

Journal of the House

Friday, April 15, 2011

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. Ann Grady of Christ Episcopal Church, Montpelier, VT.

Message from Governor

A message was received from His Excellency, the Governor, by Mrs. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the fifteenth day of April, 2011, he approved and signed a bill originating in the House of the following title:

H. 236 An act relating to extending the limitation of prosecutions for sexual abuse of a vulnerable adult

Senate Bill Referred

S. 108

Senate bill, entitled

An act relating to effective strategies to reduce criminal recidivism

Was read and referred to the committee on Judiciary.

Bill Amended, Read Third Time and Passed

H. 42

House bill, entitled

An act relating to employment decisions based on credit information

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

In Sec. 2, 21 V.S.A. § 495i in subsection (e) by striking out “, fail to hire,”

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

Third Reading; Bills Passed

House bills of the following titles were severally taken up, read the third time and passed:

H. 185

House bill, entitled

An act relating to regulating fees and charges for propane gas;

H. 452

House bill, entitled

An act relating to establishing the boundary line between the towns of Shelburne and St. George;

Third Reading; Bill Passed in Concurrence**S. 31**

Senate bill, entitled

An act relating to the Agreement Among the States to Elect the President by National Popular Vote

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Morrissey of Bennington** 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 bill pass? was decided in the affirmative. Yeas, 85. Nays, 44.

Those who voted in the affirmative are:

Ancel of Calais	Donovan of Burlington	Johnson of South Hero
Aswad of Burlington	Edwards of Brattleboro	Keenan of St. Albans City
Atkins of Winooski	Ellis of Waterbury	Kitzmiller of Montpelier
Bartholomew of Hartland	Emmons of Springfield	Klein of East Montpelier
Bissonnette of Winooski	Evans of Essex	Lanpher of Vergennes
Bohi of Hartford	Fisher of Lincoln	Lenes of Shelburne
Burke of Brattleboro	Font-Russell of Rutland City	Lerliche of Hardwick
Campion of Bennington	Frank of Underhill	Lippert of Hinesburg
Cheney of Norwich	French of Randolph	Lorber of Burlington
Conquest of Newbury	Gilbert of Fairfax	Macaig of Williston
Copeland-Hanzas of Bradford	Grad of Moretown	Malcolm of Pawlet
Courcelle of Rutland City	Haas of Rochester	Manwaring of Wilmington
Dakin of Chester	Head of South Burlington	Marek of Newfane
Davis of Washington	Heath of Westford	Martin of Springfield
Deen of Westminster	Hooper of Montpelier	Martin of Wolcott
Donahue of Northfield	Jerman of Essex	Masland of Thetford
	Jewett of Ripton	McCullough of Williston

Miller of Shaftsbury	Potter of Clarendon	Toll of Danville
Mitchell of Barnard	Pugh of South Burlington	Townsend of Randolph
Mook of Bennington	Ram of Burlington	Trieber of Rockingham
Moran of Wardsboro	Shand of Weathersfield	Waite-Simpson of Essex
Mrowicki of Putney *	Sharpe of Bristol	Weston of Burlington
Munger of South Burlington	Spengler of Colchester	Wilson of Manchester
Nuovo of Middlebury	Stevens of Waterbury	Wizowaty of Burlington
O'Brien of Richmond	Stevens of Shoreham	Woodward of Johnson
Partridge of Windham	Stuart of Brattleboro	Wright of Burlington
Pearson of Burlington	Sweaney of Windsor	Yantachka of Charlotte
Peltz of Woodbury	Taylor of Barre City	Young of Albany
Poirier of Barre City	Till of Jericho	

Those who voted in the negative are:

Acinapura of Brandon	Hebert of Vernon	McFaun of Barre Town
Andrews of Rutland City	Helm of Fair Haven	McNeil of Rutland Town
Batchelor of Derby	Higley of Lowell	Morrissey of Bennington
Branagan of Georgia	Howard of Cambridge	Myers of Essex
Browning of Arlington	Hubert of Milton	Olsen of Jamaica
Canfield of Fair Haven	Johnson of Canaan	Pearce of Richford
Condon of Colchester	Kilmartin of Newport City	Peaslee of Guildhall
Corcoran of Bennington	Koch of Barre Town	Perley of Enosburgh
Crawford of Burke	Komline of Dorset	Reis of St. Johnsbury
Degree of St. Albans City	Larocque of Barnet	Savage of Swanton
Devereux of Mount Holly	Lawrence of Lyndon	Scheuermann of Stowe *
Dickinson of St. Albans Town	Lewis of Berlin	Shaw of Pittsford
Donaghy of Poultney	Lewis of Derby	Smith of New Haven
Greshin of Warren	Marcotte of Coventry	Strong of Albany
	McAllister of Highgate	Webb of Shelburne

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

Botzow of Pownal	Clarkson of Woodstock	Kupersmith of South Burlington
Bouchard of Colchester	Consejo of Sheldon	Larson of Burlington
Brennan of Colchester	Eckhardt of Chittenden	Ralston of Middlebury
Burditt of West Rutland	Fagan of Rutland City	South of St. Johnsbury
Buxton of Royalton	French of Shrewsbury	Turner of Milton
Christie of Hartford	Howrigan of Fairfield	Winters of Williamstown
Clark of Vergennes	Krebs of South Hero	

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

I voted yes to upgrade and modernize this elective process. And my daughters would be sure to remind me this isn’t just about one man, one vote, - but also since suffrage was passed, it is also about one woman, one vote.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

Yesterday I asked a rhetorical question pertaining to this bill. Does this body want to diminish by one-half the value of Vermonters’ votes? Today the answer came on the floor when a supporter made it clear. Yes, a Vermonter’s vote will be worth less with the passage of this bill and yes, that is exactly what we should do. As a Vermonter, I completely disagree..”

Bill Read Second Time; Third Reading Ordered

H. 453

Rep. Sharpe of Bristol spoke for the committee on Ways and Means.

House bill entitled

An act relating to the annual tax expenditure budget

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

Pending the question, Shall the bill be read a third time? **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 bill be read a third time? was decided in the affirmative. Yeas, 131. Nays, 0.

Those who voted in the affirmative are:

- | | | |
|-------------------------|------------------------------|---------------------------|
| Acinapura of Brandon | Corcoran of Bennington | Grad of Moretown |
| Ancel of Calais | Courcelle of Rutland City | Greshin of Warren |
| Andrews of Rutland City | Crawford of Burke | Haas of Rochester |
| Aswad of Burlington | Dakin of Chester | Head of South Burlington |
| Atkins of Winooski | Davis of Washington | Heath of Westford |
| Bartholomew of Hartland | Deen of Westminster | Hebert of Vernon |
| Batchelor of Derby | Degree of St. Albans City | Helm of Fair Haven |
| Bissonnette of Winooski | Devereux of Mount Holly | Higley of Lowell |
| Bohi of Hartford | Dickinson of St. Albans | Hooper of Montpelier |
| Botzow of Pownal | Town | Howard of Cambridge |
| Branagan of Georgia | Donaghy of Poultney | Hubert of Milton |
| Browning of Arlington | Donahue of Northfield | Jerman of Essex |
| Burke of Brattleboro | Donovan of Burlington | Jewett of Ripton |
| Campion of Bennington | Edwards of Brattleboro | Johnson of South Hero |
| Canfield of Fair Haven | Ellis of Waterbury | Johnson of Canaan |
| Cheney of Norwich | Emmons of Springfield | Keenan of St. Albans City |
| Christie of Hartford | Evans of Essex | Kilmartin of Newport City |
| Clarkson of Woodstock | Fisher of Lincoln | Kitzmiller of Montpelier |
| Condon of Colchester | Font-Russell of Rutland City | Klein of East Montpelier |
| Conquest of Newbury | Frank of Underhill | Koch of Barre Town |
| Copeland-Hanzas of | French of Randolph | Komline of Dorset * |
| Bradford | Gilbert of Fairfax | |

Kupersmith of South Burlington	Mook of Bennington	Sharpe of Bristol
Lanpher of Vergennes	Moran of Wardsboro	Shaw of Pittsford
Larocque of Barnet	Morrissey of Bennington	Smith of New Haven
Lawrence of Lyndon	Mrowicki of Putney	Spengler of Colchester
Lenes of Shelburne	Munger of South Burlington	Stevens of Waterbury
Leriche of Hardwick	Myers of Essex	Stevens of Shoreham
Lewis of Berlin	Nuovo of Middlebury	Strong of Albany
Lewis of Derby	O'Brien of Richmond	Stuart of Brattleboro
Lippert of Hinesburg	Olsen of Jamaica	Sweaney of Windsor
Lorber of Burlington	Partridge of Windham	Taylor of Barre City
Macaig of Williston	Pearce of Richford	Till of Jericho
Malcolm of Pawlet	Pearson of Burlington	Toll of Danville
Manwaring of Wilmington	Peaslee of Guildhall	Townsend of Randolph
Marcotte of Coventry	Perley of Enosburgh	Trieber of Rockingham
Marek of Newfane	Poirier of Barre City	Waite-Simpson of Essex
Martin of Springfield	Potter of Clarendon	Webb of Shelburne
Masland of Thetford	Pugh of South Burlington	Weston of Burlington
McCullough of Williston	Ralston of Middlebury	Wilson of Manchester
McFaun of Barre Town	Ram of Burlington	Wizowaty of Burlington
McNeil of Rutland Town	Reis of St. Johnsbury	Woodward of Johnson
Miller of Shaftsbury	Savage of Swanton	Wright of Burlington
Mitchell of Barnard	Scheuermann of Stowe	Yantachka of Charlotte
	Shand of Weathersfield	Young of Albany

Those who voted in the negative are: none

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

Bouchard of Colchester	Eckhardt of Chittenden	Martin of Wolcott
Brennan of Colchester	Fagan of Rutland City	McAllister of Highgate
Burditt of West Rutland	French of Shrewsbury	Peltz of Woodbury
Buxton of Royalton	Howrigan of Fairfield	South of St. Johnsbury
Clark of Vergennes	Krebs of South Hero	Turner of Milton
Consejo of Sheldon	Larson of Burlington	Winters of Williamstown

Rep. Komline of Dorset explained her vote as follows:

“Mr. Speaker:

I’m glad to see so many people here – it was a nice morning for a walk.”

Bill Amended; Third Reading Ordered

H. 198

Rep. Burke of Brattleboro, for the committee on Transportation, to which had been referred House bill, entitled

An act relating to a transportation policy to accommodate all users

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

The purpose of this bill is to ensure that the needs of all users of Vermont's transportation system—including motorists, bicyclists, public transportation users, and pedestrians of all ages and abilities—are considered in all state and locally managed transportation project phases, including planning, development, construction, and maintenance, except in the case of projects or project components involving unpaved highways. These "complete streets" principles shall be integral to state and local transportation policy in Vermont.

Sec. 2. 19 V.S.A. § 10b is amended to read:

§ 10b. STATEMENT OF POLICY; GENERAL

(a) The agency shall be the responsible agency of the state for the development of transportation policy. It shall develop a mission statement to reflect:

(1) that state transportation policy encompassing, coordinating, and integrating shall be to encompass, coordinate, and integrate all modes of transportation, and to follow "complete streets" principles, which means to consider the safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; and

(2) the need for transportation projects that will improve the state's economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways.

(b) The agency shall coordinate planning and education efforts with those of the Vermont climate change oversight committee and those of local and regional planning entities:

(1) to assure that the transportation system as a whole is integrated, that access to the transportation system as a whole is integrated, and that statewide, local, and regional conservation and efficiency opportunities and practices are integrated; and

(2) to support employer or local or regional government-led conservation, efficiency, rideshare, and bicycle programs and other innovative transportation advances, especially employer-based incentives.

~~(b)~~(c) In developing the state's annual transportation program, the agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 as amended

by No. 200 of the Acts of the 1987 Adj. Sess. (1988) and with appropriate consideration to local, regional, and state agency plans:

(1) Develop or incorporate designs that provide integrated, safe, and efficient transportation ~~and promote.~~

(2) Consider the safety and accommodation of all transportation system users—including motorists, bicyclists, public transportation users, and pedestrians of all ages and abilities—in all state and locally managed transportation project phases, including planning, development, construction, and maintenance, except in the case of projects or project components involving unpaved highways. If, after the consideration required under this subdivision, a state-managed project does not incorporate complete streets principles, the project manager shall make a written determination, supported by documentation and available for public inspection at the agency, that one or more of the following circumstances exists:

(A) Use of the transportation facility by pedestrians, bicyclists, or other users is prohibited by law.

(B) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors including land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The agency shall consult local and regional plans in assessing these and any other relevant factors.

(C) Incorporating complete streets principles is outside the scope of a project because of its very nature. The written determination required under this subdivision (2) shall be final and shall not be subject to appeal or further review.

(3) Promote economic opportunities for Vermonters and the best use of the state's environmental and historic resources.

~~(2)~~(4) Manage available funding to:

(A) give priority to preserving the functionality of the existing transportation infrastructure, including bicycle and pedestrian trails regardless of whether they are located along a highway shoulder; and

(B) adhere to credible project delivery schedules.

~~(e)~~(d) The agency of transportation, in developing each of the program prioritization systems schedules for all modes of transportation, shall include the following throughout the process:

(1) The agency shall annually solicit input from each of the regional planning commissions and the Chittenden County metropolitan planning organization on regional priorities within each schedule, and those inputs shall be factored into the prioritizations for each program area and shall afford the opportunity of adding new projects to the schedules.

(2) Each year the agency shall provide in the front of the transportation program book a detailed explanation describing the factors in the prioritization system that creates each project list.

Sec. 3. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

(a) General purposes. It is the intent and purpose of this chapter to encourage the appropriate development of all lands in this state by the action of its constituent municipalities and regions, with the aid and assistance of the state, in a manner which will promote the public health, safety against fire, floods, explosions, and other dangers; to promote prosperity, comfort, access to adequate light and air, convenience, efficiency, economy, and general welfare; to enable the mitigation of the burden of property taxes on agricultural, forest, and other open lands; to encourage appropriate architectural design; to encourage the development of renewable resources; to protect residential, agricultural, and other areas from undue concentrations of population and overcrowding of land and buildings, from traffic congestion, from inadequate parking and the invasion of through traffic, and from the loss of peace, quiet, and privacy; to facilitate the needs of all transportation users, regardless of age, ability, or modal preference and to consider such needs in all locally managed transportation project phases, including planning, development, construction, and maintenance; to facilitate the growth of villages, towns, and cities and of their communities and neighborhoods so as to create an optimum environment, with good civic design; to encourage development of a rich cultural environment and to foster the arts; and to provide means and methods for the municipalities and regions of this state to plan for the prevention, minimization and future elimination of such land development problems as may presently exist or which may be foreseen and to implement those plans when and where appropriate. In implementing any regulatory power under this chapter, municipalities shall take care to protect the constitutional right of the people to acquire, possess, and protect property.

(b) It is also the intent of the legislature that municipalities, regional planning commissions, and state agencies shall engage in a continuing planning process that will further the following goals:

(1) To establish a coordinated, comprehensive planning process and policy framework to guide decisions by municipalities, regional planning commissions, and state agencies.

(2) To encourage citizen participation at all levels of the planning process, and to assure that decisions shall be made at the most local level possible commensurate with their impact.

(3) To consider the use of resources and the consequences of growth and development for the region and the state, as well as the community in which it takes place.

(4) To encourage and assist municipalities to work creatively together to develop and implement plans.

(c) In addition, this chapter shall be used to further the following specific goals:

* * *

(4) To provide for safe, convenient, economic, integrated, and energy efficient transportation systems that respect the integrity of the natural environment, ~~including public transit options and paths for pedestrians and bicyclers~~ and to follow “complete streets” principles, which means to consider the safety and accommodation of all transportation system users, regardless of age, ability, or modal preference—in all locally managed transportation project phases, including planning, development, construction, and maintenance, except in the case of projects or project components involving unpaved highways.

~~(A) Highways, air, rail and other means of transportation should be mutually supportive, balanced, and integrated. If, after the consideration required under this subdivision, a project does not incorporate complete streets principles, the municipality managing the project shall make a written determination, supported by documentation and available for public inspection at the office of the municipal clerk and at the agency of transportation, that one or more of the following circumstances exists:~~

(A) Use of the transportation facility by pedestrians, bicyclists, or other users is prohibited by law.

(B) The cost of incorporating complete streets principles is disproportionate to the need or probable use as determined by factors such as land use, current and projected user volumes, population density, crash data, historic and natural resource constraints, and maintenance requirements. The

municipality shall consult local and regional plans in assessing these and any other relevant factors.

(C) Incorporating complete streets principles is outside the scope of a project because of its very nature.

The written determination required under this subdivision (4) shall be final and shall not be subject to appeal or further review.

* * *

Sec. 4. REPORTING AND TRANSITION RULE

(a) By March 15, 2012, the agency of transportation shall report to the house and senate committees on transportation on its activities to comply with this act.

(b) The agency shall make available to the public upon request and in an easily understandable format a list of all state- and locally managed projects that have incorporated complete streets principles, accompanied by a description of each project and its location.

(c) The agency shall make available to the public upon request and in an easily understandable format a list of all state- and locally managed projects that have not incorporated complete streets principles pursuant to an exemption of 19 V.S.A. § 10b(c)(2) or 24 V.S.A. § 4302(c)(4). This list shall specify which exemption applied.

(d) The agency shall be exempt from the requirements to assign exemptions pursuant to Sec. 2, 19 V.S.A. § 10b(c)(2), and Sec. 3, 24 V.S.A. § 4302(c)(4), of this act and from the reporting requirements of this section with respect to any project for which preliminary engineering is complete as of the effective date of this act.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

and that after passage the title of the bill be amended to read: “An act relating to a transportation policy that considers all users”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Transportation agreed to and third reading ordered.

Adjournment

At twelve o'clock noon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, April 19, 2011, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 27.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 131

House concurrent resolution congratulating the 2011 Woodstock Union High School Wasps on winning their second consecutive Division II boys' Nordic skiing championship;

H.C.R. 132

House concurrent resolution recognizing the South End Arts and Business Association on its 25th anniversary;

H.C.R. 133

House concurrent resolution honoring Attorney Timothy J. O'Connor, Jr., of Brattleboro for his 50 years of dedication to the law and to those whom it serves and protects;

H.C.R. 134

House concurrent resolution honoring Major Lynn Currier and Sergeant First Class Lisa Currier on their quarter-century of meritorious National Guard service;

H.C.R. 135

House concurrent resolution congratulating the town of Springfield on its 250th anniversary;

H.C.R. 136

House concurrent resolution congratulating the 2010 Randolph Union High School Ghosts championship Division III girls' cross-country team;

H.C.R. 137

House concurrent resolution recognizing the underlying importance of Vermont Crime Victims Rights Week and of assisting the victims and survivors of crimes;

H.C.R. 138

House concurrent resolution honoring Virginia Coursen for her volunteer leadership at Bellows Falls Union High School and in community youth programs;

H.C.R. 139

House concurrent resolution commemorating the 125th anniversary of the New England Association of Schools and Colleges;

H.C.R. 140

House concurrent resolution congratulating the Essex High School Hornets' sixth consecutive championship girls' gymnastics team;

H.C.R. 141

House concurrent resolution congratulating the 2010 Randolph Union High School Ghosts Division III championship softball team;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2011, seventy-first Biennial session.]