

Journal of the House

Thursday, May 14, 2015

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. Tim Jerman of Essex, Vt.

Message from the Senate No. 67

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. 282. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 484. An act relating to miscellaneous agricultural subjects.

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 bills originating in the House of the following titles:

H. 503. An act relating to approval of amendments to the charter of the City of Burlington.

H. 504. An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

And has passed the same in concurrence.

The Senate has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses upon Senate bill of the following title:

S. 115. An act relating to expungement of convictions based on conduct that is no longer criminal.

And has accepted and adopted the same on its part.

Pursuant to the request of the House for Committees of Conference on the disagreeing votes of the two Houses on the following House bills the President announced the appointment as members of such Committees on the part of the Senate:

H. 492. An act relating to capital construction and State bonding.

Senator Flory
Senator Mazza
Senator Rodgers.

H. 477. An act relating to miscellaneous amendments to election law.

Senator White
Senator Benning
Senator Pollina.

Action on Bill Postponed

H. 11

House bill, entitled

An act relating to the membership of the Commission on Alzheimer's Disease and Related Disorders

Was taken up and on motion of **Rep. French of Randolph**, action on the bill was postponed until the next legislative day.

Senate Proposal of Amendment Concurred in

J.R.H. 16

The Senate proposed to the House to amend Joint resolution, entitled
Joint resolution relating to the approval of State land transactions

By striking the resolution in its entirety and inserting in lieu thereof the following:

Whereas, 10 V.S.A. § 2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands with the approval of the General Assembly, and

Whereas, the General Assembly considers the following actions to be in the best interest of the State, now therefore be it

Resolved by the Senate and House of Representatives:

That the Commissioner of Forests, Parks and Recreation is authorized to convey a nonexclusive easement along a road known locally as the "Swift Road" in the Proctor-Piper State Forest in Cavendish to the owners of lots

designated as lots 16, 17, 18, 19, and 20 on the 2009 town of Cavendish tax map. The easement granted to these five lots shall be limited to forestry uses and to access not more than one seasonal recreational camp on each lot. All costs related to repairing, maintaining, and reconstructing the segment of Swift Road within the easement, and any associated structures within the easement, shall be the sole responsibility of the five lot owners; provided, however, that the five lot owners shall not construct any utilities within the easement. In consideration of the public benefits associated with this action, the easement conveyed to the five lot owners shall be at no cost. The Commissioner's conveying of this easement is conditioned on the owners of lots 16, 17, 18, 19, and 20 each respectively conveying an easement allowing permanent vehicular access across the conveying lot to other lot owners, as may be necessary to effectuate the purpose of the easement that the Commissioner of Forests, Parks and Recreation is authorized to convey, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forests, Parks and Recreation.

Which proposal of amendment was considered and concurred in.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 269

On motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to the transportation and disposal of excavated development soils legally categorized as solid waste

Appearing on the Calendar for notice, was taken up for immediate consideration.

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

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

Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds and declares that:

(1) polycyclic aromatic hydrocarbons (PAHs), arsenic, and lead may be considered hazardous materials under State law;

(2) PAHs, arsenic, and lead frequently are present in the environment as a result of atmospheric deposition of exhaust products from incomplete combustion of hydrocarbons, including oil, gasoline, coal, wood, and solid waste;

(3) arsenic and lead can be present as naturally occurring elements in soils;

(4) soils on properties within downtowns or village centers often contain PAHs, arsenic, or lead at levels that exceed the Vermont soil screening standards even though there is no identifiable, site-specific source of the PAHs, arsenic, or lead contamination on the property;

(5) presence of PAHs, arsenic, or lead due to atmospheric deposition or natural occurrence can complicate the development of properties in downtowns and village centers; and

(6) to facilitate development in downtowns and village centers, while also arranging for the proper disposition of contaminated soil, a process should be established to allow the transfer of soil containing PAHs, arsenic, or lead to receiving sites that meet criteria established by the Secretary of Natural Resources.

Sec. 2. 10 V.S.A. § 6602 is amended to read:

§ 6602. DEFINITIONS

As used in this chapter:

* * *

(37) “Background concentration level” means the concentration level of PAHs, arsenic, or lead in soils, expressed in units of mass per mass, that is attributable to site contamination caused by atmospheric deposition or is naturally occurring and determined to be representative of statewide or regional concentrations through a scientifically valid means as determined by the Secretary.

(38) “Commencement of construction” means the construction of the first improvement on the land or to any structure or facility located on the land. “Commencement of construction” shall not mean soil testing or other work necessary for assessment of the environmental conditions of the land and subsurface of the land.

(39) “Development soils” means unconsolidated mineral and organic matter overlying bedrock that contains PAHs, arsenic, or lead in concentrations that:

(A) exceed the relevant soil screening level for residential soil;

(B) when managed in compliance with section 6604c, 6605, or 6605c of this title:

(i) pose no greater risk than the Agency-established soil screening value for the intended reuse of the property; and

(ii) pose no unreasonable risk to human health through a dermal, inhalation, or ingestion exposure pathway;

(C) does not leach compounds at concentrations that exceed groundwater enforcement standards; and

(D) does not result in an exceedance of Vermont groundwater enforcement standards.

(40) "Development soils concentration level" means those levels of PAHs, arsenic, or lead expressed in units of mass per mass, contained in the development soils.

(41) "Downtown development district" shall have the meaning stated in 24 V.S.A. § 2791(4).

(42) "Growth center" shall have the meaning stated in 24 V.S.A. § 2793c.

(43) "Neighborhood development area" shall have the meaning stated in 24 V.S.A. § 2793e.

(44) "Origin site" means a location where development soils originate.

(45) "PAHs" means polycyclic aromatic hydrocarbons.

(46) "Receiving site" means a location where development soils are deposited.

(47) "Receiving site concentration level" means those levels of PAHs, arsenic, or lead, expressed in units of mass per mass, that exist in soils at a receiving site.

(48) "TIF district" means a tax increment financing district created by a municipality pursuant to 24 V.S.A. § 1892.

(49) "Village center" shall have the meaning stated in 24 V.S.A. § 2791(10).

Sec. 3. 10 V.S.A. § 6604c is added to read:

§ 6604c. MANAGEMENT OF DEVELOPMENT SOILS

(a)(1) The Secretary shall not require a person that manages development soils in a manner that meets the requirements of this section to take corrective action procedures pursuant to section 6615b or 6648 of this title or to obtain a solid waste certification under this chapter for the management, transport, or receipt of development soils, provided that:

(A) the soils are removed from an origin site located in a designated downtown development district, growth center, neighborhood development area, TIF district, or village center;

(B) the origin site or the receiving site of the development soils is not:

(i) the subject of a planned or ongoing removal action under the Comprehensive Environmental, Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq.; or

(ii) listed or proposed for listing as a CERCLA site under 42 U.S.C. § 9605; and

(C) the investigation and management of development soils occur under plans submitted and approved pursuant to subsection (b) of this section.

(2) This section shall apply to the management of development soils only until the Secretary adopts rules under this chapter for the management of development soils, provided that those rules satisfy all of the requirements of subsection (d) of this section.

(b) Development soils cleanup requirements.

(1) The development and implementation of plans and work performed pursuant to plans under this section shall be supervised and certified by an environmental professional, as that term is defined in 40 C.F.R. § 312.10.

(2) Prior to the commencement of construction activities, a person applying to manage development soils under this subsection shall provide the Secretary with:

(A) complete investigation workplans for the origin site and the proposed receiving site that include:

(i) for the origin site, representative sampling and analysis of the development soil proposed for management under this section for PAHs, arsenic, and lead;

(ii) for the receiving site, representative in situ surface soil sampling and analysis for PAHs, arsenic, and lead;

(iii) at least one synthetic precipitation leachate procedure analysis representative of the development soil to determine likelihood of adverse impacts to groundwater; and

(iv) establishment of approximate seasonal depth to groundwater and underlying soil stratigraphy at the receiving site;

(B) a report of the results of any approved investigation workplan;

(C) the management plans for the origin site and proposed receiving site, which;

(i) shall demonstrate that the management of the development soils will meet all applicable Vermont Water Quality Standards and will not present an unreasonable threat to groundwater, surface water, human health, or the environment; and

(ii) for a receiving site, shall include a description of the siting, construction, operation, and closure of the receiving site; and

(D) documentation that the development soils concentration levels are approximately equivalent to or less than the receiving site concentration levels for the same contaminants.

(3) Upon receipt of a complete work plan submitted under subdivision (b)(2)(A) of this section or a complete management plan submitted under subdivision (b)(2)(C) of this section, the Secretary shall make a final determination as to whether the investigation workplan or management plan submitted under this subsection satisfies the requirements of subdivision (b)(2)(A) of this section for investigation work plans or subdivision (b)(2)(C) of this section for management plans. Prior to making a final determination on a management plan under this section, the Secretary shall allow for a public comment period on the plan for no less than 14 days. The Secretary shall hold a public informational meeting on a management plan upon request from any person. The Secretary shall issue a final decision regarding the investigation work plan or management plan within 45 days of receipt of the respective plan.

(4) Upon the submission of a final report documenting implementation of the management plan, the Secretary shall make a final determination as to whether the developer has satisfied all requirements of the management plan within 45 days of receipt of the developer's request for such a determination.

(c) Notwithstanding the requirements under subdivision (b)(2) of this section for submission of required materials prior to the commencement of construction, development soils stockpiled on municipal properties as of the effective date of this section shall be eligible for management under the provisions of this section, provided that the requirements of subsection (a)(1) and (b) of this section are otherwise met.

(d) On or before July 1, 2016, the Secretary shall adopt rules that allow for the management of excavated soils requiring disposal that contain PAHs, arsenic, or lead in a manner that ensures protection of human health and the environment and promotes Vermont's traditional settlement patterns in compact village or city centers. At a minimum, the rules shall:

(1) include statewide or regional background concentration levels for PAHs, arsenic, and lead that are representative of typical soil concentrations and found throughout existing development areas;

(2) specify that development soils with concentration levels equal to or lower than the background concentration levels established by the Secretary shall not be defined as or required to be treated as solid waste;

(3) include criteria for determining site-specific maximum development soil concentration levels for PAHs, arsenic, and lead;

(4) in addition to disposal at a certified waste facility, adopt procedures for the management or disposal of development soils that have concentration levels that exceed residential soil screening levels, but are below the site-specific maximum development soils concentration levels;

(5) adopt a process to preapprove sites to receive development soils from multiple developments; and

(6) be designed to provide that the criteria established under subdivision (3) of this subsection and the process developed under subdivision (4) of this subsection shall be no less protective of human health and the environment than the standard for development soils and the process established under subsection (b) of this section.

(e) At any time, the Secretary may adopt by rule background and maximum concentration levels for other potentially hazardous material in soils such that the development soils containing these other materials would be categorized and treated according to the rules adopted by the Secretary under subsection (d) of this section.

Sec. 4. 10 V.S.A. § 6001(3)(D)(vi) is amended to read:

(vi) The construction of improvements for any one of the actions or abatements authorized in subdivision (I) of this subdivision (vi):

* * *

(ff) The management of “development soils,” as that term is defined in 10 V.S.A. § 6602(39), under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

Sec. 5. CATEGORICAL SOLID WASTE CERTIFICATION

Development soils as defined in 10 V.S.A. § 6602(39) shall be eligible for disposal at a categorical disposal facility certified by the Secretary of Natural Resources for the disposal of development soils pursuant to 10 V.S.A. § 6605c.

Sec. 6. MANAGEMENT OF DEVELOPMENT SOILS AS ALTERNATIVE DAILY COVER

Development soils as defined in 10 V.S.A. § 6602(39) shall be eligible to be used as alternative daily cover at a solid waste facility certified pursuant to 10 V.S.A. § 6605.

Sec. 7. REPEAL

On July 1, 2016, 10 V.S.A. § 6604c(a), (b), and (c) are repealed.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

Which proposal of amendment was considered and concurred in.

Remarks Journalized

On motion of **Rep. Christie of Hartford**, the following remarks by **Rep. Jerman of Essex** were ordered printed in the Journal:

“Mr. Speaker:

“Good morning!

On the rare occasions I do the devotional it's usually to commemorate the anniversary of some important event in Vermont history.

Today is no different, but no, no, it's not another Civil War 150th anniversary; although the member from Georgia still has time to remind you that the war dragged on into June in parts of the South in 1865.

No, this is closer to home. On May 14, 1.1965, 50 years ago today, right here in this chamber, the Vermont House took an historic vote at 3:30 in the afternoon. Back then, there were a lot more desks and chairs to accommodate the 246 members of the House. There were 173 Republicans, 73

Democrats. 81 farmers, 45 women, only 4 lawyers, 4 restaurant owners, 3 carpenters, a school bus driver, a stonecutter, a geologist, a radio/TV repairman, and a paperhanger. The Speaker was Franklin Billings, Jr. of Woodstock; the first in more than 50 years to be re-elected to a second term as Speaker. Later to be Chief Justice of the Vermont Supreme Court, Judge Billings died just last year at age 91 without much fanfare.

There were still spittoons positioned around the room, although most members used them as ashtrays by 1965. The vote that day was to move to 150 representatives elected by equal —sized districts and end the long-term practice of one member for each town; one town, one vote. It was not voluntary; the U.S. Supreme Court had threatened to impose a solution if the legislature failed to act. There had been much drama in the days and months ahead of the vote as several competing plans were debated and rejected.

Speaker Billings had hired two young legislative draftsmen to create a reapportionment plan—one was a young lawyer named Patrick Leahy.

Passionate speeches were given, and some members cried; Vermont would never be the same! One of the speeches in support came from Vivian Tuttle, town clerk and Republican rep. from Stratton, which boasted a population of 38, even less than Stannard's 113. She was willing to vote herself out of a job. When the speeches were over the ayes had it, 163-62. It was the end of an era, but the debate over the size of this body has never gone away—you'll recall a proposal earlier this year to trim down further to 120.

An unexpected spectator that day looking down from the balcony was Vermont Governor Phil Hoff. He was excited to watch, having played a major role behind the scenes but he had allowed Speaker Billings to do the heavy lifting to avoid having it seen as a partisan debate between a Democratic Governor and Republican legislature. Governor Hoff later regretted having broken protocol to appear uninvited in the House that day, but he was clearly elated by the outcome. Being from Burlington he knew that Vermont's urban centers would gain influence.

Phil and Joan Hoff couldn't join us this morning but I spoke to Governor Hoff this week and he had a vivid recall of the days events in 1965. So, to Governor Hoff along with Speaker Billings and many many others who played a role in bringing this House into the modern era. Thank you for your dedication 50 years ago today!"

Recess

At nine o'clock and fifty-one minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock in the afternoon, the Speaker called the House to order.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the thirteenth day of May, 2015, he approved and signed bills originating in the House of the following titles:

H. 241 An act relating to rulemaking on emergency involuntary procedures

H. 496 An act relating to approval of the adoption and codification of the charter of the town of West Fairlee

Recess

At one o'clock in the afternoon, the Speaker declared a recess until two o'clock and thirty minutes in the afternoon.

At two o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the fourteenth day of May, 2015, he approved and signed bills originating in the House of the following titles:

H. 62 An act relating to prohibiting a sentence of life without parole for a person who was under 18 years of age at the time of the commission of the offense

H. 320 An act relating to technical corrections

Message from the Senate No. 68

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 a bill originating in the House of the following title:

H. 508. An act relating to approval of amendments to the charter of the Town of Middlebury.

And has passed the same in concurrence.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 73. An act relating to State regulation of rent-to-own agreements for merchandise.

And has concurred therein with a further proposal of amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 29. An act relating to election day registration.

And has concurred therein.

**Rules Suspended; Senate Proposal of Amendment
to House Proposal of Amendment Concurred in**

S. 73

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to State regulation of rent-to-own agreements for merchandise

Was taken up for immediate consideration.

The Senate concurred in the House proposal of amendment with a further amendment thereto as as follows:

First: In Sec. 1, in 9 V.S.A. § 41b(c)(2), by striking out “(A)” and by striking out subparagraph (B) in its entirety.

Second: In Sec. 1, in 9 V.S.A. § 41b(e), by striking out subdivisions (1)–(2) in their entirety and inserting in lieu thereof subdivisions (1)–(3) to read as follows:

(1) whether the item is new or used;

(2) when the merchant acquired the item; and

(3) the number of times a consumer has taken possession of the item under a rent-to-own agreement.

Third: In Sec. 3, in 9 V.S.A. § 6002(b), by striking out subdivision (6) in its entirety (three representatives focused on collegiate financial literacy issues) and inserting in lieu thereof a new subdivision (6) to read as follows:

(6) two representatives focused on collegiate financial literacy issues:

(A) the President of the Vermont Student Assistance Corporation or designee; and

(B) one representative appointed by the Governor from the Vermont State Colleges, the University of Vermont, or an independent college in Vermont;

Fourth: In Sec. 3, in 9 V.S.A. § 6002(b), by striking out subdivision (7) in its entirety (two representatives from non-profit entities) and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) a representative from a nonprofit entity that provides financial literacy and related services to persons with low income;

Fifth: By inserting a new section to be numbered Sec. 5A to read as follows:

Sec. 5A. REPEAL

Sec. 5 of this act (consumer litigation funding) shall be repealed on July 1, 2016.

Sixth: By striking out Sec. 6 in its entirety (internet dating services) and inserting in lieu thereof the following:

Sec. 6. [Reserved.]

Seventh: In Sec. 10 (effective dates), in subsection (a), by striking out “Secs. 2–5” and inserting in lieu thereof Secs. 2–5A and by striking out subsection (c) in its entirety (effective dates for internet dating services)

Which proposal of amendment was considered and concurred in.

Recess

At three o'clock and seven minutes in the afternoon, the Speaker declared a recess until five o'clock in the afternoon.

At five o'clock and six minutes in the afternoon, the Speaker called the House to order.

Rules Suspended; Report of Committee of Conference Considered; Action on Bill Postponed

S. 102

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations

Was taken up for immediate consideration.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 352 is amended to read:

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

* * *

(5)(A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or

(B) owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement for the purpose of training or conditioning an animal for participation in animal fighting, or enhancing an animal's fighting capability.

* * *

Sec. 2. 13 V.S.A. § 364 is amended to read:

§ 364. ANIMAL FIGHTS

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) ~~In~~ Notwithstanding any provision of law to the contrary, in addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize:

(1) any equipment associated with that activity;

(2) any other personal property which is used to engage in a violation or further a violation of subdivisions 352(5) and (6) of this title; and

(3) monies, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of subdivisions 352(5) and (6) of this title.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals ~~and~~ equipment, and other property subject to seizure under this section. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

(d) Property subject to forfeiture under this subsection may be seized upon process issued by the court having jurisdiction over the property. Seizure without process may be made:

(1) incident to a lawful arrest;

(2) pursuant to a search warrant; or

(3) if there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(e) Forfeiture proceedings instituted pursuant to the provisions of this section for property other than animals are subject to the procedures and requirements for forfeiture as set forth in 18 V.S.A. chapter 84, subchapter 2.

Sec. 3. 18 V.S.A. § 4241 is amended to read:

§ 4241. SCOPE

(a) The following property shall be subject to this subchapter:

* * *

(7) Any property seized pursuant to 13 V.S.A. § 364.

~~(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562. This subchapter shall apply to property for which forfeiture is sought in connection with:~~

(1) a violation under chapter 84, subchapter 1 of this title that carries by law a maximum penalty of ten years' incarceration or greater; or

(2) a violation of 13 V.S.A. § 364.

Sec. 4. 18 V.S.A. § 4242 is amended to read:

§ 4242. SEIZURE

* * *

(b) Any property subject to forfeiture under this subchapter may be seized upon process. Seizure without process may be made when:

(1) the seizure is incident to an arrest with probable cause or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the ~~state~~ State in a forfeiture proceeding under this subchapter; or

(3) the seizure is incident to a valid warrantless search.

(c) If property is seized without process under subdivision (b)(1) or (3) of this section, the ~~state~~ State shall forthwith petition the court for a preliminary order or process under subsection (a) of this section.

(d) ~~All~~ Notwithstanding subsection 4241(b) of this title, all regulated drugs the possession of which is prohibited under this chapter are contraband and shall be automatically forfeited to the state and destroyed.

Sec. 5. 18 V.S.A. § 4243 is amended to read:

§ 4243. PETITION FOR JUDICIAL FORFEITURE PROCEDURE

(a) The State Conviction or agreement required. An asset is subject to forfeiture by judicial determination under section 4241 of this title and 13 V.S.A. § 364 if:

(1) a person is convicted of the criminal offense related to the action for forfeiture; or

(2) a person enters into an agreement with the prosecutor under which he or she is not charged with a criminal offense related to the action for forfeiture.

(b) Evidence. The State may introduce into evidence in the judicial forfeiture case the fact of a conviction in the Criminal Division.

(c) Burden of proof. The State bears the burden of proving by clear and convincing evidence that the property is an instrument of or represents the proceeds of the underlying offense.

(d) Notice. Within 60 days from when the seizure occurs, the State shall notify any owners, possessors, and lienholders of the property of the action, if known or readily ascertainable. Upon motion by the State, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(e) Return of property. If notice is not sent in accordance with subsection (d) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require the agency to return contraband, evidence, or other property that the person from whom the property was seized is not entitled to lawfully possess.

(f) Filing of petition. Except as provided in section 4243a of this title, the State shall file a petition for forfeiture of any property seized under section 4242 of this title promptly, but not more than 14 days from the date the preliminary order or process is issued. The petition shall be filed in the ~~superior court~~ Superior Court of the county in which the property is located or in any court with jurisdiction over a criminal proceeding related to the property.

~~(b)~~(g) Service of petition. A copy of the petition shall be sent by certified mail to served on all persons named in the petition as provided for in Rule 4 of the Vermont Rules of Civil Procedure. In addition, the state State shall cause

notice of the petition to be published in a newspaper of general circulation in the ~~state~~ State, as ordered by the court. The petition shall state:

(1) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture, and the type and quantity of regulated drug involved;

(2) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model, and year of the conveyance.

Sec. 6. 18 V.S.A. § 4244 is amended to read:

§ 4244. FORFEITURE HEARING

(a) ~~The court~~ Within 60 days following service of notice of seizure and forfeiture under sections 4243 of this title, a claimant may file a demand for judicial determination of the forfeiture. The demand must be in the form of a civil complaint accompanied by a sworn affidavit setting forth the facts upon which the claimant intends to rely, including, if relevant, the noncriminal source of the asset or currency at issue. The demand must be filed with the court administrator in the county in which the seizure occurred.

~~(b) The Court shall hold a hearing on the petition no less than 14 nor more than 30 days after notice. For good cause shown, or on the court's own motion, the court may stay the forfeiture proceedings pending resolution of related criminal proceedings. If a person named in the petition is a defendant in a related criminal proceeding and the proceeding is dismissed or results in a judgment of acquittal, the petition shall be dismissed as to the defendant's interest in the property as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution.~~

~~(b)(c)~~ (c) A lienholder who has received notice of a forfeiture proceeding may intervene as a party. If the ~~court~~ Court finds that the lienholder has a valid, good faith interest in the subject property which is not held through a straw purchase, trust or otherwise for the actual benefit of another and that the lienholder did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law, the ~~court~~ Court upon forfeiture shall order compensation to the lienholder to the extent of the lienholder's interest.

(d) The Court shall not order the forfeiture of property if an owner, co-owner, or person who regularly uses the property, other than the defendant, shows by a preponderance of the evidence that the owner, co-owner, or regular user did not consent to or have any express or implied knowledge that the property was being or was intended to be used in a manner that would subject

the property to forfeiture, or that the owner, co-owner, or regular user had no reasonable opportunity or capacity to prevent the defendant from using the property.

~~(e)~~(e) The proceeding shall be against the property and shall be deemed civil in nature. The ~~state~~ State shall have the burden of proving all material facts by clear and convincing evidence.

~~(d)~~(f) The ~~court~~ Court shall make findings of fact and conclusions of law and shall issue a final order. If the petition is granted, the ~~court~~ Court shall order the property held for evidentiary purposes, delivered to the ~~state treasurer~~ State Treasurer, or, in the case of regulated drugs or property which is harmful to the public, destroyed.

Sec. 7. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the ~~state treasurer~~ State Treasurer under this subchapter, the ~~state treasurer~~ State Treasurer shall, no sooner than 90 days of the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 13.

(b) The proceeds from the sale of forfeited property shall be used first to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1)(A) Forty-five percent shall be distributed among:

- (i) the Office of the Attorney General;
- (ii) the Department of State's Attorneys and Sheriffs; and
- (iii) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may only reimburse the prosecutor and law enforcement agencies that participated in the enforcement effort resulting in the forfeiture for expenses incurred, including actual expenses for involved personnel. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency's operating funds.

(2) The remaining 55 percent shall be deposited in the General Fund.

Sec. 8. 23 V.S.A. § 1213c is amended to read:

§ 1213c. IMMOBILIZATION AND FORFEITURE PROCEEDINGS

* * *

(o) A law enforcement or prosecution agency conducting forfeitures under this section may accept, receive, and disburse in furtherance of its duties and functions under this section any appropriations, grants, and donations made available by the State of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civil sources.

Sec. 9. ANIMAL CRUELTY RESPONSE TASK FORCE

(a) Creation. There is created a task force to evaluate the state of animal cruelty investigation and response in Vermont, including the resources devoted to animal investigation and response services and to recommend ways to consolidate, collaborate, or reorganize to use more effectively limited resources while improving the response to animal cruelty.

(b) Membership. The Task Force shall be composed of the following members:

- (1) a representative from the Governor's office;
- (2) a member of the Vermont State Police;
- (3) a member of the VT Police Chiefs Association;
- (4) a representative of the VT Animal Control Association;
- (5) a Humane Officer from a VT humane society focusing on domestic animals;
- (6) a Humane Officer of a VT humane society focusing on large animals (livestock);
- (7) a representative of the Vermont Humane Federation;
- (8) a representative of the Vermont Federation of Dog Clubs;
- (9) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;
- (10) a representative of the Vermont Veterinary Medical Association;
- (11) a representative of the Vermont Agency of Agriculture, Food and Markets;
- (12) a representative of the VT Constables Association;
- (13) a representative of the VT Town Clerks Association;
- (14) a representative of the Department for Children and Families; and

(15) a representative of the VT Federation of Sportsmens' Clubs.

(c) Powers and duties. The Task Force, in consultation with the Office of the Defender General, shall study and make recommendations concerning:

(1) training for humane agents, animal control officers, law enforcement officers, and prosecutors;

(2) the development of uniform response protocols for receiving, investigating, and following up on complaints of animal cruelty, including sentencing recommendations;

(3) the development of a centralized data collection system capable of sharing data collected from both the public and private sectors on animal cruelty complaints and outcomes;

(4) funding the various responsibilities that are involved with an animal cruelty investigation, including which State agencies should be responsible for any State level authority and oversight; and

(5) any other issue the Task Force determines is relevant to improve the efficiency, process, and results of animal cruelty response actions in Vermont.

(d) Report. On or before January 15, 2016, the Task Force shall report its findings and recommendations to the House and Senate Committees on Judiciary.

(e) Meetings and sunset.

(1) The representative from the Governor's office shall call the first meeting of the Task Force.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) The Task Force shall hold its first meeting no later than August 15, 2015.

(4) Meetings of the Task Force shall be public meetings.

(5) The Task Force shall cease to exist on January 16, 2016.

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

Thereupon, **Rep. Conquest of Newbury** moved to postpone action for one legislative day, which was agreed to.

**Rules Suspended; Bill Amended; Third Reading Ordered;
Rules Suspended; Bill Read Third Time and Passed; Rules Suspended and
Bill was Ordered Messaged to the Senate Forthwith**

H. 84

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to disclosing fees for automatic dialing systems

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Botzow of Pownal, for the committee on Commerce & Economic Development, to which had been referred House bill, entitled

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

Sec. 1. 9 V.S.A. chapter 63, subchapter 8 is added to read:

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

(1) “Account change” means a change to the password, e-mail address, age, identified gender, gender of members seeking to meet, primary photo unless it has previously been approved by the Internet dating service, or other conspicuous change to a member’s account or profile with or on an Internet dating service.

(2) “Banned member” means the member whose account or profile is the subject of a fraud ban.

(3) “Fraud ban” means barring a member’s account or profile from an Internet dating service because, in the judgment of the service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means.

(4) “Internet dating service” means a person or entity that is in the business of providing dating services principally on or through the Internet.

(5) ”Member” means a person who submits to an Internet dating service information required to access the service and who obtains access to the service.

(6) “Vermont member” means a member who provides a Vermont residential or billing address or zip code when registering with the Internet dating service.

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

(a) An Internet dating service shall disclose to all of its Vermont members known to have previously received and responded to an on-site message from a banned member:

(1) the user name, identification number, or other profile identifier of the banned member;

(2) the fact that the banned member was banned because in the judgment of the Internet dating service the banned member may have been using a false identity or may pose a significant risk of attempting to obtain money from other members through fraudulent means;

(3) that a member should never send money or personal financial information to another member; and

(4) a hyperlink to online information that clearly and conspicuously addresses the subject of how to avoid being defrauded by another member of an Internet dating service.

(b) The notification required by subsection (a) of this section shall be:

(1) clear and conspicuous;

(2) by e-mail, text message, or other appropriate means of communication; and

(3) sent within 24 hours after the fraud ban, or at a later time if the service has determined based on an analysis of effective messaging that a different time is more effective, but in no event later than three days after the fraud ban.

(c) An Internet dating service shall disclose in an e-mail, text message, or other appropriate means of communication, in a clear and conspicuous manner, within 24 hours after discovery of any account change to a Vermont member's account or profile:

(1) the fact that information on the member's account or personal profile has been changed;

(2) a brief description of the change; and

(3) if applicable, how the member may obtain further information on the change.

§ 2482c. IMMUNITY

(a) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for disclosing to any member that it has banned a member, the user name or

identifying information of the banned member, or the reasons for the Internet dating service's decision to ban such member.

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

(c) This subchapter does not diminish or adversely affect the protections for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal Communications Decency Act).

§ 2482d. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as is provided under subchapter 1 of this chapter.

Sec. 2. EFFECTIVE DATES

(a) This section and 9 V.S.A. §§ 2482a, 2482c, and 2482d in Sec. 1 shall take effect on passage.

(b) In Sec. 1, 9 V.S.A. § 2482b shall take effect on January 1, 2016. and that after passage the title of the bill be amended to read: "An act relating to Internet dating services"

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

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Turner of Milton** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Recess

At five o'clock and two minutes in the afternoon, the Speaker declared a recess until seven o'clock and thirty minutes in the evening.

At seven o'clock and thirty-five minutes in the evening, the Speaker called the House to order.

Message from the Senate No. 69

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

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bills of the following titles:

H. 98. An act relating to reportable disease registries and data.

H. 480. An act relating to making miscellaneous technical and other amendments to education laws.

And has concurred therein.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon House bills of the following titles:

H. 477. An act relating to miscellaneous amendments to election law.

H. 492. An act relating to capital construction and State bonding.

And has accepted and adopted the same on its part.

Rules Suspended; Report of Committee of Conference Adopted

H. 492

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to capital construction and State bonding

Was taken up for immediate consideration.

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended that the House accede to the Senate proposals of amendments and that the bill be further amended as follows:

First: In Sec. 1, Legislative Intent, in subsection (a), by striking out “\$80,068,449.00” and inserting in lieu thereof “\$84,688,449.00”

Second: In Sec. 2, State Buildings, in subdivision (b)(10), by striking out “\$450,000.00” and inserting “\$400,000.00”, in subdivision (c)(10), by striking out “\$16,931,385.00” and inserting “\$14,048,174.00”, and by striking out all after subsection (d) and inserting in lieu thereof the following:

<u>Appropriation – FY 2016</u>	<u>\$41,313,990.00</u>
<u>Appropriation – FY 2017</u>	<u>\$29,450,622.00</u>

Total Appropriation – Section 2 \$70,764,612.00

Third: In Sec. 3, Administration, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) The sum of \$5,463,211.00 is appropriated in FY 2017 to the Agency of Human Services for the Health and Human Services Enterprise IT System.

Appropriation – FY 2016 \$5,125,000.00

Appropriation – FY 2017 \$14,855,681.00

Total Appropriation – Section 3 \$19,980,681.00

Fourth: In Sec. 5, Judiciary, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 5. JUDICIARY

(a) The sum of \$180,000.00 is appropriated in FY 2016 to the Department of Buildings and General Services for the Judiciary for ADA compliance at county courthouses.

(b) The following sums are appropriated in FY 2016 to the Judiciary:

(1) Statewide court security systems and improvements: \$150,000.00

(2) Judicial case management system: \$550,000.00

(3) Hyde Park, Lamoille County Courthouse, building renovation:
\$5,000,000.00

(c) The following sums are appropriated in FY 2017 to the Judiciary:

(1) Statewide court security systems and improvements: \$125,000.00

(2) Judicial case management system: \$4,000,000.00

Appropriation – FY 2016 \$5,880,000.00

Appropriation – FY 2017 \$4,125,000.00

Total Appropriation – Section 5 \$10,005,000.00

Fifth: In Sec. 7, Grant Programs, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 7. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2016 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(b) The following sum is appropriated in FY 2016 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(c) The following sums are appropriated in FY 2017 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(d) The following sum is appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(e) The following amounts are appropriated in FY 2016 to the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program:

- (1) Human Services: \$100,000.00
- (2) Educational Facilities: \$100,000.00

(f) The following amounts are appropriated in FY 2017 to the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program:

- (1) Human Services: \$100,000.00
- (2) Educational Facilities: \$100,000.00

(g) On or before January 15, 2016, the Commissioner of Buildings and General Services shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the grants awarded in FY 2016 under the Human Services and Educational Facilities Competitive Grant Program.

<u>Appropriation – FY 2016</u>	<u>\$1,400,000.00</u>
<u>Appropriation – FY 2017</u>	<u>\$1,400,000.00</u>
<u>Total Appropriation – Section 7</u>	<u>\$2,800,000.00</u>

Sixth: In Sec. 20, General Assembly, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 20. GENERAL ASSEMBLY

(a) The sum of \$120,000 is appropriated in FY 2016 to the Office of Legislative Council to hire consultant services for upgrades to the International Roll Call (IRC) program, as described in Sec. 47 of this act.

(b) The sum of \$60,000.00 is appropriated in FY 2016 to the Joint Fiscal Office to hire consultant services for a security and safety protocol for the State House, as described in Sec. 46 of this act.

<u>Total Appropriation – Section 20</u>	<u>\$180,000.00</u>
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Seventh: By inserting a Sec. 23a, after Sec. 23, to read as follows:

Sec. 23a. LEASING PROPERTY; WINDSOR; SOLAR PROJECT

The Commissioner of Buildings and General Services may lease at fair market value, for a term not exceeding 35 years, any real property owned by the State for a solar project at the Southeast State Correctional Facility and surrounding lands in Windsor, Vermont.

Eighth: By inserting a Sec. 32a, after Sec. 32, to read as follows:

Sec. 32a. 20 HOUGHTON STREET; USE OF PROCEEDS

Notwithstanding 29 V.S.A. § 166(d), of the proceeds received by the State for the sale of the 20 Houghton Street property in St. Albans, the sum of \$2,500,000.00 is to be deposited into the Property Management Fund (58700) to recover the deficit incurred in the Fund as a result of the original purchase of the property.

Ninth: In Sec. 46, State House Security, by striking out the section in its entirety and inserting in lieu thereof the following:

Sec. 46. STATE HOUSE SECURITY

(a) The Capitol Complex Security Working Group, established in 2014 Acts and Resolves No. 178, Sec. 26, may retain consultant services to create a security and safety protocol and conduct trainings for the State House and One Baldwin Street. Any consultants retained pursuant to this subsection shall work through the Joint Fiscal Office under the direction of the Chair of the Working Group.

(b) The Joint Fiscal Office, in consultation with the Speaker of the House and the Committee on Committees, shall hire the consultants to undertake the security protocol authorized in subsection (a) of this section. The Joint Fiscal Office is authorized to use funds appropriated in Sec. 20 of this act and 2013 Acts and Resolves No. 51, Sec. 2(c)(17), as amended by 2014 Acts and Resolves No. 178, Sec. 1, to retain consultant services.

Tenth: By adding a new Sec. 47 to read as follows:

Sec. 47. INTERNATIONAL ROLL CALL PROGRAM; UPGRADES

(a) The Office of Legislative Council is authorized to retain consultant services to upgrade the legislative international roll call (IRC) program, as approved by the Legislative Staff Information Systems Team established in 2 V.S.A. § 753.

(b) The Legislative Staff Information Systems Team shall determine the management and oversight structure for the work authorized in subsection (a) of this section prior to the Office of Legislative Council executing a contract to hire the consultant. The Office of Legislative Council is authorized to use funds appropriated in Sec. 20 of this act to retain consultant services; provided, however, that no funds shall become available until the Legislative Staff Information Systems Team approves the contract, and management and oversight structure for the project.

and by renumbering the remaining sections to be numerically correct

Which was considered and adopted on the part of the House.

**Rules Suspended; Report of Committee of Conference Adopted
Rules Suspended and Bill Ordered Messaged to the Senate Forthwith**

S. 93

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to lobbying disclosures

Appearing on the Calendar for notice, was taken up for immediate consideration.

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon the bill respectfully reported that it has met and considered the same and recommended respectfully reports that it has met and considered the same and recommends that the Senate accede to the House's proposal of amendment and that the House's proposal of amendment be amended in Sec. 2, 2 V.S.A. § 264c (identification in and report of certain lobbying advertisements), in subsection (c) (definitions), by striking out in its entirety subdivision (1) (definition of "advertisement") and inserting in lieu thereof the following:

(1) "Advertisement" means a notice that appears in any of the following public media: radio, television, newspapers or other periodicals, or Internet websites.

Which was considered and adopted on the part of the House.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Adjournment

At eight o'clock and twenty minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.