

# Journal of the Senate

FRIDAY, APRIL 11, 2014

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. 48

A message was received from the House of Representatives by Ms. Melissa Kucserik, 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. 878.** An act relating to prevailing wages.

**H. 887.** An act relating to approval of the adoption and the codification of the charter of the Town of East Montpelier.

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

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

**S. 223.** An act relating to regulating the making of pension loans.

And has passed the same in concurrence.

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

**H.C.R. 293.** House concurrent resolution congratulating the Vermont Commission on Women on its 50th anniversary.

**H.C.R. 294.** House concurrent resolution designating Saturday, November 1, 2014 as the Button Up Vermont Day of Action.

**H.C.R. 295.** House concurrent resolution honoring World War II veteran Walter Berry of East Concord.

**H.C.R. 296.** House concurrent resolution congratulating Judd Levine on being named a 2014 LifeChanger of the Year.

**H.C.R. 297.** House concurrent resolution congratulating the Town of Hubbardton on its 250th anniversary.

**H.C.R. 298.** House concurrent resolution congratulating the 2014 Essex High School Vermont National Education Scholars' Bowl championship team.

**H.C.R. 299.** House concurrent resolution congratulating the 2014 Vermont Jr Iron Chef culinary competition winners.

**H.C.R. 300.** House concurrent resolution congratulating Sam Boudreau on winning the 2014 Vermont Poetry Out Loud Competition.

**H.C.R. 301.** House concurrent resolution congratulating the 2014 Black River High School girls' championship snowboarding team.

**H.C.R. 302.** House concurrent resolution congratulating the Rutland High School cheerleading team on its third-place finish at the New England Interscholastic Spirit Championship.

**H.C.R. 303.** House concurrent resolution congratulating the record-setting 2014 Mt. Anthony Union High School Patriots' State championship wrestling team.

**H.C.R. 304.** House concurrent resolution congratulating Frank Pecora on his induction into the National High School Hall of Fame.

**H.C.R. 305.** House concurrent resolution congratulating the 2014 Thetford Academy Panthers Division III championship girls' basketball team.

**H.C.R. 306.** House concurrent resolution congratulating the 2013 Oxbow Union High School Lady Olympians Division III championship softball team.

**H.C.R. 307.** House concurrent resolution recognizing April 2014 as Fair Housing Month in Vermont.

**H.C.R. 308.** House concurrent resolution congratulating Ruth (Shattuck) Austin of Newport on her 100th birthday.

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. 54.** Senate concurrent resolution congratulating the Washington Electric Cooperative on its 75th anniversary.

And has adopted the same in concurrence.

### **Bills Referred**

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

**H. 552.**

An act relating to raising the Vermont minimum wage.

To the Committee on Rules.

**H. 878.**

An act relating to prevailing wages.

To the Committee on Rules.

**H. 886.**

An act relating to approval of the adoption and the codification of the charter of the Town of Panton.

To the Committee on Rules.

**H. 887.**

An act relating to approval of the adoption and the codification of the charter of the Town of East Montpelier.

To the Committee on Rules.

**H. 890.**

An act relating to approval of amendments to the charter of the City of Burlington regarding the redistricting of City election areas.

To the Committee on Rules.

**Further Proposal of Amendment; Bill Passed in Concurrence with  
Proposal of Amendment**

**H. 123.**

House bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin, moved that the Senate further propose to the House to amend the bill 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.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Zuckerman moved to amend the *second* Senate proposal of amendment in Sec. 4 (Report) in the first sentence, after the following: "January 15," by inserting the following: 2015 and

Which was agreed to.

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

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

**H. 356.**

House bill entitled:

An act relating to prohibiting littering in or on the waters of the State.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the Senate proposal of amendment by striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 24 V.S.A. § 2201 is amended to read:

§ 2201. THROWING, DEPOSITING, BURNING, AND DUMPING REFUSE; PENALTY; SUMMONS AND COMPLAINT

(a)(1) Prohibition. Every person shall be responsible for proper disposal of his or her own solid waste. A person shall not throw, dump, deposit, cause, or permit to be thrown, dumped, or deposited any solid waste as defined in 10 V.S.A. § 6602, refuse of whatever nature, or any noxious thing in or on lands or waters of the State outside a solid waste management facility certified by the Agency of Natural Resources.

~~(2)~~ ~~It shall be prima facie evidence~~ There shall be a rebuttable presumption that a person who is identifiable from an examination of illegally disposed solid waste is the person who violated a provision of this section.

~~(2)~~(3) No person shall burn or cause to be burned in the open or incinerate in any container, furnace, or other device any solid waste without:

(A) first having obtained all necessary permits from the Agency of Natural Resources, the district environmental commission, and the municipality where the burning is to take place; and

(B) complying with all relevant State and local regulations and ordinances.

(b) Prosecution of violations. A person who violates a provision of this section commits a civil violation and shall be subject to a civil penalty of not more than \$500.00. This violation shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by a municipal attorney, solid waste management district attorney, environmental enforcement officer employed by the Agency of Natural Resources, grand juror, or designee of the legislative body of the municipality, or by any duly authorized law enforcement officer. If the throwing, placing, or depositing was done from a snowmobile, vessel, or motor vehicle, except a motor bus, ~~it shall be prima facie evidence~~ there shall be a rebuttable presumption that the throwing, placing, or depositing was done by the ~~driver~~ operator of such snowmobile, vessel, or motor vehicle. Nothing in this section shall be construed as affecting the operation of an automobile graveyard or salvage yard as defined in section 2241 of this title, nor shall anything in this section be construed as prohibiting the installation and use of appropriate receptacles for solid waste provided by the State or towns.

(c) Roadside cleanup. A person found in violation of this section may be assigned to spend up to 80 hours collecting trash or litter from a specified segment of roadside or from a specified area of public property.

~~(d) The Commissioner of Motor Vehicles shall suspend the motor vehicle operator's license or operating privilege of a person found in violation of this section for a period of ten days if the person fails to pay the penalty set forth in subsection (b) of this section. This provision shall not apply if the only evidence of violation is the presumption set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Motor Vehicles of the entry of judgment. [Repealed.]~~

(e) Revocation of hunting, fishing, or trapping license. The Commissioner of Fish and Wildlife shall revoke the privilege of a person found in violation of this section from holding a hunting ~~or~~, fishing, or trapping license, ~~or both~~, for a period of one year from the date of the conviction, if the person fails to pay the penalty set forth in subsection (b) of this section. The Bureau shall immediately notify the Commissioner of Fish and Wildlife of the entry of judgment.

~~(f) [Deleted.] [Repealed.]~~

(g) Amendment of complaint. A person authorized to enforce this section may amend or dismiss a complaint issued by that person by marking the complaint and returning it to the Judicial Bureau. At the hearing, a person

authorized to enforce this section may amend or dismiss a complaint issued by that person, subject to the approval of the hearing judge.

(h) ~~{Deleted.}~~ [Repealed.]

(i) Applicability. Enforcement actions taken under this section shall in no way preclude the Agency of Natural Resources, the Attorney General, or an appropriate State prosecutor from initiating other or further enforcement actions under the civil, administrative, or criminal enforcement provisions of 10 V.S.A. chapter 23, 47, 159, 201, or 211. To the extent that enforcement under this section is by an environmental enforcement officer employed by the Agency of Natural Resources, enforcement under this section shall preclude other enforcement by the ~~agency~~ Agency for the same offence.

(j) Definitions. As used in this section:

(1) “Motor vehicle” shall have the same meaning as in 23 V.S.A. § 4(21).

(2) “Snowmobile” shall have the same meaning as in 23 V.S.A. § 3801.

(3) “Vessel” means motor boats, boats, kayaks, canoes, sailboats, and all other types of watercraft.

(4) “Waters” shall have the same meaning as in 10 V.S.A. § 1251(13).

Which was agreed to.

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

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

#### **H. 373.**

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

An act relating to updating and reorganizing Title 33.

### **Bill Amended; Third Reading Ordered**

#### **S. 202.**

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

An act relating to the energy efficiency charge.

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

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Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

\* \* \*

(d) Energy efficiency.

\* \* \*

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into an Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

(A) Balances in the Electric Efficiency Fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the Fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the State. Interest earned shall remain in the Fund. The Board will annually provide the General Assembly with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section.

(B) The charge established by the Board pursuant to this subdivision (3) shall be in an amount determined by the Board by rule or order that is consistent with the principles of least cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the Board shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and the value of targeting efficiency and

conservation efforts to locations, markets, or customers where they may provide the greatest value. The Board, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00 may apply to the Board to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Board. The remaining portion of the charge shall be used for systemwide energy benefits. The Board in its rules or order shall establish criteria for approval of these applications.

(C) The Board may authorize the use of funds raised through an energy efficiency charge on electric ratepayers to reduce the use of fossil fuels for heating by supporting electric technologies that may increase electric consumption, such as air source heat pumps if, after investigation, it finds that deployment of the technology:

(i) will be beneficial to electric ratepayers;

(ii) will result in cost-effective energy savings to the end-user and to the State as a whole;

(iii) will result in a net reduction in greenhouse gas emissions on a life-cycle basis and will not have a detrimental impact on the environment through other means such as release of refrigerants or disposal;

(iv) will be part of a comprehensive energy efficiency and conservation program that meets the requirements of subsections (d)–(g) of this section and that makes support for the technology contingent on the energy performance of the building in which the technology is to be installed. The building's energy performance shall achieve or shall be improved to achieve an energy performance level that is approved by the Board and that is consistent with meeting or exceeding the goals of 10 V.S.A. § 581 (building efficiency);

(v) among the product models of the technology that are suitable for use in Vermont, will employ the product models that are the most efficient available;

(vi) will be promoted in conjunction with demand management strategies offered by the customer's distribution utility to address any increase in peak electric consumption that may be caused by the deployment;

(vii) will be coordinated between the energy efficiency and distribution utilities, consistent with subdivision (f)(5) of this section; and

(viii) will be supported by an appropriate allocation of funds among the funding sources described in this subsection (d) and subsection (e) of this section. In the case of measures used to increase the energy



performance of a building in which the technology is to be installed, the Board shall assume installation of the technology in the building and then determine the allocation according to the proportion of the benefits provided to the regulated fuel and unregulated fuel sectors. In this subdivision (viii), “regulated fuel” and “unregulated fuel” shall have the same meaning as under subsection (e) of this section.

\* \* \*

(e) Thermal energy and process fuel efficiency funding.

\* \* \*

(3) In this subsection:

(A) “Efficiency services” includes the establishment of a statewide information clearinghouse under subsection (g) of this section.

(B) “Regulated fuels” means electricity and natural gas delivered by a regulated utility.

(C) “Unregulated fuels” means fuels used by thermal energy and process fuel customers other than electricity and natural gas delivered by a regulated utility.

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## Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

Senator Snelling, for the Committee on Appropriations, 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, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

### **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 Senators Doyle, Cummings and Pollina,

By Representative Klein,

**S.C.R. 54.**

Senate concurrent resolution congratulating the Washington Electric Cooperative on its 75th anniversary.

**House Concurrent Resolutions**

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 All Members of the Senate,

**H.C.R. 293.**

House concurrent resolution congratulating the Vermont Commission on Women on its 50th anniversary.

By Representative Klein and others,

**H.C.R. 294.**

House concurrent resolution designating Saturday, November 1, 2014 as the Button Up Vermont Day of Action.

By Representative Quimby,

By Senators Rodgers and Starr,

**H.C.R. 295.**

House concurrent resolution honoring World War II veteran Walter Berry of East Concord.

By Representative Klein and others,

By Senators Cummings, Doyle and Pollina,

**H.C.R. 296.**

House concurrent resolution congratulating Judd Levine on being named a 2014 LifeChanger of the Year.

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By Representative Canfield and others,

By Senators Flory, French and Mullin,

**H.C.R. 297.**

House concurrent resolution congratulating the Town of Hubbardton on its 250th anniversary.

By Representative Myers and others,

**H.C.R. 298.**

House concurrent resolution congratulating the 2014 Essex High School Vermont National Education Scholars' Bowl championship team.

By Representative Stevens and others,

**H.C.R. 299.**

House concurrent resolution congratulating the 2014 Vermont Jr Iron Chef culinary competition winners.

By Representative Keenan and others,

**H.C.R. 300.**

House concurrent resolution congratulating Sam Boudreau on winning the 2014 Vermont Poetry Out Loud Competition.

By Representative Devereux,

By Senators Campbell, French, McCormack and Nitka,

**H.C.R. 301.**

House concurrent resolution congratulating the 2014 Black River High School girls' championship snowboarding team.

By Representative Fagan and others,

**H.C.R. 302.**

House concurrent resolution congratulating the Rutland High School cheerleading team on its third-place finish at the New England Interscholastic Spirit Championship.

By Representative Morrissey and others,

By Senators Hartwell and Sears,

**H.C.R. 303.**

House concurrent resolution congratulating the record-setting 2014 Mt. Anthony Union High School Patriots' State championship wrestling team.

By Representatives Donahue and Lewis,  
By Senators Cummings, Doyle and Pollina,

**H.C.R. 304.**

House concurrent resolution congratulating Frank Pecora on his induction into the National High School Hall of Fame.

By Representatives Masland and Hoyt,

**H.C.R. 305.**

House concurrent resolution congratulating the 2014 Thetford Academy Panthers Division III championship girls' basketball team.

By Representative Copeland-Hanzas,

**H.C.R. 306.**

House concurrent resolution congratulating the 2013 Oxbow Union High School Lady Olympians Division III championship softball team.

By Representative Ram and others,

**H.C.R. 307.**

House concurrent resolution recognizing April 2014 as Fair Housing Month in Vermont.

By Representative Marcotte and others,  
By Senators Rodgers and Starr,

**H.C.R. 308.**

House concurrent resolution congratulating Ruth (Shattuck) Austin of Newport on her 100th birthday.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, April 15, 2014, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 54.