

# Journal of the Senate

---

THURSDAY, APRIL 28, 2011

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the House No. 56

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 passed a House bill of the following title:

**H. 451.** An act relating to amending the charter of the town of Shelburne.

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

The House has considered bills originating in the Senate of the following titles:

**S. 36.** An act relating to the surplus lines insurance multi-state compliance compact.

**S. 90.** An act relating to respectful language in state statutes in referring to people with disabilities.

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

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 31.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

**H. 430.** An act relating to providing mentoring support for new principals and technical center directors.

And has severally concurred therein.

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

**S. 2.** An act relating to sexual exploitation of a minor and the sex offender registry.

And has concurred therein.

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

**H. 38.** An act relating to ensuring educational continuity for children of military families.

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

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

Rep. Peltz of Woodbury  
Rep. Lewis of Berlin  
Rep. Campion of Bennington

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

**H. 91.** An act relating to the management of fish and wildlife.

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

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

Rep. Webb of Shelburne  
Rep. Deen of Westminster  
Rep. Krebs of South Hero

#### **Message from the House No. 57**

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 passed a House bill of the following title:

**H. 454.** An act relating to the administration and issuance of vital records.

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

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

**S. 91.** An act relating to motor vehicle operation and entertainment pictures.

And has passed the same in concurrence.

The House has adopted joint resolution of the following title:

**J.R.H. 19.** Joint resolution supporting the administration's efforts to examine and provide recommendations for improving and increasing the effectiveness of Vermont's state and municipal environmental protection process.

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

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

**H. 66.** An act relating to the illegal taking of trophy big game animals.

And has severally concurred therein.

### **Joint Resolution Referred**

#### **J.R.H. 19.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution supporting the administration's efforts to examine and provide recommendations for improving and increasing the effectiveness of Vermont's state and municipal environmental protection process.

Whereas, our physical environment is the sum of everything around us, our beautiful mountains and valleys, our streams and lakes, the air we breathe and the winter's snow and summer's green grass, and

Whereas, to date, Vermont has managed to preserve many of the best aspects of the state's environment, but this protective process could be administered more effectively and with greater transparency, and

Whereas, since 1970, Vermont's system of state and municipal environmental and land use regulation has grown and changed, resulting in overlapping laws and programs under the administrative jurisdiction of

---

multiple state offices that do not always share the same regulatory objectives or coordinate in an optimal fashion, and

Whereas, the state of Vermont and local municipalities should be encouraging appropriate development at specific locations, and

Whereas, for example, attempts to effectively enforce water quality standards in Lake Champlain, promote a settlement pattern of compact urban and village centers surrounded by a rural, working landscape, and reduce greenhouse gas emissions have not resulted in achieving compliance with statutory goals and not infrequently have resulted in contentious disputes and litigation, and

Whereas, project developers and citizens concerned about projects often voice complaints expressing confusion about the specific permits required for a given project and objecting that the regulatory process can be expensive, daunting, and time-consuming and that it needs to be predictable, and

Whereas, Vermont must ensure that its permitting process appropriately utilizes the benefits of new technology to improve efficiency while simultaneously achieving protection of the natural environment, and

Whereas, Governor Shumlin has directed the chair of the natural resources board to review Vermont's environmental and land use permitting system and to provide recommendations for improving the system and increasing its effectiveness, and

Whereas, the secretary of natural resources has agreed to coordinate with and assist the chair of the natural resources board in these efforts, and both will also seek legislative input, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly supports the administration's efforts to examine and provide recommendations for improving and increasing the effectiveness of Vermont's environmental protection process, and be it further

Resolved: That the General Assembly requests that the chair of the natural resources board, in coordination with the secretary of natural resources and other state and municipal permitting officials, invite public input through public meetings, the use of the Internet, and other forms of outreach, and be it further

Resolved: That the General Assembly requests that the chair of the natural resources board, in coordination with the secretary of natural resources, regularly meet and consult with the chairs of the House and Senate Committees on Natural Resources and Energy and the House Committee on

Fish, Wildlife and Water Resources during this review process, and be it further

Resolved: That the General Assembly requests that the chair of the natural resources board in coordination with the secretary of natural resources develop recommendations intended to maintain standards assuring the environmental quality so important to Vermonters while making Vermont's land use and environmental permit process more efficient, more effective, more user-friendly, more open, more predictable, better coordinated, and quicker for applicants and citizens, and be it further

Resolved: That the General Assembly requests the chair of the natural resources board to report to the chairs of the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources by January 15, 2012 with recommendations to meet the intent of this resolution, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the chair of the natural resources board and the secretary of natural resources.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Natural Resources and Energy.

#### **Bills Referred**

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

##### **H. 451.**

An act relating to amending the charter of the town of Shelburne.  
To the Committee on Rules.

##### **H. 454.**

An act relating to the administration and issuance of vital records.  
To the Committee on Rules.

#### **Message from the Governor Appointments Referred**

A message was received from the Governor, by Alexandra MacLean, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

---

Wengroff, Ariel of Burlington – Member of the Board of Libraries, - from April 8, 2011, to February 28, 2013.

To the Committee on Education.

Grassi, Richard of White River Junction - Member of the Vermont Parole Board, - from March 1, 2011, to February 28, 2014.

To the Committee on Institutions.

George, Dean C. of Middlebury - Chair of the Vermont Parole Board, - from March 1, 2011, to February 28, 2014.

To the Committee on Institutions.

Lawrence, Kevin of Newbury - Member of the Fish and Wildlife Board, - from April 8, 2011, to February 28, 2013.

To the Committee on Natural Resources and Energy.

Jagielski, Thomas A. of Grand Isle - Member of the Occupational Safety and Health Review Board, - from March 1, 2011, to February 28, 2017.

To the Committee on Economic Development, Housing and General Affairs.

Tippett, Holly of Middlebury - Member of the Community High School of Vermont Board, - from April 21, 2011, to February 28, 2014.

To the Committee on Education.

Cross, George C. of Winooski - Member of the Community High School of Vermont Board, - from April 21, 2011, to February 28, 2014.

To the Committee on Education.

### **Recess**

On motion of Senator Campbell the Senate recessed until two o'clock in the afternoon.

### **Called to Order**

At two o'clock and fifteen minutes the Senate was called to order by the President.

### **Message from the House No. 58**

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 a bill originating in the Senate of the following title:

**S. 94.** An act relating to miscellaneous amendments to the motor vehicle laws.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

**Message from the House No. 59**

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 proposal of amendment to House bill entitled:

**H. 202.** An act relating to a universal and unified health system.

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. Larson of Burlington

Rep. Fisher of Lincoln

Rep. Copeland-Hanzas of Bradford

**Bill Referred to Committee on Finance**

**H. 369.**

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to health professionals regulated by the board of medical practice.

---

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

**H. 411.**

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

An act relating to the application of Act 250 to agricultural fairs.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

**House Proposal of Amendment Concurred In**

**S. 49.**

House proposal of amendment to Senate bill entitled:

An act relating to commercial motor vehicle operation on the interstate system.

Was taken up.

The House proposes to the Senate to amend the bill in Sec. 2. 23 V.S.A. § 1392, by striking out subdivision (16) and inserting in lieu thereof a new subdivision (16) to read as follows:

(16) Notwithstanding any other provision of law the axle load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on state highways without permit, and upon posted state and town highways and on those highways designated as the national system of interstate and defense highways when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

(A) Vehicles ~~registered~~ operated pursuant to this subdivision (16) shall be subject to the same axle spacing restrictions as are applied to five or more axle vehicles registered to 80,000 pounds as set forth in subdivision (4) of this section;

(B) ~~The following shall also apply to vehicles registered pursuant to this subdivision (16):~~

~~(i) no single axle load shall be in excess of 22,400 pounds except that a 10 percent tolerance shall be allowed on each single axle;~~



~~(ii) no tandem axle load shall be in excess of 36,000 pounds except that a 10 percent tolerance shall be allowed on each tandem axle;~~

~~(iii) no single axle of a tandem axle unit shall support more than 60 percent of the total rate supported by the tandem axle unit;~~

~~(iv) no tri axle group, as defined in subdivision (6)(D) of this section, shall support a gross weight in excess of that allowed in subdivision (4) of this section and no tolerance shall be allowed on any tri axle group;~~

~~(v) no single axle of a tri axle group shall support more than 40 percent of the total weight supported by the tri axle group;~~

~~(vi) the maximum load on any axle of the vehicle shall not exceed more than 600 pounds per inch of tire width computed in conformity with the manufacturer's designated width;~~

~~(vii) no tolerance shall be allowed on the gross weight of any vehicle registered under the provisions of this subdivision, nor shall the axle tolerance permitted in subdivisions (i) and (ii) of this subdivision apply when the vehicle is being operated upon posted state or town highways pursuant to the provisions of section 1400 of this title. On those highways designated as the national system of interstate and defense highways, the provisions of subsection 1391(c) of this title shall apply unless other axle load limits, tolerances, or both are authorized under federal law.~~

(C) The fee for the annual permit as provided in this subdivision shall be \$7.00 when the fee has been paid to register the vehicle for 90,000 pounds or \$285.00 when the vehicle is registered for 80,000 pounds.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**House Proposals of Amendment to Senate Proposal of Amendment  
Concurred In**

**H. 88.**

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to uniform child custody jurisdiction and enforcement.

Were taken up.

The House concurs in the Senate proposal of amendment with further proposal of amendment as follows:

First: In Sec. 1, 15 V.S.A. § 1061, by striking out subdivision (17) in its entirety.

Second: In Sec. 1, 15 V.S.A. § 1079, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) As used in this section, the term “party” shall not include the child in a proceeding under chapter 51 or 53 of Title 33.

Third: In Sec. 1, 15 V.S.A. § 1080, by adding a new subsection to be subsection (e) to read as follows:

(e) As used in this section, the term “with or without the child” means that the court may order that the child be represented by an attorney or guardian ad litem.

Fourth: By adding four new sections to be numbered Secs. 4, 5, 6, and 7 to read as follows:

Sec. 4. 33 V.S.A. § 5307(e)(6) is amended to read:

(6) Additional information as required by the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to ~~15 V.S.A. § 1037~~ chapter 20 of Title 15 and the Indian Child Welfare Act pursuant to 25 U.S.C. § 1901 et seq.

Sec. 5. 15A V.S.A. § 3-101(b) is amended to read:

(b) A court of this state may not exercise jurisdiction over a proceeding for adoption of a minor if at the time the petition for adoption is filed a proceeding concerning the custody or adoption of the minor is pending in a court of another state exercising jurisdiction substantially in conformity with the Uniform Child Custody Jurisdiction and Enforcement Act or this title, unless the proceeding is stayed by the court of the other state.

Sec. 6. 15A V.S.A. § 3-101(c)(1)(A) is amended to read:

(A) does not have continuing jurisdiction to modify the decree or order under jurisdictional prerequisites substantially in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act or has declined to assume jurisdiction to modify the decree or order; or

Sec. 7. 15A V.S.A. § 3-101(d)(5) is amended to read:

(5) any requirement of the Uniform Child Custody Jurisdiction and Enforcement Act is satisfied so as to vest the courts of the state with jurisdiction over the child.

And by renumbering the remaining sections to be numerically correct.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, was decided in the affirmative.

**House Proposal of Amendment to Senate Proposal of Amendment  
Concurred In**

**H. 138.**

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to executive branch fees.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by striking out Sec. 11a in its entirety and inserting in lieu thereof a new section to be numbered Sec. 11a to read as follows:

Sec. 11a. 10 V.S.A. § 4255 is amended to read:

§ 4255. LICENSE FEES

(a) Vermont residents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

(1) Fishing license	\$22.00
(2) Hunting license	\$22.00
(3) Combination hunting and fishing license	\$35.00
(4) Big game licenses (all require a hunting license)	
(A) archery license	\$20.00
(B) muzzle loader license	\$20.00
(C) turkey license	\$20.00
(D) second muzzle loader license	\$17.00
(E) second archery license	\$17.00
(F) moose license	\$100.00
<u>(G) second bear tag</u>	<u>\$5.00</u>

\* \* \*

(b) Nonresidents may apply for licenses on forms provided by the commissioner. Fees for each license shall be:

---

(1) Fishing license	\$45.00
(2) One-day fishing license	\$20.00
(3) [Deleted.]	
(4) Hunting license	\$100.00
(5) Combination hunting and fishing license	\$130.00
(6) Big game licenses (all require a hunting license)	
(A) archery license	\$35.00
(B) muzzle loader license	\$40.00
(C) turkey license	\$35.00
(D) second muzzle loader license	\$25.00
(E) second archery license	\$25.00
(F) moose license	\$350.00
<u>(G) second bear tag</u>	<u>\$15.00</u>

\* \* \*

(1) If the board determines that it is in the interest of bear management, it may authorize the department to issue a second bear tag for the taking of bear in addition to that allowed by a hunting license issued under this chapter.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

#### **Rules Suspended; Bill Delivered**

On motion of Senator Campbell, the rules were suspended, and the following bill were ordered delivered to the Governor forthwith:

**S. 49.**

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

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

**H. 88, H. 138.**

**Rules Suspended; Proposals of Amendment; Consideration Postponed****H. 438.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to the department of banking, insurance, securities, and health care administration.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill as follows:

First: By adding a new section to be numbered Sec. 14a to read as follows:

Sec. 14a. REPEAL

8 V.S.A. § 4089f(e) (decisions relating to mental health shall be reviewed under 8 V.S.A. § 4089a) is repealed.

Second: In Sec. 17, 8 V.S.A. § 9456(e) (hospital budget reviews; waiver), in the second sentence, by striking out the following: "The rule shall permit the commissioner to waive" and inserting in lieu thereof the following: "The ~~rule shall permit the commissioner to~~ may waive"

Third: By adding a new section to be numbered Sec. 19a to read as follows:

Sec. 19a. MEDICAL LOSS RATIOS; EMPLOYER DEFINITIONS

For purposes of medical loss ratio calculations only, pursuant to Section 10101(f) of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), the term "small employer" means an employer with 50 or fewer employees and the term "large employer" means an employer with 51 or more employees.

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.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, on motion of Senator Campbell consideration of the bill was postponed until the next legislative day.

---

**Committees of Conference Appointed****H. 38.**

An act relating to ensuring educational continuity for children of military families.

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

Senator Mullin  
Senator Starr  
Senator Lyons

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

**H. 91.**

An act relating to the management of fish and wildlife.

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

Senator Lyons  
Senator McCormack  
Senator Benning

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

**H. 275.**

An act relating to the recently deployed veteran tax credit.

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

Senator MacDonald  
Senator McCormack  
Senator Westman

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

**H. 202.**

An act relating to a universal and unified health system.

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

Senator Ayer  
Senator Mullin  
Senator Fox

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 Campbell, the Senate adjourned until nine o'clock in the morning.