

Journal of the House

Tuesday, April 14, 2009

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

Devotional Exercises

Devotional exercises were conducted by Rev. Peter Plagge of the Waterbury Congregational Church.

Pledge of Allegiance

Page Greg Asnis of Berlin led the House in the Pledge of Allegiance.

Committee Bill Introduced

H. 450

Rep. Westman of Cambridge, for the committee on Transportation, introduced a bill, entitled

An act relating to the state fiscal year 2009 transportation program

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 91

Senate bill, entitled

An act relating to operation of vessels on public waters;

Was taken up, read the first time and referred to the committee on Rules.

S. 94

Senate bill, entitled

An act relating to licensing state forestland for maple sugar production;

Was taken up, read the first time and referred to the committee on Agriculture.

S. 122

Senate bill, entitled

An act relating to recounts in elections for statewide offices;

Was taken up, read the first time and referred to the committee on Rules.

Joint Resolution Referred to Committee**J.R.H. 21**

Joint resolution urging Congress to authorize alternative waivers to the 21-year-old minimum drinking age that do not entail federal highway funding penalties for states

Offered by: Representatives Helm of Castleton, Baker of West Rutland, Brennan of Colchester, Cheney of Norwich, Edwards of Brattleboro, Flory of Pittsford, Johnson of Canaan, O'Donnell of Vernon, Obuchowski of Rockingham, Ram of Burlington, Rodgers of Glover, Weston of Burlington, and Zuckerman of Burlington

Whereas, in 1984, Congress enacted Public Law 97-364, which in Sec. 101(a) added 23 U.S.C. § 408(f)(6) to the U.S. code that established the statutory basis for the federal penalty that withholds 10 percent of a state's federal highway funding if the state's drinking age is lower than 21, and

Whereas, many years of experience have shown that the 21-year-old drinking age is a contributing factor to a culture of dangerous and clandestine binge-drinking, and

Whereas, raising the drinking age to 21 coincided with societal benefits, but many of these are attributable to advancements in safety, technology, and education, including encouraging use of designated drivers, and

Whereas, many of the benefits initially achieved after the drinking age was raised to 21 are now being offset due to the primarily unintentional and negative consequences related to continued and unsupervised underage drinking, and

Whereas, law enforcement officials have stated it is difficult to enforce laws that prevent minors from possessing alcohol and that enforcement efforts drive underage drinking further underground to settings that are unsupervised, leading to greater alcohol consumption, and

Whereas, this a problem that is reaching crisis proportions, and

Whereas, we consider our young adults responsible enough to defend our country and elect our public officials at the age of 18, but we do not allow them to drink until they turn 21, and

Whereas, we do not let our soldiers go to war without training and do not let our young adults drive without training, but we prevent young persons from drinking until the age of 21, at which time they are immediately able to drink without education or training, and

Whereas, the current 10-percent highway funding penalty prevents an open and informed public debate about the effects of the 21-year-old drinking age as well as about the exploration and testing of innovative educational solutions to address what has become a secret culture of unsupervised overindulgence, and

Whereas, in September of 2008, the United States Congress passed resolutions celebrating 75 years of effective state-based alcohol regulation and recognizing state lawmakers, regulators, law enforcement officers, the public health community, and industry members for creating a workable, legal, and successful system of alcoholic beverage regulation, distribution, and sale, and

Whereas, given the states' constitutional authority to regulate alcohol within their borders, Congress should consider looking at innovative solutions that reflect the current reality to address this growing problem, and

Whereas, since the 1980s, there has been significant advancement on this issue and it deserves proper scrutiny, and

Whereas, each state has unique qualities and citizens that make a one-size-fits-all solution difficult, and states should have the opportunity to explore solutions to the continuing drinking problem by developing a comprehensive program that addresses their unique situation, and

Whereas, policy options such as a waiver of the 10-percent highway funding penalty for any state that is willing to meet specified criteria or alternatively to implement educational or licensing programs to address the problem of binge drinking in its state should be considered and explored, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to grant a waiver to the financial penalty for a state that does not adhere to the federal minimum legal drinking age and to authorize the implementation of innovative state criteria for a trial period that are designed to address the growing problem of binge drinking, and be it further

Resolved: That the state of Vermont is interested in being a progressive leader that would take advantage of a federal waiver program that encourages innovative solutions to the growing problem of binge drinking, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on General, Housing and Military Affairs.

Petition Referred to Committee

The Speaker placed before the House a petition entitled, Inherent Unions, and referred it to the committee on Judiciary.

Third Reading; Bills Passed

House bills and Joint resolution of the following titles were severally taken up, read the third time and passed:

H. 93

House bill, entitled

An act relating to leasing state forestland for maple sugar production ;

H. 331

House bill, entitled

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration;

H. 430

House bill, entitled

An act relating to approval of an amendment to the charter of the town of St. Johnsbury ;

H. 433

House bill, entitled

An act relating to approval of amendments to the charter of the town of Berlin;

J.R.H. 11

Joint resolution, entitled

Joint resolution urging Vermonters and public and private organizations in the state to institute a voluntary 20 percent reduction in energy use.

Bill Returned to Senate**H. 232**

House bill, entitled

An act relating to fiscal year 2009 budget adjustment;

Was taken up.

Thereupon, **Rep. Heath of Westford**, moved that pursuant to the request of the Senate for return of the bill, the bill be returned to the Senate.

Which was agreed to.

Message from the Senate No. 37

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 passed a Senate bill of the following title:

S. 136. An act relating to reducing the drop-out rate in Vermont secondary schools to zero by the year 2020.

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

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

J.R.S. 26. Joint resolution relating to the legalization of industrial hemp.

J.R.S. 29. Joint resolution relating to weekend adjournment.

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

The Senate has considered joint resolutions originating in the House of the following titles:

J.R.H. 16. Joint resolution designating April as Fair Housing Month in Vermont .

J.R.H. 19. Joint resolution authorizing the 2009 Boys' State program to use the state house.

And has adopted the same in concurrence.

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

S.C.R. 17. Senate concurrent resolution in memory of former Representative and Senator George E. Little, Jr. of Burlington.

S.C.R. 18. Senate concurrent resolution congratulating the organizers of the 2009 St. Johnsbury Maple Sugar Festival.

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

H.C.R. 99. House concurrent resolution congratulating Joseph Wassick on completing 50 years of outstanding volunteer service at the Bennington Fire Department.

H.C.R. 100. House concurrent resolution honoring Dr. David Henderson for his exemplary work as a primary care physician in Bristol and at the Porter Medical Center, Inc.

H.C.R. 101. House concurrent resolution honoring Effie (Bartlett) Chamberlain in recognition of her outstanding nursing and administrative career at the Grace Cottage Hospital.

H.C.R. 102. House concurrent resolution congratulating Brooke Werner of Granville on winning the 2009 Miss Vermont USA competition.

Action on Bill Postponed

H. 92

House bill, entitled

An act relating to rent-to-own agreements

Was taken up and pending the reading of the report of the committee on General, Housing and Military Affairs, on motion of **Rep. South of St. Johnsbury**, action on the bill was postponed until the next legislative day.

Bill Amended; Third Reading Ordered

H. 192

Rep. Stevens of Waterbury, for the committee on Agriculture, to which had been referred House bill, entitled

An act relating to electronic benefit machines for farmers' markets

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ELECTRONIC BENEFIT MACHINES; FARMERS' MARKETS;
DEPARTMENT FOR CHILDREN AND FAMILIES' FUNDING

(a) The department for children and families will receive funding through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub.L. 111-5, a portion of which is dedicated to administrative expenses of the 3SquaresVT (formerly food stamp) program.

(b) With respect to federal monies available to the department for children and families under the ARRA, the general assembly directs the department to dedicate at least \$35,000.00 for the purpose of helping Vermont farmers' markets cover the costs of electronic benefit machines and related expenses, or to use the money for other administrative programs that facilitate access to healthy local foods.

Rep. Johnson of South Hero, for the committee on Appropriations, recommended the bill ought to pass when amended as recommended by the committee on Agriculture

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Agriculture and Appropriations agreed to and third reading ordered.

Bill Amended; Third Reading Ordered

H. 405

Rep. Clark of Vergennes, for the committee on Education, to which had been referred House bill, entitled

An act relating to K-12 and higher education partnerships

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. POLICY, FINDINGS, AND PURPOSE

(a) It is the policy of the state of Vermont to make available as many opportunities as possible for Vermont students to succeed in their Pre-K-12 education, to encourage and facilitate high school students to progress toward higher education, and to prepare postsecondary students to succeed.

(b) Completing high school cannot be considered the minimum educational attainment. As stated by President Obama in his address before Congress on February 24, 2009, every American should "commit to at least one year or more of higher education or career training. This can be community college or a four-year school; vocational training or an apprenticeship. But whatever the training may be, every American will need to get more than a high school diploma. And dropping out of high school is no longer an option. It's not just quitting on yourself, it's quitting on your country — and this country needs

and values the talents of every American. That is why we will provide the support necessary to ... meet a new goal: By 2020, America will once again have the highest proportion of college graduates in the world.”

(c) For Vermont to thrive economically it must develop, attract, and retain a well-educated and highly skilled citizenry, who will in turn enable the development, recruitment, and retention of successful businesses and support healthy communities.

(d) Higher levels of educational attainment translate into higher earnings and tax revenues, increased civic engagement and community contributions, better overall health, decreased dependency on government services, and an improved quality of life.

(e) To increase educational attainment among Vermonters, educational partnerships between higher education and the Pre-K-12 educational system are crucial to increasing postsecondary aspirations, increasing the enrollment of Vermont high school graduates in higher education programs, increasing the postsecondary degree completion rates of Vermont students, and increasing public awareness of the economic, intellectual, and societal benefits of higher education.

Sec. 2. STRATEGIES TO EXPAND EDUCATIONAL OPPORTUNITIES

(a) The Vermont state colleges, the university of Vermont, the association of Vermont independent colleges, the Vermont student assistance corporation, and the department of education (collectively, the “working group”) shall work together to develop strategies to expand educational opportunities for Vermont students to succeed in elementary and secondary school and to be prepared to succeed in postsecondary education as well. The working group, which shall be chaired by the Vermont state colleges, shall consult with representatives of institutions of higher education and of the Pre-K -12 education system, and with the workforce development, business, and industry communities.

(b) On or before January 15, 2010, the working group shall submit a report to the general assembly detailing its recommended strategies. When developing its recommendations, the working group shall consider and evaluate:

(1) Evidence-based educational models in Vermont and elsewhere, including early college programs, alternatives to a senior year, Pre-K-12 laboratory schools, state-wide career awareness and post secondary aspiration programs, and alternative school calendars.

(2) Partnerships between higher education and the Pre-K-12 system to improve instruction and increase postsecondary aspiration, continuation, and completion rates.

(3) Potential funding sources for implementing its recommendations.

And that after passage the title of the bill be amended to read: "An act relating to PreK-12 and higher education partnerships"

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

Bill Amended; Third Reading Ordered

H. 447

Rep. McAllister of Highgate, for the committee on Fish, Wildlife & Water Resources, to which had been referred House bill, entitled

An act relating to wetlands protection

Reported in favor of its passage when amended as follows:

In Sec. 5, 10 V.S.A. § 913, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

(b) A permit shall not be required under this section for:

(1) any activity that occurred before the effective date of this section unless the activity occurred within:

(A) an area identified as a wetland on the Vermont significant wetlands inventory maps.

(B) a wetland that was contiguous to an area identified as a wetland on the Vermont significant wetlands inventory maps.

(C) the buffer zone of a wetland referred to in subdivision (A) or (B) of this subsection.

(2) any construction within a wetland that is identified on the Vermont significant wetlands inventory maps or within the buffer zone of such a wetland, provided that the construction was completed prior to February 23, 1992, and no action for which a permit is required under the rules of the panel was taken or caused to be taken on or after February 23, 1992.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Fish, Wildlife & Water Resources agreed to and third reading ordered.

Action on Bill Postponed**H. 204**

House bill, entitled

An act relating to payment of diversion program fees

Was taken up and pending the question, Shall the House concur with the Senate proposal of amendment? on motion of **Rep. French of Shrewsbury**, action on the bill was postponed until Thursday, April 16, 2009.

Favorable Report; Consideration Interrupted by Recess**H. 442**

Rep. Ancel of Calais spoke for the committee on Ways and Means.

Rep. Heath of Westford for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to miscellaneous tax provisions

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Recess

At twelve o'clock and twelve minutes in the afternoon, the Speaker declared a recess until two o'clock and fifteen minutes in the afternoon.

At two o'clock and fifteen minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Third Reading Ordered**H. 442**

Consideration resumed on House bill, entitled

An act relating to miscellaneous tax provisions;

Pending the question, Shall the bill be read a third time? **Rep. McDonald of Berlin** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 84. Nays, 53.

Those who voted in the affirmative are:

Ancel of Calais	Bissonnette of Winooski	Bray of New Haven
Atkins of Winooski	Bohi of Hartford	Burke of Brattleboro
Audette of South Burlington	Botzow of Pownal	Cheney of Norwich

Clarkson of Woodstock *	Keenan of St. Albans City	Nuovo of Middlebury
Condon of Colchester	Kitzmiller of Montpelier	Obuchowski of Rockingham
Conquest of Newbury	Klein of East Montpelier	Orr of Charlotte
Copeland-Hanzas of Bradford	Lanpher of Vergennes	Partridge of Windham
Courcelle of Rutland City	Larson of Burlington	Pellett of Chester
Davis of Washington	Lenes of Shelburne	Peltz of Woodbury
Deen of Westminster	Leriche of Hardwick	Poirier of Barre City *
Donovan of Burlington	Lippert of Hinesburg	Potter of Clarendon
Edwards of Brattleboro	Lorber of Burlington	Ram of Burlington
Emmons of Springfield	Macaig of Williston	Shand of Weathersfield
Evans of Essex	Maier of Middlebury	Sharpe of Bristol *
Fisher of Lincoln	Malcolm of Pawlet	Smith of Mendon
Frank of Underhill	Manwaring of Wilmington	Spengler of Colchester
French of Shrewsbury *	Marek of Newfane	Stevens of Waterbury
French of Randolph	Martin of Springfield	Sweaney of Windsor
Geier of South Burlington	Martin of Wolcott	Taylor of Barre City
Gilbert of Fairfax	Masland of Thetford	Till of Jericho
Grad of Moretown	McCullough of Williston	Toll of Danville
Haas of Rochester	Milkey of Brattleboro	Townsend of Randolph
Head of South Burlington	Miller of Shaftsbury	Webb of Shelburne
Heath of Westford	Minter of Waterbury	Weston of Burlington
Hooper of Montpelier	Mitchell of Barnard	Wizowaty of Burlington
Howard of Rutland City	Mook of Bennington	Zenie of Colchester
Jerman of Essex	Moran of Wardsboro	Zuckerman of Burlington *
Johnson of South Hero	Mrowicki of Putney	
	Nease of Johnson	

Those who voted in the negative are:

Acinapura of Brandon	Flory of Pittsford	Myers of Essex
Adams of Hartland *	Greshin of Warren	O'Donnell of Vernon
Baker of West Rutland	Higley of Lowell	Pearce of Richford
Branagan of Georgia	Hube of Londonderry	Peaslee of Guildhall
Brennan of Colchester	Hubert of Milton	Perley of Enosburg
Browning of Arlington	Kilmartin of Newport City	Reis of St. Johnsbury
Canfield of Fair Haven	Komline of Dorset	Rodgers of Glover
Clark of Vergennes *	Krawczyk of Bennington	Savage of Swanton
Clerkin of Hartford	Larocque of Barnet	Scheuermann of Stowe
Consejo of Sheldon	Lawrence of Lyndon	South of St. Johnsbury
Corcoran of Bennington	Lewis of Derby	Stevens of Shoreham
Crawford of Burke	Marcotte of Coventry	Turner of Milton
Devereux of Mount Holly	McAllister of Highgate	Waite-Simpson of Essex
Dickinson of St. Albans Town	McDonald of Berlin	Westman of Cambridge
Donaghy of Poultney	McFaun of Barre Town	Wheeler of Derby
Donahue of Northfield	McNeil of Rutland Town	Wilson of Manchester
Fagan of Rutland City	Morley of Barton	Wright of Burlington
	Morrissey of Bennington	Young of St. Albans City

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

Ainsworth of Royalton	Howrigan of Fairfield	Pugh of South Burlington
Andrews of Rutland City	Johnson of Canaan	Smith of Morristown
Aswad of Burlington	Koch of Barre Town	Trombley of Grand Isle
Helm of Castleton	O'Brien of Richmond	Winters of Williamstown

Rep. Adams of Hartland explained his vote as follows:

“Mr. Speaker:

During the 2008 campaign season our nation’s Vice-President declared it “patriotic” for Americans to pay more in taxes. This bill decides for us to be more “patriotic”.

I don’t know about you but I don’t believe there is anything patriotic about giving more of my, and my constituents, hard-earned money to the government to bankroll an agenda to increase spending..”

Rep. Clark of Vergennes explained his vote as follows:

“Mr. Speaker:

Government is created of, for and by the people, not the other way around. We ought to be making the same difficult monetary decisions as our constituents, not asking them to pay a higher tithing rate than they already do.”

Rep. Clarkson of Woodstock explained her vote as follows:

“Mr. Speaker:

I vote yes to support this bill in order to prevent cuts to services so many Vermonters value – to prevent job cuts which will further drain our unemployment insurance fund, put additional pressure on state services and reduce revenues to the state – and to prevent adding 13 cents to our residential property tax rate.”

Rep. French of Shrewsbury explained his vote as follows:

“Mr. Speaker:

Understanding that raising more revenue with tax increases is always unpopular, we find ourselves in a difficult situation in state government. While the recession affects many businesses with decreased demand for goods and services – they must shrink revenue to balance. The same recession affects our government with both decrease in revenue and increase in demand for services. This bill reflects that unique problem.”

Rep. Poirier of Barre City explained his vote as follows

“Mr. Speaker:

I voted yes for House bill 442 because even with a small temporary income tax, H-442 still counts on the elimination of a large number of State employee positions.

Mr. Speaker, Vermont faces a revenue shortage not an over-abundance of State employees.

I supported a bill sponsored by the member from Lincoln and that bill would have prevented blaming State employees as the problem to our present economy.

I hope before third reading we develop the political courage to protect the innocent individuals in this debate – the State employees.”

Rep. David Sharpe of Bristol explained his vote as follows

“Mr. Speaker:

When the economy is shrinking is no time for government to shrink from its responsibilities. The revenue raised in the bill allows us to deliver the services Vermonters expect from their State government, such as life saving medicine for Senior citizens.”

Rep. Zuckerman of Burlington explained his vote as follows

“Mr. Speaker:

I think it would be a very revealing experience to have the Governor’s proposed FY10 budget and tapes go into effect for two months. A \$260 property tax increase, doubling of motor vehicle fees and other hidden increases while cutting state services to thousands of Vermonters. Then shift to the combined budget and tax plan of this chamber restoring some budget cuts and lowering the tax increases. The reality behind the Administration’s rhetoric would then be exposed.”

Adjournment

At five o'clock and thirty minutes in the afternoon, 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. 99

House concurrent resolution congratulating Joseph Wassick on completing 50 years of outstanding volunteer service at the Bennington Fire Department;

H.C.R. 100

House concurrent resolution honoring Dr. David Henderson for his exemplary work as a primary care physician in Bristol and at the Porter Medical Center, Inc.;

H.C.R. 101

House concurrent resolution honoring Effie (Bartlett) Chamberlain in recognition of her outstanding nursing and administrative career at the Grace Cottage Hospital;

H.C.R. 102

House concurrent resolution congratulating Brooke Werner of Granville on winning the 2009 Miss Vermont USA competition;

S.C.R. 17

Senate concurrent resolution in memory of former Representative and Senator George E. Little, Jr. of Burlington;

S.C.R. 18

Senate concurrent resolution congratulating the organizers of the 2009 St. Johnsbury Maple Sugar Festival;

[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.]