

Senate Calendar

TUESDAY, FEBRUARY 17, 2009
41st DAY OF BIENNIAL SESSION

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ORDERS OF THE DAY

ACTION CALENDAR

Third Reading

S. 29

An act relating to legislative committee subpoena power.

Second Reading

Favorable with Recommendation of Amendment

S. 12

An act relating to not requiring the physical presence of a defendant or offender at certain court proceedings.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds:

(1) Since 1993, the general assembly has expressed concern at the increasing cost of transporting defendants and offenders in state custody from correctional facilities to courts. The financial burden on the ability of the state to pay for such transports has dramatically increased over the past several years.

(2) The general assembly intends to continue to preserve the due process rights granted by the United States and Vermont Constitutions to defendants and offenders in state custody, but in case-appropriate circumstances to preserve these rights through the use of available interactive technologies now deployed with great success in other states and countries.

(3) Many court hearings can be held without the physical presence of defendants and offenders in the courtroom. Some hearings, such as status conferences, pre-trial conferences, calendar calls, and other similar events, can be held without the participation of the defendant or offender, while many others may be held with the use of telephone, IPTV, VoIP, or other interactive technology.

Sec. 2. Vermont Rule of Criminal Procedure 43 is amended to read:

RULE 43. PRESENCE OF THE DEFENDANT

(a) Presence Required. The defendant shall be present at the arraignment, at any subsequent time at which a plea is offered, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule.

* * *

(d) Interactive Technology.

(1) The defendant may appear via interactive technology instead of being present at the proceeding in cases where there is no right to bail.

(2) An expert witness may appear at trial via interactive technology if:

(A) the prosecution and the defense consent to such appearance; or

(B) in the event the prosecution and the defense cannot reach agreement, the court orders such appearance.

(Committee vote: 5-0-0)

Senate Resolution for Action

S.R. 7

Senate resolution urging congress to adopt a system of universal health care.

(For text of Resolution, see Senate Journal of February 13, 2009, page 165)

Joint Resolution for Action

J.R.H. 8

Joint resolution designating October 17, 2009 as Vermont Pumpkin Carving Day.

(For text of Resolution, see Senate Journal of February 13, 2009, page 167)

NOTICE CALENDAR

Favorable

S. 57

An act relating to municipal regulation of water capacity.

Reported favorably by Senator Doyle for the Committee on Government Operations.

(Committee vote: 5-0-0)

S. 67

An act relating to motor vehicles.

By the Committee on Transportation.

(Sen. Scott for the Committee)

Reported favorably by Senator Carris for the Committee on Finance.

(Committee vote: 6-0-1)

**AMENDMENT TO S. 67 TO BE OFFERED BY SENATOR SCOTT ON
BEHALF OF THE COMMITTEE ON TRANSPORTATION**

Senator Scott, on behalf of the Committee on Transportation, moves to amend the bill in Sec. 6, 23 V.S.A. § 2083, by striking out subsection (b) and inserting in lieu thereof a new subsection (b) to read as follows:

(b) A person shall not willfully fail to deliver to his or her transferee a certificate of title within 10 days after the transfer. A person who violates this subsection commits a traffic violation and shall be assessed a civil penalty of not more than \$1,000.00.

Favorable with Recommendation of Amendment

S. 27

An act relating to tastings and sale of wines by wineries.

Reported favorably with recommendation of amendment by Senator Illuzzi for the Committee on Economic Development, Housing and General Affairs.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 2(15), (16), and (28) are amended to read:

(15) "Manufacturer's or rectifier's license": a license granted by the liquor control board that permits the holder to manufacture or rectify, as the case may be, malt beverages and vinous beverages for export and for sale to bottlers or wholesale dealers, or spirituous liquors for export and for sale to the liquor control board, upon application of a manufacturer or rectifier and the payment to the liquor control board of the license fee as required by subdivision 231(1) of this title for either license. The liquor control board may grant to a licensed manufacturer or rectifier a first class restaurant or cabaret license or first and third class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's premises. A manufacturer of malt beverages who also holds a first class restaurant or cabaret license may

serve to a customer malt beverages by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass. The liquor control board may grant to a licensed manufacturer or a rectifier of malt or vinous beverages a second class license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's or rectifier's premises. A licensed manufacturer or rectifier of vinous beverages may serve, with or without charge, at an event held on or near the premises of the licensee, vinous and malt beverages, provided the licensee gives the department written notice of the event, including details required by the department, at least 15 days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer. Upon application and payment of the license fee as required by subdivision 231(11) of this title, the liquor control board may grant to a licensed manufacturer or rectifier of vinous beverages fourth class or farmers' market licenses permitting the licensee to sell ~~these~~ fortified wines and vinous beverages by the bottle to the public at the licensed premises or at a farmers' market, provided that the beverages were produced by the manufacturer or rectifier. No more than a combined total of ten fourth class and farmers' market licenses may be granted to any licensed manufacturer or rectifier. An application for a farmers' market license shall include copies of the farmers' market regulations, the agreement between the farmers' market and the applicant, and the location and dates of operation of the farmers' market. A farmers' market license shall be valid for all dates of operation for a specific farmers' market location. However, in no case may a person with an interest in more than one manufacturer's or rectifier's license have an interest in more than four fourth class licenses. The manufacturer or rectifier shall pay directly to the commissioner of taxes the sum of \$0.265 cents per gallon for every gallon of malt beverage and the sum of \$0.55 cents per gallon for each gallon of vinous beverage manufactured by the manufacturer or rectifier and provided for sale pursuant to the first class license or the second class license or the fourth class license or combination thereof held by the manufacturer or rectifier. Holders of a manufacturer's or rectifier's second class license for malt beverages may distribute, with or without charge, malt beverages by the glass, not to exceed two ounces per product and eight ounces in total, to all persons of legal drinking age. The malt beverages must be consumed upon the premises of the holder of the license. At the request of a person holding a first class or second class license, a holder of a manufacturer's or rectifier's license for malt beverages may distribute without charge to the management and staff of the license holder, provided they are of legal drinking age, no more than four ounces per person of a malt beverage for the purpose of promoting the beverage. Written notice shall be provided to the department of liquor control

at least 10 days prior to the date of the tasting. A licensed manufacturer or rectifier of spirits may do either or both of the following:

(1) Sell by the glass or bottle spirits manufactured by the licensee to the public only at the manufacturer's or rectifier's premises.

(2) Dispense by the glass, with or without charge, spirits manufactured by the licensee provided that no more than one-quarter ounce per product and no more than one ounce in total is dispensed to each individual of legal age.

(16) "Person," as applied to licensees: means individuals who are ~~both~~ citizens ~~and residents of the state~~ of the United States, partnerships composed ~~solely~~ of individuals, a majority of whom are ~~both~~ citizens ~~and residents~~ of the ~~state~~ United States, and ~~to~~ corporations organized under the laws of this or another state ~~whereof in which~~ a majority of the directors are ~~both~~ citizens of the United States ~~and residents of this state~~, or to corporations subject to the jurisdiction of the public service board, and to limited liability companies organized under the laws of this or another state in which a majority of the members or managers are ~~both~~ citizens of the United States ~~and residents of this state~~.

(28) "Fourth class license": the license granted by the liquor control board permitting a manufacturer or rectifier of vinous beverages to sell fortified wines manufactured by the licensed manufacturer or rectifier and vinous beverages by the bottle and distribute ~~vinous~~ those beverages by the glass as ~~hereinbefore~~ defined.

Sec. 2. 7 V.S.A. § 223 is amended to read:

§ 223. ~~FIRST AND SECOND CLASS LICENSES; RESIDENCE REQUIREMENTS; LICENSES TO ENFORCEMENT OFFICER OR CONTROL BOARD MEMBER; EXCEPTIONS~~

~~(a) No first or second class license for the sale of malt or vinous beverages shall be granted to an individual, unless the individual is, at the time of application, a legal resident of the town or city in which the application is made. No first or second class license shall be granted to a partnership unless one or more of its general partners is a legal resident of the town or city in which the application is made and a majority of the partners are both legal residents of Vermont and U.S. citizens. No license of any class shall be granted to any enforcement officer or to any person ~~or corporation~~ acting in his ~~or her~~ the officer's behalf. A member of a local control board to whom or in behalf of whom a first or second class license was issued by that board shall not participate in any control board action regarding any first or second class license. If a majority of the members of a local control board is unable to participate in a control board action regarding any first or second class license,~~

that action shall be referred to the state liquor control board for investigation and action. An application for a first or second class license by or in behalf of a member of the local control board or a complaint or disciplinary action regarding a first or second class license issued by a board on which any member is a licensee shall be referred to the state liquor control board for investigation and action. ~~The provisions of this section, however, shall not apply where application is made by a citizen and legal resident of a town or city in Vermont for a license to sell malt or vinous beverages in a town or city wherein he or she is not a legal resident, provided such applicant owns improved real estate or personal property other than stock of goods for sale in the town wherein such license is to be issued upon which he or she pays taxes appraised by the listers at not less than \$2,500.00 on real estate or \$1,000.00 on personal property. The provisions of this title shall not apply to an individual who applies for a license to be used at the site of flood control projects or national guard encampments whose application is approved by the commanding officer thereof.~~

~~(b) A second class license may be granted, however, where an application is made by a citizen and legal resident of any town or city in the state and who has openly conducted a place of business in such town or city in which the application is made for one year next prior to the making of the application, or who has purchased a going business which has been conducted openly in such town or city for a period of one year next prior to the making of the application, and who is a legal resident of the town or city in which he resides.~~

(Committee vote: 5-0-0)

S. 70

An act relating to clarifying the procedure for reinstatement of a driver's license based on total abstinence from alcohol and drugs.

By the Committee on Transportation.

(Sen. Maynard for the Committee)

Reported favorably with recommendation of amendment by Senator Maynard for the Committee on Finance.

The Committee recommends that the bill be amended in Sec. 1, 23 V.S.A. § 1209a(b)(1) by striking out the figure "\$250.00" and inserting in lieu thereof the figure \$1,000.00

(Committee vote: 7-0-0)

S. 73

An act relating to the universal service fund.

Reported favorably with recommendation of amendment by Senator MacDonald for the Committee on Finance.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE FINDINGS AND STATE AUTHORITY

(a) The general assembly finds that the services on which chapter 88 of Title 30 imposes a universal service charge should not depend upon regulatory classifications. Therefore, this chapter imposes duties on service providers independent of whether those providers are subject to regulation under other chapters of this title and independent of whether the Federal Communications Commission has defined a service to be a telecommunications service, an information service, an interstate service, an intrastate service, or otherwise.

(b) In chapter 88 of Title 30, the state of Vermont is exercising its authority to impose a tax on commerce occurring in this state. It is not acting under authority delegated to the state by the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

Sec. 2. 30 V.S.A. § 7501 is amended to read:

§ 7501. PURPOSE; DEFINITIONS

(a) It is the purpose of this act to create a financial structure that will allow every Vermont household to obtain basic telecommunications service at an affordable price, and to finance that structure with a proportional charge on all telecommunications transactions that interact with the public switched network.

(b) As used in this chapter:

(1) “Ancillary services” means services that are associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, vertical service, and voice mail services.

(2) “Basic telecommunications service” means that a customer has available at his or her location:

(A) switched voice grade interactive telecommunications service permitting origination and termination of calls;

(B) the ability to transmit network switching instructions through tones generated by customer-owned equipment;

(C) the ability to transmit and receive the customer's computer-generated digital data, either by digital or analog transmission, reliably and at common transmission rates, using customer-owned equipment;

(D) the ability to communicate quickly and effectively with emergency response personnel; and

(E) telecommunications relay service, as authorized under section 218a of this title.

~~(2)~~(3) "Interactive" means that a communications medium is regularly used to transmit information in two directions.

~~(3)~~ "Private network" means a telecommunications system entirely owned and operated by a single corporate or individual person other than a telecommunications service provider and not available to the general public.

~~(4)~~ "Public switched network" means the communications network owned and operated by telecommunications service providers, some of whom are common carriers.

"Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

~~(5)~~ "Telecommunications service" means the transmission of any interactive electromagnetic communications that passes through the public switched network. The term includes, but is not limited to, transmission of voice, image, data and any other information, by means of but not limited to wire, electric conductor cable, optic fiber, microwave, radio wave, or any combinations of such media, and the leasing of any such service.

(A) Telecommunications service includes but is not limited to:

~~(i)~~ local telephone service, including any facility or service provided in connection with such local telephone service;

~~(ii)~~ toll telephone service;

~~(iii)~~ directory assistance;

~~(iv)~~ two way cable television service; and

~~(v)~~ mobile telephone or telecommunication service, both analog and digital.

(B) Notwithstanding the above, for purposes of this chapter, telecommunications service does not include:

~~(i) Services consisting primarily of the creation of artistic material or other information that is later transmitted over telecommunications equipment, including information services and electronic bulletin boards, but only to the extent that charges for such information processing are separated from charges for other telecommunications services, and only to the extent that such information is not used by any telecommunications service provider in the administration of the telecommunications network.~~

~~(ii) Mobile radio and paging services that do not have an electronic interface into the public switched network.~~

~~(iii) Private network services; provided, however, that payments by a private network to a telecommunications service provider, such as for point to point transmission services, are not exempt under this subdivision.~~

~~(iv) [Repealed.]~~

~~(v) Telecommunications services paid for at the point of purchase by depositing coins or currency.~~

~~(vi) Charges incurred by utilizing prepaid telephone calling cards or prepaid authorization numbers.~~

~~(6) “Telecommunications service provider” means a company required by law to hold a certificate of public good from the public service board to offer telecommunications service for intrastate service, or is authorized by the Federal Communications Commission to offer interstate telecommunications service.~~

(5) “Directory assistance” means an ancillary service of providing telephone number information or address information, or both.

(6) “Paging service” means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers; and such transmissions may include messages or sounds, or both.

(7) “Prepaid calling service” means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(8) “Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services including the download of digital products delivered electronically, content and ancillary services, which service must be paid for in advance and which is sold in predetermined units or dollars of which the number declines with use in a known amount.

(9) “Retail sale” or “sold at retail” means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(10)(A) “Sales price” means the total amount of consideration, including cash, credit, property, and services, for which services are sold, leased, or rented, valued in money, whether received in money or otherwise, without deduction for the following:

(i) The seller’s cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expenses of the seller;

(iii) Charges by the seller for any services necessary to complete the sale, other than installation charges;

(iv) Delivery charges; and

(v) Consideration received by the seller from third parties if:

(I) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(II) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(III) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(IV) One of the following criteria is met:

(aa) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(bb) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a “preferred customer” card that is available to any patron does not constitute membership in such a group); or

(cc) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(B) Sales price shall not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iv) Installation charges;

(v) Credit for any trade-in; and

(vi) Telecommunications nonrecurring charges.

(11) “Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point or between or among points. The term “telecommunications service” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. Telecommunications service does not include:

(A) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser’s primary purpose for the underlying transaction is the processed data or information;

(B) Installation or maintenance of wiring or equipment on a customer’s premises;

(C) Tangible personal property;

(D) Advertising, including but not limited to directory advertising;

(E) Billing and collection services provided to third parties;

(F) Internet access service;

(G) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 U.S.C. § 522(6) and

audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

(H) Ancillary services; or

(I) Digital products delivered electronically, including but not limited to software, music, video, reading materials, or ring tones.

(12) “Telecommunication nonrecurring charges” means an amount billed for the installation, connection, change, or initiation of telecommunications service received by the customer.

(13) “Value-added nonvoice data service” means a service, that otherwise meets the definition of telecommunications service, in that computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(14) “Vertical service” means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

Sec. 3. 30 V.S.A. § 7502(a) is amended to read:

(a) Consistent with the purposes of this chapter, the public service board and the department of public service may interpret the provisions of this chapter. Any person aggrieved by any such interpretation or policy may file with the public service board a petition for a declaratory ruling. Such a petition may include a request to determine whether newly created services, and other services not specifically mentioned by the ~~definition of telecommunications service~~ definitions in this chapter, ~~are telecommunications service~~ fall within the scope of one or another service defined in this chapter. All services declared to be ~~telecommunications services~~ within the scope of this chapter shall thereafter be subject to the charge imposed by subchapter 3 of this chapter.

Sec. 4. 30 V.S.A. § 7503(b) and (e) are amended to read:

(b) The fiscal agent shall be selected by the public service board after competitive bidding. No ~~telecommunications~~ service provider required to collect the universal service charge shall be eligible to be the fiscal agent. The duties of the fiscal agent shall be determined by a contract with a term not greater than three years.

(e) The financial accounts of the fiscal agent shall be available at reasonable times to any ~~telecommunications~~ service provider in this state

required to collect the universal service charge. The public service board may investigate the accounts and practices of the fiscal agent and may enter orders concerning the same.

Sec. 5. 30 V.S.A. § 7521 is amended to read:

§ 7521. CHARGE IMPOSED; ~~WHOLESALE EXEMPTION~~

(a) A universal service charge is imposed on the sales price of all retail sales of ancillary and telecommunications service provided to a Vermont address, except coin-operated telephone service, paging service, prepaid calling service, prepaid wireless calling service, or value-added nonvoice data service. Where the location of a service and the location receiving the bill differ, the location of the service shall be used to determine whether the charge applies. The charge is imposed on the person purchasing the service, but shall be collected by the ~~telecommunications~~ service provider. When any portion of a bundle of services sold for a single price includes a service subject to the charge, the charge shall be calculated based on the price of the bundle, unless the service provider can identify the portion of the bundle not attributable to services subject to the charge through reasonable and verifiable standards based on the service provider's books and records kept in the regular course of business for other purposes, including but not limited to nontax purposes. Each ~~telecommunications~~ service provider that is required to file tariffs with the public service board shall include in its tariffs ~~filed at the public service board~~ a description of its billing procedures for the universal service fund charge.

* * *

Sec. 6. 30 V.S.A. § 7522 is amended to read:

§ 7522. REBATE FOR PAYMENT ELSEWHERE

When a ~~telecommunications~~ service is subject to the charge imposed by section 7521 of this title and also to a similar charge imposed for similar purposes in another state, the customer shall be liable only for the difference between the amount demonstrably paid in the other state and the amount due in this state.

Sec. 7. 30 V.S.A. § 7524(a), (c), and (d) are amended to read:

(a) ~~Telecommunications service~~ Service providers shall pay to the fiscal agent all universal service charge receipts collected from customers. A report in a form approved by the public service board shall be included with each payment.

(c) ~~Telecommunications service~~ Service providers shall maintain records adequate to demonstrate compliance with the requirements of this chapter.

The board or the fiscal agent may examine those records in a reasonable manner.

(d) When a payment is due under this section by a ~~telecommunications~~ service provider who has provided customer credits under the lifeline program, the amount due may be reduced by the amount of credit granted.

Sec. 8. 30 V.S.A. § 7525(d) and (e) are amended to read:

(d) Upon petition of the fiscal agent, the public service board may impose, after notice and an opportunity for hearing, civil penalties against a ~~telecommunications~~ service provider who is delinquent in making payments to the fiscal agent. Any penalty imposed may be based upon the size and duration of the violation, but no such penalty shall exceed twice the amount of the delinquency or \$1,000.00, whichever is larger.

(e) A ~~telecommunications~~ service provider who has filed reports required by this chapter shall not be liable for delinquent payments that were due more than three years before the fiscal agent gave notice of delinquency to the provider.

Sec. 9. 30 V.S.A. § 7502(b) is amended to read:

(b) By rule or general order, the public service board may adopt procedures and standards to implement its responsibilities under this chapter. Rules may further clarify terms used in this chapter and may specify how to calculate line equivalents for the minimum or alternative charge imposed on presubscribed services. To the extent applicable, the public service board shall use the procedures and standards applicable to the setting of rates for regulated utilities. Those procedures may be designed to expedite the annual establishment of amounts to be collected and distributed by the fiscal agent.

Sec. 10. 30 V.S.A. § 7521(b) is amended to read:

(b) ~~The universal service charge shall not apply to wholesale transactions between telecommunications service providers where the service is a component part of a service provided to an end user. This exemption includes, but is not limited to, network access charges and interconnection charges paid to a local exchange carrier.~~ The board may establish by rule a minimum charge per telephone line or telephone line equivalent per month of service or portion thereof if the board finds that to do so is necessary to ensure sufficient revenues for payment from the fund or to ensure equity among different types of telephone users. The board may also establish by rule a flat charge per telephone line or telephone line equivalent in lieu of the rate of charge established in subsection (a) of this section if the board finds that it is administratively efficient to do so and not contrary to the public good.

Sec. 11. 30 V.S.A. § 7523(a) is amended to read:

(a) Annually, after considering the probable expenditures for programs funded pursuant to this chapter, the probable service revenues of the industry and seeking recommendations from the department, the public service board shall establish a rate of charge to apply during the 12 months beginning on the following September 1. However, the rate so established shall not at any time exceed two percent of retail telecommunications service. The board's decision shall be entered and announced each year before July 15. However, if the general assembly does not enact an authorization amount for E-911 before July 15, the board may defer decision until 30 days after the E-911 authorization is established, and the existing charge rate shall remain in effect until the board establishes a new rate. Rates established by the board on a per-line or line-equivalent basis may be set notwithstanding the maximum percentage rate established by this section, but shall not be set at a rate that collects in excess of that which is required to support the program purposes as established by law and any necessary reserve.

Sec. 12. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee vote: 7-0-0)

Committee Bills for Notice

S. 79

An act relating to restoring student assistance program positions.

By the Committees on Education and Health and Welfare.

S. 84

An act relating to Vermont Veterans' Memorial Cemetery.

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

Ordered to Lie

S. 7

An act to prohibit the use of lighted tobacco products in the workplace.

PENDING QUESTION: Shall the bill be amended as recommended by the Committee on Health and Welfare?

CONSENT CALENDAR

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to Senate Calendar of Friday, February 13, 2009.

H.C.R. 44

House concurrent resolution in memory of Capitol Police Chief David Alan Janawicz

H.C.R. 45

House concurrent resolution congratulating Robert Matteson of Bennington on his extraordinary accomplishments as a masters runner

H.C.R. 46

House concurrent resolution honoring the exemplary public service of retired Department of Fish and Wildlife Director of Law Enforcement Robert J. Rooks

H.C.R. 47

House concurrent resolution in memory of the American military personnel who have died in the service of their nation in Iraq from March 26, 2008 to January 20, 2009

H.C.R. 48

House concurrent resolution commending the work of the Vermont 2-1-1 telephone support system

H.C.R. 49

House concurrent resolution congratulating the Republic of Kosovo on the first anniversary of its independence and the Vermont National Guard Troops who have served in Kosovo since 1999

H.C.R. 50

House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2008

H.C.R. 51

House concurrent resolution in memory of Sherry Walter Belknap of Bloomfield

H.C.R. 52

House concurrent resolution honoring Mark Tucci and Silent Heat

H.C.R. 53

House concurrent resolution honoring Katherine (Kitty) Langlois for her work at the People's Health & Wellness Clinic in Barre City and in the civic affairs of the town of Berlin

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Susan D. Plaustainer of Brownsville – Member of the Vermont Economic Development Authority – By Sen. Maynard for the Committee on Finance. (1/21)

Rachel Schumacher of North Bennington – Member of the Vermont Economic Development Authority – By Sen. Hartwell for the Committee on Finance. (1/21)

Steven J. Bourgeois of Swanton – Member of the Vermont Economic Development Authority – By Sen. Carris for the Committee on Finance. (1/28)

Thomas Pelletier of Montpelier – Member of the Vermont Housing Finance Agency – By Sen. Cummings for the Committee on Finance. (1/28)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Neale F. Lunderville of Burlington – Secretary of the Agency of Administration – By Sen. Flanagan for the Committee on Government Operations. (2/17)

Michael Welch of St. Johnsbury – Member of the Valuation Appeals Board
– By Sen. McCormick for the Committee on Finance. (2/18)

David R. Coates of Colchester – Member of the Vermont Municipal Bond
Bank – By Sen. Carris for the Committee on Finance. (2/18)

JOINT ASSEMBLY

Thursday, February 19, 2009 – 10:30 A.M. – House Chamber –Election of a Sergeant at Arms, of an Adjutant and Inspector General, and of three (3) trustees for the University of Vermont, and Vermont and State Agricultural College.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.

PUBLIC HEARINGS

Wednesday, February 17, 2009 – 7-9:00 p.m. – Well of the House – The Future of Vermont Food and Farming – (Senate and House Committees on Agriculture).

Thursday, February 29, 2009 – 7:00-8:00 p.m. – Room 11 – Judicial Retention. Re: Hon. Geoffrey Crawford, Hon. Brian Gearson, Hon. Mary Teachout, Hon. Howard Van Benthuyzen. (Joint Judicial Retention Committee).

Tuesday, February 24, 2009 - 9:00 a.m-12:00 p.m. – Room 11 – FY 2010 STATE BUDGET – (House Committee on Appropriations).

Wednesday, February 25, 2009 – 2:30-4:30 p.m. – Room 11 – FY 2010 STATE BUDGET – (House Committee on Appropriations).

REPORTS ON FILE

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following reports is on file in the office of the Secretary of the Senate. Effective January 2009, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Vermont webpage.

35. Lottery Commission Annual Report. (January 2009)

36. Status Report on Vehicle Emissions Labeling. (Agency of Natural Resources, Department of Environmental Conservation). (February 2009)
37. Vermont Housing Finance Agency Annual Report. (February 2009)
38. Vermont Center for Geographic Information Inc. (February 2009)
39. Requirements of Act 109, Section 24 of the 2008 Legislative Session. (Agency of Administration, Department of Taxes). (February 2009)
40. Vermont Children's Tax Check-off Report. (Department for Children & Families, Child Development Division) (February 2009)
41. Health Care Ombudsman Annual Report. (February 2009)
42. Vermont Information Technology Leaders January 2009 Progress Report. (February 2009)
43. Forest Products Viability Program Report. (Agency of Natural Resources, Department of Forest, Parks and Recreation) (February 2009)
44. Energy Efficiency Utility Program Revenues and Expenditures. (Public Service Board) (February 2009)
45. Vermont State Housing Authority 2008 Annual Report. (February 2009)
46. Vermont Long Term Care Ombudsman Project. (Vermont Legal Aid) (February 2009)

A complete list of paper and electronically filed reports is available in the Senate office.