

Journal of the Senate

TUESDAY, JANUARY 23, 2018

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Rabbi Tobie M. Weisman of Montpelier.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 42.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Ashe,

J.R.S. 42. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 26, 2018, it be to meet again no later than Tuesday, January 30, 2018.

Bill Amended; Third Reading Ordered

S. 101.

Senate bill entitled:

An act relating to the conduct of forestry operations.

Was taken up.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Agriculture?, Senators Branagan, Sirotkin and Starr moved to amend the recommendation of amendment of the Committee on Agriculture as follows:

First: In Sec. 1, 12 V.S.A. § 5756 in subdivision (4) by striking out subparagraph (B) in its entirety and inserting in lieu thereof the following:

(B) the primary processing of forest products at a site that is not the harvest site, provided that:

(i) the person conducting the forestry operations owns or has permission to use the site for the forestry operation;

(ii) the forestry operation was established prior to surrounding activities that are not forestry operations;

(iii) the site is used by the forestry operation for 12 or fewer months in any two-year period or 24 or fewer months in any five-year period;

(iv) the forestry operation complies with all applicable law; and

(v) only portable, nonpermanent equipment is used to process the forest products at the site.

Second: In Sec. 1, by striking out 12 V.S.A. § 5757 in its entirety and inserting in lieu thereof the following:

§ 5757. FORESTRY OPERATIONS; PROTECTION FROM NUISANCE LAWSUITS

(a) Except as provided for under subsections (b) and (c) of this section, a person conducting a conventional forestry practice shall be entitled to a rebuttable presumption that the conventional forestry practice does not constitute a public or private nuisance if the person conducts the conventional forestry practice in compliance with the following:

(1) the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner under 10 V.S.A. § 2622; and

(2) other applicable law.

(b) The presumption under subsection (a) of this section that a person conducting a conventional forestry practice does not constitute a nuisance may be rebutted by showing that a nuisance resulted from:

(1) the negligent operation of the conventional forestry practice; or

(2) a violation of State, federal, or other applicable law during the conduct of the conventional forestry practice.

(c) Upon motion of a complaining party, there shall be no presumption under subsection (a) of this section that conventional forestry practice does not constitute a nuisance, if a court determines that the conventional forestry practice has a substantial adverse effect on health, safety, or welfare, or has a noxious and significant interference with the use and enjoyment of the property that the complaining party owns or controls.

(d) Nothing in this section shall be construed to limit the authority of State or local boards of health to abate nuisances affecting the public health.

Thereupon, the report of the Committee on Agriculture was amended as recommended by Senators Branagan, Sirotkin and Starr.

Thereupon, the question Shall the bill be amended as recommended by the Committee on Agriculture, as amended?, was agreed to and third reading of the bill was ordered on a roll call, Yeas 27, Nays 1.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, Mazza, McCormack, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

The Senator who voted in the negative was: MacDonald.

Those Senators absent and not voting were: Benning, Nitka.

Third Reading Ordered

S. 291.

Senator Pearson, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the annual town meeting of the unified towns and gores of Essex County and to the appraisers and supervisors of all unorganized towns and gores.

Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Message from the House No. 6

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 568. An act relating to approval of amendments to the charter of the Town of Barre.

H. 633. An act relating to fiscal year 2018 budget adjustments.

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

The Governor has informed the House that on the January 22, 2018, he approved and signed a bill originating in the House of the following title:

H. 511. An act relating to eliminating penalties for possession of limited amounts of marijuana by adults 21 years of age or older.

Adjournment

On motion of Senator Ashe, the Senate adjourned until twelve o'clock and fifty-fifty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Bills Referred

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

H. 568.

An act relating to approval of amendments to the charter of the Town of Barre.

To the Committee on Government Operations.

H. 633.

An act relating to fiscal year 2018 budget adjustments.

To the Committee on Appropriations.

Joint Assembly

At one o'clock in the afternoon, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 39. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

The Senate repaired to the hall of the House.

Having returned therefrom, at one o'clock and fifty minutes in the afternoon, the President assumed the Chair.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Wednesday, January 24, 2018.