to amend the recommendation of proposal of amendment offered by the committee on Human Services, as follows:

In the eleventh instance of amendment, Sec. 13, 13 V.S.A. § 4815(g), in subdivision (3)(B)(i), by adding a second sentence to read: “A transfer to a designated hospital is subject to acceptance of the patient for admission by that hospital.”

Which was agreed to.

Thereupon, the recommendation of proposal of amendment offered by the committee on Human Services, as amended, was agreed to and third reading was ordered.

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with proposal of amendment and, on motion of **Rep. Komline**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. Komline of Dorset**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

S. 64

Senate bill, entitled

An act relating to growth center designations and appeals of such designations.

Committee of Conference Appointed

S. 103

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to the study and recommendation of ignition interlock device legislation

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Grad of Moretown
Rep. French of Shrewsbury
Rep. Marek of Newfane

Committee of Conference Appointed

S. 207

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to handling of milk samples

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Ainsworth of Royalton
Rep. Toll of Danville
Rep. McNeil of Rutland Town

Adjournment

At three o'clock and fifty minutes in the afternoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.