Journal of the House

Friday, April 25, 2014

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

Devotional Exercises

Devotional exercises were conducted by Rep. Brian Savage of Swanton, Vt., Vermont State Firefighters Association.

Bills Referred to Committee on Appropriations

House bills of the following titles, appearing on the Calendar, carrying appropriations, under the rule, were referred to the committee on Appropriations:

H. 883

House bill, entitled

An act relating to expanded prekindergarten-grade 12 school districts

S. 239

House bill, entitled

An act relating to the regulation of toxic substances

S. 295

House bill, entitled

An act relating to pretrial services, risk assessments, and criminal justice programs

S. 316

Senate bill, entitled

An act relating to child care providers

Third Reading; Resolution Adopted

J.R.H. 18

Joint resolution, entitled

Joint resolution urging Congress to reauthorize the federal terrorism insurance program

Was taken up, read the third time and adopted on the part of the House.

Proposal of Amendment Agreed to, Bill Read the Third Time and Passed in Concurrence with Proposal of Amendment

S. 70

Senate bill, entitled

An act relating to the delivery of raw milk at farmers' markets

Was taken up and pending third reading of the bill, Reps. Bartholomew of Hartland, Connor of Fairfield, Lawrence of Lyndon, Martin of Springfield, Michelsen of Hardwick, Partridge of Windham, Smith of New Haven, Stevens of Shoreham, Toleno of Brattleboro, Walz of Barre City, and Zagar of Barnard moved to amend the House proposal of amendment as follows:

<u>First</u>: In Sec. 2, 6 V.S.A. § 2777, by striking subdivision (d)(1)(B) in its entirety and inserting in lieu thereof the following:

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and email, when available, e-mail addresses when available.

<u>Second</u>: In Sec. 2, 6 V.S.A. § 2777, by striking subdivisions (d)(3) and (4) in their entirety and inserting in lieu thereof the following:

- (3) Temperature. Unpasteurized milk shall be cooled to 40 degrees Fahrenheit or lower within two hours of the finish of milking and so maintained until it is obtained by the consumer. All farms shall be able to demonstrate to the Agency's inspector that they have the capacity to keep the amount of milk sold on the highest volume day stored and kept at 40 degrees Fahrenheit or lower in a sanitary and effective manner.
- (4) Storage. An unpasteurized milk bulk storage container shall be cleaned and sanitized after each emptying. Each container shall be emptied within 24 hours of the first removal of milk for packaging. Milk may be stored for up to 72 hours, but all storage containers must be emptied and cleaned at least every 72 hours. Unless milk storage containers are cleaned and sanitized daily, a written log of dates and times when milking, cleaning, and sanitizing occur shall be posted in a prominent place and be easily visible to customers.
- (5) Shelf life. Unpasteurized milk shall not be transferred to a consumer after four days from the date on the label.
 - (4)(6) Customer inspection and notification.
- (A) Prior to selling milk to a new customer, the new customer shall visit the farm and the producer shall provide the customer with a the

opportunity to tour of the farm and any area associated with the milking operation. Customers are encouraged and shall be permitted The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to re-inspect reinspect any areas associated with the milking operation.

(B) A sign with the words "Unpasteurized (Raw) Milk. Not pasteurized. Keep Refrigerated." and "This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn." shall be displayed prominently on the farm in a place where it can be easily seen by customers. The lettering shall be at least one inch in height and shall be clearly readable.

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

Third Reading; Bill Passed in Concurrence

S. 177

Senate bill, entitled

An act relating to nonjudicial discipline

Was taken up, read the third time and passed in concurrence.

Bill Amended; Third Reading Ordered H. 892

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of the adoption and the codification of the charter of the Central Vermont Public Safety Authority

Reported in favor of its passage when amended as follows:

<u>First</u>: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 4 (sovereign immunity), at the end of the first sentence, after "<u>to the same extent that</u>", by striking out in its entirety "<u>the State of Vermont does</u>" and inserting in lieu thereof <u>a municipality of the State does</u>.

<u>Second</u>: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 12 (quorum and rules), in subsection (a), by striking out in its entirety the first sentence and inserting in lieu thereof To transact business, a majority of all directors who

are not all from the same member shall be present and shall vote in favor of a motion for it to be effective.

<u>Third</u>: Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 26 is redesignated to read:

§ 26. REMOVAL OF OFFICERS

<u>Fourth</u>: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 31 (collection), in subsection (a), after "<u>Annually, on or before</u>", by striking out "<u>January 1,</u>" and inserting in lieu thereof <u>July 1</u>,

<u>Fifth</u>: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 31 (collection), in subsection (c), at the end of the last sentence, after "<u>determines to be</u> reasonable" by inserting, not exceeding what may be permitted by general law

<u>Sixth</u>: In Sec. 2, in 24 App. V.S.A. Part IX, chapter 901, § 32 (limitations of appropriations), by striking out in their entirety subsections (b) and (c) and inserting in lieu thereof a new subsection (b) to read:

(b) The amount of any deficit at the end of the fiscal year shall be included in the next proposed operating budget and paid out of the appropriations for that budget year. At the discretion of the Board, any unencumbered balance may be placed in a reserve fund or returned to the members.

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

Favorable Report; Third Reading Ordered

H. 893

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of the adoption and the codification of the charter of the North Branch Fire District No. 1

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Third Reading Ordered

H. 894

Rep. Higley of Lowell, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Resolution Adopted

H.R. 11

Rep. Deen of Westminster, for the committee on Rules, to which had been referred House resolution, entitled

House resolution to amend Rule 25 of the Rules of the House of Representatives pertaining to the jurisdiction of the Committee on Transportation

Reported in favor of its passage.

Thereupon, the resolution was adopted on the part of the House.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 234

Rep. Gage of Rutland City, for the committee on Health Care, recommended that the bill ought to pass.

Rep. Johnson of South Hero, for the committee on Appropriations, to which had been referred reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 33 V.S.A. § 1901g is added to read:

§ 1901g. MEDICAID COVERAGE FOR HOME TELEMONITORING SERVICES

(a) The Agency of Human Services shall provide Medicaid coverage for home telemonitoring services performed by home health agencies or other qualified providers as defined by the Agency of Human Services for Medicaid beneficiaries who have serious or chronic medical conditions that can result in frequent or recurrent hospitalizations and emergency room admissions. Beginning on July 1, 2014, the Agency shall provide coverage for home telemonitoring for one condition or risk factor for which it determines coverage to be cost-neutral. The Agency may expand coverage to include

additional conditions or risk factors identified using evidence-based best practices if the expanded coverage will remain cost-neutral or as funds become available.

(b) A home health agency or other qualified provider shall ensure that clinical information gathered by the home health agency or other qualified provider while providing home telemonitoring services is shared with the patient's treating health care professionals. The Agency of Human Services may impose other reasonable requirements on the use of home telemonitoring services.

(c) As used in this section:

- (1) "Home health agency" means an entity that has received a certificate of need from the State to provide home health services and is certified to provide services pursuant to 42 U.S.C. § 1395x(o).
- (2) "Home telemonitoring service" means a health service that requires scheduled remote monitoring of data related to a patient's health, in conjunction with a home health plan of care, and access to the data by a home health agency or other qualified provider as defined by the Agency of Human Services.

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

Senate Proposal of Amendment Concurred in With a Further Amendment thereto

H. 123

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

An act relating to Lyme disease and other tick-borne illnesses

<u>First</u>: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. PURPOSE

The purpose of this act is to ensure that patients have access to treatment for Lyme disease and other tick-borne illnesses in accordance with their needs, the clinical judgment of their physicians, and any of the guidelines referenced in Sec. 3(4) of this act.

<u>Second</u>: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. POLICY STATEMENT

A policy statement clearly communicating the following shall be issued by the Vermont State Board of Medical Practice to physicians licensed pursuant to 26 V.S.A. chapter 23 and to physician assistants licensed pursuant to 26 V.S.A. chapter 31; the Vermont Board of Osteopathic Physicians to physicians licensed pursuant to 26 V.S.A. chapter 33; the Office of Professional Regulation to naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81; and the Vermont Board of Nursing to advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28:

- (1) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall document the basis for diagnosis of and treatment for Lyme disease, other tick-borne illness, or coinfection in a patient's medical record;
- (2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent regarding the potential inaccuracy of a diagnostic Lyme disease test prior to its administration;
- (3) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent in writing prior to administering any proposed long-term treatment for Lyme disease, other tick-borne illness, or coinfection; and
- (4) the Board or Office of Professional Regulation shall not pursue disciplinary action against a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, solely for the use of medical care recognized by the guidelines of the Centers for Disease Control and Prevention, Infectious Diseases Society of America, or International Lyme and Associated Diseases Society for the treatment of a patient's symptoms when the patient is clinically diagnosed with Lyme disease or other tick-borne illness; however, this does not preclude discipline for errors, omissions, or other unprofessional conduct when practicing within such guidelines.

Third: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. REPORT

On or before January 15, 2015 and 2016 the Commissioner of Health shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare on the following:

- (1) the trends in the spread of Lyme disease and other tick-borne illnesses throughout Vermont, including a description of the surveillance criteria used in evaluating the spread of these diseases; and
- (2) the Department of Health's public education initiatives to date regarding the prevention and treatment of Lyme disease and other tick-borne illnesses, including an assessment of each initiative's effectiveness.

And by renumbering the remaining section to be numerically correct.

- **Rep. Fisher of Lincoln**, for the committee on Health Care, recommended that the House concur in the Senate proposal of amendment with a further amendment thereto, as follows:
- In Sec. 3, by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:
- (2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall provide information to assist patients' understanding of the available Lyme disease tests, the meaning of a diagnostic Lyme disease test result, and any limitations to that test result;

Pending the question, Shall the House concur in the Senate proposal of amendment with a further amendment thereto as recommended by the committee on Health Care? **Rep. Till of Jericho** moved to amend report of the committee on Health Care as follows:

By striking Sec. 3, subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall provide information to assist patients' understanding of the available Lyme disease tests, the meaning of a diagnostic Lyme disease test result, any limitations to that test result, and whether the proposed Lyme disease test will be performed by a laboratory certified under the federal Clinical Laboratory Improvement Amendments Program;

Pending the question, Shall the amendment of the committee on Health Care be amended as proposed by Rep. Till of Jericho? **Rep. Till of Jericho** 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 amendment of the committee on Health Care be amended as proposed by Rep. Till of Jericho? was decided in the negative. Yeas, 57. Nays, 79.

Those who voted in the affirmative are:

Ancel of Calais

Botzow of Pownal

Browning of Arlington

Buxton of Tunbridge Campion of Bennington Cole of Burlington Conquest of Newbury Cross of Winooski Dakin of Chester Donovan of Burlington Ellis of Waterbury Fay of St. Johnsbury Fisher of Lincoln French of Randolph Gallivan of Chittenden Goodwin of Weston Greshin of Warren Head of South Burlington Heath of Westford Jerman of Essex Johnson of Canaan Juskiewicz of Cambridge

Keenan of St. Albans City Kitzmiller of Montpelier Klein of East Montpelier Krebs of South Hero Larocque of Barnet Lenes of Shelburne Macaig of Williston Marek of Newfane Masland of Thetford McCarthy of St. Albans City McCormack of Burlington McCullough of Williston McFaun of Barre Town * Miller of Shaftsbury Mook of Bennington Nuovo of Middlebury O'Brien of Richmond Poirier of Barre City Potter of Clarendon

Rachelson of Burlington Ryerson of Randolph Sharpe of Bristol South of St. Johnsbury Till of Jericho Toll of Danville Townsend of South Burlington Trieber of Rockingham Van Wyck of Ferrisburgh Waite-Simpson of Essex Walz of Barre City Webb of Shelburne Weed of Enosburgh Wilson of Manchester Yantachka of Charlotte Young of Glover

Those who voted in the negative are:

Bartholomew of Hartland Batchelor of Derby Beyor of Highgate Bissonnette of Winooski Branagan of Georgia Burke of Brattleboro Canfield of Fair Haven Carr of Brandon Clarkson of Woodstock Condon of Colchester Connor of Fairfield Consejo of Sheldon Corcoran of Bennington Cupoli of Rutland City Davis of Washington Deen of Westminster Devereux of Mount Holly Dickinson of St. Albans Town Donaghy of Poultney Donahue of Northfield **Emmons of Springfield** Fagan of Rutland City Feltus of Lyndon Frank of Underhill Gage of Rutland City Haas of Rochester

Hebert of Vernon Helm of Fair Haven Higley of Lowell Hooper of Montpelier **Hubert of Milton** Jewett of Ripton Johnson of South Hero Koch of Barre Town Komline of Dorset Krowinski of Burlington Kupersmith of South Burlington Lanpher of Vergennes Lawrence of Lyndon Lewis of Berlin Lippert of Hinesburg Malcolm of Pawlet Marcotte of Coventry Martin of Springfield Martin of Wolcott * Michelsen of Hardwick Mitchell of Fairfax Moran of Wardsboro Morrissey of Bennington Mrowicki of Putney Myers of Essex O'Sullivan of Burlington

Partridge of Windham Pearce of Richford Pearson of Burlington Peltz of Woodbury Pugh of South Burlington Quimby of Concord Ralston of Middlebury Ram of Burlington Russell of Rutland City Savage of Swanton Scheuermann of Stowe Shaw of Pittsford Shaw of Derby Smith of New Haven Spengler of Colchester Stevens of Waterbury Strong of Albany Stuart of Brattleboro Sweaney of Windsor Terenzini of Rutland Town Toleno of Brattleboro Turner of Milton Vowinkel of Hartford Winters of Williamstown Woodward of Johnson Wright of Burlington Zagar of Barnard

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

Bouchard of Colchester	Copeland-Hanzas of	Huntley of Cavendish
Brennan of Colchester	Bradford	Kilmartin of Newport City
Burditt of West Rutland	Evans of Essex	Manwaring of Wilmington
Christie of Hartford	Grad of Moretown	Stevens of Shoreham
	Hoyt of Norwich	Wizowaty of Burlington

Rep. Martin of Wolcott explained her vote as follows:

"Mr. Speaker:

This is what I would expect from my physician today – have a conversation about my treatment. Do we really need to put it in law?"

Rep. McFaun of Barre Town explained his vote as follows:

"Mr. Speaker:

I vote yes. Because of the controversy over being able to diagnose this disease, I see no reason why my physician can't assure me that the test will be done by a certified lab."

Thereupon, the House concurred in the Senate proposal of amendment with a further amendment thereto as recommended by the committee on Health Care.

Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested and Appointed

H. 765

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

An act relating to eliminating the part-time certification of law enforcement officers

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

Sec. 1. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL;REPORT; LEVELS OF LAW ENFORCEMENT OFFICER CERTIFICATION; SCOPE OF PRACTICE; TRAINING REQUIREMENTS

On or before January 15, 2015, the Vermont Criminal Justice Training Council shall submit to the Senate and House Committees on Government Operations a report that recommends whether there should be different levels of law enforcement officer certification to replace the current law's full- and part-time certification. Any new recommended levels shall distinguish law enforcement officer certification based on scope of practice and not on practice

hours. For each recommended new level of law enforcement officer certification, the Council shall recommend:

- (1) the scope of practice for that level of certification;
- (2) the scope of the basic and annual in-service training that should be required to obtain and retain, respectively, that level of certification;
- (3) the manner in which a law enforcement officer should be able to transition to a different level of certification; and
- (4) the manner in which a law enforcement officer certified as a full- or part-time officer under current law should be able to transition to the recommended new level.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read: "An act relating to a report of the Vermont Criminal Justice Training Council's recommended levels of law enforcement officer certification".

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Hubert of Milton** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Hubert of Milton Rep. Sweaney of Windsor Rep. Higley of Lowell

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-fourth day of April, 2014, he approved and signed bills originating in the House of the following titles:

- H. 609 An act relating to terminating propane service
- H. 799 An act relating to importation of firewood

Message from Governor

A message was received from His Excellency, the Governor, by Mr. Louis Porter, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-fifth day of April, 2014, he approved and signed a bill originating in the House of the following title:

H. 631 An act relating to lottery commissions

Message from the Senate No. 54

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

- H. 758. An act relating to notice of potential layoffs.
- **H. 863.** An act relating to a Public Records Act exemption for the identity of whistleblowers.

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

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

J.R.H. 22. Joint resolution authorizing the use of the State House on June 18, 2014 for the 2014 Green Mountain Girls State Day.

And has adopted the same in concurrence.

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

- **H.C.R.** 330. House concurrent resolution honoring choral conductor, musician, composer, and college music instructor Edwin Lawrence.
- **H.C.R. 331.** House concurrent resolution honoring Grace Simonds for her municipal public service as the Town Clerk and Town Service Officer of Whiting.

- **H.C.R. 332.** House concurrent resolution congratulating Erica Wallstrom on being awarded an Albert Einstein Distinguished Educator Fellowship.
- **H.C.R. 333.** House concurrent resolution congratulating Rutland Senior High School Principal William Olsen on being named the 2014 Vermont Principal of the Year.
- **H.C.R. 334.** House concurrent resolution commemorating the publication of *The Vermont Difference: Perspectives from the Green Mountain State.*
- **H.C.R.** 335. House concurrent resolution in memory of former Representative Lawrence Powers.
- **H.C.R. 336.** House concurrent resolution honoring Vermont National Guard State Command Sergeant Major Forest T. Glodgett on his distinguished military career.
- **H.C.R.** 337. House concurrent resolution recognizing all Vermont firefighters, police officers, and emergency medical service (EMS) personnel for the professional level of service they provide to their communities.
- **H.C.R. 338.** House concurrent resolution honoring Wayne Hunter for his public service as a U.S. Postal Service employee in Northfield.
- **H.C.R. 339.** House concurrent resolution congratulating Sandy Baird on her most-deserved receipt of the 2014 Vermont Bar Association's Pro Bono Service Award.
- **H.C.R. 340.** House concurrent resolution honoring the Southwest Vermont Supervisory Union teachers and staff concluding their careers in 2014.

Adjournment

At twelve o'clock and eighteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until Monday, April 28, 2014, at one o'clock in the afternoon.

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 the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 330

House concurrent resolution honoring choral conductor, musician, composer, and college music instructor Edwin Lawrence;

H.C.R. 331

House concurrent resolution honoring Grace Simonds for her municipal public service as the Town Clerk and Town Service Officer of Whiting;

H.C.R. 332

House concurrent resolution congratulating Erica Wallstrom on being awarded an Albert Einstein Distinguished Educator Fellowship;

H.C.R. 333

House concurrent resolution congratulating Rutland Senior High School Principal William Olsen on being named the 2014 Vermont Principal of the Year;

H.C.R. 334

House concurrent resolution commemorating the publication of *The Vermont Difference: Perspectives from the Green Mountain State*;

H.C.R. 335

House concurrent resolution in memory of former Representative Lawrence Powers;

H.C.R. 336

House concurrent resolution honoring Vermont National Guard State Command Sergeant Major Forest T. Glodgett on his distinguished military career;

H.C.R. 337

House concurrent resolution recognizing all Vermont firefighters, police officers, and emergency medical service (EMS) personnel for the professional level of service they provide to their communities;

H.C.R. 338

House concurrent resolution honoring Wayne Hunter for his public service as a U.S. Postal Service employee in Northfield;

H.C.R. 339

House concurrent resolution congratulating Sandy Baird on her mostdeserved receipt of the 2014 Vermont Bar Association's Pro Bono Service Award;

H.C.R. 340

House concurrent resolution honoring the Southwest Vermont Supervisory Union teachers and staff concluding their careers in 2014;

[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 2014, seventy-second Adjourned session.]