

# Journal of the Senate

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THURSDAY, APRIL 29, 2010

The Senate was called to order by the President.

## **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

## **Consideration Resumed; Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**

### **H. 281.**

Consideration was resumed on Senate bill entitled:

An act relating to the removal of bodily remains.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Illuzzi?, was decided in the affirmative.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

## **Bill Passed in Concurrence with Proposals of Amendment**

### **H. 562.**

House bill of the following title was read the third time and passed in concurrence with proposals of amendment:

An act relating to the regulation of professions and occupations.

## **Consideration Resumed; Proposal of Amendment; Bill Passed in Concurrence with Proposals of Amendment**

### **H. 578.**

Consideration was resumed on House bill entitled:

An act relating to requiring all state law enforcement officers to serve under the direction and control of the commissioner of public safety.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Illuzzi?, Senator Illuzzi moved to substitute a proposal of amendment for his proposal of amendment as follows:

By adding a new section to be numbered Sec. 2b to read as follows:

Sec. 2b. CERTIFICATION OF LAW ENFORCEMENT OFFICERS

(a) The general assembly finds that because the Vermont police academy requires candidates for certification as a full-time law enforcement officer to undergo 16 weeks of extensive physical training in addition to meeting academic requirements, older individuals or individuals with minor physical disabilities who are otherwise exceptionally qualified to discharge law enforcement duties are precluded from obtaining full-time certification and thus full-time employment as a law enforcement officer. While other states and jurisdictions have left physical training requirements to the hiring law enforcement agencies, the Vermont criminal justice training council has continued the physical training requirements, extending the cost and length of the basic training program, even though the hiring law enforcement agency already has selected and employed the candidates who seek full-time certification.

(b) The executive director of the Vermont criminal justice training council, the attorney general or designee, a designee of the department of sheriffs and state's attorneys who does not serve on the Vermont criminal justice training council, the defender general or designee, the executive director of the human rights commission or designee, and a Vermont constable selected by the chair of the trustees of the Vermont league of cities and towns shall make recommendations regarding:

(1) the advisability of granting full-time certification to law enforcement officers who have been certified as part-time officers for at least the past ten years and who have been employed a total of at least 8,000 hours as an officer discharging law enforcement duties during that period due to the fact that those officers have been unable to obtain full-time certification for failure to meet the physical fitness standards of the Vermont criminal justice training council;

(2) whether full-time law enforcement officers should be required to fulfill physical fitness standards on a periodic basis.

(c) The chair of the committee shall be the attorney general or his or her designee. The committee shall report its findings and recommendations to the house and senate committees on government operations and the house and senate judiciary committees no later than January 15, 2011.

Which was agreed to.

Thereupon, the pending question, Shall the Senate proposal of amendment be amended as recommended by Senator Illuzzi, as substituted?, was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

### **Consideration Postponed**

Senate bill entitled:

#### **S. 88.**

An act relating to health care financing and universal access to health care in Vermont.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

### **Consideration Resumed; House Proposal of Amendment Concurred In**

#### **S. 287.**

Consideration was resumed on Senate bill entitled:

An act relating to the licensing and regulation of loan servicers.

The House proposes to the Senate to amend the bill in Sec. 1, 8 V.S.A. chapter 83, by striking out § 2900 in its entirety and by inserting in lieu thereof the following:

#### § 2900. DEFINITIONS

As used in this chapter:

(1) “Commercial loan” means any loan or extension of credit that is described in 9 V.S.A. § 46(1), (2), or (4). The term does not include a loan or extension of credit that is secured by an owner occupied one- to four-unit dwelling.

(2) “Commissioner” means the commissioner of banking, insurance, securities, and health care administration.

(3) “Control” means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities or other interest of any other person.

(4) “Depository institution” has the same meaning as in Section 3 of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c), which includes any bank and any savings association as defined in Section 3 of the Federal Deposit Insurance Act. For purposes of this chapter, “depository institution” also includes any credit union organized and regulated as such under the laws of the United States or any state or territory of the United States.

(5) “Dwelling” has the same meaning as in subsection 103(v) of the Truth in Lending Act, 15 U.S.C. § 1602(v).

(6) “Individual” means a natural person.

(7) “Loan” means a residential mortgage loan.

(8) “Nationwide Mortgage Licensing System and Registry” means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, or any successor to the Nationwide Mortgage Licensing System and Registry.

(9) “Person” shall have the meaning set forth in 1 V.S.A. § 128 and includes a natural person, corporation, company, limited liability company, partnership, or association.

(10) “Residential mortgage loan” means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on either a dwelling or residential real estate, upon which is constructed or intended to be constructed a dwelling.

(11) “Residential real estate” means any real property located in Vermont, upon which is constructed or intended to be constructed a dwelling.

(12) “Servicing” means receiving a scheduled periodic payment from a borrower pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments to the owner of the loan or other third party of principal and interest and other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the servicing loan document or servicing contract. In the case of a home equity conversion mortgage or a reverse mortgage, servicing includes making payment to the borrower.

(13) “Third party loan servicer” means a person who engages in the business of servicing a loan, directly or indirectly, owed or due or asserted to be owed or due another.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**Consideration Postponed**

House bills entitled:

**H. 213.**

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

**H. 769.**

An act relating to the licensing and inspection of plant and tree nurseries.

Were taken up.

Thereupon, without objection consideration of the bills was postponed until the next legislative day.

**Proposal of Amendment; Third Reading Ordered****H. 555.**

Senator Flory, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to youth hunting.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 4742a is amended to read:

§ 4742a. YOUTH DEER HUNTING WEEKEND

(a) The Saturday and Sunday prior to opening day of regular deer season shall be youth deer hunting weekend.

(b) A person who is age 15 and under on the weekend of the hunt, who has successfully completed a hunter safety course, may take one wild deer during youth deer hunting weekend in accordance with the rules of the board. In order to hunt under this section, a young person shall also hold a valid hunting license under section 4255 of this title, hold a youth deer hunting tag, and be accompanied by an unarmed adult who holds a valid Vermont hunting license and who is over 18 years of age. An adult accompanying a youth under this section shall accompany no more than two young people at one time.

(c) Each year, the board shall determine whether antlerless deer may be taken under this section in any deer management unit or units. A determination under this subsection shall be made by rule, shall be based on the game management study conducted pursuant to section 4081 of this title

and, notwithstanding subsection (g) of that section, may allow taking of antlerless deer.

(d) No person shall hunt under this section on privately owned land without first obtaining the permission of the owner or occupant.

(e) Before the first youth deer hunting weekend and after each fall hunting season, the department shall collect information on youth deer hunting weekend during the regional public hearings held pursuant to subsection 4081(f) of this title. Information relative to the public's knowledge and concerns about the deer herd shall be gathered. The board shall administer youth deer hunting weekend, by deer management unit, based on public input and scientific information.

(f) The scheduled amount of a fine under section 4555 of this title shall be doubled for a violation of this section, and the fine shall be assessed against the licensed adult who is accompanying the youth pursuant to subsection (b) of this section and who has the youth hunter in his or her charge.

(g) For the purposes of this section, "accompany," "accompanied," or "accompanying" means direct control and supervision, including the ability to see and communicate with the youth hunter without the aid of artificial devices such as radios or binoculars, except for medically necessary devices such as hearing aids or eyeglasses. While hunting, an individual who holds a valid hunting license under subsection 4254(b) of this title shall accompany no more than two youth hunters at a time.

Sec. 2. 10 V.S.A. § 4908 is amended to read:

§ 4908. YOUTH TURKEY HUNTING WEEKEND

(a) The Saturday and Sunday prior to opening day of spring turkey season shall be youth turkey hunting weekend.

(b) A person who is age 15 ~~and~~ or under on the weekend of the hunt, who has successfully completed a hunter safety course, may take one wild turkey during youth turkey hunting weekend in accordance with the rules of the board. In order to hunt under this section, a young person shall also hold valid hunting and turkey licenses under section 4255 of this title, hold a youth turkey hunting tag, and be accompanied by an unarmed adult who holds a valid Vermont hunting license and is over 18 years of age. An adult accompanying a youth under this section shall accompany no more than two young people at one time.

(c) No person shall hunt under this section on privately owned land without first obtaining the permission of the owner or occupant.

(d) The scheduled amount of a fine under section 4555 of this title shall be doubled for a violation of this section, and the fine shall be assessed against the licensed adult who is accompanying the youth pursuant to subsection (b) of this section and who has the youth hunter in his or her charge.

(e) For the purposes of this section, “accompany,” “accompanied,” or “accompanying” means direct control and supervision, including the ability to see and communicate with the youth hunter without the aid of artificial devices such as radios or binoculars, except for medically necessary devices such as hearing aids or eyeglasses. While hunting, an individual who holds a valid hunting license under subsection 4254(b) of this title shall accompany no more than two youth hunters at a time.

Sec. 3. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in Title 10 of Vermont Statutes Annotated):

(1) Five points shall be assessed for any violation of statutes or rules adopted under this part except those listed in subdivisions (2) and (3) of this subsection.

(2) Ten points shall be assessed for:

\* \* \*

(II) Appendix § 37, as it ~~applied~~ applies to annual deer limits and as it applies to youth deer hunting weekend. Points assessed for violation of Appendix 37 as it relates to youth turkey hunting weekend shall be assessed solely against the adult accompanying the youth hunter

(JJ) Appendix § 22, as it applies to youth turkey hunting weekend. Points assessed for violation of Appendix 22 as it relates to youth turkey hunting weekend shall be assessed solely against the adult accompanying the youth hunter.

(3) Twenty points shall be assessed for:

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(P) Appendix § 22 (excluding § 22E). Turkey season, excluding requirements for youth turkey hunting season.

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(U) Appendix § 37, excluding violations of annual deer limits, requirements for youth deer hunting weekend, and limitations on feeding of deer.

Sec. 4. 10 V.S.A. § 4001(14) is amended to read:

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

Sec. 5. REPEAL

10 V.S.A. § 4865 (muskrat shooting season) is repealed.

Sec. 6. FISH AND WILDLIFE BOARD REPORT ON YOUTH DEER HUNTING LIMITS

On or before January 15, 2011, the fish and wildlife board shall submit to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy a recommendation as to whether a youth who hunts deer under 10 V.S.A. § 4742a should be limited to the taking of one deer prior to the youth turning 16 years of age.

Sec. 7. EFFECTIVE DATE

This act shall take effect July 1, 2010.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the proposal of amendment was agreed to, and third reading of the bill was ordered.

#### **House Proposal of Amendment Concurred In**

##### **S. 165.**

House proposal of amendment to Senate bill entitled:

An act relating to eliminating the statute of limitations for felonies.

Was taken up.

The House proposes to the Senate to amend the bill by changing the title of the bill to read as follows:

“An act relating to waiver of the statute of limitations in criminal prosecutions.”

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

#### **House Proposal of Amendment Concurred In**

##### **S. 268.**

House proposal of amendment to Senate bill entitled:



An act relating to the building bright futures council.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds that:

(1) While Vermont has a wide range of high-quality programs for families and young children, a report issued by the Smart Start National Technical Assistance Center states, "Vermont's early childhood system might be best described as many diverse patches, or pieces, ready to be linked and sewn together into a New England patchwork quilt."

(2) In order to address issues of overlap and fragmentation, program accountability, and equitable access to services across the state, engaged community members, policy-makers, early childhood service providers, and advocates agree that there is a need for a comprehensive and integrated system for all children below the age of six and their families in Vermont who are in need of and desiring such services.

(3) Research shows that a child's "environment of relationships" has a critical impact on developing brain architecture during the first months and years of life.

(4) There are approximately 39,000 children under the age of six in Vermont, including over 5,500 in poverty, 11,000 living in single-parent households, 20,489 living in two-parent households with both parents in the labor force, and approximately 1,300 young children with developmental delays.

(5) An estimated 23,000 children under the age of six are enrolled full- or part-time in over 1,900 registered or licensed child care programs funded by a combination of parent fees and public dollars such as the Child Care Financial Assistance Program and the Education Fund. Programs that receive no public funds generally have little to no formal connection to an overall early childhood system with established goals and policies for addressing the needs of young children.

(6) In addition to the care by their parents and families, thousands of Vermont children from a range of socioeconomic backgrounds receive services, support, or both from state, federal, and private programs. Many children are served by multiple programs with no mechanism in place to ensure a holistic, family-centered approach to service delivery. Early

childhood services are important to the economic well-being of families throughout the state. They have a positive impact on the state's labor supply and influence the overall economic competitiveness of the state.

(7) Section 642B of the federal Improving Head Start for School Readiness Act of 2007 mandates that the governor "designate or establish a council to serve as the State Advisory Council on Early Childhood Education and Care for children from birth to school entry, and the Governor may designate an existing entity in the State to serve as the State Advisory Council." The governor has designated the building bright futures state council as Vermont's entity.

(8) In November 2009, the building bright futures state council adopted a conceptual framework based on the work of Dr. Jack Shonkoff, a Harvard University professor and one of the nation's foremost experts on early childhood learning.

Sec. 2. 33 V.S.A. chapter 46 is added to read:

#### CHAPTER 46. BUILDING BRIGHT FUTURES COUNCIL

##### § 4601. DEFINITIONS

As used in this chapter:

(1) "Early care, health, and education" means all services provided to families expecting a child and to children up to the age of six, including child care, family support, early education, mental and physical health services, nutrition services, and disability services.

(2) "Regional council" means a regional entity linked to the state building bright futures council to support the creation of an integrated system of early care, health, and education at the local level.

##### § 4602. BUILDING BRIGHT FUTURES COUNCIL

(a) The building bright futures program shall be governed by a statewide council comprising no more than 23 members. The building bright futures council's membership shall be as follows:

- (1) the secretary of human services or designee;
- (2) the secretary of commerce and community development or designee;
- (3) the commissioner of education;
- (4) the commissioner for children and families;
- (5) the commissioner of health;

(6) the commissioner of mental health;

(7) two members of the house of representatives, appointed by the speaker of the house;

(8) at least one but no more than two members of the senate, appointed by the senate committee on committees;

(9) the Head Start collaboration office director; and

(10) 12 at-large members selected on the basis of their commitment to early childhood well-being and representing a range of perspectives and geographic diversity. One of the at-large members shall be a representative of a local Head Start program and one shall be a member of a school board, to be chosen by the Vermont school boards association.

(b) In the event of a vacancy in one of the at-large member positions on the council, the remaining members shall endeavor to fill the vacancy with an individual representing a perspective or geographic area not currently represented on the council.

(c) Technical assistance to the council shall be provided by staff within the departments of health, of education, and for children and families.

(d) For council meetings held when the general assembly is not in session, the legislative members of the council shall be entitled to per diem compensation and reimbursement of expenses in accordance with section 406 of Title 2. Members of the council who are not state employees or whose participation is not supported through their employment or association may be entitled to compensation and reimbursement for expenses for attending meetings of the council under section 1010 of Title 32 to the extent funds are available.

(e) The council shall function as a public-private partnership with the ability to raise and disburse funds.

(f) The council shall support the establishment of, and maintenance of relationships with, regional councils providing regional capacity to further the council's goals.

#### § 4603. POWERS AND DUTIES

The council established by section 4602 of this title shall have the following powers and duties necessary and appropriate to effectuating the purposes of this chapter:

(1) Advise the administration and general assembly on the status and needs of the early care, health, and education system by conducting a review of

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the status of young children in Vermont and the care, health, and education services and systems that support them.

(2) Monitor overall system performance by regularly tracking and reporting system data on the well-being of young children and the performance of the system of care related to the council's commitments to children and selected indicators.

(3) Develop an early care, health, and education system plan for Vermont to serve as the basis for policy and funding recommendations.

(4) Review and formulate recommendations for amendments or revisions to policies, rules, or regulations that may impede the ability to address state and local priorities and the ability to ensure system effectiveness.

(5) Work with the secretaries of human services and of commerce and community development and the commissioner of education to ensure the coordination of existing budgets and policies that affect the care, health, and education of young children.

(6) Identify and reduce duplication of services and of administrative approval processes and improve coordination across agencies.

(7) Work with the agencies of human services and of commerce and community development, the department of education, and the regional councils to coordinate and integrate the development of an early childhood budget that reflects alignment of funding with priorities identified in the system plan.

(8) Support the regional councils in their efforts to coordinate and implement services in accordance with identified priorities in system and regional plans.

(9) Contract with state agencies and departments to deliver services as agreed upon.

(10) Pursue and accept funding from diverse sources outside of state government to sustain, expand, and enhance the early care, health, and education system according to the early care, health, and education system plan.

(11) Disburse funds raised through fund development activities in accordance with priorities defined in the system plan.

(12) Convene members of the child care community, medical community, education community, and other organizations, as well as state

agencies serving young children, to ensure that families receive quality services in the most efficient and cost-effective manner.

(13) Select the key indicators to be tracked in early childhood and identify priority strategies to improve outcomes.

(14) Ensure children from birth to six years of age are included in statistical data systems developed by the department of education and other state agencies and that all such systems are interoperable.

(15) Analyze data to assess progress in achieving outcomes consistent with No. 68 of the Acts of the 2009 Adj. Sess. (2010) and make recommendations for any necessary adjustments.

(16) Report to the governor and the legislative committees of jurisdiction during the first month of each legislative biennium on the council's findings and recommendations, progress toward outcomes consistent with No. 68 of the Acts of the 2009 Adj. Sess. (2010), and recommendations for priorities for the biennium.

#### § 4604. LIMITATION OF SCOPE

Nothing in this chapter shall be construed to supersede or usurp the statutory powers or authority of any state agency or department or any school district.

#### Sec. 2. COMPOSITION OF COUNCIL

The members of the building bright futures council serving as of the effective date of this act shall continue to serve on the council after that date and shall adopt bylaws detailing the council's governance and procedures.

#### Sec. 3. EFFECTIVE DATE

This act shall take effect upon passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

### **Senate Resolution Adopted**

#### **S.R. 24.**

Senate resolution entitled:

Senate resolution supporting continuing implementation of the Inter-Rwandan Dialogue.

Having been placed on the Calendar for action, was taken up and adopted.

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**Committee of Conference Appointed****H. 783.**

An act relating to miscellaneous tax provisions.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings  
Senator Carris  
Senator Hartwell

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Rules Suspended; Bills Messaged**

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**H. 281, H. 562, H. 578.**

**Rules Suspended; Action Messaged**

On motion of Senator Shumlin, the rules were suspended, and the action on the following bill was ordered messaged to the House forthwith:

**H. 783.**

**Rules Suspended; Bills Delivered**

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

**S. 165, S. 268, S. 287.**

**Adjournment**

On motion of Senator Shumlin, the Senate adjourned until eleven o'clock in the morning.