Journal of the Senate

WEDNESDAY, APRIL 20, 2011

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 201.

An act relating to hospice and palliative care.

Bill Passed in Concurrence with Proposal of Amendment

H. 443.

House bill of the following title:

An act relating to the state's transportation program.

Was read the third time and passed in concurrence with proposal of amendment, on a roll call, Yeas 27, Nays 0.

Senator Mazza having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Baruth, Benning, Brock, Campbell, Carris, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Ashe, Cummings, MacDonald.

House Bill Not Committed; Bill Amended; Third Reading Ordered

H. 91.

House bill entitled:

An act relating to the management of fish and wildlife.

Was taken up.

Thereupon, pending second reading of the bill, Senator Kittell moved that the bill be committed to the Committee on Agriculture, which was disagreed to.

Thereupon, Senator Benning, for the Committee on Natural Resources and Energy, to which the bill was referred 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:

* * * Management of Wildlife * * *

Sec. 1. FINDINGS

The general assembly finds and declares:

(1) The protection, propagation, control, management, and conservation of the wildlife of Vermont are in the best interest of the public.

(2) Exposure of wildlife to domestic animals, as that term is defined in 6 V.S.A. § 1151, increases the risk that a disease or parasite, such as chronic wasting disease, is introduced into or spread to the wildlife of Vermont.

(3) To prevent the introduction or spread of a disease or parasite to the wildlife of Vermont, white-tailed deer and moose should not be entrapped in captive cervidae facilities.

(4) If a white-tailed deer or moose is entrapped in a facility that contains domestic animals, existing rules require the facility owner to consult with the department of fish and wildlife in order to determine the best method for removal of the entrapped white-tailed deer or moose.

(5) To preserve the health of the wildlife of Vermont, all owners of captive cervidae facilities should be required to remove entrapped white-tailed deer or moose, and such facilities should be required to take the necessary measures to prevent future entrapment of white-tailed deer or moose.

Sec. 2. 10 V.S.A. § 4081 is amended to read:

§ 4081. POLICY

(a) ~~It is the policy of the state that the~~ (1) As provided by Chapter II, § 67 of the Constitution of the State of Vermont, the fish and wildlife of Vermont are held in trust by the state for the benefit of the citizens of Vermont and shall not be reduced to private ownership. The state of Vermont, in its sovereign capacity as a trustee for the citizens of the state, shall have ownership, jurisdiction, and control of all of the fish and wildlife of Vermont.

(2) The commissioner of fish and wildlife shall manage and regulate the fish and wildlife of Vermont in accordance with the requirements of this part and the rules of the fish and wildlife board. The protection, propagation control, management, and conservation of fish, wildlife, and fur-bearing animals in this state ~~is~~ are in the interest of the public welfare~~, and that safeguarding of this valuable resource~~. The state, through the commissioner of fish and wildlife, shall safeguard the fish, wildlife, and fur-bearing animals of the state for the people of the state ~~requires~~, and the state shall fulfill this duty with a constant and continual vigilance.

(b) Notwithstanding the provisions of ~~section 2803 of Title~~ 3 V.S.A. § 2803, the fish and wildlife board shall be the state agency charged with carrying out the purposes of this subchapter.

(c) An abundant, healthy deer herd is a primary goal of fish and wildlife management. The use of a limited unit open season on antlerless deer shall be implemented only after a scientific game management study by the fish and wildlife department supports such a season.

(d) Annually, the department shall update a scientific management study of the state deer herd. The study shall consider data provided by department biologists and citizen testimony taken under subsection (f) of this section.

(e) Based on the results of the updated management study and citizen testimony, the board shall decide whether an antlerless deer hunting season is necessary and if so how many permits are to be issued. If the board determines that an antlerless season is necessary, it shall adopt a rule creating one and the department shall then administer an antlerless program.

(f) Annually, the department shall hold regional public hearings to receive testimony and data from concerned citizens about their knowledge and concerns about the deer herd. The board shall identify the regions by rule.

(g) If the board finds that an antlerless season is necessary to maintain the health and size of the herd, the department shall administer an antlerless deer

program. Annually, the board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of $10.00 for residents and $25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the regular hunting season, post their lands except under the provisions of section 4710 of this title. If the number of landowners who apply exceeds the number of permits for that district, the department shall award all permits in that district to landowners by lottery.

(2) Permits remaining after allocation pursuant to subdivision (1) of this subsection shall be issued by lottery.

(3) Any permits remaining after permits have been allocated pursuant to subdivisions (1) and (2) of this subsection shall be issued by the department for a $10.00 fee for residents. Ten percent of the remaining permits may be issued to nonresident applicants for a $25.00 fee.

Sec. 3. REPEAL OF DORMANT STATUTORY REQUIREMENTS FOR MANAGEMENT OF THE DEER HERD

(a) 10 V.S.A. §§ 4743 (relating to muzzle loader season), 4744 (relating to bow and arrow season), and 4753 (relating to annual deer limit), as suspended by Sec. 5(a) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), and by Sec. 2 of No. 97 of the Acts of the 2007 Adj. Sess. (2008), shall be repealed July 1, 2011.

(b) Sec. 7(d) (repeal of transfer to the fish and wildlife board of management authority over deer herd) of No. 136 of the Acts of the 2003 Adj. Sess. (2004), as amended by No. 97 of the Acts of the 2007 Adj. Sess. (2008), shall be repealed July 1, 2011.

Sec. 4. REPEAL OF TRANSFER OF REGULATORY AUTHORITY OVER CAPTIVE CERVIDAE FACILITY

Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) (transfer of regulatory oversight over captive cervidae facility and the white-tailed deer

or moose entrapped within it to the agency of agriculture, food and markets) is repealed.

Sec. 5. TRANSITION

(a) For purposes of this section, "relevant captive cervidae facility" shall mean a captive cervidae facility subject to the requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) prior to repeal under Sec. 4 of this act.

(b) Upon repeal of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) under Sec. 4 of this act, the jurisdiction and regulatory authority over a relevant captive cervidae facility and the white-tailed deer and moose entrapped within it are transferred from the agency of agriculture, food and markets to the department of fish and wildlife.

(c) Upon transfer of jurisdiction and regulatory authority to the department of fish and wildlife under subsection (b) of this section, a relevant captive cervidae facility shall be regulated as a captive hunt facility under the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting as set forth in 10 V.S.A. App. § 19, except that:

(1) For purposes of review of an application for a permit submitted under subsection (d) of this section, demonstrated compliance by a relevant captive cervidae facility with the requirements of Sec. E.702.1 of No. 156 of the Acts of the 2009 Adj. Sess. (2010) or the agency of agriculture, food and markets' rules governing captive cervidae shall be deemed as substantial compliance with comparable provisions of the department of fish and wildlife rules governing the importation and possession of animals for taking by hunting.

(2) The wild cervidae entrapped at a relevant captive cervidae facility may remain at the facility, provided that:

(A) The white-tailed deer and moose entrapped at the facility shall be subject to hunt during an applicable open season or seasons established by the fish and wildlife board;

(B) The fish and wildlife board shall adopt by rule a process by which the number of white-tailed deer and moose entrapped within the relevant captive hunt facility is reduced to zero by taking, as that term is defined in 10 V.S.A. § 4001, over a three-year period from September 1, 2011. The rule adopted by the fish and wildlife board under this subdivision shall specify:

(i) The number and type of white-tailed deer or moose to be taken in any season set by the board for the relevant captive hunt facility, subject to the following:

(I) The board shall not authorize the hunting or killing of the moose known as Pete and may authorize the relocation or transfer of said moose to an adequate facility;

(II) The number of white-tailed deer or moose authorized for taking should be reasonably equal in each of the three years from September 1, 2011, provided that all white-tailed deer or moose remaining at the facility in the fifth year shall be authorized for taking;

(III) In each year of the three-year period, the owner of the relevant captive cervidae facility shall present to the department of fish and wildlife for disease surveillance at least the number of white-tailed deer and moose authorized for taking by the fish and wildlife board under this subdivision (C)(2)(B)(i).

(ii) The process and protocol for a disease surveillance program at the relevant captive cervidae facility.

(C) the owner of the relevant captive cervidae facility may post his or her land according to 10 V.S.A. § 5201 and may restrict access to the facility for hunting; and

(D) no fee shall be charged by the relevant captive cervidae facility for the right to take white-tailed deer or moose during a hunt season established by the fish and wildlife board under this subsection.

(3) No person knowingly or intentionally shall allow wild cervidae at the relevant captive cervidae facility to escape or to be released from the facility.

(4) Failure of the relevant captive cervidae facility to meet the requirements of this section shall be a fish and game violation subject to enforcement under 10 V.S.A. chapter 109.

(d) By September 1, 2011, the owner of a relevant captive cervidae facility shall submit to the department of fish and wildlife an application for a permit for the possession of animals for the purpose of hunting.

(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:

(1) the requirements of this section; and

(2) the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting.

(f) Prior to filing under 3 V.S.A. § 841 a final proposal of the rules required by subsection (c) of this section, the fish and wildlife board shall submit a copy of the proposed rules to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy. The house committee on fish, wildlife and water resources and the senate committee on natural resources and energy shall review the proposed rules for consistency with legislative intent. The house committee on fish, wildlife and water resources and the senate committee on natural resources and energy shall recommend that the proposed rules be amended or shall recommend that the proposed rules be filed with the secretary of state and the legislative committee on administrative rules under 3 V.S.A. § 841. If the general assembly is not in session when the fish and wildlife board is prepared to file a final proposal of rules, the board may submit the proposed rules to the secretary of the senate, the clerk of the house, and the chairs of the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy.

* * * Department of Fish and Wildlife; Enforcement Authority * * *

Sec. 6. 10 V.S.A. §§ 4519–4520a are added to read:

§ 4519. ASSURANCE OF DISCONTINUANCE

(a) As an alternative to judicial proceedings, the commissioner may accept an assurance of discontinuance of any violation of this part. An assurance of discontinuance may include, but need not be limited to:

(1) specific actions to be taken;

(2) abatement or mitigation schedules;

(3) payment of a civil penalty and the costs of investigation;

(4) payment of an amount to be held in escrow pending the outcome of an action or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. An assurance of discontinuance shall be simultaneously filed with the attorney general and the civil division of the superior court of the county in which the alleged violation occurred or the civil division of the superior court of Washington County. An assurance of discontinuance may, by its terms,

become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.

(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying statute or rule and shall be subject to an administrative penalty under section 4520 of this title, in addition to any other applicable penalties.

§ 4520. ADMINISTRATIVE PENALTIES

(a) In addition to other penalties provided by law, the commissioner may assess administrative penalties, not to exceed $1,000.00, for each violation of this part.

(b) In determining the amount of the penalty to be assessed under this section, the commissioner may give consideration to one or more of the following:

(1) the degree of actual and potential impact on fish, game, public safety, or the environment resulting from the violation;

(2) the presence of mitigating or aggravating circumstances;

(3) whether the violator has been warned or found in violation of fish and game law in the past;

(4) the economic benefit gained by the violation;

(5) the deterrent effect of the penalty;

(6) the financial condition of the violator.

(c) Each violation may be a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed to be a separate and distinct offense. In no event shall the maximum amount of the penalty assessed under this section exceed $25,000.00.

(d) In addition to the administrative penalties authorized by this section, the commissioner may recover the costs of investigation, which shall be credited to a special fund and shall be available to the department to offset these costs.

(e) Any party aggrieved by a final decision of the commissioner under this section may appeal de novo to the civil division of the superior court of the county in which the violation occurred or the civil division of the superior court of Washington County within 30 days of the final decision of the commissioner.

(f) The commissioner may enforce a final administrative penalty by filing a civil collection action in the civil division of the superior court of any county.

(g) The commissioner may, subject to 3 V.S.A. chapter 25, suspend any license or permit issued pursuant to his or her authority under this part for failure to pay a penalty under this section more than 60 days after the penalty was issued.

§ 4520a. NOTICE AND HEARING REQUIREMENTS

(a) The commissioner shall use the following procedures in assessing the penalty under section 4520 of this title: the attorney general or an alleged violator shall be given an opportunity for a hearing after reasonable notice; and the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

(1) a statement of the legal authority and jurisdiction under which the hearing is to be held;

(2) a statement of the matter at issue, including reference to the particular statute allegedly violated and a factual description of the alleged violation;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the decision shall become final and the penalty imposed if no hearing is requested within 15 days of receipt of the notice. The notice shall specify the requirements which shall be met in order to avoid being deemed to have waived the right to a hearing or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the commissioner shall issue a final order finding the person in default and imposing the penalty. A copy of the final default order shall be sent to the violator by certified mail, return receipt requested.

(c) When an alleged violator requests a hearing in a timely fashion, the commissioner shall hold the hearing pursuant to 3 V.S.A. chapter 25.

* * * Hunting and Fishing Licenses; Members of Armed Forces * * *

Sec. 7. 10 V.S.A. § 4258 is amended to read:

§ 4258. LICENSE; ARMED FORCES

A license to hunt or fish shall be issued, upon payment of the resident license fee, to any member of the armed forces of the United States of America who is on active duty and stationed at some military, air, or naval post, station, or base within the state. Said member of the armed forces, desiring a hunting

or fishing license, ~~must present a certificate from the commander of said post, station or base, or his designated agent, that the person mentioned in the certification is stationed at or attached to said post, station or base~~ shall certify that he or she is eligible for such a license under this section. Holders of such licenses shall be subject to all the laws of the state and the rules and regulations of the board regulating hunting and fishing; and for violations of said laws or rules and regulations, shall be subject to the penalties prescribed therefor, and such licenses shall be revoked in the same manner as provided in section 4502 of this title.

Sec. 8. 10 V.S.A. § 4259 is amended to read:

§ 4259. VERMONT RESIDENTS; ARMED FORCES

Any resident of the state of Vermont who is serving in the armed forces of the United States or is performing or under orders to perform any homeland defense or state-side contingency operation, or both, for a period of 120 consecutive days or more~~, as certified by the Adjutant General for the Vermont National Guard is eligible~~ shall certify that he or she is eligible under this section to obtain at no cost a hunting or fishing license or a combination hunting and fishing license. This provision will apply only during the period he or she is serving in the armed forces of the United States, or as certified pursuant to this section. A person who obtains a license under this section may keep the license until it expires, whether or not the person continues to serve in the armed forces until the expiration date.

* * * Posting of Land; Eligibility * * *

Sec. 9. 10 V.S.A. § 4081(g) is amended to read:

(g) If the board finds that an antlerless season is necessary to maintain the health and size of the herd, the department shall administer an antlerless deer program. Annually, the board shall determine how many antlerless permits to issue in each wildlife management unit. For a nonrefundable fee of $10.00 for residents and $25.00 for nonresidents a person may apply for a permit. Each person may submit only one application for a permit. The department shall allocate the permits in the following manner:

(1) A Vermont landowner, as defined in section 4253 of this title, who owns 25 or more contiguous acres and who applies shall receive a permit for antlerless hunting in the management unit on which the land is located before any are given to people eligible under subdivision (2) of this subsection. If the land is owned by more than one individual, corporation or other entity, only one permit shall be issued. Landowners applying for antlerless permits under this subdivision shall not, at the time of application or thereafter during the

regular hunting season, post their lands except under the provisions of section 4710 of this title. As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title. If the number of landowners who apply exceeds the number of permits for that district, the department shall award all permits in that district to landowners by lottery.

* * *

Sec. 10. 10 V.S.A. § 4253 is amended to read:

§ 4253. LANDOWNER; FAMILY; EXCEPTION

(a) A resident owner of lands, his or her spouse, and their minor children may, without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds therein subject to the provisions of this part.

(b) A nonresident owner of lands, his or her spouse, and their minor children, may without procuring a license under this chapter, take fish from the waters therein, shoot pickerel, and take wild animals or wild birds thereon subject to the provisions of this part, except if the lands are posted under provisions other than section 4710 of this title.

(c) As used in this section, "post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

Sec. 11. 10 V.S.A. § 4826(f) is amended to read:

(f)(1) "Person" includes all people who jointly own or ~~occupy~~ lease the land. ~~Therefore, if two or more people jointly own or occupy land, they may jointly take or authorize the taking of only up to four deer.~~

(2) "Post" means any signage that would lead a reasonable person to believe that hunting is prohibited on the land, except for signs erected pursuant to section 4710 of this title.

Sec. 12. 10 V.S.A. § 4829 is amended to read:

§ 4829. PERSON SUFFERING DAMAGE BY DEER OR BLACK BEAR

A person who suffers damage by deer to the person's crops, fruit trees, or crop-bearing plants on land not posted against the hunting of deer, or a person who suffers damage by black bear to the person's cattle, sheep, swine, poultry, or bees or bee hives on land not posted against hunting or trapping of black bear is entitled to reimbursement for the damage, and may apply to the department of fish and wildlife within 72 hours of the occurrence of the damage for reimbursement for the damage. As used in this section, "post"

means any signage that would lead a reasonable person to believe that hunting is prohibited on the land.

* * * Deer Doing Damage to Forestland; Working Group * * *

Sec. 13. DEPARTMENT OF FISH AND WILDLIFE WORKING GROUP ON DEER DOING DAMAGE TO LAND MANAGED FOR THE PRODUCTION OF MARKETABLE FOREST PRODUCTS

(a) The commissioner of fish and wildlife shall convene a working group to review and recommend methods for addressing or limiting damage by deer to trees, saplings, and seedlings on land managed for the production of marketable forest products and to assess land access issues related to wildlife management. The working group shall consist of the commissioner or his or her designee and the following members to be appointed by the commissioner:

(1) two qualified foresters;

(2) two owners of land managed for the production of marketable forest products;

(3) two members of the fish and wildlife board;

(4) two wildlife biologists with knowledge of the state deer herd or of the impact of deer on forestland; and

(5) two persons who hold a valid Vermont hunting license.

(b) On or before January 15, 2012, the commissioner shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy with the recommendations of the working group. The report shall include an analysis of how and if prohibiting the posting of land as a condition of taking deer doing damage to land managed for the production of marketable forest products will achieve the goal of reducing or mitigating distinct occurrences of damage from deer populations, including an assessment of broader land access issues related to wildlife management.

Sec. 14. EDUCATION AND OUTREACH REGARDING FORESTRY PRACTICES TO PREVENT DEER DOING DAMAGE

On or before September 1, 2011, the commissioner of fish and wildlife, in consultation with the commissioner of forests, parks and recreation, shall conduct education and outreach activities regarding forestry practices to address deer doing damage to land managed for the production of marketable forest products. Outreach should include methods by which owners of land managed for the production of marketable forest products can contact Vermont

licensed hunters in order to invite hunting on land being damaged by deer. The commissioner shall publish recommended forestry practices and other methods for addressing deer damage to land managed for the production of marketable forest products in the department of fish and wildlife's landowner habitat management guidelines; in the Vermont guide to hunting, fishing, and trapping laws; and on the website of the department of fish and wildlife.

Sec. 15. EFFECTIVE DATES

(a) This section and Secs. 9 (antlerless permit; post), 10 (landowner hunt exception; post), 11 (deer doing damage; post), 12 (bear doing damage; post), 13 (working group on deer doing damage), and 14 (outreach and education) of this act shall take effect on passage.

(b) Secs. 1 (findings; wildlife management; captive cervidae facility), 2 (policy for management of fish and wildlife), 3 (repeal of dormant deer herd management statutes), 6 (department of fish and wildlife; assurance of discontinuance; administrative penalties), 7 (hunting and fishing license; armed forces; nonresident) and 8 (hunting and fishing license; armed forces; resident) of this act shall take effect on July 1, 2011.

(c) Secs. 4 (repeal of transfer of regulatory authority over captive cervidae facility) and 5 (transition of regulatory authority over captive cervidae facility) of this act shall take effect September 1, 2011, except that Sec. 5(d) (application for possession of animals for the purpose of a hunting permit) shall take effect on July 1, 2011.

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

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Benning moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as follows:

In Sec. 5, subdivision (c)(2)(B)(i)(II), by striking out the word "fifth" where it appears and inserting in lieu thereof the word third

Which was agreed to.

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 on a roll call, Yeas 24, Nays 4.

Senator Illuzzi having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Westman, White.

Those Senators who voted in the negative were: Baruth, Illuzzi, Kittell, Starr.

Those Senators absent and not voting were: Ashe, Giard.

Recess

On motion of Senator Campbell the Senate recessed until five o'clock in the afternoon.

Called to Order

At five o'clock in the afternoon the Senate was called to order by the President.

Message from the House No. 51

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 198. An act relating to a transportation policy to accommodate all users.

H. 453. An act relating to the annual tax expenditure budget.

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

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 29. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 198.

An act relating to a transportation policy to accommodate all users.

To the Committee on Rules.

H. 453.

An act relating to the annual tax expenditure budget.

To the Committee on Rules.

Proposals of Amendment Amended; Bill Passed in Concurrence with Proposal of Amendment; Rules Suspended; Bill Messaged

H. 446.

House bill entitled:

An act relating to capital construction and state bonding.

Was taken up.

Thereupon, pending third reading of the bill, Senator Hartwell, on behalf of the Committee on Institutions, moved that the Senate proposal of amendment be amended as follows:

First: By inserting a new section to be numbered Sec. 55a to read as follows:

Sec. 55a. 16 V.S.A. § 2867 is amended to read:

§ 2867. RESERVE AND PLEDGED EQUITY FUNDS

* * *

(f) In order to assure the maintenance of the debt service reserve fund requirement in each debt service reserve fund established by the corporation under this section, there may be appropriated annually and paid to the corporation for deposit in each such fund such sum as shall be certified by the chair of the corporation to the governor, the president of the senate, and the speaker of the house as is necessary to establish or restore each such debt service reserve fund to an amount equal to the requirement for each such fund. The chair shall annually, on or about February 1, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house, a certificate stating the sum required to restore each such fund to the amount aforesaid, and the ~~sum~~ governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated, and if appropriated, shall be paid to the corporation during the then current state fiscal year. In order to assure the funding of the pledged

equity fund requirement in each pledged equity fund established by the corporation under this section at the time and in the amount determined at the time of entering into any credit enhancement agreement related to a pledged equity fund, there may be appropriated and paid to the corporation for deposit in each such fund, such sum as shall be certified by the chair of the corporation, to the governor, the president of the senate and the speaker of the house, as is necessary to establish each such pledged equity fund to an amount equal to the amount determined by the corporation at the time of entering into any credit enhancement agreement related to a pledged equity fund; provided that the amount requested, together with any amounts previously appropriated pursuant to this subsection for a particular pledged equity fund, shall not exceed the maximum amount of the state's commitment, as determined by the corporation pursuant to subsection (d) of this section. The chair shall, on or about the February 1 next following the designated date for fully funding a pledged equity fund, make, execute, and deliver to the governor, the president of the senate, and the speaker of the house, a certificate stating the sum required to bring each such fund to the amount aforesaid or to otherwise satisfy the state's commitment with respect to each such fund, and the ~~sum~~ governor shall, on or before March 1, submit a request for appropriations in the amount so certified, and such amount may be appropriated, and if appropriated, shall be paid to the corporation during the then-current state fiscal year. The combined principal amount of bonds, notes, and other debt instruments outstanding at any time and secured in whole or in part by a debt service reserve fund established under this section and the aggregate commitment of the state to fund pledged equity funds pursuant to this subsection shall not exceed $50,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the corporation in contravention of the Constitution of the United States. Notwithstanding anything in this section to the contrary, the state's obligation with respect to funding any pledged equity fund shall be limited to its maximum commitment, as determined by the corporation pursuant to subsection (d) of this section and the state shall have no other obligation to replenish or maintain any pledged equity fund.

Second: By inserting a new section to be numbered Sec 55b to read as follows:

Sec. 55b. 24 V.S.A. § 4675 is amended to read:

§ 4675. ANNUAL APPROPRIATION

In order to assure the maintenance of the required debt service reserve in each reserve fund established pursuant to this chapter, there shall be

appropriated annually and paid to the bank for deposit in each reserve fund, such sum as shall be certified by the chair of the bank to the governor or to the governor-elect, as is necessary to restore such fund to an amount equal to the required debt service reserve. The ~~chairman~~ chair shall annually, on or before February 1, make and deliver to the governor or to the governor-elect, his or her certificate stating the sum required to restore the fund to the amount aforesaid, and the governor or governor-elect shall, on or before March 1, submit a request for appropriations for the sum so certified, and the sum so certified shall be appropriated and paid to the bank during the then current state fiscal year.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended as follows:

First: By striking out Sec. 27 in its entirety and inserting in lieu thereof the following:

Sec. 27. REPEAL OF AUTHORITY TO SELL REDSTONE

Subdivision (g)(2) of Sec. 25 of No. 43 of the Acts of 2009 (authority to sell the Redstone building) is repealed.

Second: By adding a Sec. 27a to read:

Sec. 27a. REDSTONE FEASIBILITY STUDY

The commissioner of buildings and general services shall provide a feasibility study to the senate committee on institutions and the house committee on corrections and institutions on or before January 15, 2012 on whether it is in the best interest of the state for the Redstone building located at 26 Terrace Street in Montpelier to remain in the state's inventory for the support of state government, public functions, state museums, or any other use consistent with functions of state government, including apartment housing for the chief executive. The commissioner may propose a plan that includes partnering with nonprofit entities to restore and renovate the building to accommodate the proposal and retain the property's historic value.

Third: In Sec. 44, in the opening paragraph, by striking out the words "take action on" and inserting in lieu thereof the word approve

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Illuzzi and Starr moved that the Senate proposal of amendment be amended by adding two new sections to be numbered Secs. 45a and 45b to read as follows:

Sec. 45a. FINDINGS

Two local civic leaders, John Boylan and John Worth, played instrumental roles in establishing a state airport in Island Pond (town of Brighton). However, in an effort to shorten the airport's name, John Worth was not recognized.

Sec. 45b. RENAMING OF JOHN H. BOYLAN AIRPORT

Notwithstanding any provisions of law to the contrary, the Vermont Board of Libraries is authorized to rename the "John H. Boylan Airport" in Island Pond (town of Brighton).

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended by striking out Sec. 46 in its entirety and inserting in lieu thereof a new Sec. 46 to read:

Sec. 46. TELECOMMUTING BY STATE WORKERS

(a) The general assembly finds that:

(1) Telework is an innovative management option that allows selected employees to work from home or from a state office location close to the employee's home.

(2) Telework offers a working environment that can reduce distractions, and result in greater worker productivity and job performance.

(3) The goal of a telework program is to improve employee morale and job satisfaction as well as to reduce absenteeism and sick leave usage.

(4) A telework program can help retain valued employees and recruit top-quality employees while improving quality of life and protecting the environment.

(b) The secretary of administration shall authorize a pilot project to evaluate the efficacy of permitting some state employees to work from home or from an alternative work location closer to the employee's home. For purposes of this section, "telework" means working from a location other than an employee's principal state-owned duty station during the employee's standard work day. The pilot project shall be based on guidelines developed by the secretary of administration.

Which was agreed to on a division of the Senate Yeas 14, Nays 10.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment, on a roll call, Yeas 30, Nays 0.

Senator Hartwell having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Bill Messaged

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

H. 443.

Proposal of Amendment Amended; Bill Passed in Concurrence with Proposal of Amendment

H. 275.

Senator Galbraith moves to amend the Senate proposal of amendment to read as follows:

First: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) A recently deployed veteran shall be eligible for a refundable credit against the income tax liability imposed under this chapter in an amount up to $2,000.00 for unreimbursed expenses related to education or job-related training received from an accredited postsecondary school, a postsecondary school licensed or approved by a Vermont occupational licensing board, or a non-degree-granting or non-credit-granting postsecondary vocational school approved or recognized by the department of labor; provided, however, that to be eligible for the credit, the expense shall be incurred after the date of enactment of this act but before December 31, 2012.

Second: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, subsection (b), by striking out the words "new full-time employee's date of hire and may be carried forward one year" and inserting in lieu thereof the words date the expense was incurred

Third: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) "Recently deployed veteran" means an individual who:

(1)(A) was a resident of Vermont at the time of entry into military service; or

(B) was mobilized to active federal military service while a member of the Vermont National Guard or other reserve unit located in Vermont, regardless of the resident's home of record;

(2) received an honorable or general discharge from active federal military service within the two-year period preceding the date of incurring the expense related to the credit; and

(3) at the time of incurring the expense related to the credit:

(A) is collecting or eligible to collect unemployment benefits; or

(B) has exhausted his or her unemployment benefits.

Which was disagreed to on a roll call Yeas, 12, Nays 17.

Senator Carris having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Baruth, Brock, Doyle, Galbraith, Giard, Hartwell, Illuzzi, Kittell, Mullin, Pollina, Westman.

Those Senators who voted in the negative were: Ashe, Benning, Campbell, Carris, Cummings, Flory, Fox, Kitchel, Lyons, MacDonald, Mazza, McCormack, Miller, Nitka, Sears, Starr, White.

The Senator absent and not voting was: Snelling.

Thereupon, pending third reading of the bill, Senator Galbraith moved that the Senate proposal of amendment be amended in Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in subsection (a), by inserting after the word "hired" the words after the passage of this act but

Which was agreed to.

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

Bill Amended; Third Reading Ordered

S. 98.

Senator Cummings, for the Committee on Finance, to which was referred Senate Committee bill entitled:

An act relating to authorizing owner-financed property sales.

Reported that the bill ought to pass.

Senator Illuzzi moves to amend the bill by adding a new section to be numbered Sec. 1 to read as follows:

Sec. 1. FINDINGS AND PURPOSE

(1) During the 2009 legislative session Vermont enacted Act 29 to bring Vermont law and the License Lender Statue (8 VSA Chapter 73) into compliance with the mandates of the federal Secure and Fair Enforcement for Mortgage Licensing Act (the "SAFE Act"). The SAFE Act addressed issues related to residential mortgage loans.

(2) The general assembly finds that there remains confusion and misunderstanding regarding seller financing of property other than residential real estate. Act 29 did not alter Chapter 73 as it relates to seller financing of property other than residential real estate. This act clarifies that a seller of real estate, other than residential real estate, may finance the sale of his or her real estate without obtaining a license under Chapter 73. The financing of residential real estate, however, remains subject to the licensing requirements and the limited exemptions found in Chapter 73.

(3) The general assembly finds that there remains confusion and misunderstanding about the exemption for loans between immediate family members. Act 29 provided an exemption from licensing for residential mortgage loans between immediate family members. It appears that some have interpreted Chapter 73 to only permit "residential mortgage loans" between immediate family members. This act clarifies that any loan between immediate family members, regardless of whether it is a residential mortgage loan, car loan, school loan, or any other type of loan, is exempt from the licensing requirements of Chapter 73.

(4) The general assembly finds that it is appropriate to expand the definition of "immediate family member" to include former spouses, step-grandparents, and step-grandchildren. The general assembly finds that the distinction between "spouse" and "former spouse" in a divorce proceeding and property settlement may simply be a matter of timing. Thus, it is appropriate to exempt licensing requirements for loans between former spouses in order to

facilitate property settlements in divorce proceedings. The general assembly also finds that including "step-grandparents" and "step-grandchildren" in the definition of "immediate family member" is consistent with the current definition that already includes "stepparents", "stepchildren", and stepsiblings" and completes the step-family relationship.

(5) The general assembly believes that this act is consistent with the mandates of the SAFE Act and with the current interpretive guidance issued by the U.S. Department of Housing and Urban Development ("HUD"). The general assembly understands that HUD has been given interpretive authority for the SAFE Act and that HUD is in the process of publishing SAFE Act rules. In the event any of the provisions of this act are inconsistent with HUD's final SAFE Act rules, the general assembly understands that it will have a reasonable period of time to review the final SAFE Act rules and to amend Chapter 73 accordingly.

And by renumbering the remaining sections to be numerically correct.

Which was agreed to.

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

Third Reading Ordered

S. 104.

Senator Fox, for the Committee on Finance, to which was referred Senate Committee bill entitled:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

Reported that the bill ought to pass.

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

Third Reading Ordered

H. 11.

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

An act relating to the discharge of pharmaceutical waste to state waters.

Reported that the bill ought to pass in concurrence.

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

Proposals of Amendment; Third Reading Ordered

H. 138.

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to executive branch fees.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 5, 21 V.S.A. § 711(a), by striking out the following: "1.61" and inserting in lieu thereof the following: 1.75

Second: In Sec. 9, 6 V.S.A. § 2724(a), by striking out the following: "Licenses issued between July 1 and December 31 of each year shall be considered as if issued on the preceding July 1 for expiration purposes." and inserting in lieu thereof the following: Licenses issued from July 2 to December 31 of each year shall be considered as if issued on the preceding July 1 for expiration purposes.

Third: By adding an internal caption and a new section to be numbered Sec. 11a to read as follows:

* * * Department of Fish and Wildlife Bear Tags * * *

Sec. 11a. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	$22.00
(2) Hunting license	$22.00
(3) Combination hunting and fishing license	$35.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	$20.00
(B) muzzle loader license	$20.00
(C) turkey license	$20.00
(D) second muzzle loader license	$17.00

(E) second archery license	$17.00
(F) moose license	$100.00
(G) second bear tag	$5.00

* * *

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	$45.00
(2) One-day fishing license	$20.00
(3) [Deleted.]	
(4) Hunting license	$100.00
(5) Combination hunting and fishing license	$130.00
(6) Big game licenses (all require a hunting license)	
(A) archery license	$35.00
(B) muzzle loader license	$40.00
(C) turkey license	$35.00
(D) second muzzle loader license	$25.00
(E) second archery license	$25.00
(F) moose license	$350.00
(G) second bear tag	$5.00

* * *

(l) If the board determines that it is in the interest of bear management, it may require the issuance of a second bear tag for the taking of bear in addition to that allowed by a hunting license issued under this chapter.

Fourth: By adding an internal caption and a new section to be numbered Sec. 11b to read as follows:

* * * Probate fees * * *

Sec. 11b. 14 V.S.A. § 2 is amended to read:

§ 2. DEPOSIT OF WILL FOR SAFEKEEPING; DELIVERY; FINAL DISPOSITION

(a) A testator may deposit a will for safekeeping in the probate division of the superior court for the district in which the testator resides on the payment

of a fee ~~of $2.00~~ to the court. The register shall give to the testator a certificate of deposit, shall safely keep each will so deposited and shall keep an index of the wills so deposited.

* * *

Fifth: By striking out Sec. 12 and the internal caption "* * * Report on local option tax assessment fee * * *" in their entirety and inserting in lieu thereof

Sec. 12. [DELETED]

Sixth: In Sec. 13, Repeals, by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) Sec. 4 of No. 12 of the Acts of 2009, as amended by Sec. 105 of No. 67 of the Acts of the 2009 Adj. Sess. (2010) (sunset on the amendments requiring the payment of the fee as a condition to successfully complete the diversion program).

Seventh: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new section to be numbered Sec. 14 to read as follows:

Sec. 14. EFFECTIVE DATES

This section, Sec. 6, and Sec. 13(3) (relating to sunset on the amendments requiring the payment of the fee as a condition to successfully complete the diversion program) shall take effect on passage.

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

Which was agreed.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senator Cummings moved Senate propose to the House to amend the bill by striking out Sec. 11b in its entirety and inserting in lieu thereof a new section to be numbered Sec. 11b to read as follows:

Sec. 11b. 14 V.S.A. § 2 is amended to read:

§ 2. DEPOSIT OF WILL FOR SAFEKEEPING; DELIVERY; FINAL DISPOSITION

(a) A testator may deposit a will for safekeeping in the probate division of the superior court for the district in which the testator resides on the payment ~~of a fee of $2.00~~ to the court of the fee required by 32 V.S.A. § 1434(a)(17).

The register shall give to the testator a certificate of deposit, shall safely keep each will so deposited and shall keep an index of the wills so deposited.

* * *

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 26.

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

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf.

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. § 1266b is added to read:

§ 1266b. APPLICATION OF PHOSPHORUS FERTILIZER

(a) Definitions. As used in this section:

(1) "Compost" means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

(2) "Fertilizer" shall have the same meaning as in 6 V.S.A. § 363(5).

(3) "Impervious surface" means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

(4) "Manipulated animal or vegetable manure" means manure that is ground, pelletized, mechanically dried, supplemented with plant nutrients or substances other than phosphorus or phosphate, or otherwise treated to assist with the use of manure as fertilizer.

(5) "Phosphorus fertilizer" means fertilizer labeled for use on turf in which the available phosphate content is greater than 0.67 percent by weight, except that "phosphorus fertilizer" shall not include compost or manipulated animal or vegetable manure.

(6)(A) "Turf" means land planted in closely mowed, managed grasses, including residential and commercial property and publicly owned land, parks, and recreation areas.

(B) "Turf" shall not include:

(i) pasture, cropland, land used to grow sod, or any other land used for agricultural production; or

(ii) private and public golf courses.

(7) "Water" or "water of the state" means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, springs, and all bodies of surface waters, artificial or natural, which are contained within, flow through, or border upon the state or any portion of it.

(b) Application of phosphorus fertilizer.

(1) No person shall apply phosphorus fertilizer to turf except for:

(A) phosphorus fertilizer necessary for application to turf that is deficient in phosphorus as shown by a soil test performed no more than 18 months before the application of the fertilizer; or

(B) phosphorus fertilizer that is labeled as starter fertilizer and that is intended for application to turf when a property owner or an agent of a property owner is first establishing grass in turf via seed or sod procedures and the application of starter fertilizer is limited to the first growing season.

(2) On or before October 1, 2011, the secretary of agriculture, food and markets, after consultation with the University of Vermont, shall approve a standard, which may authorize multiple testing methods, for the soil test required under subdivision (1)(A) of this subsection.

(c) Application of fertilizer to impervious surface; in proximity to water; and seasonal restriction. No person shall apply any fertilizer:

(1) to an impervious surface. Fertilizer applied or released to an impervious surface shall be immediately collected and returned to a container for legal application. This subdivision shall not apply to activities regulated under the accepted agricultural practices as those practices are defined by the secretary of agriculture, food and markets under 6 V.S.A. § 4810;

(2) to turf before April 1 or after October 15 in any calendar year or at any time when the ground is frozen; or

(3) to turf within 25 feet of a water of the state.

(d) Retail display of phosphorus fertilizer. If a retailer sells or offers for sale phosphorus fertilizer to consumers and consumers have direct access to the phosphorus fertilizer, the retailer shall:

(1) In the retail area where phosphorus fertilizer is accessible by a consumer, display nonphosphorus fertilizer separately from phosphorus fertilizer; and

(2) Post in the retail location, if any, where phosphorus fertilizer is accessible by the consumer a clearly visible sign that is at least eight and one-half inches by 11 inches in size and that states "Phosphorus runoff poses a threat to water quality. Most Vermont lawns do not benefit from fertilizer containing phosphorus. Under Vermont law, fertilizer containing phosphorus shall not be applied to lawn unless applied to new lawn or lawn that is deficient for phosphorus as indicated by a soil test."

(e) Violations. A person who knowingly and intentionally violates this section shall be subject to a civil penalty of not more than $500.00 per violation. A violation of this section shall be enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4 in an action that may be brought by the agency of agriculture, food and markets or the agency of natural resources.

Sec. 2. 6 V.S.A. § 381 is added to read:

§ 381. GOLF COURSES; NUTRIENT MANAGEMENT PLAN

Beginning July 1, 2012, as a condition of the permit issued to golf courses under chapter 87 of this title and regulations adopted thereunder, a golf course shall be required to submit to the secretary of agriculture, food and markets a nutrient management plan for the use and application of fertilizer to grasses or other lands owned or controlled by the golf course. The nutrient management plan shall ensure that the golf course applies fertilizer according to the agronomic rates for the site-specific conditions of the golf course.

Sec. 3. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A judicial bureau is created within the judicial branch under the supervision of the supreme court.

(b) The judicial bureau shall have jurisdiction of the following matters:

(1) Traffic violations alleged to have been committed on or after July 1, 1990.

(2) Civil ordinance violations alleged to have been committed on or after July 1, 1994.

(3) Minor fish and wildlife violations alleged to have been committed on or after September 1, 1996.

* * *

(21) Violations of 13 V.S.A. §§ 3602 and 3603, relating to the unlawful cutting of trees and the marking of harvest units.

(22) Violations of 10 V.S.A. § 1266b, relating to the application of fertilizer to nonagricultural turf.

(c) The judicial bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the court administrator shall determine waiver penalties to be imposed for violations within the judicial bureau's jurisdiction, except:

(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

(2) The agency of natural resources and the natural resources board shall include full and waiver penalties in each rule that is adopted under 10 V.S.A. § 8019. For purposes of environmental violations, the issuing entity shall indicate the appropriate full and waiver penalties on the complaint.

Sec. 4. Sec. E.700.1 of Act No. 1 2009 Special Sess. is amended to read:

Sec. E.700.1 REPORT AND RULEMAKING ON WATER MANAGEMENT TYPING FOR THE WHITE RIVER BASIN AND THE WEST, WILLIAMS, AND SAXONS RIVER BASIN

(a) On or before January 31, 2011, the Two Rivers Ottauquechee Regional Commission and the Windham Regional Commission shall submit to the agency of natural resources and the natural resources board the recommended water management type designations required under Sec. E.700(a)(1) and (2) of this act. Upon receipt of the recommended water management type designations required under this section, the agency of natural resources shall post the recommended water management type designations to its website and shall make the recommendations available to any person upon request.

(b) ~~Within three months of receipt of the recommended water management type designations under this section, the~~ The natural resources board shall initiate rulemaking to amend the water management types in order to consider

the recommended water management type designations for the White River basin and the West, Williams and Saxons River basin.

Sec. 5. EFFECTIVE DATE

(a) This section and Sec. 4 (water management typing) of this act shall take effect on passage.

(b) Secs. 1 (application of fertilizer), 2 (golf course management plans) and 3 (judicial bureau offense) of this act shall take effect on January 1, 2012.

And, after passage, by amending the title to read;

An act relating to the application of phosphorus fertilizer to nonagricultural turf.

And that the bill ought to pass in concurrence with such proposal 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.

Proposal of Amendment; Third Reading Ordered

H. 66.

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

An act relating to the illegal taking of trophy big game animals.

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. § 4514 is amended to read:

§ 4514. POSSESSION OF FLESH OF GAME

(a) When legally taken, the flesh of a fish or wild animal may be possessed for food for a reasonable time thereafter and such flesh may be transported and stored in a public cold storage plant. Nothing in this section shall authorize the ossession of game birds or carcasses or parts thereof contrary to regulations made pursuant to the migratory bird treaty act.

(b) Any person convicted of illegally taking, destroying or possessing wild animals shall, in addition to other penalties provided under this chapter, pay into the fish and wildlife fund for each animal taken, destroyed or possessed, no more than the following amounts:

(1) Big game ~~$1,000.00~~ $2,000.00 each

(2) Endangered or threatened species as defined in section 5401 of this title ~~1,000.00~~ $2,000.00 each

(3) Small game ~~250.00~~ $500.00 each

(4) Fish ~~25.00~~ $25.00 each

Sec. 2. 10 V.S.A. § 4518 is amended to read:

§ 4518. BIG GAME VIOLATIONS

Whoever violates a provision of this part or orders or rules of the board relating to taking, possessing, transporting, buying, or selling of big game shall be fined not more than ~~$500.00~~ $1,000.00 nor less than ~~$200.00~~ $400.00 or imprisoned for not more than 60 days, or both. Upon a second and all subsequent convictions, the violator shall be fined not more than ~~$1,000.00~~ $2,000.00 nor less than ~~$500.00~~ $1,000.00 or imprisoned for not more than 60 days, or both.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.

And that the bill ought to pass in concurrence with such proposal 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.

Proposal of Amendment; Third Reading Ordered

H. 430.

Senator Lyons, for the Committee on Education, to which was referred House bill entitled:

An act relating to providing mentoring support for new principals and technical center directors.

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. 16 V.S.A. § 245 is added to read:

§ 245. PRINCIPALS; TECHNICAL CENTER DIRECTORS; MENTORING

(a) When a school district hires a principal or a technical center director who has not been employed previously in that capacity, the superintendent serving the district, in consultation with the Vermont Principals' Association, shall work to ensure that the new principal or technical center director receives mentoring supports during at least the first two years of employment. Mentoring supports shall be consistent with best practices, research-based approaches, or other successful models, and shall be identified jointly by the Vermont Principals' Association and the Vermont Superintendents Association.

(b) When a school district hires a principal or technical center director identified in subsection (a) of this section, the district shall allocate sufficient funds annually in the first two years of employment toward the cost of providing the mentoring supports from one or more of the following sources:

(1) funds allocated by the district for professional development;

(2) grant monies obtained for the purpose of providing mentoring supports;

(3) state funds appropriated for the purpose of providing mentoring supports; or

(4) other sources.

(c) This section shall not be interpreted to prohibit or discourage a superintendent from working to ensure that any administrator other than those identified in subsection (a) of this section receives mentoring supports.

Sec. 2. INTERIM STUDY OF TEACHER INDUCTION AND MENTORING

(a) Creation of committee. There is created a committee to study how the education profession inducts and mentors new teachers and to recommend legislative changes that would help new teachers to develop strong skills in their initial years and that would increase the retention of high-quality teachers.

(b) Membership. The committee shall be composed of two members representing the Vermont Standards Board for Professional Educators, two members designated by the Vermont-NEA, two members designated by the Vermont Principals' Association, one member designated by the Vermont School Boards Association, one member designated by the Vermont Superintendents Association, and two members of approved programs in

educator preparation who are chosen by the Vermont Standards Board for Professional Educators and who have experience, expertise, or demonstrated interest in teacher mentoring.

(c) Powers and duties.

(1) The committee shall study and evaluate the induction and mentoring practices and programs currently in effect throughout Vermont and other states, including consideration of:

(A) How successful induction and mentoring programs would affect new teachers' ability to be effective educators and to remain in the profession.

(B) What components are critical to effective induction and mentoring programs that meet established standards and provide substantial support to new teachers; including

(i) What qualifications mentors should possess;

(ii) How to offer incentives for qualified veteran or retired teachers to obtain training in the mentoring of new teachers;

(iii) How mentors should be assigned;

(iv) What induction or mentoring activities have been effective;

(v) Who should set mentoring standards and how should they be defined and enforced;

(vi) What should the appropriate duration of the mentoring be; and

(C) What other issues the general assembly, the department of education, and the state board of education should consider in order to enact a high-quality induction and mentoring program for new teachers.

(2) The committee shall identify effective ways to provide mentoring support to new teachers without incurring excessive costs.

(d) Meetings. The commissioner of education shall convene the first meeting of the committee on or before August 1, 2011. The committee shall elect a chair at its first meeting.

(e) Report. On or before January 1, 2012, the committee shall submit and present a written report to the senate and house committees on education regarding its findings and any recommendations for legislative action. The report and testimony shall include estimated costs associated with all recommendations.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage. Sec. 1 of this act shall apply to new contracts of employment for the 2012–2013 academic year and after.

And that after passage the title of the bill be amended to read:

An act relating to providing mentoring support for teachers, new principals, and new technical center directors.

And that the bill ought to pass in concurrence with such proposal 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.

Rules Suspended; Bills Passed

S. 98.

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to authorizing owner-financed property sales.

Was placed on all remaining stages of its passage forthwith.

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

S. 104.

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to modifications to the ban on gifts by manufacturers of prescribed products.

Was placed on all remaining stages of its passage forthwith.

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

Rules Suspended; Bills Passed in Concurrence with Proposals of Amendment

H. 66.

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to the illegal taking of trophy big game animals.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

H. 138.

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to executive branch fees.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

H. 430.

Pending entry on the Calendar for action tomorrow, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to providing mentoring support for new principals and technical center directors.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

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

Adjournment

On motion of Senator Campbell, the Senate adjourned until ten o’clock in the morning.