

Journal of the Senate

FRIDAY, APRIL 5, 2013

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 38

A message was received from the House of Representatives by Mr. William M. MaGill, its First 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. 474. An act relating to amending the membership and charge of the Government Accountability Committee.

H. 533. An act relating to capital construction and state bonding.

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

Message from the House No. 39

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 a House bill of the following title:

H. 531. An act relating to Building 617 in Essex.

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

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 84. House concurrent resolution honoring Darby Bradley for his many exemplary contributions to land conservation in Vermont.

H.C.R. 85. House concurrent resolution congratulating the 2013 Winooski High School Spartans Division III championship girls' basketball team.

H.C.R. 86. House concurrent resolution in memory of Enosburgh Town, Village, and School Moderator and Selectboard member Lloyd Touchette.

H.C.R. 87. House concurrent resolution congratulating the 2012 Hartford High School Hurricanes Division I championship football team.

H.C.R. 88. House concurrent resolution congratulating the Hartford High School Hurricanes on winning the first Vermont interscholastic team and individual state bowling championships.

H.C.R. 89. House concurrent resolution honoring the memory of 1st Lieutenant Irwin Zaetz and Captain William Swanson of the World War II U.S. Army Air Corps Hot as Hell aircraft crew and the work of Clayton Kuhles in locating missing in action World War II American military aircraft.

H.C.R. 90. House concurrent resolution congratulating the 2013 Middlebury College Panthers NCAA men's slalom champions.

H.C.R. 91. House concurrent resolution congratulating the 2013 Williamstown High School Blue Devils Division III championship boys' basketball team.

H.C.R. 92. House concurrent resolution in memory of Daniello G. Balón.

H.C.R. 93. House concurrent resolution congratulating the 2013 U-32 Lake Division championship boys' ice hockey team.

H.C.R. 94. House concurrent resolution congratulating Elizabeth Haggerty on her designation as the 2013 Vermont Mother of the Year.

H.C.R. 95. House concurrent resolution commemorating the 50th anniversary of the Rutland Loyalty Day Parade.

H.C.R. 96. House concurrent resolution congratulating the 2013 BFA-St. Albans High School Comets Metro Division championship girls' ice hockey team.

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

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

S.C.R. 20. Senate concurrent resolution honoring University of Vermont Professor Frank Bryan for his extraordinary contributions to Vermont as a scholar and citizen proponent of Vermont democracy.

And has adopted the same in concurrence.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Kyndal Ashworth of Randolph Center
Samuel Carpenter of Cabot
Emma Cosgrove of Waterbury
Ellis Landry of Calais
Celia Lawton of Waitsfield
Keegan McKenna of Warren
Abigail Mihaly of Montpelier
Madison Mooney of Milton
Kyle Rasmussen of Killington
Cheyenne Steventon of Barre City

Bills Referred

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

H. 474.

An act relating to amending the membership and charge of the Government Accountability Committee.

To the Committee on Government Operations.

H. 531.

An act relating to Building 617 in Essex.

To the Committee on Institutions.

H. 533.

An act relating to capital construction and state bonding.

To the Committee on Institutions.

Bill Passed in Concurrence with Proposals of Amendment**H. 131.**

House bill entitled:

An act relating to harvesting guidelines and procurement standards.

Was taken up.

Thereupon, pending third reading of the bill, Senator Hartwell moved to amend the Senate proposal of amendment in Sec. 4, 30 V.S.A. § 248(b)(11), by

striking out subparagraph (B) in its entirety and inserting in lieu thereof a new subparagraph (B) to read as follows:

(B) ~~incorporate commercially available and feasible designs to~~ achieve a reasonable an optimum design system efficiency for the type and design of the proposed facility, taking into account commercial availability, feasibility, and cost-effectiveness; and

Which was agreed to.

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

Third Reading Ordered

H. 51.

Senator Baruth, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to payment of workers' compensation benefits by electronic payroll card.

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.

Bill Amended; Third Reading Ordered

S. 38.

Senator Kitchel, for the Committee on Transportation, to which was referred Senate bill entitled:

An act relating to expanding eligibility for driving and identification privileges in Vermont.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. § 603 is amended to read:

§ 603. APPLICATION FOR AND ISSUANCE OF LICENSE

* * *

(d) ~~In addition to any other requirement of law or rule, a~~ Except as provided in subsection (e) of this section:

(1) A citizen of a foreign country shall produce his or her passport and visa, alien registration receipt card (green card), or other proof of legal presence for inspection and copying as a part of the application process for an

operator license, junior operator license, or learner permit. ~~Notwithstanding any other law or rule to the contrary, an~~

(2) An operator license, junior operator license, or learner permit issued to a citizen of a foreign country shall expire coincidentally with his or her authorized duration of stay.

(e)(1) A citizen of a foreign country unable to establish legal presence in the United States who furnishes reliable proof of Vermont residence and of name, date of birth, and place of birth, and who satisfies all other requirements of this chapter for obtaining a license or permit, shall be eligible to obtain an operator's privilege card, a junior operator's privilege card, or a learner's privilege card.

(2) The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's name, date of birth, and place of birth. The Commissioner may prescribe the documents or combination of documents that meets these criteria. However, the Commissioner shall accept a combination of two or more of the following documents to establish the name, date of birth, and place of birth of an applicant:

(A) a valid foreign passport, with or without a U.S. Customs and Border Protection entry form or stamp;

(B) a valid consular identification document issued by the government of Mexico or of Guatemala or by any other government with comparable security standards and protocols, as determined by the Commissioner;

(C) a certified record of the applicant's birth, marriage, adoption, or divorce, including a translation if necessary.

(3) The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant's Vermont residence. The Commissioner may prescribe the documents or combination of documents that meets these criteria. However, the Commissioner shall accept the following combinations of documents as proof of Vermont residence:

(A)(i) two pieces of mail received by the applicant within the prior 30 days with the applicant's current name and residential Vermont address; and

(ii) at least one of the documents specified in subdivision (B) of this subdivision (3); or

(B) two of the following which show name and residential Vermont address:

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- (i) a vehicle title or registration;
 - (ii) a document issued by a financial institution, such as a bank statement;
 - (iii) a document issued by an insurance company or agent, such as an insurance card, binder, or bill;
 - (iv) a document issued by an educational institution, such as a transcript, report card, or enrollment confirmation;
 - (v) federal tax documents, such as W-2 or 1099 forms;
 - (vi) state tax documents, such as an IN-111; and
 - (vii) medical health records, receipts, or bills.

(f) Persons able to establish lawful presence in the United States but who otherwise fail to comply with the requirements of the REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201–202, shall be eligible for an operator’s privilege card, a junior operator’s privilege card, or a learner’s privilege card, provided the applicant furnishes reliable proof of Vermont residence and of name, date of birth, and place of birth, and satisfies all other requirements of this chapter for obtaining a license or permit. The Commissioner shall require applicants under this subsection to furnish a document or a combination of documents that reliably proves the applicant’s Vermont residence and his or her name, date of birth, and place of birth.

(g) The Commissioner may adopt policies or rules related to the issuance of privilege cards under this section that balance accessibility with mechanisms to prevent fraud. The Commissioner shall consider adopting the appointment system procedures used in other states to prevent and deter fraud with regard to proof of residency.

(h) A privilege card issued under this section shall:

(1) on its face bear the phrase “privilege card” and text indicating that it is not valid for federal identification or official purposes; and

(2) expire at midnight on the eve of the second birthday of the applicant following the date of issuance.

(i) Every applicant for or holder of a privilege card under this section shall be subject to all of the provisions of this title that apply to applicants and holders of operator’s licenses, junior operator’s licenses, and learner permits, except where the context clearly requires otherwise.

Sec. 2. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

(a) Any Vermont resident may make application to the ~~commissioner~~ Commissioner and be issued an identification card which is attested by the ~~commissioner~~ Commissioner as to true name, correct age, and any other identifying data as the ~~commissioner~~ Commissioner may require which shall include, in the case of minor applicants, the written consent of the applicant's parent, guardian, or other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the ~~commissioner~~ Commissioner may require, consistent with subsection (1) of this section. The ~~commissioner~~ Commissioner shall require payment of a fee of \$20.00 at the time application for an identification card is made.

(b) ~~Every~~ Except as provided in subsection (1) of this section, every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a \$20.00 fee. At least 30 days before an identification card will expire, the ~~commissioner~~ Commissioner shall mail first class to the cardholder an application to renew the identification card.

* * *

(1)(1) The Commissioner shall issue identification cards to Vermont residents who are not U.S. citizens but are able to establish lawful presence in the United States if an applicant follows the procedures and furnishes documents as required under subsection 603(d) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section. The identification cards shall expire consistent with subsection 603(d) of this title.

(2) The Commissioner shall issue non-REAL ID compliant identification cards to Vermont residents unable to establish lawful presence in the United States if an applicant follows the procedures and furnishes documents as required under subsection 603(e) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section.

(3) The Commissioner shall issue non-REAL ID compliant identification cards to Vermont residents able to establish lawful presence in the United States but who otherwise fail to comply with the requirements of the REAL ID Act of 2005, Pub. L. No. 109-13, §§ 201-202, if the applicant follows the procedures and furnishes documents as required under subsection

603(f) of this title and any policies or rules adopted thereunder, and otherwise satisfies the requirements of this section.

(4) A non-REAL ID compliant identification card issued under subdivision (2) or (3) of this subsection shall:

(A) bear on its face text indicating that it is not valid for federal identification or official purposes; and

(B) expire at midnight on the eve of the second birthday of the applicant following the date of issuance.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2014.

And that when so amended the bill ought to pass.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to, and third reading of the bill was ordered on a roll call Yeas 27, Nays 2.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Baruth, Benning, Bray, Campbell, *Collins, Cummings, Doyle, Fox, French, Galbraith, Hartwell, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Flory, McAllister.

The Senator absent and not voting was: Ayer.

*Senator Collins explained his vote as follows:

“When I arrived here in January I had serious reservations about the original proposal on this issue of a driver’s license for residents who are unable to prove legal presence. I voted for this legislation, because I respect the members of our Senate Transportation Committee and know that this issue was a very complicated and controversial one, which they attempted to address in a fair and responsible manner. Their thoroughness convinced me to vote yes on S.38. I also hold in high regard the Committee process that brings legislation forward for our consideration and action. I was surprised to learn of the numerous organizations that support granting this privilege and can only hope that the implementation of their recommendations and our actions will not

create unintended consequences. The messages that I received from constituents indicate that there are very strong feelings on both sides of this issue and there will be citizens who will be greatly disappointed by my vote in support of an issue that can best be resolved at the federal level.”

Senate Concurrent Resolution

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, was adopted on the part of the Senate:

By All Members of the Senate,

By Representative Macaig and others,

S.C.R. 20.

Senate concurrent resolution honoring University of Vermont Professor Frank Bryan for his extraordinary contributions to Vermont as a scholar and citizen proponent of Vermont democracy.

House Concurrent Resolution

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Ancel and others,

By Senators Hartwell, Cummings, Doyle and Pollina,

H.C.R. 84.

House concurrent resolution honoring Darby Bradley for his many exemplary contributions to land conservation in Vermont.

By Representatives Bissonnette and Cross,

H.C.R. 85.

House concurrent resolution congratulating the 2013 Winooski High School Spartans Division III championship girls' basketball team.

By Representative Keenan and others,

H.C.R. 86.

House concurrent resolution in memory of Enosburgh Town, Village, and School Moderator and Selectboard member Lloyd Touchette.

By Representative Christie and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 87.

House concurrent resolution congratulating the 2012 Hartford High School Hurricanes Division I championship football team.

By Representative Christie and others,

By Senators Campbell, McCormack and Nitka,

H.C.R. 88.

House concurrent resolution congratulating the Hartford High School Hurricanes on winning the first Vermont interscholastic team and individual state bowling championships.

By Representative Head and others,

H.C.R. 89.

House concurrent resolution honoring the memory of 1st Lieutenant Irwin Zaetz and Captain William Swanson of the World War II U.S. Army Air Corps Hot as Hell aircraft crew and the work of Clayton Kuhles in locating missing in action World War II American military aircraft.

By Representative Jewett and others,

H.C.R. 90.

House concurrent resolution congratulating the 2013 Middlebury College Panthers NCAA men's slalom champions.

By Representatives Winters and Davis,

H.C.R. 91.

House concurrent resolution congratulating the 2013 Williamstown High School Blue Devils Division III championship boys' basketball team.

By Representative Lenex and others,

H.C.R. 92.

House concurrent resolution in memory of Daniello G. Balón.

By Representative Klein and others,

By Senators Cummings, Doyle and Pollina,

H.C.R. 93.

House concurrent resolution congratulating the 2013 U-32 Lake Division championship boys' ice hockey team.

By Representatives Partridge and Trieber,

H.C.R. 94.

House concurrent resolution congratulating Elizabeth Haggerty on her designation as the 2013 Vermont Mother of the Year.

By Representative Russell,

H.C.R. 95.

House concurrent resolution commemorating the 50th anniversary of the Rutland Loyalty Day Parade.

By Representative Keenan and others,

H.C.R. 96.

House concurrent resolution congratulating the 2013 BFA-St. Albans High School Comets Metro Division championship girls' ice hockey team.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 9, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 23.