

Journal of the House

Wednesday, April 17, 2013

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

Devotional Exercises

Devotional exercises were conducted by Grady McIntyre, violinist, of Castleton Fair Haven Union High School.

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

S. 150

Senate bill, entitled

An act relating to miscellaneous amendments to laws related to motor vehicles;

S. 151

Senate bill, entitled

An act relating to miscellaneous changes to the laws governing commercial motor vehicle licensing and operation.

Joint Resolution Adopted in Concurrence

J.R.S. 26

By Senators Baruth and Benning,

J.R.S. 26. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 19, 2013, it be to meet again no later than Tuesday, April 23, 2013.

Was taken up read and adopted in concurrence.

Third Reading; Bill Passed

H. 512

House bill, entitled

An act relating to approval of amendments to the charter of the City of Barre

Was taken up, read the third time and passed.

Proposal of Amendment Agreed to; Third Reading Ordered

S. 73

Rep. Dakin of Chester, for the committee on Health Care, to which had been referred Senate bill, entitled

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

Reported in favor of its passage in concurrence with proposal of amendment as follows:

In Sec. 1, 2010 Acts and Resolves No. 83, Sec. 2, subsection (d), before the period, by inserting the words: "or to a licensed home for the terminally ill as defined in 33 V.S.A. § 7102"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

Favorable Report; Bill Amended and Third Reading Ordered

H. 536

Rep. Head of South Burlington spoke for the committee on General, Housing and Military Affairs.

Rep. Fagan of Rutland City, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to the Adjutant and Inspector General and the Vermont National Guard

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 the third time? **Reps. Cross of Winooski, Cole of Burlington, French of Randolph, Krowinski of Burlington, McCormack of Burlington, and Townsend of South Burlington** moved to amend the bill as follows:

By adding Secs. 7a and 7b to read:

Sec. 7a. FINDINGS

The General Assembly finds:

(1) Vermonters appreciate the dedication and sacrifice made by the many men and women who serve in or work for the Vermont Air National Guard (VTANG), both those who are full time and those who are part time.

(2) Although Vermonters greatly appreciate the many contributions the VTANG has made to Vermont, the proposed basing of the F-35A fighter jets at BTV as a replacement for the currently based F-16 fighter jets raises significant noise issues that warrant the completion of a comprehensive collaborative hearing process prior to a final decision on F-35A basing at BTV.

(3) In a statement released on December 11, 2012, 16 members of the Vermont clergy recommended that “Vermont be removed from the first round of basing decisions so that we Vermonters can reach a consensus, based on clearing up so many of the questions that remain unanswered in the minds of many residents.”

(4) In a letter to a constituent, Senator Patrick Leahy stated “I have heard from a number of Vermonters who have specifically questioned the value of the F-35. The F-35 program has been poorly managed and is a textbook example of how not to buy military equipment. The causes of the F-35 program’s present difficulties are too numerous to detail in my response to your letter; however, I believe the F-35 program is approaching a point where the military services and a majority of Congress will recognize that the jet is just too costly to proceed with purchases at today’s planned levels. That recognition may lead to a decision to diversify our future fighter jet fleet, with the Air Force, Navy, and Marine Corps opting to modernize their current fleet of fighter jets and substantially reduce the total number of F-35s that they plan to buy.”

Sec. 7b. F-35A BASING DECISION

The General Assembly agrees with the learned clergy’s advice and the cautions stated by Senator Leahy and requests that Vermont be removed from consideration in this round of F-35A basing decisions.

Thereupon, **Rep. Hubert of Milton** raised a Point of Order that the amendment was not germane to the bill, which Point of Order the Speaker ruled well taken.

Thereupon, **Rep. Cross of Winooski** moved to suspend the rules to permit consideration of a non-germane issue.

Pending the question, Shall the House suspend its rules to permit consideration of a nongermane question? **Rep. Morrissey of Bennington**

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 House suspend its rules to permit consideration of a nongermane question? was decided in the negative. Yeas, 11. Nays, 126.

Those who voted in the affirmative are:

Browning of Arlington	McCullough of Williston *	Ram of Burlington
Cole of Burlington	Nuovo of Middlebury *	Townsend of South
Cross of Winooski	Pearson of Burlington	Burlington
McCormack of Burlington	Rachelson of Burlington	Zagar of Barnard

Those who voted in the negative are:

Ancel of Calais	Feltus of Lyndon	Lawrence of Lyndon
Batchelor of Derby	Fisher of Lincoln	Lewis of Berlin
Beyor of Highgate	Frank of Underhill	Macaig of Williston
Bissonnette of Winooski	French of Randolph	Manwaring of Wilmington
Botzow of Pownal	Gage of Rutland City	Marcotte of Coventry
Bouchard of Colchester	Gallivan of Chittenden	Marek of Newfane
Branagan of Georgia	Goodwin of Weston	Martin of Springfield
Brennan of Colchester	Grad of Moretown	Martin of Wolcott
Burditt of West Rutland	Greshin of Warren	Masland of Thetford
Burke of Brattleboro	Haas of Rochester	McCarthy of St. Albans City
Buxton of Tunbridge	Head of South Burlington	McFaun of Barre Town
Campion of Bennington	Heath of Westford	Michelsen of Hardwick
Canfield of Fair Haven	Hebert of Vernon	Miller of Shaftsbury
Carr of Brandon	Helm of Fair Haven	Mitchell of Fairfax
Christie of Hartford	Higley of Lowell	Mook of Bennington
Condon of Colchester	Hooper of Montpelier	Moran of Wardsboro
Connor of Fairfield	Hubert of Milton	Morrissey of Bennington *
Conquest of Newbury	Huntley of Cavendish	Mrowicki of Putney
Consejo of Sheldon	Jerman of Essex	O'Brien of Richmond
Copeland-Hanzas of Bradford	Jewett of Ripton	O'Sullivan of Burlington
Corcoran of Bennington	Johnson of South Hero	Pearce of Richford
Cupoli of Rutland City	Johnson of Canaan	Peltz of Woodbury
Dakin of Chester	Juskiewicz of Cambridge	Poirier of Barre City
Deen of Westminster	Keenan of St. Albans City	Potter of Clarendon
Devereux of Mount Holly	Kilmartin of Newport City	Pugh of South Burlington
Dickinson of St. Albans Town	Kitzmiller of Montpelier	Quimby of Concord
Donaghy of Poultney	Klein of East Montpelier	Russell of Rutland City
Donahue of Northfield	Koch of Barre Town	Savage of Swanton
Donovan of Burlington *	Komline of Dorset	Scheuermann of Stowe
Ellis of Waterbury	Krebs of South Hero	Sharpe of Bristol
Evans of Essex	Krowinski of Burlington	Shaw of Pittsford
Fagan of Rutland City	Kupersmith of South Burlington	Shaw of Derby
Fay of St. Johnsbury	Lanpher of Vergennes	Smith of New Haven
	Larocque of Barnet	South of St. Johnsbury
		Spengler of Colchester

Stevens of Waterbury	Toll of Danville	Weed of Enosburgh
Stevens of Shoreham	Townsend of Randolph	Wilson of Manchester
Strong of Albany	Trieber of Rockingham	Winters of Williamstown
Sweaney of Windsor	Turner of Milton	Wizowaty of Burlington
Taylor of Barre City	Van Wyck of Ferrisburgh	Woodward of Johnson
Terenzini of Rutland Town	Vowinkel of Hartford	Wright of Burlington
Till of Jericho	Waite-Simpson of Essex	Yantachka of Charlotte
Toleno of Brattleboro	Webb of Shelburne	Young of Glover

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

Bartholomew of Hartland	Emmons of Springfield	Myers of Essex
Cheney of Norwich	Lenes of Shelburne	Partridge of Windham
Clarkson of Woodstock	Lippert of Hinesburg	Ralston of Middlebury
Davis of Washington	Malcolm of Pawlet	Stuart of Brattleboro

Rep. Donovan of Burlington explained her vote as follows:

“Mr. Speaker:

I voted no today, but that does not mean that I support the deployment of the F35A.”

Rep. McCullough of Williston explained his vote as follows:

“Mr. Speaker:

I vote yes. One cannot get more military than the F35A. Vermonters detest pollution. The noise pollution from the F35A is of grave concern to the families and children in the base area. Recognizing we do not have jurisdiction, we do have the responsibility of discussion.”

Rep. Morrissey of Bennington explained her vote as follows:

“Mr. Speaker:

I asked for this roll call and vote ‘no’ to demonstrate the overwhelming support of this body for the F-35 Project and our Vermont National Guard!!!”

Rep. Nuovo of Middlebury explained her vote as follows:

“Mr. Speaker:

I think different issues should have a chance to be heard.”

Pending the question, Shall the bill be read the third time? **Reps. Cross of Winooski, French of Randolph, Krowinski of Burlington, McCormack of Burlington, and Townsend of South Burlington** moved that the bill be amended as follows:

By adding Sec. 7a to read:

Sec. 7a. F-35 ADVERSE IMPACTS STUDY

(a) The Joint Fiscal Office is directed to study the potential adverse impacts caused by the deployment of the F-35A at Burlington International Airport by the U.S. Air Force and the Vermont Air National Guard. The study shall consider at least the following impacts:

(1) property values within the 65 decibel day-night average level contour zone;

(2) health issues related to noise and other environmental conditions for those who live in the 65 decibel day-night average level contour zone; and

(3) other potential adverse impacts as deemed appropriate.

(b) The Joint Fiscal Office shall be assisted as needed and appropriate by the Agency of Education, the Department of Health, and the Department of Taxes. Any and all added costs associated with this study shall be borne by each of the state entities listed in this subsection within their respective 2014 budgets.

(c) The Joint Fiscal Office shall report its findings to the General Assembly on or before January 15, 2014.

Thereupon, **Rep. Fagan of Rutland City** raised a Point of Order in that this amendment was not germane to the bill, which Point of Order the Speaker ruled well taken.

Pending the question, Shall the bill be read the third time? **Reps. Cross of Winooski, Cole of Burlington, French of Randolph, Krowinski of Burlington, McCormack of Burlington, Pearson of Burlington and Townsend of South Burlington** moved that the bill be amended as follows:

By adding Sec. 7a to read:

Sec. 7a. COLLABORATIVE PROCESS CONCERNING ASSIGNMENT OF
F-35 AIRCRAFT TO THE VERMONT NATIONAL GUARD

(a) In 2010, the General Assembly adopted J.R.H.51, *Joint resolution supporting the assignment of the F-35 aircraft to the Vermont Air National Guard*, requesting that the U.S. Air Force, the Vermont Air National Guard, the City of South Burlington, the City of Winooski, the Town of Williston, and the City of Burlington conduct collaborative hearings with concerned citizens on environmental, health, housing, and workforce issues related to the F-35 prior to the issuing of a final decision on basing F-35 fighter jets at Burlington

International Airport. More recently, J.R.H.4, Joint resolution related to the conduct of collaborative hearings and the basing of the F-35A in Vermont, was introduced, respectfully requesting that the collaborative hearing process begin in order to provide detailed responses concerning these issues.

(b) The Secretary of Administration shall work with the U.S. Air Force and the Vermont National Guard to complete the collaborative hearing process and any expenses shall be absorbed by the Secretary's budget.

Thereupon, **Rep. Deen of Westminster** raised a Point of Order in that this amendment was not germane to the bill, which Point of Order the Speaker ruled well taken.

Pending the question, Shall the bill be read the third time? **Rep Cross of Winooski** moved to amend the bill as follows:

In Sec. 1, 2 V.S.A. § 12 in subsection (c) by striking out subdivisions (2), (3), (4), and (5) in their entirety, and by striking out subdivision (6) through the semicolon

and by renumbering the remaining subdivision to be numerically correct.

Pending the question, Shall the bill be amended as recommended by Rep. Cross of Winooski? **Rep. Wright of Burlington** 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 amended as recommended by Rep. Cross of Winooski? was decided in the negative. Yeas, 7. Nays, 137.

Those who voted in the affirmative are:

Carr of Brandon	Pearson of Burlington	Young of Glover
Cross of Winooski	Wizowaty of Burlington	
McCormack of Burlington	Woodward of Johnson	

Those who voted in the negative are:

Ancel of Calais	Buxton of Tunbridge	Corcoran of Bennington
Bartholomew of Hartland	Campion of Bennington	Cupoli of Rutland City
Batchelor of Derby	Canfield of Fair Haven	Dakin of Chester
Beyor of Highgate	Christie of Hartford	Deen of Westminster
Bissonnette of Winooski	Clarkson of Woodstock	Devereux of Mount Holly
Botzow of Pownal	Cole of Burlington	Dickinson of St. Albans
Bouchard of Colchester	Condon of Colchester	Town
Branagan of Georgia	Connor of Fairfield	Donaghy of Poultney
Brennan of Colchester	Conquest of Newbury	Donahue of Northfield
Browning of Arlington	Consejo of Sheldon	Donovan of Burlington
Burditt of West Rutland	Copeland-Hanzas of	Ellis of Waterbury
Burke of Brattleboro	Bradford	Emmons of Springfield

Evans of Essex	Lanpher of Vergennes	Ralston of Middlebury
Fagan of Rutland City	Larocque of Barnet	Ram of Burlington
Fay of St. Johnsbury	Lawrence of Lyndon	Russell of Rutland City
Feltus of Lyndon	Lenes of Shelburne	Savage of Swanton
Fisher of Lincoln	Lewis of Berlin	Scheuermann of Stowe
Frank of Underhill	Macaig of Williston	Sharpe of Bristol
French of Randolph	Malcolm of Pawlet	Shaw of Pittsford
Gage of Rutland City	Manwaring of Wilmington	Shaw of Derby
Gallivan of Chittenden	Marcotte of Coventry	Smith of New Haven
Goodwin of Weston	Marek of Newfane	South of St. Johnsbury
Grad of Moretown	Martin of Springfield	Spengler of Colchester
Greshin of Warren	Martin of Wolcott	Stevens of Waterbury
Haas of Rochester	Masland of Thetford	Stevens of Shoreham
Head of South Burlington	McCarthy of St. Albans City	Strong of Albany
Heath of Westford	McCullough of Williston	Sweaney of Windsor
Hebert of Vernon	McFaun of Barre Town	Taylor of Barre City
Helm of Fair Haven	Michelsen of Hardwick	Terenzini of Rutland Town
Higley of Lowell	Miller of Shaftsbury	Till of Jericho
Hubert of Milton	Mitchell of Fairfax	Toleno of Brattleboro
Huntley of Cavendish	Mook of Bennington	Toll of Danville
Jerman of Essex	Moran of Wardsboro	Townsend of Randolph
Jewett of Ripton	Morrissey of Bennington	Townsend of South Burlington
Johnson of South Hero	Mrowicki of Putney	Trieber of Rockingham
Johnson of Canaan	Myers of Essex	Turner of Milton
Juskiewicz of Cambridge	Nuovo of Middlebury	Van Wyck of Ferrisburgh
Keenan of St. Albans City	O'Brien of Richmond	Vowinkel of Hartford
Kilmartin of Newport City *	O'Sullivan of Burlington	Waite-Simpson of Essex
Kitzmiller of Montpelier	Partridge of Windham	Webb of Shelburne
Klein of East Montpelier	Pearce of Richford	Weed of Enosburgh
Koch of Barre Town	Peltz of Woodbury	Wilson of Manchester
Komline of Dorset	Poirier of Barre City	Winters of Williamstown
Krebs of South Hero	Potter of Clarendon	Wright of Burlington
Krowinski of Burlington	Pugh of South Burlington	Yantachka of Charlotte
Kupersmith of South Burlington	Quimby of Concord	Zagar of Barnard
	Rachelson of Burlington	

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

Cheney of Norwich	Hooper of Montpelier	Stuart of Brattleboro
Davis of Washington	Lippert of Hinesburg	

Rep. Kilmartin of Newport explained his vote as follows:

“Mr. Speaker:

Having received an explanation of the inter-relationships among 2 V.S.A. §12(c), (1)-(5), I vote ‘no’ to advance the bill to third reading, to give the body an opportunity to retain (c) (1)-(5) which have coherency and integrity, to

eliminate (c) (6) which contradicts (c) (1)-(5), and restrict the authority of the Board to screening the qualifications of applicants and passing on to the General Assembly all candidates meeting criteria (c)(1)-(5).”

Pending the question, Shall the bill be read the third time? **Rep. Head of South Burlington** moved to amend the bill as follows:

First: In Sec. 1, 2 V.S.A. § 12, in subsection (c), by striking out subdivision (3) and inserting in lieu thereof a new subdivision (3) to read:

(3) be a commissioned officer or a former commissioned officer of the Army, Air Force, Air National Guard, Army National Guard, Army Reserves, or Air Force Reserves;

Second: In Sec. 3, 20 V.S.A. § 370, in subsection (c), by striking out the last sentence

Third: In Sec. 3, 20 V.S.A. § 370, by striking subsection (d) in its entirety and inserting a new subsection (d) to read:

(d) The Board shall adopt rules under 3 V.S.A. chapter 25 which shall establish criteria, standards, and timelines for the nomination of qualified candidates for Adjutant and Inspector General.

Fourth: In Sec. 6, 20 V.S.A. § 946, in subdivision (1)(3), by striking the fourth sentence and inserting in lieu thereof: “The individual requesting the panel may request that at least one member of the panel be of the same sex as the individual and the request shall be honored unless there is no qualified person of the same sex as the individual to serve on the panel.”

Fifth: In Sec. 7, 31 V.S.A. § 1002, in subdivision (a)(1)(C), by striking out the words “U.S. Armed Forces” and inserting in lieu thereof “uniformed services”

Which was agreed to and third reading ordered.

Adjournment

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