

# Journal of the Senate

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FRIDAY, APRIL 24, 2009

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Nancy McHugh of Waitsfield.

## Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

### H. 152.

An act relating to encouraging biomass energy production.

## Bills Referred to Committee on Finance

House bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

**H. 15.** An act relating to aquatic nuisance control.

**H. 83.** An act relating to underground storage tanks and the petroleum cleanup fund.

## Bill Referred

House bill of the following title was read the first time and referred:

### H. 297.

An act relating to approval of the adoption of the charter of the Morristown Corners Water Corporation.

To the Committee on Government Operations.

## Joint Resolutions Placed on Calendar

### J.R.S. 31.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senators Campbell and Sears,

Joint resolution urging Congress to address the dramatic rise of electronic payment interchange rates that merchants and consumers are assessed.

*Whereas*, consumers are increasingly using credit and debit card electronic payment systems to purchase goods and services, and annually these purchases now exceed the number of check transactions, and

*Whereas*, in order for merchants to accept these payment systems, merchants are required to pay interchange fees to banks and credit card providers, and

*Whereas*, these interchange fees are usually hidden and not disclosed to the consumer, and

*Whereas*, the interchange fees are ultimately passed on to the consumers, including those who pay with cash or a check and who, in effect, subsidize rewards given to credit card customers, and

*Whereas*, the number of rewards cards in circulation is rapidly increasing, and the new rewards cards are more costly for both merchants and consumers, and

*Whereas*, the interchange fees, including those paid on food and gasoline, are typically almost double the profit margin of the merchant, and the resulting impact on consumer prices is significant, and on each transaction, the bank or credit card provider earns a higher amount than the amount of the merchant's net profit, and

*Whereas*, traditional economic models are not applicable because only a few businesses process these electronic payment transactions, and merchants are forced to accept terms dictated, often without notice or recourse, and

*Whereas*, small businesses struggle to absorb the constant increases in the cost of accepting electronic payments, and

*Whereas*, it is advantageous that economic models facilitate a highly competitive marketplace, and

*Whereas*, the increased consumer use of electronic payments requires Congress to assure the existence of a highly competitive and vibrant market that promotes an economic playing field that is fair to consumers, merchants and card providers, *now therefore be it*

***Resolved by the Senate and House of Representatives:***

That the General Assembly urges Congress to address the current anticompetitive nature of credit and debit interchange fees charged to merchants and consumers, *and be it further*

**Resolved:** That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**J.R.S. 32.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Campbell,

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to enter into land exchanges and to sell a portion of Camel's Hump State Park.

*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*, 29 V.S.A. § 166(b) authorizes the Commissioner of Buildings and General Services, upon authorization of the General Assembly, which may be by resolution, and with the advice and consent of the Governor, to sell real estate owned by the State, 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:

(1) Amend the ski area lease on Okemo Mountain at Okemo State Forest to provide for three (3) additional ten-year extension periods.

(2) Convey a limited right-of-way in common along a portion of a state forest highway locally known as "Rangers Road" to the owners of lots 42, 43, 44, 45 and 46 located adjacent to a portion of Coolidge State Forest in the Town of Plymouth and a separate limited right-of-way across a portion of state forest land to the owners of lot 42. The right-of-way in common shall begin at the western most end of town highway 38 and shall extend westerly along Rangers Road to the adjoining private parcels. The right-of-way in common shall be limited to vehicular access to the existing lots only and does not include the right to install power or telephone lines within the right-of-way. The Department may gate or close this portion of Rangers Road for maintenance purposes or if unsafe conditions exist. However, the Department shall not be obligated to maintain this right-of-way in common beyond what it deems necessary for its own purposes. In exchange for this right-of-way in

common, the owners of lots 42, 43, 44, 45 and 46 shall agree not to further subdivide their parcels; to limit development on their parcels to one primary residential structure; and to relinquish any claim they may have for an alternative right-of-way by necessity to the west of the parcels from town highway 4 (Messer Hill Road). Additionally, as a condition of this conveyance, the owners of lots 43, 44, 45 and 46 shall agree to convey a right-of-way to the Department of Forests, Parks and Recreation along the portion of the state forest highway that crosses their respective parcels.

A separate limited right-of-way across state forest land to the owners of Lot 42 shall be limited to vehicular access to lot 42 as it currently exists and one primary residential structure only. The maintenance of this right-of-way shall be the sole responsibility of the owners of lot 42. In exchange for this limited right-of-way, the owners of lot 42 shall ensure through the conveyance of restrictive covenants to the Department or the conveyance of an easement or other legal mechanism approved by the Department that lot 42 will not be further subdivided or developed. As a condition to any conveyance of this limited right-of-way, the owner of lot 42 shall also demonstrate that he or she has legal, permanent access from the end of the state's right-of-way across adjacent private lands to lot 42.

(3) Sell to an interested party a portion of Camel's Hump State Park containing the so-called Lafreniere House located in the Town of Bolton. The property to be sold is considered surplus by the Department of Forests, Parks and Recreation and shall be so configured to include only that acreage deemed necessary to encompass the Lafreniere House and associated out buildings, structures, facilities and access drives. The barns located on this property may also be included in the sale if it is deemed in the best interest of the State to include them. The Department of Forests, Parks and Recreation shall arrange for an independent appraisal of this parcel and shall ensure that any sale to a private party is at least equal to the property's appraised fair market value. The Department shall provide an opportunity for any and all interested parties to submit proposals for the purchase of this parcel and will work closely with the Town of Bolton to ensure their interests and needs are carefully considered prior to any sale or conveyance of this property. Any sale shall be contingent on the approval of the Vermont housing and conservation board and shall include any legal restrictions deemed necessary to maintain the historic integrity and open space character of the property. Pursuant to the provisions of subsection 166(d) of Title 29, the general assembly hereby authorizes that the net proceeds of this transaction shall be used by the department to cover all expenses associated with the sale of this property with the balance to be deposited in the Vermont Housing and Conservation Trust Fund.

(4) Exchange, sell, or lease a 10± acre portion of Victory State Forest to the town of Victory to be used for a new town garage in exchange for land or other consideration of equivalent or greater value to the state or both. Any conveyance or lease of state forest land shall be contingent on the following: (1) the town of Victory must conduct an engineering assessment of the state forest parcel which demonstrates that the site is suitable for the town's intended purposes; (2) the town of Victory must assume any and all associated costs, including appraisal, survey, permitting and legal; (3) the final proposal, including the consideration offered by the town to the state for the exchange, sale or lease of the state forest parcel, is approved by both the Department of Forests, Parks and Recreation and the Vermont Housing and Conservation Board; and (4) pursuant to subsection 166(d) of title 29, the General Assembly hereby authorizes that the net proceeds of any sale of the state forest parcel shall be deposited in the Vermont Housing and Conservation Trust Fund.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

### **Proposals of Amendment; Third Reading Ordered**

#### **H. 26.**

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

An act relating to plans for treatment of unmarked burial sites.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 5212b is amended to read:

#### **§ 5212b. UNMARKED BURIAL SITES SPECIAL FUND; REPORTING OF UNMARKED BURIAL SITES**

(a) The unmarked burial sites special fund is established in the state treasury for the purpose of protecting, preserving, moving or reinterring human remains discovered in unmarked burial sites.

(b) The fund shall be comprised of any monies appropriated to the fund by the general assembly or received from any other source, private or public. Interest earned on the fund, and any balance remaining in the fund at the end of a fiscal year, shall be retained in the fund. This fund shall be maintained by the state treasurer, and shall be managed in accordance with subchapter 5 of chapter 7 of Title 32.

(c) The commissioner of housing and community affairs may authorize disbursements from the fund for use in any municipality in which human remains are discovered in unmarked burial sites in accordance with a process approved by the commissioner. The commissioner shall approve any process developed through consensus or agreement of the interested parties, including the municipality, ~~the governor's advisory commission on Native American affairs~~ Native American tribes based in Vermont, ~~and~~ private property owners of property on which there are known or likely to be unmarked burial sites, and any other appropriate interested parties, provided the commissioner determines that the process is likely to be effective, and includes all the following:

(1) Methods for determining the presence of unmarked burial sites, including archaeological surveys and assessments and other nonintrusive techniques.

(2) Methods for handling development and excavation on property on which it is known that there is or is likely to be one or more unmarked burial sites.

(3) Options for owners of property on which human remains in unmarked burial sites are discovered or determined to be located.

(4) Procedures for protecting, preserving or moving unmarked burial sites and human remains, subject, where applicable, to the permit requirement and penalties of this chapter.

(5) Procedures for resolving disputes.

(d) If unmarked burial sites and human remains are removed, consistent with the process set forth in this section and any permit required by this chapter, there shall be no criminal liability under 13 V.S.A. § 3761.

(e) The funds shall be used for the following purposes relating to unmarked burial sites:

(1) To monitor excavations.

(2) To protect, preserve, move, or reinter unmarked burial sites and human remains.

(3) To perform archaeological assessments and archaeological site or field investigations, including radar scanning and any other nonintrusive technology or technique designed to determine the presence of human remains.

(4) To provide mediation and other appropriate dispute resolution services.

(5) To acquire property or development rights, provided the commissioner of housing and community affairs determines that disbursements

for this purpose will not unduly burden the fund, and further provided the commissioner shall expend funds for this purpose only with the concurrence of the secretary of commerce and community development and after consultation with the legislative bodies of any affected municipality or municipalities.

(6) Any other appropriate purpose determined by the commissioner to be consistent with the purposes of this fund.

(f) When an unmarked burial site is first discovered, the discovery shall be reported immediately to a law enforcement agency or the state medical examiner. If, after completion of an investigation pursuant to section 5205 of this title, a medical examiner determines that the burial site does not fall under the examiner's purview, the medical examiner shall immediately notify the state archeologist.

(g) The commissioner may adopt rules to carry out the intent and purpose of this section.

## Sec. 2. UNMARKED BURIAL SITE TREATMENT PLAN COMMITTEE

(a) The unmarked burial site treatment plan committee is created to develop procedures for addressing issues relating to known or discovered unmarked burial sites of human remains including developing treatment plans to be used when an unmarked burial site is discovered on private property. The committee is comprised of nine members to include:

(1) The commissioner of housing and community affairs or the commissioner's designee.

(2) The state archeologist or designee.

(3) A representative from the Vermont League of Cities and Towns, Inc.

(4) A representative from a Native American tribe based in Vermont who has experience in handling unmarked burial sites, appointed by the commissioner of housing and community affairs.

(5) A federal archeologist from the Natural Resources Conservation Service of the U.S.D.A.

(6) The U.S. Forest Service, Green Mountain National Forest archeologist.

(7) The director of the University of Vermont consulting archeology program.

(8) A representative from the Vermont Bankers Association Inc.

(9) A representative from the Home Builders and Remodelers Association of Vermont.

(b) The committee shall:

(1) Develop procedures for responding to reports of a discovery of an unmarked burial site, which for the purposes of this section means the location of any interment of human remains, evidence of human remains, including the presence of red ochre, associated funerary objects, or a documented concentration of burial sites, but does not include a cemetery, mausoleum, or columbarium or any other site that is clearly marked as a site containing human remains.

(2) Develop various treatment plans for addressing issues when an unmarked burial site is discovered on private property. A treatment plan is an outline of the process for providing appropriate and respectful treatment of the burial site while considering the rights of the landowner. Each treatment plan shall include one or all of the following:

(A) Methods for determining the presence of an unmarked burial site, including archeological surveys and assessments and other nonintrusive techniques.

(B) Methods for handling development and excavation on property on which there is a known burial site or likely to be one.

(C) Options for owners of property on which human remains are discovered or known to be located.

(D) Procedures for protecting, preserving, and moving the burial site and the human remains.

(E) Time frames for implementation of the plan.

(F) Procedures for resolving disputes among stakeholders.

(3) The committee shall issue a written report outlining the procedures and treatment plans to the house committee on general, housing and military affairs and the senate committee on economic development, housing and general affairs on or before January 15, 2010.

Sec. 3. 33 V.S.A. § 2301 is amended to read:

§ 2301. BURIAL RESPONSIBILITY

(a)(1) When a person dies in this state, or a resident of this state dies within the state or elsewhere, and the decedent was a recipient of assistance under Title IV or XVI of the Social Security Act, or nursing home care under Title XIX of the Social Security Act, or assistance under state aid to the aged, blind or disabled, or an honorably discharged veteran of any branch of the U.S. military forces to the extent funds are available and to the extent authorized by department regulations, the decedent's burial shall be arranged and paid for by



the department if the decedent was without sufficient known assets to pay for burial. The department shall pay burial expenses when arrangements are made other than by the department to the maximum permitted by its regulations. In any case where other contributions are made these payments shall be deducted from the amount otherwise paid by the department but in no case is the department responsible for any payment when the person arranging the burial selects a funeral the price of which exceeds the department's maximum.

\* \* \*

~~(c) When a person other than one described in subsection (a) or (b) of this section dies in the town of domicile without sufficient known assets to pay for burial, the burial shall be arranged and paid for by the town. The department shall reimburse the town up to \$250.00 for expenses incurred.~~

~~(d) In all other cases the department shall arrange for and pay for the burial of persons who die in this state or residents of this state who die within the state or elsewhere when such persons are without sufficient known assets to pay for their burial.~~

(e) [Omitted.]

(f) In all cases where the department is responsible for funeral ~~and/or~~ or burial expenses or both under this chapter, the department shall provide, by rule, the specific services that are to be provided at public expense, and, on an itemized basis, the maximum price to be paid by the department for each such service.

(g) For the purpose of this chapter, "burial" means the act of interring or cremating the human dead and the ceremonies directly related to that cremation or interment at the gravesite; and "funeral" means the ceremonies prior to burial of the body by interment, cremation or other method.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

and that the bill title be amended to read: "An act relating to treatment of unmarked burial sites and payment for burial of indigent persons"

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Illuzzi moved to amend the proposal of amendment of the Committee

on Economic Development, Housing and General Affairs by striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. 20 V.S.A. §§ 1581, 1582, and 1583 are amended to read:

§ 1581. VERMONT VETERANS' MEMORIAL CEMETERY ~~ADVISORY~~ BOARD

(a) The Vermont veterans' memorial cemetery ~~advisory~~ board is created to ~~advise the adjutant general on~~ determine all matters relating to the establishment and operation of a Vermont veterans' memorial cemetery to be known as the Vermont Veterans' Memorial Cemetery. The board shall consist of:

(1) The ~~commissioner of the department of buildings and general services;~~ adjutant general or designee, who shall serve as chair of the board.

(2) The commissioner of the department of buildings and general services or designee.

(3) One member of the senate ~~who shall be~~ appointed by the senate committee on committees.

~~(3)~~(4) One member of the house ~~who shall be~~ appointed by the house speaker.

~~(4)~~(5) Four individuals who represent veterans or are members of a veterans' organization, ~~to be~~ appointed by the governor for staggered terms of six years.

~~(5)~~(6) One individual who represents the Vermont granite, Vermont slate, or Vermont marble industry selected by the governor for a six-year term.

(b) The office of the adjutant general shall provide administrative support to the board.

(c) For each meeting, legislative members ~~shall be~~ are entitled to receive compensation and reimbursement for expenses as provided under subsection 406(a) of Title 2. ~~The , and~~ members representing veterans or from veterans' organizations ~~shall be~~ are entitled to per diem as provided in section 1010 of Title 32 and their necessary and actual expenses.

§ 1582. RULES; DAILY OPERATIONS

(a) Vermont veterans' memorial cemetery ~~advisory~~ board ~~may~~ shall adopt rules ~~under the provisions of chapter 25 of Title 3~~ relating to acquisition of land, design of the cemetery, its buildings and grave markers, eligibility for burial, and any other matters necessary to establish and maintain the Vermont veterans' memorial cemetery.

(b) Daily operations shall be overseen by the adjutant general.

§ 1583. ADJUTANT GENERAL; POWERS AND DUTIES

(a) The adjutant general, subject to available funds and with the advice and consent of the Vermont veterans' memorial cemetery ~~advisory committee board~~, shall administer the creation, establishment, operation, and maintenance of the Vermont veterans' memorial cemetery.

\* \* \*

Sec. 5. AMENDMENT OF ACT 250 PERMIT

The adjutant general, the Vermont veterans' memorial cemetery board, and the agency of natural resources shall determine whether there is an environmentally safe alternative to Condition 6 of Land Use Permit # 3RO676 issued on August 20, 1991, which requires that all corpses be embalmed. No later than September 1, 2009, the adjutant general on behalf of the board may apply to the district 3 environmental commission for an amendment to that permit.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

The Senate further proposes to the House to amend the title to read as follows:

An act relating to treatment of unmarked burial sites, the operation of the Vermont Veterans' Memorial Cemetery, and payment for burial of indigent persons.

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs as amended?, Senator Illuzzi moved to amend the proposal of amendment of the Committee on Economic Development, Housing and General Affairs as amended, in Sec. 3, 33 V.S.A., § 2301(c) by adding after the deleted language the following: Notwithstanding any provision of law to the contrary, the Commissioner is authorized in his or her discretion to pay for no more than five burials per year as described in subsection (c) of this section when the facts surrounding the person's place of death are in dispute.

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Economic Development, Housing and General Affairs, as amended, be amended as recommended by Senator Illuzzi?, Senator Illuzzi requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs, as amended? was agreed to.

Thereupon, third reading of the bill was ordered.

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

**H. 438.**

House bill entitled:

An act relating to the state's transportation program.

Was taken up.

Thereupon, pending third reading of the bill, Senator Brock moved that the Senate proposal of amendment be amended as follows

First: By striking out Secs. 64, 65, 66, 67, 68, 69, and 70 in their entirety.

Second: In Sec. 71, 23 V.S.A. § 304c(a) by striking out the strikethroughs and the words "The plate"

Which was disagreed to on a roll call, Yeas 3, Nays 25.

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

**Roll Call**

**Those Senators who voted in the affirmative were:** Brock, Giard, McCormack.

**Those Senators who voted in the negative were:** Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, Miller, Nitka, Scott, Sears, Shumlin, Snelling, Starr, White.

**Those Senators absent and not voting were:** Mullin, Racine.

Thereupon, pending third reading of the bill, Senators Kittell and Brock moved that the Senate proposal of amendment be amended in Sec. 89(b), by adding two new sentences at the end to read as follows: VTrans is additionally instructed to enter into a discussion with the department of buildings and general services to examine alternatives for the facility at Highgate on the Vermont-Canadian border. VTrans is directed to report to the members of the house and senate committees on transportation and on appropriations by January 15, 2010.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Kitchel on behalf of the Committee on Transportation moved that the Senate propose to the House to as follows

First: By striking out Sec. 23 in its entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

Sec. 23. 32 V.S.A. § 980 is added to read:

§ 980. AUTHORITY TO ISSUE TRANSPORTATION INFRASTRUCTURE BONDS

The state treasurer is authorized to issue transportation infrastructure bonds pursuant to 32 V.S.A. § 972 for the purpose of funding future appropriations only as approved by the general assembly.

Second: In Sec. 53, by striking out subdivisions (2)(B) and (C)

Third: In Sec. 94, 23 V.S.A. § 1432(a)(2), as renumbered, after the following: "in excess of 75 feet," by striking out the word "or" and inserting in lieu thereof the word "and"

Fourth: In Sec. 94, 23 V.S.A. § 1432(d) as renumbered, by striking out the number "60" and inserting in lieu thereof the number "75"

Fifth: By striking out Sec. 95 in its entirety

Sixth: By adding a Sec. 101a to read as follows:

Sec. 101a. SPENDING AUTHORITY

To balance the budget, total spending authority on the transportation program is reduced by \$396,566. The project or program changes required to implement this reduction shall be determined by the secretary of transportation.

And by renumbering all Secs. to be numerically correct.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Shumlin, on behalf of the Committee on Transportation, moved that the Senate proposal of amendment be amended by striking out Sec. 74 in its entirety and inserting in lieu thereof a new Sec. 74 to read as follows:

Sec. 74. 19 V.S.A. § 2309 is amended to read:

§ 2309. LIABILITY OF LANDOWNER

No landowner shall be liable for any property damage or personal injury sustained by any person who is using, for any purpose permitted by state law or by a municipal ordinance, bicycle routes or sidewalks constructed on the landowner's property pursuant to this chapter, unless the landowner charges a

fee for the use of the property. Landowner immunity from liability with regard to sidewalks under this section shall not extend to damage or injury to the extent that it arises from the negligent, reckless or willful acts of the landowner.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment on a roll call, Yeas 26, Nays 0.

Senator Mazza 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, Brock, Campbell, Carris, Choate, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Nitka, Scott, Sears, Shumlin, Snelling, Starr, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent and not voting were:** Bartlett, Cummings, Mullin, Racine.

### **Proposal of Amendment Amended; Bill Passed in Concurrence with Proposals of Amendment**

#### **H. 445.**

House bill entitled:

An act relating to capital construction and state bonding.

Was taken up.

Thereupon, pending third reading of the bill, Senators Illuzzi, Bartlett, Kitchel, Miller, Sears, Shumlin and Snelling move to amend the Senate proposal of amendment as follows:

First: In Sec. 1 (4) by striking "8,006,508" and inserting in lieu thereof "8,156,508", and at the end of the Sec. by striking "\$27,656,508" and inserting in lieu thereof "\$27,806,508"

Second: In Sec. 3(b), at the end of the sec by striking "250,000" and inserting in lieu thereof "1,000,000", and by striking "\$2,030,000" and inserting in lieu thereof "\$2,780,000"

Third: By striking Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read:

Sec. 14. CRIMINAL JUSTICE TRAINING COUNCIL; PHASE I, PROFESSIONAL RANGE DESIGN

(a) The sum of \$800,000 is appropriated to the department of buildings and general services for the Vermont Criminal Justice Training Council to:

(1) design and construct a new firing range; and

(2) purchase and locate a three-lane modular firing unit in Pittsford. The project shall be phased.

(b) Before finalizing design of the range, the commissioner shall consult with an experienced range consultant professional to ensure the project is optimally designed.

Total Appropriation – Section 14

\$800,000

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Scott on behalf of the Committee on Institutions moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 4a to read as follows:

Sec. 44a. 16 V.S.A. §3453a is amended to read:

§ 3453A. EMERGENCY OPERATION CENTERS AND SHELTERS

Any school building ~~for which state construction aid is provided under this chapter for the purpose of its construction, reconstruction or expansion, and which is or~~ may be designated as a local, regional or state emergency operation center or shelter, shall be designed for use as an emergency operations center or shelter. For this purpose, the proposed project shall include the installation of a wiring harness capable of being connected to emergency electric power generation to provide for emergency heating, lighting and communications. The wiring installation cost to upgrade emergency facilities shall be included in the budgets submitted to the legislature for capital funding pursuant to section 309 of Title 32. The state shall pay 100 percent of such costs, which shall at the department level be itemized and accounted for separately from those costs in which the state only shares in the project cost. The state shall not pay for the costs of purchasing the generator.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Scott on behalf of the Committee on Institutions moved that the Senate proposal of amendment be amended by adding a new Section to be numbered Sec. 44b to read as follows

Sec. 44b. Sec. 32(e)(2) of Act No. 200 of the Acts of 2008 is amended to read:

(2) the transaction is limited to no more than ~~three~~ ten acres of land or mineral rights;

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Nitka, Campbell and McCormack moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec. 40a to read as follows:

Sec. 40a. SALE OF NATIONAL GUARD PROPERTY IN LUDLOW

Notwithstanding 20 V.S.A. § 542, if the board of armory commissioners sells the armory and associated land in Ludlow to the town of Ludlow, it shall sell the property at the fair market value amount reduced by an amount equal to the current fair market value of any land donated by the town of Ludlow or the Ludlow town school district for the armory.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Shumlin and White moved that the Senate proposal of amendment be amended by adding a new section to be numbered Sec 26a to read as follows:

Sec. 26a. CAPITAL CONSTRUCTION; WINDHAM COUNTY; AUTHORITY TO BORROW

Notwithstanding the provisions of 24 V.S.A. § 82, the Windham County assistant judges are authorized to borrow up to \$200,000.00 for the purpose of renovating and restoring the Windham county sheriff's office pursuant to the budget adopted by the judges on January 16, 2009, without a further vote of the county electorate. The judges may mortgage county property or obtain an unsecured loan for this purpose. Any project constructed pursuant to this section shall be completed within two years of passage of this act.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 27, Nays 0.

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



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**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Brock, Campbell, Carris, Choate, Cummings, Doyle, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Maynard, Mazza, McCormack, Miller, Nitka, Racine, Scott, Sears, Snelling, Starr, White.

**Those Senators who voted in the negative were:** None.

**Those Senators absent and not voting were:** Bartlett, Mullin, Shumlin.

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

**H. 26.**

Pending entry on the Calendar for action, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to plans for treatment of unmarked burial sites.

Was taken up for immediate consideration.

Thereupon, pending third reading of the bill, Senator Illuzzi moved that the Senate proposal of amendment be amended in Sec. 3, 33 V.S.A., § 2301 by adding subdivision (h) to read as follows:

(h) Notwithstanding any provision of law to the contrary, the commissioner is authorized, in his or her discretion, to pay for not more than five burials per year as described in subsection (c) of this section when the facts so warrant.

Which was agreed to.

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

**Proposal of Amendment; Third Reading Ordered**

**H. 249.**

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

An act relating to volunteer nonprofit service organizations and casino nights.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 2143(d) is amended to read:

(d) Casino events shall be limited as follows:

(1) A location may be the site of no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

(2) A location that is owned by a nonprofit, as defined in 32 V.S.A. § 10201(5) may be the site of no more than three casino events in any calendar quarter and no more than 12 casino events in any calendar year as long as there are at least 15 days between each event.

(3) A nonprofit organization, as defined in 32 V.S.A. § 10201(5), may organize and execute no more than:

(A) one casino event in any calendar quarter; or

(B) three casino events in any calendar year, as long as there are at least 15 days between each event.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill title be amended to read:

“An act relating to nonprofit service organizations and casino nights.”

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Carris moved to amend the proposal of amendment of the Committee on Economic Development, Housing and General Affairs as follows:

First: In 32 V.S.A. §10203(f) by adding a new subdivision (5) to read as follows:

(5) Reasonable costs of the licensed premises for selling the break-open tickets, provided the purpose of the nonprofit organization is to provide housing for homeless people.

Second: By adding a new section to be numbered Sec. 2 to read as follows:

## Sec. 2 SUNSET

32 V.S.A. §10203(f)(5) shall sunset on March 1, 2010.

And that upon passage that the title of the bill be amended to read as follows:

“An act relating to nonprofit service organizations and casino nights.”

Thereupon, pending the question, Shall the proposal of amendment of the Committee on Economic Development, Housing and General Affairs be amended as recommended by Senator Carris?, Senator Carris requested and was granted leave to withdraw his proposal of amendment.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Institutions, as amended? was agreed to.

Thereupon, third reading of the bill was ordered.

**House Proposal of Amendment To Senate Proposal of Amendment Not  
Concurred In; Committee of Conference Requested; Committee of  
Conference Appointed**

**H. 91.**

House proposal of amendment to Senate bill entitled:

An act relating to technical corrections to the juvenile judicial proceedings act of 2008.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

In Sec. 2, 33 V.S.A. § 5123, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) The commissioner of the department for children and families shall ensure that all reasonable and appropriate measures consistent with public safety are made to transport or escort a child subject to this chapter in a manner that:

(1) avoids physical and psychological trauma;

(2) respects the privacy of the individual; and

(3) represents the least restrictive means necessary for the safety of the child.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, on motion of Senator Nitka, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Thereupon, pursuant to the request of the Senate, the President announced the appointment of

Senator Nitka  
Senator Mullin  
Senator Sears

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

### **Joint Resolutions Adopted in Concurrence**

Joint House resolutions entitled:

**J.R.H. 22.** Joint resolution honoring municipal public works employees and designating May 17-23 as Public Works Week in Vermont.

**J.R.H. 23.** Joint resolution relating to the preservation of Vermont's streams and rivers.

Having been placed on the Calendar for action, were taken up.

Thereupon, the resolutions were adopted collectively in concurrence.

### **Third Reading Ordered**

#### **H. 64.**

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

An act relating to eligibility for the state youth hunting programs.

Reported that the bill ought to pass in concurrence.

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

### **Bill Passed**

Senate bill of the following title:

**S. 117.** An act relating to the date of the primary election.

Was read the third time and passed on a roll call, Yeas 21, Nays 7.

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

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**Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Bartlett, Campbell, Carris, Choate, Cummings, Flanagan, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, McCormack, Miller, Nitka, Racine, Sears, Shumlin, White.

**Those Senators who voted in the negative were:** Brock, Doyle, Maynard, Mazza, Scott, Snelling, Starr.

**Those Senators absent and not voting were:** Ashe, Mullin.

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

**H. 26.**

Assuring the Chair that he voted with the majority whereby the bill was passed in concurrence by the Senate, Senator Illuzzi moved that the Senate reconsider its action on House bill entitled:

An act relating to plans for treatment of unmarked burial sites.

Which was agreed to.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Illuzzi requested and was granted leave to offer an amendment after third reading.

Thereupon, pending the question, Shall the bill pass in concurrence with proposal of amendment?, Senator Illuzzi moved that Senate proposal of amendment be amended by striking out Sec. 6 in its entirety and inserting in lieu thereof the following:

Sec. 6. 18 V.S.A. § 5201 is amended to read:

§ 5201. PERMITS; REMOVAL OF BODIES; CREMATION; WAITING PERIOD; INVESTIGATION INTO CIRCUMSTANCES OF DEATH

\* \* \*

~~(c) The person in charge of the body shall not release for cremation the body of a person who died in Vermont until the person in charge has received a certificate from the chief, regional or assistant medical examiner that the medical examiner has made personal inquiry into the cause and manner of death and is satisfied that no further examination or judicial inquiry concerning it is necessary. The certificate shall be retained by the crematory for a period of three years. For the certificate, the medical examiner is entitled to a fee of \$25.00 payable by the person requesting cremation.~~

**Sec. 7. EFFECTIVE DATE**

This act shall take effect on passage.

And that the bill title be amended to read:

An act relating to cremation, the treatment of unmarked burial sites, the operation of the Vermont Veterans' Memorial Cemetery, and payment for burial of indigent persons.

Which was agreed to.

Thereupon, the pending question, Shall the bill pass in concurrence with proposal of amendment?, was decided in the affirmative.

**Message from the House No. 64**

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

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

**H. 441.** An act making appropriations for the support of government.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Heath of Westford  
Rep. Larson of Burlington  
Rep. Morley of Barton

**Message from the House No. 65**

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

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

**H. 442.** An act relating to miscellaneous tax provisions.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Ancel of Calais  
Rep. Obuchowski of Rockingham  
Rep. Condon of Colchester

### **Rules Suspended; Bills Messaged**

On motion of Senator Shumlin, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S.117, H. 26, H. 91, H. 438, H. 445.**

### **Committees of Conference Appointed**

#### **H. 441.**

An act making appropriations for the support of government.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Bartlett  
Senator Sears  
Senator Snelling

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

#### **H. 442.**

An act relating to miscellaneous tax provisions.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings  
Senator Carris  
Senator Hartwell

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Adjournment**

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, April 28, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 30.