

Journal of the House

Friday, January 30, 2009

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Kids on the Block, Karen Newman and Deb Lyons, Burlington, VT.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee:

H. 101

By Reps. Morrissey of Bennington, Corcoran of Bennington, Jerman of Essex, Komline of Dorset and Krawczyk of Bennington,

An act relating to extension of filing deadlines for homestead declarations and property tax adjustment claims;

To the committee on Ways and Means.

H. 102

By Rep. Heath of Westford,

An act relating to the warranty obligations of suppliers and machinery dealerships;

To the committee on Commerce and Economic Development.

H. 103

By Reps. Atkins of Winooski, Adams of Hartland, Aswad of Burlington, Audette of S. Burlington, Baker of West Rutland, Devereux of Mount Holly, Donovan of Burlington, Kilmartin of Newport City, Kitzmiller of Montpelier, Lenes of Shelburne, Lippert of Hinesburg, Marek of Newfane, McCullough of Williston, McFaun of Barre Town, Orr of Charlotte, Partridge of Windham, Sharpe of Bristol, Spengler of Colchester, Stevens of Waterbury and Trombley of Grand Isle,

An act relating to repeal of delinquent property tax penalty;

To the committee on Ways and Means.

H. 104

By Reps. Crawford of Burke, Copeland-Hanzas of Bradford, Higley of Lowell, Johnson of Canaan, Kilmartin of Newport City, Larocque of Barnet, Lawrence of Lyndon, Leriche of Hardwick, Lewis of Derby, Marcotte of Coventry, Morley of Barton, Peaslee of Guildhall, Reis of St. Johnsbury, Rodgers of Glover, South of St. Johnsbury, Toll of Danville and Wheeler of Derby,

An act relating to commercial vehicle operation on the interstate highways;
To the committee on Transportation.

H. 105

By Reps. Mrowicki of Putney, Donahue of Northfield, Fisher of Lincoln, Frank of Underhill, French of Randolph, Haas of Rochester, McFaun of Barre Town, Orr of Charlotte, Pugh of S. Burlington, Smith of Mendon and Waite-Simpson of Essex,

An act relating to updating the income eligibility for the child care subsidy;
To the committee on Human Services.

H. 106

By Rep. Heath of Westford,

An act relating to the recycling of cell phones;
To the committee on Natural Resources and Energy.

H. 107

By Reps. O'Donnell of Vernon and McAllister of Highgate,

An act relating to hunting attire;
To the committee on Fish, Wildlife & Water Resources.

H. 108

By Rep. Botzow of Pownal,

An act relating to requiring state agencies to notify municipalities of licenses, permits, and violations involving the use of real property;
To the committee on Government Operations.

H. 109

By Reps. Nuovo of Middlebury, Bray of New Haven and Jewett of Ripton,

An act relating to the Uniform Limited Cooperative Association Act;

To the committee on Commerce and Economic Development.

House Resolution Placed on Calendar

H.R. 6

House resolution, entitled

House resolution to amend Rule 25 of the Rules of the House of Representatives pertaining to the jurisdiction of the committee on agriculture

Offered by: Committee on Rules

Whereas, forest-based products and their markets are a vital part of agriculture in Vermont, and

Whereas, it is appropriate for the committee on agriculture to have jurisdiction over public policy-related to forest-based products and their markets, now therefore be it

Resolved by the House of Representatives:

That this legislative body moves to amend Rule 25 of the Rules of the House of Representatives to read:

25. At the beginning of each regular session standing committees shall be appointed having the following names, number of members, and duties:

<u>Committee</u>	<u>Member</u>	<u>To Consider Matters Relating to</u>
Agriculture	11	<u>Agriculture and forest-based products and their markets</u>

* * *

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

Joint Resolution Adopted

J.R.H. 5

Joint house resolution supporting the candidacy of Linda M. Perham to serve as national commander of the American Legion

Offered by: Representatives Obuchowski of Rockingham, Krawczyk of Bennington, Morrissey of Bennington, Acinapura of Brandon, Adams of Hartland, Aswad of Burlington, Baker of West Rutland, Canfield of Fair Haven, Fagan of Rutland City, O'Donnell of Vernon, Potter of Clarendon and Winters of Williamstown

Whereas, the American Legion is an organization composed of veterans of our nation's military services that works to ensure they are not forgotten, and

Whereas, the American Legion promotes patriotism and loyalty to our nation and its values, and

Whereas, the men and women who are American Legion members belong to local posts throughout the United States, including Vermont, and

Whereas, the highest officer in the American Legion is the national commander, who represents the organization before many forums in both government and the private sector, and

Whereas, the national commander has never been a Vermonter and has always been a male, and

Whereas, Linda Perham, who grew up in Bellows Falls, is a superb candidate for the office of American Legion national commander who, if elected, would become both the first Vermonter and the first woman to reach the pinnacle of the American Legion's leadership, and

Whereas, the national commander visits American Legion Posts and addresses foreign dignitaries and troops both at home and overseas, and

Whereas, Linda Perham is a graduate of Bellows Falls High School and Southern Vermont College, from which she earned an associate degree magna cum laude in nursing, and

Whereas, she is a life member of American Legion Post #37, and

Whereas, for 13 years, Linda Perham served in the U.S. Army as a combat medic, licensed practical nurse, and registered nurse, and

Whereas, within the Vermont Department of the American Legion, she rose to the rank of department commander, and

Whereas, nationally, Linda Perham has served as an American Legion leader of great distinction, performing many roles including national vice commander, and

Whereas, the Vermont Department of the American Legion has enthusiastically endorsed her candidacy and is assisting her in the campaign process, and

Whereas, Linda Perham's selection as the national commander of the American Legion would be a historic milestone for women members of the American Legion and its posts in the state of Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its support for the candidacy of Linda Perham to serve as national commander of the American Legion, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to Team Vermont in Bennington and to Linda Perham.

Was taken up, read and adopted on the part of the House.

Action on Bill Postponed

H. 6

House bill, entitled

An act relating to the sale of engine coolants and antifreeze

Was taken up and pending the reading of the report of the committee on Natural Resources and Energy, on motion of **Rep. Klein of East Montpelier**, action on the bill was postponed until the next legislative day.

Message from the Senate No. 12

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 11. Joint resolution providing for a Joint Assembly for the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College.

J.R.S. 12. Joint resolution establishing a procedure for the conduct of the election of UVM trustees by plurality vote by the General Assembly in 2009.

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

Sexual Harassment Panel Appointed; Policy and Procedure Adopted

The House of Representatives Sexual Harassment Panel was appointed. Policy and procedure was adopted by the House Rules committee pursuant to House rule 90.

Vermont House of Representatives 2009 Sexual Harassment Policy

It is the policy of the Vermont House of Representatives to provide a

professional working environment free from discrimination. Therefore, without qualification, the harassment of anyone on the basis of sex is prohibited.

Scope of Policy

This policy covers the conduct of members of the House of Representatives and employees. The policy extends to the staff of the Legislature and members of the public, including lobbyists and members of the press who allege sexual harassment.

Sexual harassment violates a person's basic civil rights, undermines the integrity of the workplace or work environment and may adversely affect workers and citizens, whether or not they are the direct subjects of the harassment. Sexual harassment may be verbal, physical, auditory or visual, subtle or overt. Sexual harassment is behavior which is not only unwelcome, but may also be personally offensive. Such behavior demonstrates a lack of respect for the rights of others, lowers morale, interferes with work effectiveness and violates a person's sense of well-being. Men or women may be victims of sexual harassment which may occur between equals as well as when one person has authority, or the appearance of authority, over another.

Sexual harassment, a form of sex discrimination, is prohibited by both state and federal law; therefore it is the duty of each House member and the Clerk of the House to provide a workplace free from harassment. This duty involves informing all employees and House members of this policy and that they are not required to endure sexual harassment, that such harassment is illegal and prohibited, and that the sexual harassment policy will be enforced by speedy and impartial investigation of all complaints.

Definition of Sexual Harassment

"Sexual harassment" is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when it occurs under one or more of the following circumstances:

1. submission to such conduct is made either explicitly or implicitly a term or condition of employment;
2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions of such individual, whether or not the harasser is the employer;
3. such conduct has the purpose or effect of unreasonably interfering with an individual's or employee's work performance or of creating an intimidating, hostile, or offensive working environment.

Examples of sexual harassment include, but are not limited to, the following when the acts or behavior come within one of the above definitions:

- either explicitly or implicitly conditioning any term of employment (e.g. continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of a person's body;
- touching or grabbing any part of a person's body after that person has indicated that such physical contact is unwelcome;
- continuing to ask a person to socialize on or off-duty when that person has indicated a lack of interest;
- displaying or transmitting sexually suggestive pictures, objects, cartoons, posters or other visual matter if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;
- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g. ostracizing the person, pressuring the person to drop or not support the complaint, or adversely altering that person's duties or work environment);
- derogatory or provocative remarks about or relating to a person's sex or sexual orientation;
- harassing acts or behavior directed against a person on the basis of the person's sex or sexual orientation;
- off-duty conduct which falls within the above definitions and affects the work environment.

Confidentiality

All investigations and efforts to resolve complaints under this procedure shall be conducted with as much confidentiality as possible without compromising the thoroughness of the investigation. The complaint procedure is designed to encourage the reporting of all incidents of sexual harassment by

assuring confidentiality to the extent possible to protect the reputation of victims and anyone wrongfully accused and to prohibit retaliation against anyone who files a complaint. Confidentiality cannot be assured if a person uses another forum to report or defend against a sexual harassment complaint. Notice will be given to anyone who is the subject of an investigation of a sexual harassment complaint.

Filing a Complaint

Anyone who believes that he or she has been sexually harassed by a member or an employee of the House has a number of avenues of resolution. Such a person is encouraged to address the problem informally by confronting the individual or having another person intervene to stop the offending behavior. This policy provides for a procedure if other options are ineffective or the person chooses not to attempt informal resolution.

A person may make a complaint to a member of the House Sexual Harassment Panel (SHP), who will thoroughly explain the complaint process and other options for resolution. If the person decides to pursue a complaint, it shall be made in writing and filed with the SHP which will investigate and take steps to resolve the situation with as much confidentiality as possible.

If any party to the complaint is dissatisfied with the resolution proposed by the SHP, the dissatisfied party may request the House Rules Committee to review the actions of the SHP.

Although persons affected by sexual harassment by members of the House or its employees are encouraged to utilize this procedure, a complaint may also be made to court through a private attorney or to any of the following:

Equal Employment Opportunity Commission (EEOC), 1 Congress St., Boston, MA, 02114, tel (617) 565-3200

Human Rights Commission, 133 State St., Montpelier, VT 05602, tel. (802) 828-2480

Vermont Attorney General, Civil Rights Unit, 109 State St., Montpelier, VT 05602 tel. (802) 828-3171

Vermont Labor Relations Board, 13 Baldwin St., Montpelier, VT 05602 tel. (802) 828-2700

Training and Information

The House of Representatives is committed to providing a working environment free from sexual harassment. To that end, it is crucial that the members and employees of the House are provided with training so that they will understand, comply with, and if required, administer this policy. Also,

this policy and other supporting documents shall be included in all orientation and informational materials. The Speaker and the Clerk of the House will ensure that House members and employees are informed of this policy and the procedures for reporting sexual harassment. The Speaker will ensure that training is made available to members and employees and that appropriate information is disseminated. Members of the Sexual Harassment Panel may receive additional training so they can carry out their responsibilities.

PROCEDURE

Scope

This procedure is available to any person who claims to have been sexually harassed by a member, officer or employee of the House of Representatives in the course of legislative business and will apply to complaints of retaliation or failure to comply with a previous resolution of a sexual harassment complaint.

Formal Procedure

This procedure is initiated by contacting the SHP or an individual member of the panel.

The person shall receive information about how to file a complaint and other information about the process, including options for resolution. Upon receipt of a written complaint, a confidential investigation shall be conducted by the panel or by a designated panel member.

The investigation must be initiated within 48 hours of receipt of the written complaint and concluded within two weeks. The person making the complaint shall be kept informed of the progress of the investigation. The subject of the complaint will be notified.

At the conclusion of the investigation, the SHP will determine whether sexual harassment has occurred and, if so, will propose a recommendation for resolution. The report will be in writing.

If the matter is not resolved by the SHP, it will be referred to the Rules Committee. The Rules Committee will review the report and the recommendation for resolution by the SHP and make its own recommendation for an appropriate resolution. The Rules Committee shall take the steps necessary to implement any proposed resolution which requires action by the House.

Confidentiality

All actions of the SHP are confidential. Except as otherwise provided in the rules of the House, actions of the Rules Committee to review cases referred by the panel are also confidential.

Records of sexual harassment complaints filed with the SHP and written reports will be retained by the panel and accessed only with the consent of the panel.

Communications with members of the panel shall also be confidential, even if a written complaint is not filed.

Sexual Harassment Panel

Rep. Floyd Nease of Johnson

Rep. Patti Komline of Dorset

Rep. Linda Waite-Simpson of Essex

Rep. Mollie Burke of Brattleboro

Rep. Mike Mrowicki of Putney

Committee Appointments Announced

The Speaker announced the following committee appointments:

Legislative Council

Rep. Smith of Morristown

Rep. Komline of Dorset

Rep. Martin of Wolcott

Rep. Clarkson of Woodstock

Mental Health Oversight Committee

Rep. Fisher of Lincoln

Rep. Donahue of Northfield

Rep. Nease of Johnson

Rep. Koch of Barre Town

Milk Commission

Rep. Bray of New Haven

Vermont Interactive Television Coordinating Council

Rep. Keenan of St. Albans City

Vermont Tobacco Evaluation and Review Board

Rep. Frank of Underhill

Legislative Advisory Committee on the State House

Rep. Kitzmiller of Montpelier

Rep. Browning of Arlington

Rep. Myers of Essex

Vermont Child Poverty Council

Rep. Partridge of Windham
Rep. Pugh of South Burlington
Rep. Donovan of Burlington

Commission on International Trade and State Sovereignty

Rep. Keenan of St. Albans City

Council on Education Governance

Rep. Donovan of Burlington
Rep. Peltz of Woodbury
Rep. Clark of Vergennes

Advisory Council on Special Education

Rep. Mook of Bennington

Adjournment

At ten o'clock and five minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until Tuesday, February 3, 2009, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 10.