

Journal of the House

Wednesday, April 20, 2016

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

Devotional Exercises

Devotional exercises were conducted by Sabrina Chiang, violinist from South Burlington, Vt.

Joint Resolution Referred to Committee

J.R.H. 27

Joint resolution requesting federal action to alleviate the national student loan debt crisis

Offered by: Representatives Keenan of St. Albans City, Bancroft of Westford, Batchelor of Derby, Beck of St. Johnsbury, Bissonnette of Winooski, Botzow of Pownal, Branagan of Georgia, Briglin of Thetford, Browning of Arlington, Burke of Brattleboro, Canfield of Fair Haven, Carr of Brandon, Cole of Burlington, Condon of Colchester, Connor of Fairfield, Conquest of Newbury, Copeland-Hanzas of Bradford, Cupoli of Rutland City, Dakin of Chester, Dakin of Colchester, Dame of Essex, Davis of Washington, Donovan of Burlington, Eastman of Orwell, Emmons of Springfield, Fagan of Rutland City, Gamache of Swanton, Gonzalez of Winooski, Haas of Rochester, Head of South Burlington, Jerman of Essex, Johnson of South Hero, Juskiewicz of Cambridge, Kitzmiller of Montpelier, Komline of Dorset, Krowinski of Burlington, LaLonde of South Burlington, Lanpher of Vergennes, Lefebvre of Newark, Lenex of Shelburne, Long of Newfane, Lucke of Hartford, Macaig of Williston, Manwaring of Wilmington, Marcotte of Coventry, Martin of Wolcott, Miller of Shaftsbury, Morrissey of Bennington, Mrowicki of Putney, Murphy of Fairfax, Myers of Essex, O'Brien of Richmond, O'Sullivan of Burlington, Parent of St. Albans Town, Partridge of Windham, Pearce of Richford, Pugh of South Burlington, Russell of Rutland City, Savage of Swanton, Scheuermann of Stowe, Sharpe of Bristol, Shaw of Pittsford, Sheldon of Middlebury, Strong of Albany, Stuart of Brattleboro, Sullivan of Burlington, Tate of Mendon, Till of Jericho, Toleno of Brattleboro, Toll of Danville, Townsend of South Burlington, Troiano of Stannard, Webb of Shelburne, Wood of Waterbury, Wright of Burlington, and Young of Glover

Whereas, a *Wall Street Journal* article, updated on August 21, 2015, reported that as of July 2015 nearly seven million Americans were in default

on their federal student loans, meaning they had not made a payment in at least 360 days, and

Whereas, this number equals approximately 17 percent of all federal student loan borrowers, and the number rose six percent, or 400,000 more borrowers, than the year previously, and

Whereas, the Federal Reserve Bank of New York's Consumer Credit Panel has reported that in the decade from 2005 to 2015 total student loan debt tripled and rose to \$1.19 trillion, and

Whereas, those in default are often individuals who attended for-profit colleges, are members of a minority group, and never graduated, and

Whereas, overall, one informed estimate is that 27 million borrowers are either in default or some other form of loan repayment delinquency, and

Whereas, Congress enacted the Bipartisan Student Loan Certainty Act of 2013 (Pub.L 113-28), establishing a fixed interest rate for federal student loan programs with caps ranging from 8.25–10.5 percent depending on the specific program, but the rates are challenging for the student borrowers, and

Whereas, although the rates for 2015–2016 are slightly lower than for the prior academic year, they still remain high at 4.29 percent for direct subsidized and unsubsidized undergraduate student loans, and the graduate and professional federal student loan interest rates in the Direct PLUS Loans program are nearly seven percent, and

Whereas, although experts differ on the extent, there is a general consensus that in some years the federal government has made a profit on federal student loans even as numerous borrowers have struggled to make repayments, and

Whereas, while the Obama administration has established popular plans that cap repayments at 10–15 percent of discretionary income, these programs tend to attract graduates of professional or graduate schools and not those who earned only a bachelor's degree or never finished college, and

Whereas, unlike many other forms of consumer debt, 11 USC § 523(a)(8) of the federal bankruptcy code, with limited exceptions, prohibits using bankruptcy as a method for student loan debt relief, and

Whereas, proposals for free or reduced tuition at public colleges and restructuring the system of higher education financing may be useful for future students, but they do not solve the problems of those millions of Americans struggling to repay their existing student loans, especially those for whom a college education did not secure a sound economic future, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests Congress to amend the federal bankruptcy code to eliminate the prohibition on relief from federal or private student loan debt through the federal bankruptcy system, and be it further

Resolved: That the U.S. Department of Education is requested to devise new debt relief programs that effectively address the problems that individuals with low income are encountering in repaying their student loans, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Education John King and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Education.

Joint Resolution Adopted in Concurrence

J.R.S. 52

By Senators Baruth and Benning,

J.R.S. 52. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 22, 2016, it be to meet again no later than Tuesday, April 26, 2016.

Was taken up read and adopted in concurrence.

Remarks Journalized

On motion of **Rep. Russell of Rutland City**, the following remarks by **Rep. Strong of Albany** were ordered printed in the Journal:

“Mr. Speaker:

On behalf of the member from Georgia and my seat mate from Bennington, I would like to introduce to you Capt. Zachary Fike, who is the founder of Purple Hearts Reunited and has served in the Vermont Army National Guard for 18 years.

The Purple Heart medal is the oldest service medal that we have in the United States, dating back to the Revolutionary War when George Washington created the medal. The medal is awarded to soldiers who were wounded in action or to families of those who died in combat.

Capt. Fike served in Afghanistan and Iraq, and received a Purple Heart himself when he was wounded in action. He has also participated in multi-

national operations in Macedonia, counter drug operations on the Mexican border, and taken part in countless emergency response efforts in the United States. Some of his awards and decorations consist of two Bronze Stars, a Purple Heart, the Meritorious Service Medal, nine Army Accommodation Medals, and six Army Achievement Medals.

Since starting Purple Hearts Reunited in 2012, the organization has returned over 200 medals, visited 42 states, traveled over 100,000 miles, and affected over 120,00 people. They currently receive 3-5 lost medals of Valor each week and are currently researching over 500 medals that need a home.

Purple Hearts Reunited just launched a 100th Anniversary World War One project in which they will return 100 lost WWI Purple Hearts between April 6, 2016 and April 6, 2017 which commemorates the 100th year since the United States entered WWI. These medals are currently being framed and will be on display to the public in St. Albans, VT in May before beginning their journey back home to their families.

We thank Zach for his service to our country and for his work with Purple Hearts Reunited, and we appreciate those who are here with him today; General Michael Heston, Major Christopher Gookin, Zach's mother, Joyce Fike, his wife Jessica, son Zach Jr. daughter Emily, and other military friends and supporters.

Thank you all for coming today and let's welcome them."

Remarks Journalized

On motion of **Rep. Myers of Essex**, the following remarks by **Rep. Stevens of Waterbury** were ordered printed in the Journal:

"Thank you, Mr. Speaker.

On behalf of the other member from Waterbury, I'd like to take this opportunity to reintroduce a constituent.

As we all know, good journalists call them as they see them and they get the job done right. Great journalists, or the best ones, get it so right because they did their homework so that even if you got upset by what they wrote, you couldn't be mad or angry at them because, in this case, Nancy was always right.

As a consumer of Nancy's work over the years, I can certainly say that her writing has been fair, it's been well done, and she has represented the meetings I have been in, or the issues I've been involved with, in a way that I could never complain about the work that she did and the way that she did it. She did it quietly. Like a good referee, she never called attention to herself, she just called it as she saw it.

It was a shock to me to hear that she was retiring, but we all get to retire at some point. So this resolution is to honor probably one of the best writers this building has ever seen.

Please join me in reintroducing her, and welcoming her as one of our constituents to the building.”

**Proposal of Amendment Agreed to; Bill Read Third Time
and Passed in Concurrence with Proposal of Amendment**

S. 114

Senate bill, entitled

An act relating to the Open Meeting Law

Was taken up and pending third reading of the bill, **Reps. McCullough of Williston, Lippert of Hinesburg and Macaig of Williston** moved the House propose to the Senate to amend the bill as follows:

In Sec. 1, in 1 V.S.A. § 312(b)(2), in the second sentence (related to the posting of minutes), by striking out “five calendar days” and inserting in lieu thereof the following: “~~five~~ seven calendar days”

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

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 116

Senate bill, entitled

An act relating to rights of offenders in the custody of the Department of Corrections

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Third Reading; Bill Passed in Concurrence

S. 214

Senate bill, entitled

An act relating to large group insurance;

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

**Proposal of Amendment Agreed to;
Consideration Interrupted by Recess**

S. 225

Senate bill, entitled

An act relating to miscellaneous changes to laws related to motor vehicles

Was taken up and pending third reading of the bill, **Rep. Till of Jericho** moved to amend the House proposal of amendment as follows:

First: In Sec. 31, 23V.S.A. § 1201, in subdivision (a)(1)(D), by striking out the words “any detectable amount” and inserting in lieu thereof “1.5 nanograms per milliliter”

Second: In Sec. 35, 23 V.S.A. § 1204, in subdivision (a)(3), by striking out the words “any detectable amount” and inserting in lieu thereof “1.5 nanograms per milliliter”

Pending the question, Shall the recommendation of proposal of amendment offered by Rep. Till of Jericho be agreed to? **Rep. Poirier of Barre City** moved to substitute a recommendation of proposal of amendment for that offered by Rep. Till of Jericho as follows:

First: In Sec. 31, 23V.S.A. § 1201, in subdivision (a)(1)(D), by striking out “delta-9 tetrahydrocannabinol” and inserting in lieu thereof “the psychoactive metabolite of a drug”

Second: In Sec. 35, 23 V.S.A. § 1204, in subsection (a), by striking out “delta-9 tetrahydrocannabinol” and inserting in lieu thereof “the psychoactive metabolite of a drug”

Third: In Sec. 35, 23 V.S.A. § 1204, in subdivision (a)(3), by striking out “delta-9 tetrahydrocannabinol” and inserting in lieu thereof “the psychoactive metabolite of a drug”

Pending the question, Shall the recommendation of proposal of amendment offered by Rep. Poirier of Barre City be substituted for the recommendation of proposal of amendment offered by Rep. Till of Jericho? **Rep. Pearson of Burlington** moved to postpone action on the bill one legislative day, which was disagreed to.

Pending the question, Shall the proposal of amendment recommended by Rep. Poirier of Barre City be substituted for the amendment recommended by Rep. Till of Jericho? **Rep. Poirier of Barre City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the proposal of amendment amendment recommended by Rep. Poirier of Barre City be substituted for the amendment recommended by Rep. Till of Jericho? was decided in the negative. Yeas, 13. Nays, 127.

Those who voted in the affirmative are:

Lippert of Hinesburg	O'Sullivan of Burlington	Woodward of Johnson
Martin of Wolcott	Pearson of Burlington	Yantachka of Charlotte
McCormack of Burlington	Poirier of Barre City *	Zagar of Barnard
McCullough of Williston	Ryerson of Randolph	
McFaun of Barre Town	Walz of Barre City	

Those who voted in the negative are:

Ancel of Calais	Feltus of Lyndon	Miller of Shaftsbury
Bancroft of Westford	Fields of Bennington	Morris of Bennington
Bartholomew of Hartland	Fiske of Enosburgh	Morrissey of Bennington
Baser of Bristol	Forguites of Springfield	Mrowicki of Putney
Batchelor of Derby	Frank of Underhill	Murphy of Fairfax
Beck of St. Johnsbury	French of Randolph	Myers of Essex
Berry of Manchester	Gage of Rutland City	Nuovo of Middlebury
Beyor of Highgate	Gamache of Swanton	O'Brien of Richmond
Bissonnette of Winooski	Gonzalez of Winooski	Parent of St. Albans Town
Botzow of Pownal	Graham of Williamstown	Partridge of Windham
Branagan of Georgia	Greshin of Warren	Patt of Worcester
Brennan of Colchester	Haas of Rochester	Pearce of Richford
Briglin of Thetford	Head of South Burlington	Potter of Clarendon
Browning of Arlington	Hebert of Vernon	Pugh of South Burlington
Burke of Brattleboro	Helm of Fair Haven	Purvis of Colchester
Buxton of Tunbridge	Higley of Lowell	Quimby of Concord
Canfield of Fair Haven	Hooper of Montpelier	Rachelson of Burlington
Carr of Brandon	Hubert of Milton	Ram of Burlington
Clarkson of Woodstock	Huntley of Cavendish	Russell of Rutland City
Cole of Burlington	Jerman of Essex	Savage of Swanton
Condon of Colchester	Jewett of Ripton	Scheuermann of Stowe
Connor of Fairfield	Johnson of South Hero	Sharpe of Bristol
Conquest of Newbury	Juskiewicz of Cambridge	Shaw of Pittsford
Copeland-Hanzas of Bradford	Keenan of St. Albans City	Sheldon of Middlebury
Corcoran of Bennington	Kitzmiller of Montpelier	Sibilia of Dover
Cupoli of Rutland City	Komline of Dorset	Smith of New Haven
Dakin of Chester	Krebs of South Hero	Stevens of Waterbury
Dakin of Colchester	Krowinski of Burlington	Strong of Albany
Dame of Essex	Lalonde of South Burlington	Stuart of Brattleboro
Davis of Washington	Lanpher of Vergennes	Sullivan of Burlington
Deen of Westminster	Lawrence of Lyndon	Sweaney of Windsor
Devereux of Mount Holly	Lenes of Shelburne	Tate of Mendon
Dickinson of St. Albans Town	Lewis of Berlin	Terenzini of Rutland Town
Donahue of Northfield *	Long of Newfane	Till of Jericho
Donovan of Burlington	Lucke of Hartford	Toleno of Brattleboro
Eastman of Orwell	Macaig of Williston	Toll of Danville
Emmons of Springfield	Manwaring of Wilmington	Townsend of South Burlington
Evans of Essex	Marcotte of Coventry	Trieber of Rockingham
Fagan of Rutland City	Martel of Waterford	Troiano of Stannard
	Masland of Thetford	Turner of Milton
	McCoy of Poultney	

Van Wyck of Ferrisburgh	Willhoit of St. Johnsbury	Young of Glover
Viens of Newport City	Wood of Waterbury	
Webb of Shelburne	Wright of Burlington	

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

Burditt of West Rutland	Grad of Moretown	Olsen of Londonderry
Chesnut-Tangerman of	Klein of East Montpelier	Shaw of Derby
Middletown Springs	LaClair of Barre Town	
Christie of Hartford	Lefebvre of Newark	

Rep. Donahue of Northfield explained her vote as follows:

“Mr. Speaker:

As best as I can tell from the debate, we should be lowering the BAC limit to 0.05 for all drivers. However, lowering it only for those with detectable traces of psychoactive drugs is not justified by the evidence. Only lowering it for delta-9 makes even less sense – but that is no the amendment before us.”

Rep Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

I voted yes because we had a chance to send a message to the public that we are serious about drug driving. Instead we chose to give lip service to the drug driving problem in Vermont.”

Thereupon, the recommendation of proposal of amendment offered by Rep. Till of Jericho was agreed to.

Pending third reading of the bill, **Rep. Rachelson of Burlington**, moved to amend the House recommendation of proposal of amendment as follows:

First: By striking out Sec. 30 in its entirety and inserting in lieu thereof “Sec. 30. [Deleted.]”

Second: In Sec. 32, 23 V.S.A. § 1202, in subsection (a), by striking out subdivision (3) in its entirety and renumbering the remaining subdivisions to be numerically correct

Third: In Sec. 33, 23 V.S.A. § 1203, in subsection (d), in the fourth sentence, by striking out the following: “, saliva,”

Fourth: In Sec. 33, 23 V.S.A. § 1203, in subsection (d), in the final sentence, by striking out the words “or saliva”

Which was disagreed to.

Pending third reading of the bill, **Rep. Donahue of Northfield** moved to amend the House recommendation of proposal of amendment as follows:

First: In Sec. 31, 23 VSA §1201(a)(1), by striking subdivision(D) in its entirety,

Second: In Sec. 35, after “the person’s alcohol concentration” and before “shall give rise”, by striking “or alcohol concentration and evidence of delta-9 tetrahydrocannabinol”,

Third: In Sec. 35, 23 VSA §1204(a) by striking subdivision(3) in its entirety.

Recess

At three o'clock and forty-eight minutes in the afternoon, the Speaker declared a recess until four o'clock and fifteen minutes in the afternoon.

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

Consideration Resumed; Bill Read Third Time and Passed in Concurrence With Proposal of Amendment

S. 225

Consideration resumed on Senate bill, entitled

An act relating to miscellaneous changes to laws related to motor vehicles

Thereupon, the recommendation of proposal of amendment offered by Rep. Donahue of Northfield was disagreed to.

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

Third Reading; Bill Passed in Concurrence

S. 256

Senate bill, entitled

An act relating to extending the moratorium on home health agency certificates of need

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

Favorable Report; Third Reading Ordered

H. 885

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

An act relating to approval of amendments to the charter of the Town of Shelburne

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

Favorable Report; Third Reading Ordered

S. 157

Rep. Fiske of Enosburgh, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to breast density notification and education

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

Favorable Report; Third Reading Ordered

S. 174

Rep. Hubert of Milton, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to a model State policy for use of body cameras by law enforcement officers

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

Pending the question, Shall the bill be read a third time? **Rep. Branagan of Georgia** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 113. Nays, 17.

Those who voted in the affirmative are:

Ancel of Calais	Canfield of Fair Haven	Emmons of Springfield
Bancroft of Westford	Clarkson of Woodstock	Evans of Essex
Bartholomew of Hartland	Cole of Burlington	Fagan of Rutland City
Baser of Bristol	Condon of Colchester	Fields of Bennington
Batchelor of Derby	Connor of Fairfield	Fiske of Enosburgh
Beck of St. Johnsbury	Corcoran of Bennington	Forguites of Springfield
Beyor of Highgate	Cupoli of Rutland City	French of Randolph
Bissonnette of Winooski	Dakin of Chester	Gage of Rutland City
Botzow of Pownal	Dakin of Colchester	Gamache of Swanton
Brennan of Colchester	Deen of Westminster	Gonzalez of Winooski
Briglin of Thetford	Devereux of Mount Holly	Graham of Williamstown
Browning of Arlington	Dickinson of St. Albans	Greshin of Warren
Burke of Brattleboro	Town	Head of South Burlington
Buxton of Tunbridge	Eastman of Orwell	Hebert of Vernon

Helm of Fair Haven	Martin of Wolcott	Scheuermann of Stowe
Higley of Lowell	Masland of Thetford	Sharpe of Bristol
Hooper of Montpelier	McCormack of Burlington	Shaw of Pittsford
Hubert of Milton	McCoy of Poultney	Sibilia of Dover
Huntley of Cavendish	McFaun of Barre Town	Smith of New Haven
Jerman of Essex	Miller of Shaftsbury	Stuart of Brattleboro
Jewett of Ripton	Morris of Bennington	Sullivan of Burlington
Johnson of South Hero	Morrissey of Bennington	Sweaney of Windsor
Juskiewicz of Cambridge	Mrowicki of Putney	Tate of Mendon
Keenan of St. Albans City	Murphy of Fairfax	Till of Jericho
Kitzmiller of Montpelier	Myers of Essex	Toleno of Brattleboro
Komline of Dorset	O'Brien of Richmond	Toll of Danville
Krebs of South Hero	O'Sullivan of Burlington	Townsend of South Burlington
Krowinski of Burlington	Parent of St. Albans Town	Turner of Milton
LaClair of Barre Town	Partridge of Windham	Viens of Newport City
Lalonde of South Burlington	Patt of Worcester	Walz of Barre City
Lawrence of Lyndon	Pearce of Richford	Webb of Shelburne
Lenes of Shelburne	Pearson of Burlington	Wood of Waterbury
Lewis of Berlin	Potter of Clarendon	Wright of Burlington
Lippert of Hinesburg *	Pugh of South Burlington	Yantachka of Charlotte
Long of Newfane	Purvis of Colchester	Young of Glover
Lucke of Hartford	Quimby of Concord	Zagar of Barnard
Macaig of Williston	Ram of Burlington	
Manwaring of Wilmington	Russell of Rutland City	
Marcotte of Coventry	Savage of Swanton	

Those who voted in the negative are:

Berry of Manchester	Frank of Underhill	Sheldon of Middlebury
Branagan of Georgia *	Haas of Rochester	Stevens of Waterbury
Dame of Essex	Lanpher of Vergennes	Terenzini of Rutland Town
Davis of Washington	McCullough of Williston *	Troiano of Stannard
Donahue of Northfield	Nuovo of Middlebury	Willhoit of St. Johnsbury
Feltus of Lyndon	Rachelson of Burlington	

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

Burditt of West Rutland	Grad of Moretown	Shaw of Derby
Carr of Brandon	Klein of East Montpelier	Smith of Morristown
Chesnut-Tangerman of Middletown Springs	Lefebvre of Newark	Strong of Albany
Christie of Hartford	Martel of Waterford	Trieber of Rockingham
Conquest of Newbury	Olsen of Londonderry	Van Wyck of Ferrisburgh
Donovan of Burlington	Poirier of Barre City	Woodward of Johnson
	Ryerson of Randolph	

Rep Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

This bill is an unneeded overreach of state power. Not only are we spending more taxpayer money without need, we are preparing to establish a police policy without cause.”

Rep. Lippert of Hinesburg explained his vote as follows:

“Mr. Speaker:

A model policy for law enforcement use of body cameras must reflect the appropriate balance between protecting the needs of law enforcement and protecting the privacy needs of Vermont citizens. Such a balance can be achieved. Achieving this balance requires not only review by the appropriate legislative committees, but also requires review and final approval of the full legislature.”

Rep. McCullough of Williston explained his vote as follows:

“Mr. Speaker:

I vote no. I see a significant opportunity for losses of civil liberties without guarantee of legislative oversight of the proposed recommendations. I hope to support an amended version for 3rd reading speaking to this serious flaw.”

Favorable Report; Third Reading Ordered

J.R.S. 35

Rep. Shaw of Pittsford, for the committee on Corrections & Institutions, to which had been referred Joint resolution, entitled

Joint resolution urging Vermont’s participation in the Stepping Up initiative to reduce the number of incarcerated Vermonters with a mental illness

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

Message from the Senate No. 46

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. 559. An act relating to an exemption from licensure for visiting team physicians.

H. 845. An act relating to legislative review of certain report requirements.

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

Action on Bill Postponed

H. 84

House bill, entitled

An act relating to Internet dating services

Was taken up and on motion of **Rep. Dakin of Colchester**, action on the bill was postponed until April 26, 2016.

Senate Proposal of Amendment Concurred in

H. 135

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

An act relating to authorizing the Vermont Department of Health to charge fees necessary to support Vermont's status as a Nuclear Regulatory Commission Agreement State

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

Sec. 1. 18 V.S.A. chapter 32 is amended to read:

CHAPTER 32. IONIZING AND NONIONIZING RADIATION CONTROL

§ 1651. DEFINITIONS

In this chapter:

~~(1) Ionizing radiation means gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles.~~

~~(2) Nonionizing radiation means radiations of any wavelength in the entire electromagnetic spectrum except those radiations defined above as ionizing. Nonionizing radiations include, but are not limited to: Ultraviolet, visible, infrared, microwave, radiowave, low frequency electromagnetic radiation; infrasonic, sonic and ultrasonic waves; electrostatic and magnetic fields.~~

~~(3) Radioactive material means any radioactive material, be it solid, liquid, or gas, which emits ionizing radiation spontaneously.~~

~~(4) Byproduct material~~ "Byproduct material" means each of the following:

(A) ~~any~~ Any radioactive material, ~~except~~ other than special nuclear material, that is yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(B) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. However, "byproduct material" does not include underground ore bodies depleted by these solution extraction operations.

(C) Any discrete source of radium-226 that is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity.

(D) Any material that has been made radioactive by use of a particle accelerator and is produced, extracted, or converted after extraction for use for a commercial, medical, or research activity.

(E) Any discrete source of naturally occurring radioactive material, other than source material, that is extracted or converted after extraction for use in a commercial, medical, or research activity, if the Governor, after determination by the NRC, declares by order that the source would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety.

(2) "Commissioner" means the Commissioner of Health.

(3) "Department" means the Department of Health.

~~(5) General license~~ (4) "General license" means a license effective under regulations promulgated by the ~~state~~ State radiation control agency without the filing of an application to transfer, acquire, own, possess, or use quantities of, or devices or equipment utilizing byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(5) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles.

(6) "Nonionizing radiation" means radiations of any wavelength in the entire electromagnetic spectrum except those radiations defined in this section as ionizing. Nonionizing radiations include ultraviolet, visible, infrared, microwave, radiowave, low frequency electromagnetic radiation; infrasonic, sonic, and ultrasonic waves; electrostatic and magnetic fields.

(7) "NRC" means the U.S. Nuclear Regulatory Commission or any successor agency of the United States to the Commission.

~~(8) “Radioactive material” means any material, whether solid, liquid, or gas, that emits ionizing radiation spontaneously. The term includes material made radioactive by a particle accelerator, byproduct material, naturally occurring radioactive material, source material, and special nuclear material.~~

~~(6) Specific license~~ (9) “Specific license” means a license, issued to a named person after application to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

~~(7) The department of health is the state radiation control agency, called the agency herein.~~

~~(8) Source material~~ (10) “Source material” means each of the following:

(A) uranium, thorium, or any combination of those elements, in any physical or chemical form;

~~(B)~~ (B) any other material which the governor that the Governor declares by order to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, NRC has determined the material to be such source material; or

~~(B)(C)~~ (C) ores containing one or more of the foregoing materials, that contain uranium, thorium, or any combination of those elements in a concentration by weight of 0.05 percent or more or in such lower concentration as the governor Governor declares by order to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, NRC has determined the material in such concentration to be source material.

~~(9) Special nuclear material~~ (11) “Special nuclear material” means:

(A) plutonium, uranium ~~223~~ 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material ~~which the governor~~ that the Governor declares by order to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, NRC has determined the material to be such special nuclear material, but does not include source material; or

(B) any material artificially enriched by any of the foregoing elements, isotopes, or materials listed in subdivision (A) of this subdivision (11), but does not include source material.

§ 1652. STATE RADIATION CONTROL

(a) ~~The Department is the radiation control agency for the State of Vermont. The Commissioner of Health may designate the Radiation Control Director of Occupational Health within the Department as the individual who shall perform the functions vested in the agency Department by this chapter.~~

(b) The Agency Department shall, for the protection of the occupational and public health and safety, develop programs for the control of ionizing and ~~non-ionizing~~ nonionizing radiation compatible with federal programs for regulation of byproduct, source, and special nuclear materials.

(c) The Agency Department may adopt, amend, and repeal rules under 3 V.S.A. chapter 25:

(1) ~~which that~~ may provide for licensing and registration for the control of sources of ionizing radiation;

(2) ~~and that may provide~~ for the control and regulation of sources of ~~non-ionizing~~ nonionizing radiation.

(d) The Agency Department shall advise, consult, and cooperate with other agencies of the State, the federal government, other states and interstate agencies, political subdivisions, industries, and with groups concerned with control of sources of ionizing and ~~non-ionizing~~ nonionizing radiation.

(e) Applicants for registration of X-ray equipment shall pay an annual registration fee of \$85.00 per piece of equipment.

(f) Fees collected under this section shall be credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be available to the Department to offset the costs of providing services relating to licensing and registration and controlling sources of ionizing radiation.

§ 1653. FEDERAL-STATE AGREEMENTS

(a) The ~~governor~~ Governor, on behalf of the ~~state~~ State of Vermont, may enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to byproduct, source, and special nuclear materials and the assumption ~~thereof~~ of these responsibilities by the ~~state~~ State of Vermont.

(b) In the event of such agreement:

(1) The agency Department shall provide by rule for general or specific licensing of ~~byproducts~~ byproduct, source, special nuclear materials, or devices or equipment utilizing such materials. The rule shall provide for amendment, suspension, or revocation of licenses. A rule adopted under this subsection

shall be consistent with regulations duly adopted by the NRC except as the Commissioner determines is necessary to protect public health.

(2) The agency Department shall be authorized have authority to:

(A) impose conditions that are individual to a license when necessary to protect public health and safety;

(B) reciprocate in the recognition of specific licenses issued by the NRC or another state that has reached agreement with the NRC pursuant to 42 U.S.C. § 2021(b) (agreement state);

(C) require that licensees and unlicensed individuals comply with the federal statutes and regulations relating to the authority assumed by the Department under this section and with the rules adopted by the Department under this section; and

(D) exempt certain byproduct, source, or special nuclear materials or kinds of uses or users from the licensing or registration requirements set forth in this section when the agency Department makes a finding that the exemption of such materials or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

(3) The Department may collect a fee for licenses issued under this section. The fee schedule for these licenses shall be the schedule adopted by the U.S. Nuclear Regulatory Commission and published in 10 C.F.R. § 170.31 that is in effect as of the effective date of this section. Fees collected under this section shall be credited to the Nuclear Regulatory Fund established and managed under subdivision (4) of this subsection and shall be available to the Department to offset the costs of providing services under this section.

(4) There is established the Nuclear Regulatory Fund to consist of the fees collected under subdivision (3) of this subsection and any other monies that may be appropriated to or deposited into the Fund. Balances in the Nuclear Regulatory Fund shall be expended solely for the purposes set forth in this section and shall not be used for the general obligations of government. All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund, and interest earned by the Fund shall be deposited in the Fund. The Nuclear Regulatory Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5.

~~(3)~~(5) Any person having a license immediately before the effective date of an agreement under subsection (a) of this section from the federal government or agreement state relating to byproduct material, source material, or special nuclear material and which on the effective date of this agreement is subject to the control of this state State shall be considered to have a like license with the state State of Vermont until the expiration date specified in the

license from the federal government or agreement state or until the end of the ~~ninetieth~~ 90th day after the person receives notice from the ~~agency~~ Department that the license will be considered expired.

~~(4)~~(6) The ~~agency~~ Department shall require each person who possesses or uses byproduct, source, or special nuclear materials to maintain records relating to the receipt, storage, transfer, or disposal of such materials and such other records as the ~~agency~~ Department may require subject to such exemptions as may be provided by rule.

~~(5)~~(7) Violations:

(A) ~~It shall be unlawful for any person to~~ A person shall not use, manufacture, produce, transport, transfer, receive, acquire, own, or possess any byproduct, source, or special nuclear material unless licensed by or registered with the ~~agency~~ Department in accordance with the provisions of this chapter or rules adopted under this chapter.

(B) The ~~agency~~ Department shall have the authority in the event of an emergency to impound or order the impounding of byproduct, source, and special nuclear materials in the possession of any person who is not equipped to observe or fails to observe the provisions of this chapter or any rules ~~or regulations issued thereunder~~ adopted under this chapter.

~~(6)~~(8) The provisions of this section relating to the control of byproduct, source, and special nuclear materials shall become effective on the effective date of an agreement between the federal government and this ~~state~~ State as provided in ~~section 1656 of this title~~ subsection (a) of this section.

(c) This section does not confer authority to regulate materials or activities reserved to the NRC under 42 U.S.C. § 2021(c) and 10 C.F.R. Part 150.

§ 1654. INSPECTION

The ~~agency~~ Department or its duly authorized representatives may enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of this chapter and rules and regulations issued thereunder, except that entry into areas under the jurisdiction of the federal government shall be made only with the concurrence of the federal government or its duly designated representative.

§ 1655. HEARINGS AND JUDICIAL REVIEW

(a) In any proceeding under this chapter for the issuance or modification of rules relating to control of byproducts, source, and special nuclear materials; or for granting, suspending, revoking, or amending any license; or for determining compliance with or granting exemptions from rules and regulations of the ~~agency~~ Department, the ~~agency~~ Department shall hold a

public hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to the proceeding, subject to the emergency provisions in subsection (b) of this section.

(b) Whenever the ~~agency~~ Department finds that an emergency exists requiring immediate action to protect the public health and safety, the ~~agency~~ Department may, without notice or hearing, issue ~~a regulation or an~~ order reciting the existence of the emergency and requiring that such action be taken as is necessary to meet it. Notwithstanding any ~~provisions~~ contrary provision of this chapter, the ~~regulation or~~ order shall be effective immediately. Any person to whom the ~~regulation or~~ order is directed shall comply ~~therewith~~ with the order immediately, but on application to the ~~agency~~ Department shall be afforded a hearing within ten days. On the basis of the hearing, the emergency ~~regulation or~~ order shall be continued, modified, or revoked within ten days after the hearing.

(c) Any final order entered in any proceeding under subsections (a) and (b) ~~above of this section~~ shall be subject to judicial review in the ~~superior court~~ Civil Division of the Superior Court.

§ 1656. INJUNCTION PROCEEDINGS

Whenever, in the judgment of the ~~agency~~ Department, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this chapter, or any rule issued thereunder, the ~~attorney general~~ Attorney General shall make application to the appropriate court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the ~~agency~~ Department that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that after passage the title of the bill be amended to read: “An act relating to enabling the Vermont Department of Health to reach an agreement with the Nuclear Regulatory Commission regarding authority over regulation and licensing of radioactive materials”

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in**H. 539**

The Senate proposed to the House to amend House bill, entitled
An act relating to establishment of a Pollinator Protection Committee

In Sec. 1 (Pollinator Protection Committee; report), in subsection (f), after “On or before” and before “, the Pollinator Protection Committee shall submit” by striking out “January 15, 2017” and inserting in lieu thereof December 15, 2016

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in**H. 674**

The Senate proposed to the House to amend House bill, entitled
An act relating to public notice of wastewater discharges

First: In Sec. 1, in 10 V.S.A. § 1295, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Public alert. An operator of a wastewater treatment facility or the operator’s delegate shall as soon as possible, but no longer than one hour from discovery of an untreated discharge from the wastewater treatment facility, post on a publicly accessible electronic network, mobile application, or other electronic media designated by the Secretary an alert informing the public of the untreated discharge and its location, except that if the operator or his or her delegate does not have telephone or Internet service at the location where he or she is working to control or stop the untreated discharge, the operator or his or her delegate may delay posting the alert until the time that the untreated discharge is controlled or stopped, provided that the alert shall be posted no later than four hours from discovery of the untreated discharge.

Second: In Sec. 3, 18 V.S.A. § 1222, in subdivision (a)(1), by striking out “microcystin, anatoxin, and cylindrospermopsin” and inserting in lieu thereof microcystis, anabaena, and aphanizomenon

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in**H. 765**

The Senate proposed to the House to amend House bill, entitled
An act relating to technical corrections

First: After Sec. 46, 17 V.S.A. § 2680, by inserting a new section to be numbered Sec. 46a to read as follows:

Sec. 46a. 18 V.S.A. § 906 is amended to read:

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;
RESPONSIBILITIES

To implement the policy of section 901 of this title, the ~~department of health~~ Department of Health shall be responsible for:

* * *

(3) Developing a statewide system of emergency medical services, including ~~but not limited to~~ planning, organizing, coordinating, improving, expanding, monitoring, and evaluating emergency medical services.

* * *

Second: After Sec. 50, 18 V.S.A. § 4243, by inserting a new section to be numbered Sec. 50a to read as follows:

Sec. 50a. 18 V.S.A. § 4631a is amended to read:

§ 4631a. EXPENDITURES BY MANUFACTURERS OF PRESCRIBED
PRODUCTS

(a) As used in this section:

* * *

(5) “Gift” means:

(A) anything of value provided for free to a health care provider or to a member of the Green Mountain Care Board established in chapter 220 of this title; or

(B) except as otherwise provided in ~~subdivision~~ subdivisions (a)(1)(A)(ii) and (a)(1)(H)(ii) of this section, any payment, food, entertainment, travel, subscription, advance, service, or anything else of value provided to a health care provider or to a member of the Green Mountain Care Board established in chapter 220 of this title, unless:

* * *

Third: After Sec. 51, 18 V.S.A. § 8839(2), by inserting a new section to be numbered Sec. 51a to read as follows:

Sec. 51a. 18 V.S.A. § 9454 is amended to read:

§ 9454. HOSPITALS; DUTIES

(a) Hospitals shall file the following information at the time and place and in the manner established by the board:

- (1) a budget for the forthcoming fiscal year;
- (2) financial information, including ~~but not limited to~~ costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges, units of services, and wage and salary data;
- (3) scope-of-service and volume-of-service information, including ~~but not limited to~~ inpatient services, outpatient services, and ancillary services by type of service provided;

* * *

Fourth: After Sec. 61, 26 V.S.A. § 3001(1), by inserting a new section to be numbered Sec. 61a to read as follows:

Sec. 61a. 26 V.S.A. § 3178a is amended to read:

§ 3178a. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

- (1) Application for agency license:
 - (A) Investigative agency \$340.00
 - (B) Security agency \$340.00
 - (C) Investigative/security agency \$400.00
 - (D) Sole proprietor \$250.00
- (2) Application for individual license:
 - (A) Unarmed licensee \$150.00
 - (B) Armed licensee \$200.00
- (3) Application for employee registration:
 - (A) Unarmed registrants \$60.00
 - (B) Armed registrants \$120.00
 - (C) Transitory permits 60.00
- (4) Biennial renewal:
 - (A) Investigative agency \$300.00
 - (B) Security agency \$300.00
 - (C) Investigative/security agency \$300.00

(D) Unarmed licensee	\$120.00
(E) Armed licensee	\$180.00
(F) Unarmed registrants (agency employees)	\$80.00
(G) Armed registrants (agency employees)	\$130.00
(H) Sole proprietor	\$250.00
(5) Instructor licensure:	
(A) Application for licensure	\$120.00
(B) Biennial renewal	\$180.00

~~(6)~~(b) A sole proprietor of an investigative agency or security agency shall only pay the sole proprietor fees pursuant to this section, provided the agency has no other registered investigative or security employees.

Which proposal of amendment was considered and concurred in.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 778

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

An act relating to State enforcement of the federal Food Safety Modernization Act

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

Sec. 1. 6 V.S.A. chapter 66 is added to read:

CHAPTER 66. PRODUCE INSPECTION

§ 851. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farm” means lands that are owned or leased by a person engaged in any of the activities stated in 10 V.S.A. § 6001(22).

(3) “Produce” shall have the same meaning as used in 21 C.F.R. § 112.3.

(4) “Produce farm” means any farm engaged in the growing, harvesting, packing, or holding of produce.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

§ 852. AUTHORITY; ENFORCEMENT

(a) The Secretary may enforce in the State the requirements of the rules adopted under the federal Food Safety Modernization Act, Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption, 21 C.F.R. part 112.

(b) The Agency may collaborate with the Vermont Department of Health regarding application of the federal Food Safety Modernization Act and the rules adopted thereunder.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) Unless the circumstances warrant otherwise, the Secretary shall provide reasonable notice prior to inspection.

(3) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.

(c) The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

§ 854. RECORDS

The owner or operator of a produce farm shall maintain records required by the federal Food Safety Modernization Act, rules adopted thereunder, and rules adopted under this chapter and shall make those records available to the Agency upon request.

§ 855. RULES

The Secretary may adopt rules pursuant to 3 V.S.A. chapter 25 as may be necessary to implement this chapter.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Purvis of Colchester** moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

In Sec. 1, 6 V.S.A. § 853, by striking out subdivision (a)(2) in its entirety and renumbering the subsequent subdivision to be numerically correct

Which was agreed to.

Senate Proposal of Amendment Concurred in

H. 824

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

An act relating to the adoption of occupational safety and health rules and standards

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

Sec. 1. [Deleted.]

Which proposal of amendment was considered and concurred in.

Adjournment

At five o'clock and fifty-seven minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.