

Journal of the House

Tuesday, February 3, 2009

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Michael Augustinowicz of St. Augustine Church, Montpelier, VT.

Pledge of Allegiance

Page Sarah Faber of Middlesex led the House in the Pledge of Allegiance.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Komline of Dorset**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 110

By Reps. Atkins of Winooski, Aswad of Burlington, Audette of S. Burlington, Baker of West Rutland, Howrigan of Fairfield, Keenan of St. Albans City and Turner of Milton,

An act relating to death benefits for dependents of members of the General Assembly;

To the committee on Government Operations.

H. 111

By Reps. French of Randolph, Branagan of Georgia, Donahue of Northfield, Haas of Rochester, Kitzmiller of Montpelier, Klein of East Montpelier, Macaig of Williston, Poirier of Barre City, Pugh of S. Burlington, Townsend of Randolph and Trombley of Grand Isle,

An act relating to children's access to tobacco products;

To the committee on Human Services.

H. 112

By Rep. Deen of Westminster,

An act relating to the management of solid waste;

To the committee on Natural Resources and Energy.

H. 113

By Rep. Deen of Westminster,

An act relating to brownfields;

To the committee on Natural Resources and Energy.

H. 114

By Rep. Deen of Westminster,

An act relating to enforcement and compliance authority of the Agency of Natural Resources;

To the committee on Natural Resources and Energy.

H. 115

By Rep. Grad of Moretown,

An act relating to training hunting dogs on posted land;

To the committee on Fish, Wildlife & Water Resources.

H. 116

By Rep. Botzow of Pownal,

An act relating to the contaminant testing requirements for a public water supply that receives water from out-of-state suppliers;

To the committee on Fish, Wildlife & Water Resources.

H. 117

By Reps. Atkins of Winooski, Brennan of Colchester, Consejo of Sheldon, Howrigan of Fairfield, Larocque of Barnet, Lewis of Derby, McFaun of Barre Town, Mitchell of Barnard, Rodgers of Glover, Turner of Milton and Wheeler of Derby,

An act relating to the use of lead sinkers;

To the committee on Fish, Wildlife & Water Resources.

H. 118

By Reps. French of Randolph, Branagan of Georgia, Fagan of Rutland City, Haas of Rochester, Kitzmiller of Montpelier, Klein of East Montpelier, Macaig of Williston, McCullough of Williston, Minter of Waterbury, Mrowicki of Putney, Orr of Charlotte, Poirier of Barre City, Pugh of S. Burlington, Townsend of Randolph and Trombley of Grand Isle,

An act to protect the health of employees by prohibiting the use of lighted tobacco products in the workplace;

To the committee on General, Housing and Military Affairs.

H. 119

By Reps. Sweaney of Windsor, Clarkson of Woodstock, Devereux of Mount Holly, Fisher of Lincoln, Hubert of Milton, McDonald of Berlin, Shand of Weathersfield, Toll of Danville, Trombley of Grand Isle and Wizowaty of Burlington,

An act relating to transferring the Division for Historic Preservation from the Department of Housing and Community Affairs to the Department of Buildings and General Services;

To the committee on Government Operations.

H. 120

By Reps. Koch of Barre Town, Browning of Arlington, Clarkson of Woodstock, Devereux of Mount Holly, Donahue of Northfield, Emmons of Springfield, Frank of Underhill, Greshin of Warren, Hooper of Montpelier, Larocque of Barnet, Lenes of Shelburne, Martin of Springfield, McFaun of Barre Town, Reis of St. Johnsbury, Stevens of Shoreham, Turner of Milton and Zuckerman of Burlington,

An act relating to nutritional labeling of food by chain restaurants;

To the committee on Human Services.

H. 121

By Reps. Fisher of Lincoln and Jewett of Ripton,

An act relating to transfer of guardianship or adoption proceedings from probate to family court;

To the committee on Judiciary.

H. 122

By Reps. Gilbert of Fairfax, Bissonnette of Winooski, Clark of Vergennes, Howrigan of Fairfield, Mitchell of Barnard, Pearce of Richford, Pellett of Chester, Perley of Enosburg and Wizowaty of Burlington,

An act relating to income sensitivity household income;

To the committee on Ways and Means.

H. 123

By Reps. Fisher of Lincoln, Bray of New Haven, Davis of Washington, French of Randolph, Haas of Rochester, Jewett of Ripton, Maier of Middlebury, Mook of Bennington, Mrowicki of Putney, Nuovo of Middlebury, Peltz of Woodbury, Sharpe of Bristol, Stevens of Shoreham and Zenie of Colchester,

An act relating to a continuation of services for pregnant and parenting students;

To the committee on Education.

H. 124

By Reps. Consejo of Sheldon, Mrowicki of Putney, Savage of Swanton and Young of St. Albans City,

An act relating to recognition of tribes and bands of Native Americans by the Vermont Commission on Native American Affairs;

To the committee on General, Housing and Military Affairs.

H. 125

By Reps. Pellett of Chester, Ancel of Calais, Atkins of Winooski, Bohi of Hartford, Cheney of Norwich, Clarkson of Woodstock, Conquest of Newbury, Copeland-Hanzas of Bradford, Davis of Washington, Devereux of Mount Holly, Donaghy of Poultney, Donahue of Northfield, Donovan of Burlington, Edwards of Brattleboro, Emmons of Springfield, Evans of Essex, Fisher of Lincoln, Frank of Underhill, French of Shrewsbury, French of Randolph, Haas of Rochester, Head of S. Burlington, Heath of Westford, Helm of Castleton, Howard of Rutland City, Howrigan of Fairfield, Hube of Londonderry, Jewett of Ripton, Johnson of S. Hero, Kilmartin of Newport City, Kitzmiller of Montpelier, Klein of East Montpelier, Larson of Burlington, Lenex of Shelburne, Leriche of Hardwick, Lippert of Hinesburg, Lorber of Burlington, Manwaring of Wilmington, Marek of Newfane, Martin of Springfield, Martin of Wolcott, Masland of Thetford, McCullough of Williston, Milkey of Brattleboro, Minter of Waterbury, Mitchell of Barnard, Morley of Barton, Mrowicki of Putney, Obuchowski of Rockingham, Orr of Charlotte, Peltz of Woodbury, Potter of Clarendon, Rodgers of Glover, Shand of Weathersfield, Sharpe of Bristol, South of St. Johnsbury, Spengler of Colchester, Stevens of Waterbury, Sweaney of Windsor, Townsend of Randolph, Trombley of Grand Isle, Weston of Burlington, Wizowaty of Burlington and Zuckerman of Burlington,

An act relating to farm-fresh milk;

To the committee on Agriculture .

H. 126

By Reps. Canfield of Fair Haven, Bray of New Haven, Helm of Castleton, McNeil of Rutland Town and Stevens of Shoreham,

An act relating to bad checks ;

To the committee on Judiciary.

H. 127

By Reps. Deen of Westminster and Adams of Hartland,

An act relating to muskrat season and the definition of fur-bearing animals;

To the committee on Fish, Wildlife & Water Resources.

H. 128

By Reps. Obuchowski of Rockingham and Partridge of Windham,

An act relating to providing that the public trust doctrine as applied to rivers and streams extends to the 10-year high-water mark;

To the committee on Fish, Wildlife & Water Resources.

H. 129

By Reps. Obuchowski of Rockingham and Partridge of Windham,

An act relating to property taxation of housing subsidy covenant property;

To the committee on Ways and Means.

H. 130

By Reps. Cheney of Norwich, Edwards of Brattleboro, Weston of Burlington and Young of St. Albans City,

An act relating to requiring appropriate mitigation, instead of denial, with respect to the impacts of new renewable energy projects on flora, fauna, or habitat;

To the committee on Fish, Wildlife & Water Resources.

H. 131

By Reps. Manwaring of Wilmington and Moran of Wardsboro,

An act relating to the codification of and approval of an amendment to the charter of Cold Brook Fire District No. 1;

To the committee on Government Operations.

H. 132

By Rep. McCullough of Williston,
An act relating to residential electrical installations;
To the committee on General, Housing and Military Affairs.

H. 133

By Rep. Corcoran of Bennington,
An act relating to distributing a deceased owner's unclaimed property;
To the committee on General, Housing and Military Affairs.

H. 134

By Rep. Ancel of Calais,
An act relating to making certain attorneys in state government part of the
classified service;
To the committee on Judiciary.

H. 135

By Reps. Cheney of Norwich, Dickinson of St. Albans Town, Edwards of
Brattleboro and Young of St. Albans City,
An act relating to wireless communication facilities and project approvals
for municipal and cooperative utilities;
To the committee on Commerce and Economic Development.

H. 136

By the committee on Ways and Means,
An act relating to executive branch fees;
Under the rule, placed on the Calendar for notice tomorrow.

Joint Resolution Referred to Committee**J.R.H. 6**

Joint resolution urging the United States Congress to repeal the provisions
of the Telecommunications Act of 1996 which deregulated cable television
pricing

Offered by: Representatives Obuchowski of Rockingham, Deen of
Westminster, Head of S. Burlington, Malcolm of Pawlet, Masland of Thetford,
Partridge of Windham, Peltz of Woodbury and Shand of Weathersfield

Whereas, due to Vermont's mountainous geography, basic television service, the primary provider of local news and public information for many of the state's residents, is in much of the state only available for a fee via a retransmission medium such as a cable television system, and

Whereas, the United States Congress adopted the Telecommunications Act of 1996 (Pub. L. 104-104), which deregulated the cable television industry's rate-setting process, and

Whereas, the Act was intended to introduce local competition and lower consumer rates for cable television service, and

Whereas, while the introduction of cable competition and lower consumer rates may have been Congress's intent, most consumers, including those in Vermont, still have access to only a single provider's cable television offerings and face continually escalating rates for purchasing cable service, and

Whereas, under the Act, a cable television company, although operating on a state-issued license granted by the public service board, can increase prices with little or no justification, and

Whereas, the most recent Comcast Cable rate increase pursuant to the Telecommunications Act which did not require either public service board or the Federal Communications Commission approval is an example of the totally unwarranted discretion which the Act has handed to the cable television industry, and

Whereas, other utilities' consumer rates, such as electric and telephone services, are subject to governmental regulatory procedures during which the service provider must publicly justify the proposed level of increase and is not guaranteed its request will be approved, and

Whereas, even with the promised benefits of increased competition and lower costs, the deregulation of the cable television rate process was dubious at best, especially in Vermont, given the geographic limitations on over-the-air broadcast signals, and

Whereas, because none of the goals for the deregulation of the cable television industry has been realized, Congress should reinstitute regulatory approval of cable television rate increases in order that Vermonters of all income levels can continue to afford basic television service, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges Congress to reregulate the rate-setting process for the cable television industry, and be it further

Resolved: That the secretary of state be directed to send a copy of this resolution to the members of the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Commerce and Economic Development.

Joint Resolution Referred to Committee

J.R.H. 7

Joint resolution requesting that all financial institutions, insurance companies, health care facilities, public service board regulated utilities, and public water systems refrain temporarily from increasing any consumer costs

Offered by: Representatives Obuchowski of Rockingham and Partridge of Windham

Whereas, in the last six months, Vermonters have experienced a severe upturn in the price of essential commodities including fuel and food, and

Whereas, health care prices also continue to rise precipitously, and

Whereas, these cost increases are forcing Vermonters to choose between paying for gasoline to drive to work or putting food on the table, and

Whereas, if financial institutions, insurance companies, health care facilities, public service board regulated utilities—including electricity, natural gas, telecommunications, cable television, and private water companies—and the public water systems which are not under public service board jurisdiction would delay for the next 12 months any increase in the cost of their services for the consumer, it would greatly assist Vermonters' ability to navigate through this difficult economic period, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests that financial institutions, insurance companies, health care facilities, public service board regulated utilities, and public water systems voluntarily delay until May 1, 2010, any increase in the cost of their services for the consumer, and be it further

Resolved: That the Secretary of State be requested to post this resolution on the website of her corporations division.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Commerce and Economic Development.

Joint Resolutions Placed on Calendar

The Speaker placed before the House the following resolutions which were read and in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

J.R.S. 11.

By Senator Shumlin,

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.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 19, 2009, at ten o'clock and thirty minutes in the forenoon to elect a Sergeant-at-Arms, an Adjutant and Inspector General, and three trustees of the University of Vermont and State Agricultural College. In case election of all such officers shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such officers are elected.

J.R.S. 12.

By Senator Shumlin,

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

Whereas, in 1997 the election of three trustees of the University of Vermont and State Agricultural College was decided by plurality vote, which required one ballot only, and

Whereas, in 1999 the election of three trustees of the University of Vermont and State Agricultural College was decided by majority vote, which required a total of eight ballots, and

Whereas, in 2001 and subsequent bienniums the elections of three trustees of the University of Vermont and State Agricultural College were decided by plurality vote, each of which required one ballot only, and

Whereas, if an election for multiple vacancies is to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of three trustees of the University of Vermont and State Agricultural College at a Joint Assembly to be held on February 19, 2009, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be three.

(2) The three candidates receiving the most votes shall be declared elected to fill the three vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or more of the three vacant positions, then voting shall continue on successive ballots until the vacancies have been filled, again by election declared of those candidates receiving the most votes.

Bill Recommended

H. 6

House bill, entitled

An act relating to the sale of engine coolants and antifreeze

Pending reading of the report of the committee on Natural Resources and Energy, **Rep. Klein of East Montpelier** moved to recommit the bill to Natural Resources and Energy, which was agreed to.

House Resolution Adopted

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

Which was taken up and adopted.

Message from the Senate No. 13

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. 13. Joint resolution relating to weekend adjournment.

J.R.S. 14. Joint Resolution concerning the protection of The Wilderness Civil War battlefield, an historic site important to the State of Vermont, the Commonwealth of Virginia, and all of the United States of America.

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

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

J.R.H. 4. Joint resolution relating to the Canine Good Citizenship program.

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

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

S.C.R. 7. Senate concurrent resolution celebrating the 75th anniversary of the Vermont Farm Show.

S.C.R. 8. Senate concurrent resolution recognizing the greater weather fortitude of the Vermont General Assembly in comparison to the New Hampshire General Court.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 30. House concurrent resolution honoring the judicial career of Bennington Probate Judge Doris Buchanan.

H.C.R. 31. House concurrent resolution recognizing the work of the National Alliance of Mental Illness.

H.C.R. 32. House concurrent resolution commending the leadership of Central Vermont Public Service and the support of other electric companies and state offices in restoring electric power in southern Vermont following the December 2008 ice storm.

H.C.R. 33. House concurrent resolution in memory of Mary Jane Shriver of Berlin.

H.C.R. 34. House concurrent resolution congratulating the 2008 Williston All Stars state championship Little League Baseball team Williston.

H.C.R. 35. House concurrent resolution congratulating the Fraternal Order of Eagles' Bennington Aerie #1861 on its centennial anniversary.

Adjournment

At ten o'clock and thirty minutes in the forenoon, on motion of **Rep. Komline of Dorset**, the House adjourned until tomorrow at one o'clock in the afternoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 30

House concurrent resolution honoring the judicial career of Bennington Probate Judge Doris S. Buchanan

H.C.R. 31

House concurrent resolution recognizing the work of the National Alliance of Mental Illness

H.C.R. 32

House concurrent resolution commending the leadership of Central Vermont Public Service and the support of other electric companies and state offices in restoring electric power in southern Vermont following the December 2008 ice storm

H.C.R. 33

House concurrent resolution in memory of Mary Jane Shriver of Barre Town

H.C.R. 34

House concurrent resolution congratulating the 2008 Williston All Stars state championship Little League Baseball team

H.C.R. 35

House concurrent resolution congratulating the Fraternal Order of Eagles' Bennington Aerie #1861 on its centennial anniversary

S.C.R. 7.

Senate concurrent resolution celebrating the 75th anniversary of the Vermont Farm Show.

S.C.R. 8.

Senate concurrent resolution recognizing the greater weather fortitude of the Vermont General Assembly in comparison to the New Hampshire General Court.

[The full text of the concurrent resolutions appeared in the Senate and House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2009, seventieth Biennial session.]