

Senate Calendar

FRIDAY, FEBRUARY 27, 2009

52nd DAY OF BIENNIAL SESSION

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ORDERS OF THE DAY

Consideration Postponed until Friday, February 27, 2009

S. 34

An act relating to the agreement among the states to elect the president by national popular vote.

PENDING QUESTION: Pending third reading, shall the bill be amended as recommended by Senators Brock and Starr?

**TEXT OF AMENDMENT TO S. 34 OFFERED BY SENATORS BROCK
AND STARR BEFORE THIRD READING**

Senators Brock and Starr recommend that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SECRETARY OF STATE; STUDY; REPORT

The secretary of state shall study the history of election results for the office of President of the United States in Vermont. By January 1, 2010, the secretary of state shall file a report with the general assembly which analyzes which presidential candidates would have been supported in Vermont if The Agreement Among the States to Elect the President by National Popular Vote had been in effect for each presidential election.

Sec. 2. ATTORNEY GENERAL; OPINION

By January 1, 2010, the attorney general shall file an opinion with the General Assembly which analyzes whether The Agreement Among the States to Elect the President by National Popular Vote as set forth in S.34 as introduced in the 2009 legislative session is valid under the Constitution of the United States.

Third Reading

S. 92

An act relating to financing campaigns for elected office.

**AMENDMENT TO S. 92 TO BE OFFERED BY SENATOR BROCK
BEFORE THIRD READING**

Senator Brock moves to amend the bill as follows:

First: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 17 V.S.A. § 2805 is amended to read:

§ 2805. LIMITATIONS OF CONTRIBUTIONS

(a) A candidate ~~for state representative or local office~~ or political committee shall not accept contributions totaling more than ~~\$200.00~~ \$1,000.00 from a single source, ~~political committee or political party in for~~ any two-year general election cycle.

(b) A candidate ~~for state senator or county office~~ or political committee shall not accept contributions totaling more than ~~\$300.00~~ \$3,000.00 from a ~~single source, political committee or political party in for~~ any two-year general election cycle. ~~A candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, auditor of accounts, or attorney general shall not accept contributions totaling more than \$400.00 from a single source, political committee or political party in any two-year general election cycle. A political committee, other than a political committee of a candidate, or a political party shall not accept contributions totaling more than \$2,000.00 from a single source, political committee or political party in any two-year general election cycle.~~

~~(b) A single source, political committee or political party shall not contribute more to a candidate, political committee or political party than the candidate, political committee or political party is permitted to accept under subsection (a) of this section.~~

~~(c) A candidate, political party or political committee shall not accept, in any two-year general election cycle, more than 25 percent of total contributions from contributors who are not residents of the state of Vermont or from political committees or parties not organized in the state of Vermont.~~

A single source or political committee shall not contribute more to a candidate or political committee than the candidate or political committee is permitted to accept under subsections (a) and (b) of this section.

(d) A candidate shall not accept a monetary contribution in excess of \$50.00 unless made by check, credit or debit card, or other electronic transfer.

(e) A candidate, political party, or political committee shall not knowingly accept a contribution which is not directly from the contributor, but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this subsection.

(f) This section shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, “immediate family” means ~~individuals related to the candidate in the first, second or third degree of consanguinity~~ a candidate’s spouse or civil union partner, parent, grandparent, child, grandchild, sister, brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, legal guardian, or former legal guardian.

(g) The limitations on contributions established by this section shall not apply to contributions made for the purpose of advocating a position on a public question, including a constitutional amendment.

(h) For purposes of this section, the term “candidate” includes the candidate’s political committee.

(i) The contribution limitations contained in this section shall be adjusted for inflation by increasing them based on the Consumer Price Index. Increases shall be rounded up to the nearest \$10.00. Increases shall be effective for the first two-year general election cycle beginning after the general election held in 2010. On or before July 1, 2011, the secretary of state shall calculate and publish the amount of each limitation that will apply to the election cycle in which July 1, 2011 falls. On July 1 of each subsequent odd-numbered year, the secretary shall publish the amount of each limitation for the election cycle in which that publication falls.

(j) Contributions accepted by candidates shall be treated as follows:

(1) A candidate who accepts a contribution prior to the date of the primary election may designate the contribution or portion of the contribution as either a primary or general election contribution. Once designated, a general election contribution accepted prior to the primary election shall be accounted for separately.

(2) A contribution accepted by a candidate after the date of the primary election shall be a general election contribution. A candidate may designate a contribution or portion of the contribution accepted after the date of the primary election as a primary election contribution only for the purpose of retiring debt incurred for the primary election.

(3) Contributions that were accepted prior to the primary election may be used for the general election if all debt incurred for the primary election has been retired.

(4) Expenditures related to a previous two-year general election cycle and contributions to retire a debt of a previous two-year general election cycle shall be attributed to the earlier two-year general election cycle.

(k) The following shall apply to an independent candidate who certifies to the secretary of state that he or she will not accept contributions from any political party:

(1) The candidate may accept contributions from one political committee, designated by the candidate, up to the limitations set forth in subsection (e) of this section for political party contributions; and

(2) For the purposes of this chapter, "contribution" shall not include:

(A) Compensation paid by one political committee, designated by the candidate, to its employees;

(B) Costs paid by one political committee, designated by the candidate, in connection with a campaign event.

(l) A candidate accepts a contribution when the contribution is deposited in the candidate's campaign account.

Second: By striking out Sec. 5 in its entirety

NEW BUSINESS

Third Reading

S. 59

An act relating to approval of expenditures for gifts.

Joint Resolution for Action

J.R.H. 9

Joint resolution designating December 10, 2009 as Human Rights Day.

(For text of Resolution, see Senate Journal for February 25, 2009, page 294)

NOTICE CALENDAR

Favorable

H. 166

An act relating to the Vermont Student Assistance Corporation.

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 6-0-1)

Favorable with Recommendation of Amendment

S. 2

An act relating to offenders with a mental illness or other functional impairment.

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. 28 V.S.A. § 701a is amended to read:

§ 701a. SEGREGATION OF INMATES WITH A SERIOUS MENTAL ILLNESS FUNCTIONAL IMPAIRMENT

(a) The commissioner shall adopt rules pursuant to chapter 25 of Title 3 regarding the classification, treatment, and segregation of an inmate with a serious ~~mental illness~~ functional impairment as defined in ~~subdivision 906(1)~~ and identified under subchapter 6 of this ~~title~~ chapter; provided that the length of stay in segregation for an inmate with a serious ~~mental illness~~ functional impairment:

(1) Shall not exceed 15 days if the inmate is segregated for disciplinary reasons.

(2) Shall not exceed 30 days if the inmate requested the segregation, except that the inmate may remain segregated for successive 30-day periods following assessment by a qualified mental health professional and approval of a physician for each extension.

(3) Shall not exceed 30 days if the inmate is segregated for any reason other than the reasons set forth in subdivision (1) or (2) of this subsection, except that the inmate may remain segregated for successive 30-day periods following a due process hearing for each extension, which shall include assessment by a qualified mental health professional and approval of a physician.

(b) For purposes of this title, and despite other names this concept has been given in the past or may be given in the future, "segregation" means a form of separation from the general population which may or may not include placement in a single occupancy cell and which is used for disciplinary, administrative, or other reasons.

(c) On or before the 15th day of each month, the department's health services director shall provide to the joint legislative corrections oversight committee a report that, while protecting inmate confidentiality, lists each

inmate who was in segregation during the preceding month by a unique indicator and identifies the reason the inmate was placed in segregation, the length of the inmate's stay in segregation, whether the inmate has a serious ~~mental illness~~, functional impairment or is otherwise ~~on the department's mental health roster~~ identified as receiving mental health services, and, if so, the nature of the ~~mental illness~~ functional impairment or services provided. The report shall also indicate any incident of self harm or attempted suicide by inmates in segregation. The ~~committee chair~~ department shall ensure that a copy of the report is forwarded to the Vermont defender general and the executive director of Vermont Protection and Advocacy, Inc. on a monthly basis.

Sec 2. 28 V.S.A. chapter 11, subchapter 6 is amended to read:

Subchapter 6. Services for Inmates with Serious

~~Mental Illness~~ Functional Impairment

§ 906. DEFINITIONS

As used in this subchapter:

(1) "Serious ~~mental illness~~ functional impairment" means:

(A) a ~~substantial~~ disorder of thought, mood, perception, orientation, or memory, ~~any of~~ as diagnosed by a qualified mental health professional, which ~~grossly~~ substantially impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and which substantially impairs the ability to function within the correctional setting; or

(B) a developmental disability, traumatic brain injury, or other organic brain disorder, or various forms of dementia or other neurological disorders, as diagnosed by a qualified mental health professional, which substantially impair the ability to function in the correctional setting.

(2) "~~Mental~~ Qualified mental health professional" means a person with professional training, experience, and demonstrated competence in the treatment of mental illness or serious functional impairments who is a physician, psychiatrist, psychologist, social worker, nurse, or other qualified person determined by the commissioner of mental health.

(3) "Mental illness or disorder" means a condition that falls under any Axis I diagnostic categories or the following Axis II diagnostic categories as listed in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders DSM-IV-TR Fourth Edition (Text Revision), as updated from time to time: borderline personality disorder, histrionic personality disorder, mental retardation, obsessive-compulsive personality

disorder, paranoid personality disorder, schizoid personality disorder, or schizotypal personality disorder.

(4) "Screening" means an initial survey to identify whether an inmate has immediate treatment needs or is in need of further evaluation.

§ 907. MENTAL HEALTH SERVICE FOR INMATES; POWERS AND RESPONSIBILITIES OF COMMISSIONER

The commissioner shall administer a program of mental health services which shall be available to all inmates and shall provide adequate staff to support the program. The program shall provide the following services:

(1) Within 24 hours of admittance to a correctional facility all inmates shall be screened for any signs of ~~serious~~ mental illness or disorder, or serious functional impairment. If as a result of the screening it is determined that the inmate is receiving services under the developmental services waiver or is currently receiving community rehabilitation and treatment services, he or she will automatically be designated as having a serious functional impairment.

(2) A thorough evaluation, conducted in a timely and reasonable fashion by a qualified mental health professional, which includes a review of available medical and psychiatric records. The evaluation shall be made of each inmate who:

(A) has a history of ~~serious~~ mental illness or disorder;

(B) has received community rehabilitation and treatment services; or

(C) ~~who~~ shows signs or symptoms of ~~serious~~ mental illness or disorder or of serious functional impairment at the initial screening or as observed subsequent to entering the department in a timely and reasonable fashion. The evaluation shall be conducted by a mental health professional who is qualified by training and experience to provide diagnostic, rehabilitative, treatment or therapeutic services to persons with serious mental illness. The evaluation shall include review of available medical and psychiatric records facility.

(3) The development and implementation of an individual treatment plan, when a clinical diagnosis by a qualified mental health professional indicates an inmate is suffering from serious mental illness or disorder or from serious functional impairment. The treatment plan shall be developed in accord with the National Commission on Corrections Health Care Standards and explained to the inmate by a qualified mental health professional.

(4) Access to a variety of services and levels of care consistent with the treatment plan to inmates suffering serious mental illness or disorder or serious

functional impairment. These services shall include, as appropriate, the following:

- (A) Follow-up evaluations.
- (B) Crisis intervention.
- (C) Crisis beds.
- (D) Residential care within a correctional institution.
- (E) Clinical services provided within the general population of the correctional facility.

(F) Services provided in designated special needs units.

(G) As a joint responsibility with the department of mental health and the department of disabilities, aging, and independent living, and working with ~~community mental health centers~~ designated agencies, the implementation of discharge planning developed in accord with the National Commission on Corrections Health Care Standards and for community services for which the offender is eligible.

(H) Other services that the department of corrections, the department of disabilities, aging, and independent living, and the department of mental health jointly determine to be appropriate.

(5) Procedures to actively seek and identify any inmate who has not received the enhanced screening, evaluation, and access to mental health services appropriate for inmates suffering from a ~~serious~~ serious mental illness or disorder or a serious functional impairment.

(6) Special training to medical and correctional staff to enable them to identify and initially deal with inmates with a ~~serious~~ serious mental illness or disorder or a serious functional impairment. This training shall include the following:

(A) Recognition of signs and symptoms of ~~serious~~ serious mental illness or disorder or a serious functional impairment in the inmate population.

(B) Recognition of signs and symptoms of chemical dependence and withdrawal.

(C) Recognition of adverse reactions to psychotropic medication.

(D) Recognition of improvement in the general condition of the inmate.

(E) Recognition of mental retardation.

(F) Recognition of mental health emergencies and specific instructions on contacting the appropriate professional care provider and taking other appropriate action.

(G) Suicide potential and prevention.

(H) Precise instructions on procedures for mental health referrals.

(I) Any other training determined to be appropriate.

Sec. 3. REPORT

The agency of human services shall make a quarterly report to the corrections oversight committee regarding the status of the Enhanced Integration of AHS Services for Seriously Functionally Impaired Persons in Corrections pilot program.

Sec. 4. SUNSET

Sec. 3 of this act shall be repealed on July 1, 2012.

(Committee vote: 5-0-0)

S. 26

An act relating to recovery of profits from crime.

Reported favorably with recommendation of amendment by Senator Mullin 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. 13 V.S.A. § 5351(8) is added to read:

(8) “Profits from crimes” means:

(A) any property obtained through or income generated from the commission of a crime in which the defendant was convicted;

(B) any property obtained by or income generated from the sale, conversion, or exchange of proceeds of a crime, including any gain realized by such sale, conversion, or exchange;

(C) any property that the defendant obtained or any income generated as a result of having committed the crime, including any assets obtained through the use of unique knowledge acquired during the commission of or in preparation for the commission of the crime, as well as any property obtained or income generated from the sale, conversion, or exchange of such property and any gain realized by such sale, conversion, or exchange, and

(d) any property defendant obtained or any income generated from the sale of tangible property the value of which is increased by the notoriety gained from the conviction of an offense by the person accused or convicted of the crime.

Sec. 2. 13 V.S.A. chapter 167, subchapter 4 is added to read:

Subchapter 4. Profits from Crime

§ 5421. NOTICE OF PROFITS FROM A CRIME

(a) Every person, firm, corporation, partnership, association, or other legal entity which knowingly contracts for, pays, or agrees to pay any profits from a crime, as defined in subdivision 5351(8) of this title, to a person charged with or convicted of that crime shall give written notice to the attorney general of the payment or obligation to pay as soon as is practicable after discovering that the payment is or will be a profit from a crime.

(b) The attorney general, upon receipt of notice of a contract, agreement to pay, or payment of profits of the crime shall send written notice of the existence of such profits to all known victims of the crime at their last known addresses.

§ 5422. ACTIONS TO RECOVER PROFITS FROM A CRIME

(a) Notwithstanding any other provision of law, including any statute of limitations, any crime victim shall have the right to bring a civil action in a court of competent jurisdiction to recover money damages from a person convicted of that crime, or the legal representative of that convicted person, within three years of the discovery of any profits from the crime. Any damages awarded in such action shall be recoverable only up to the value of the profits of the crime. This section shall not limit the right of a victim to proceed or recover under another cause of action.

(b) The attorney general may, within three years of the discovery of any profits from the crime, bring a civil action on behalf of the state to enforce the subrogation rights described in section 5357 of this title.

(c) If the full value of any profits from the crime has not yet been claimed by either the victim of the crime or the victim's representative, the attorney general, or both, within three years of the discovery of such profits, then the state may bring a civil action in a court of competent jurisdiction to recover the costs incurred by providing the defendant with counsel, if any, and other costs reasonably incurred in the incarceration of the defendant.

(d) Upon the filing of an action pursuant to subsection (a) of this section, the victim shall deliver a copy of the summons and complaint to the attorney general. Upon receipt of a copy of the summons and complaint, the attorney

general shall send written notice of the alleged existence of profits from the crime to all other known victims at their last known addresses.

(e) To avoid the wasting of assets identified in the complaint as newly discovered profits of the crime, the attorney general, acting on behalf of the plaintiff and all other victims, shall have the right to apply for all remedies that are also otherwise available to the victim.

Sec. 3. 27 V.S.A. § 2 is amended to read:

§ 2. ESTATE IN COMMON PREFERRED TO JOINT TENANCY; JOINT TENANCY WITH UNEQUAL SHARES

(a) Conveyances and devises of lands, whether for years, for life or in fee, made to two or more persons, shall be construed to create estates in common and not in joint tenancy, unless it is expressed therein that the grantees or devisees shall take the lands jointly or as joint tenants or in joint tenancy or to them and the survivors of them. This provision shall not apply to devises or conveyances made in trust or made to husband and wife or to conveyance in which it manifestly appears from the tenor of the instrument that it was intended to create an estate in joint tenancy.

(b)(1) An instrument may create a joint tenancy in which the interests of the joint tenants are equal or unequal.

(2) Unless the instrument creating a joint tenancy contains language indicating a contrary intent:

(A) It shall be presumed that the joint tenants' interests are equal.

(B) Upon the death of a joint tenant, the deceased joint tenant's interest shall be allocated among the surviving joint tenants, as joint tenants, in proportion to their respective joint interests at the time of the deceased joint tenant's death.

(c) Any joint tenant who unlawfully and intentionally kills another joint tenant thereby effects a severance of the interest of the decedent so that the share of the decedent passes immediately to the decedent's estate, and the killer has no rights of survivorship. This provision applies to joint tenancies with right of survivorship and tenancies by the entirety in real and personal property; joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions; and any other form of co-ownership with survivorship incidents.

(d) A final judgment of conviction of an unlawful and intentional killing is conclusive for purposes of this section. In the absence of a conviction a court may determine by clear and convincing evidence whether the killing was unlawful and intentional for purposes of this section.

(e) A severance under subsection (c) of this section does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a certified copy of the judgment referenced in subsection (d) is recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership, but the killer is liable for the amount of the proceeds or the value of the property.

(f) The rights of a mortgage or lienholder in any property that is severed under subsection (c) of this section shall not be affected.

(Committee vote: 5-0-0)

S. 27

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

Reported favorably with recommendation of amendment by Senator Miller 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)

Reported without recommendation by Senator Carris for the Committee on Finance.

House Proposal of Amendment

J. R. S. 21

Joint resolution in support of the United States dairy industry.

The House proposes to the Senate to amend the resolution by striking all after the title and inserting in lieu thereof the following:

Whereas, the dairy industry is a keystone industry which not only supports rural communities but enhances other sections of agriculture and provides open space for recreation, sports and tourism, and

Whereas, the dairy industry provides an economic impact of an estimated national average of \$14,000.00 per cow per year, primarily in local economies, and

Whereas, the absence of profitable prices in the dairy industry for farmers, the lack of competition in milk processing ownership, as well as outdated regulations are causing an economic crisis in the dairy industry, and

Whereas, in the past few weeks, the price that milk processors pay farmers for their milk has dropped as much as 50 percent, and

Whereas, the legal vehicle for assisting farmers when the price of milk drops precipitously is the Milk Income Loss Contract (MILC) payment program established in the 2002 Farm Bill, and

Whereas, the amount of funding included in the 2008 Farm Bill for the MILC-X (Milk Income Loss Contract-Extended) payment program did not anticipate this sudden decline in the price that farmers receive from the processors, and

Whereas, the MILC-X payment program is targeted primarily at smaller dairy farms of the size typical in Vermont, and

Whereas, without additional funding in the FY 2009 Agriculture Appropriations Bill for the MILC-X payment program, a large number of dairy farmers, including many in Vermont, will cease operations permanently, and

Whereas, a significant loss of capacity would create a dependence on imported milk and other dairy products and reduce our nation's food security, and

Whereas, the federal 2008 Farm Bill creates a review process for federal milk marketing orders, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly of the State of Vermont urges the President, Congress and the United States Department of Agriculture to acknowledge the importance of the dairy industry nationwide as well as the unique aspects of the dairy industry region-by-region through:

1) Providing for increased funding in the FY 2009 Agriculture Appropriations Bill for the MILC-X payment program;

2) Funding and implementing the federal milk marketing order study as outlined in the 2008 Farm Bill, with regional representation from producers, processors, and state policy-makers;

3) Implementation of fair tariffs on imported dairy solids; and

4) Setting regional prices to reflect accurately and realistically the cost of production, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Secretary of State be directed to send copies of this resolution to President Barack Obama, United States Secretary of Agriculture Tom Vilsack, United States Senator Patrick Leahy, United States Senator Bernard Sanders, and United States Representative Peter Welch.

Proposed Amendment to the Constitution

PROPOSAL 5

(Second day on Notice Calendar pursuant to Rule 83)

Pursuant to Rule 83 of the Senate Rules, notice is hereby given that proposed amendment to the Constitution, Proposal 5, set forth below, will be read the third time and acted upon, on the seventh legislative day following Wednesday, February 25, 2009. At that time, the following question shall be presented: "Shall the Senate concur in the proposal and request the concurrence of the House?"

SUBJECT: Elections; voter's oath; self-administration

PENDING ACTION: Third reading of the proposal (second biennium)

PROPOSAL 5

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to provide that a person who will attain the age of 18 by the date of the general election shall have the right to vote in the primary election.

Sec. 2. Section 42 of Chapter II of the Vermont Constitution is amended to read:

§ 42. [VOTER'S QUALIFICATIONS AND OATH]

Every person of the full age of eighteen years who is a citizen of the United States, having resided in this State for the period established by the General Assembly and who is of a quiet and peaceable behavior, and will take the following oath or affirmation, shall be entitled to all the privileges of a voter of this state:

You solemnly swear (or affirm) that whenever you give your vote or suffrage, touching any matter that concerns the State of Vermont, you will do it so as in your conscience you shall judge will most conduce to the best good of the same, as established by the Constitution, without fear or favor of any person.

Every person who will attain the full age of eighteen years by the date of the general election who is a citizen of the United States, having resided in this State for the period established by the General Assembly and who is of a quiet and peaceable behavior, and will take the oath or affirmation set forth in this section, shall be entitled to vote in the primary election.

Sec. 3. EFFECTIVE DATE

This proposal of amendment shall take effect from the date of its approval by a majority vote of the voters of the state.

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?

Concurrent Resolutions

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 the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively.

Senate Concurrent Resolutions

S.C.R. 12.

Senate concurrent resolution commemorating the tenth anniversary of the sister-state relationship between the state of Vermont and the province of Taiwan.

S.C.R. 13.

Senate concurrent resolution honoring the civic education role of the Bridport Grange's legislative breakfast.

House Concurrent Resolutions

H.C.R. 63

House concurrent resolution congratulating the Pico Ski Club on its 60th anniversary

H.C.R. 64

House concurrent resolution in memory of John C. Donahue Jr. of Northfield

H.C.R. 65

House concurrent resolution congratulating the Roxbury Free Library on its 75th anniversary

H.C.R. 66

House concurrent resolution commemorating the 60th anniversary of U.S. Senator George Aiken's popularizing the geographic designation Northeast Kingdom

H.C.R. 67

House concurrent resolution honoring retiring Putney town moderator John Caldwell

H.C.R. 68

House concurrent resolution recognizing the 62 years of extraordinary school board service of Dr. Harry Rowe

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. McCormack 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)

Sonia D. Alexander of Wilmington – Member of the Valuation Appeals Board – By Sen. Hartwell for the Committee on Finance. (2/25)

Paulette Thabault of South Burlington – Commissioner of the Department of Banking, Insurance, Securities and Health Care Administration – By Sen. Cummings for the Committee on Finance. (3/3)

CROSSOVER

Joint Rules Committee has adopted the following:

All bills must be reported out by the committees of reference by the end of the day of Friday, March 20.

Bills that are then referred to a money committee must be reported out of the money committees by the end of the day of the following Friday, March 27.

Exceptions to the foregoing deadlines include the major money bills (Appropriations, Transportation, Capital, and Miscellaneous Taxes) and other bills as determined by the President *pro tempore* and the Speaker.

PUBLIC HEARINGS

Wednesday, March 4, 2009 – 5:00-7:00 p.m. – Room 11 – Impact of economy on Washington County – (Washington County Delegation).

Tuesday, March 17, 2009 – 2:45-4:30 p.m. and 6:30-8:00 p.m.- Room 11 – Vermont’s revenue situation – (House Committee on Ways and Means).

INFORMATION NOTICE

The following item was recently received by the Joint Fiscal Committee:

JFO #2369 — \$31,799 grant from WomenSafe to States’ Attorneys and Sheriffs. These grant funds will be used to partially cover the cost of a temporary domestic violence prosecutor in Addison County.

[JFO received 2/26/09]