

# Journal of the House

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Friday, February 5, 2010

**Rep. Jewett of Ripton** in Chair.

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

## Devotional Exercises

Devotional exercises were conducted by Rabbi Toby Weisman of the Jewish Learning Center, Montpelier, Vt.

## Message from the Senate No. 9

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 Senate bill of the following title:

**S. 196.** An act relating to processing the application for motor vehicle emergency light permits.

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

The Senate has considered a bill originating in the House of the following title:

**H. 534.** An act relating to fiscal year 2010 budget adjustment.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

## Message from the Senate No. 10

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 Senate bills of the following titles:

**S. 187.** An act relating to municipal financial audits.

**S. 218.** An act relating to voyeurism.

**S. 278.** An act relating to the department of banking, insurance, securities, and health care administration.

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

**Senate Bill Referred**

**S. 196**

Senate bill, entitled

An act relating to processing the application for motor vehicle emergency light permits;

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

**Joint Resolution Referred to Committee**

**J.R.H. 34**

Joint resolution in support of the New England Secondary School Consortium

Offered by: Representative Peltz of Woodbury, Clark of Vergennes, Donovan of Burlington, Geier of South Burlington, Mook of Bennington, Pearce of Richford, Perley of Enosburg, Waite-Simpson of Essex and Zenie of Colchester

Whereas, the New England Secondary School Consortium—a multistate partnership forged to promote and advance higher educational aspirations, performance, and attainment among the adolescents of Connecticut, Maine, New Hampshire, Rhode Island, and Vermont—has been and will continue to be a force for enhancing the quality of Vermont’s system of public secondary education, and

Whereas, Vermont must transform—from its state house to its schoolhouses—educational policies, assessment practices, teaching strategies, professional development, and state and local leadership to ensure that the educational achievement of its students will be competitive with that of their peers across New England and the globe and that every student will graduate prepared for success in the colleges, careers, and communities of the 21st century, and

Whereas, education and high levels of postsecondary-degree attainment are critical to workforce development, job creation, and sustainable, long-term economic prosperity in the 21st century, and

Whereas, it is critical that Vermont strive to improve educational quality, opportunity, and efficacy for its citizens through regional collaboration, resource sharing, expertise exchange, and cross-state student performance and achievement comparability, and

Whereas, the consortium is developing: (1) internationally competitive educational models and instructional programs at the secondary level that will redefine the traditional concept of the public high school to more effectively mirror the lives and learning needs of today's students; (2) learning standards that reflect the ways in which our students will live, work, learn, and lead in the 21st century; (3) new state and local policies designed to stimulate educational innovation and creativity; and (4) performance assessments that can more accurately measure the essential academic knowledge and critical life skills that Vermont students will apply throughout their lives and across all educational, career, and civic contexts, and

Whereas, the New England states share similar histories, demographic populations, interdependent economic prospects, and educational and social challenges, and

Whereas, the independent and collective interests of our states can be more effectively served through strategic partnerships that can improve the educational, career, and life outcomes of our citizens, and

Whereas, the consortium is fostering a coordinated regional effort to build broad-based support for its major initiatives among educators, policy-makers, and business leaders while also engaging parents and community members in the educational process through local school involvement, positive messaging, community outreach, and cross-state networking, and

Whereas, innovative regional collaborations have the potential to attract significant public and private investments, create a more highly skilled workforce, attract new economic opportunities, drive sustained economic growth, and improve the quality of life for all Vermont residents, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its strong support and endorsement of the New England Secondary School Consortium and its mission, goals, and strategies, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Governor James Douglas, Commissioner of Education Armando Vilaseca, the commissioners of education for Connecticut, Maine, New Hampshire, and Rhode Island; the executive director of the Great Schools

Partnership; the president of the Nellie Mae Education Foundation; and the director of education for the Bill & Melinda Gates Foundation.

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

### **Joint Resolution Referred to Committee**

#### **J.R.H. 35**

Joint resolution urging Congress not to diminish any aspect of the existing state regulatory authority over the insurance industry or consumer protection policy with respect to national banks

Offered by: Representatives Botzow of Pownal, Kitzmiller of Montpelier, Bissonnette of Winooski, Clerkin of Hartford, Dickinson of St. Albans Town, Lorber of Burlington, Marcotte of Coventry, Shand of Weathersfield, Smith of Mendon, Turner of Milton and Wilson of Manchester

Whereas, in 1945, Congress enacted the McCarran-Ferguson Act,

59 Stat. 33, in which section one (15 U.S.C. § 1011) provided "that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States," and

Whereas, section 2 of the act (15 U.S.C. § 1012) provided that "the business of insurance, and every person engaged therein, shall be subject to the laws of the several States," and that "No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance," and

Whereas, the exception to this broad grant of regulatory authority to the states was a proviso that those aspects of the business of insurance not regulated by state law would be subject to federal antitrust law, including the Sherman Act, the Clayton Act, and the Federal Trade Commission Act, and

Whereas, for over six decades, the McCarran-Ferguson Act has successfully continued as the law of the land, and the individual states have demonstrated great competence in regulating the insurance industry, and

Whereas, H.R. 1583, the "Insurance Industry Competition Act of 2009," was introduced in the current Congress and referred to the House Committee on Financial Services, and

Whereas, this legislation would alter and impinge upon the scope of the states' current exclusive authority over the insurance industry by amending

federal law to modify federal jurisdiction with respect to insurance industry competition, and

Whereas, the House-passed version of H.R. 4173, “The Wall Street Reform and Consumer Protection Act of 2009,” establishes a federal insurance office which although not specifically intended to preempt state authority over the insurance industry does introduce a new federal regulatory mechanism over insurance that has not previously existed, and

Whereas, the states have fought to retain the authority to adopt consumer protection measures for national banks that are not directly related to the business of banking, and

Whereas, although H.R. 4173 does provide that states may adopt consumer protection policies related to national banks and halts the total monopoly that the U.S. Comptroller of the Currency has been asserting in recent years, the leeway granted to the states remains excessively restricted, and

Whereas, the legislation grants preemption authority to the U.S. Comptroller of the Currency, with respect to a legally adopted state consumer protection policy regarding national banks, that “prevents or significantly interferes with the ability of an insured depository institution chartered as a national bank to engage in the business of banking,” and

Whereas, the U.S. Comptroller of the Currency could interpret this language as a broad mandate to preempt state policies designed to protect consumers in their transactions with national banks, and

Whereas, with respect to comprehensive insurance regulation and to state consumer protection policies related to national banks, state regulators, such as the Vermont department of banking, insurance, securities, and health care administration, have a proven record of success, and their jurisdictional authority should not be diminished, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress not to diminish any aspect of the states’ existing regulatory authority over the insurance industry or consumer protection policy with respect to national banks, and

Resolved: That the Secretary of State be directed to send a copy of this resolution to Paulette J. Thabault, Commissioner of Banking, Insurance, Securities, and Health Care Administration, and to 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.

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**House Resolution Referred to Committee****H.R. 25**

House 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, Ram of Burlington, Baker of West Rutland, Bray of New Haven, Cheney of Norwich, Deen of Westminster, Fisher of Lincoln, Geier of South Burlington, Howard of Rutland City, Klein of East Montpelier, McAllister of Highgate, Minter of Waterbury, Obuchowski of Rockingham, O'Donnell of Vernon, Savage of Swanton, Sharpe of Bristol, 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 push underage drinking further underground to settings that are unsupervised, leading to greater alcohol consumption, and

Whereas, this is 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 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 each state should have the opportunity to explore solutions to the continuing drinking problem by developing a comprehensive program that addresses its 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 House of Representatives:

That this legislative body urges Congress to grant a waiver of 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 Clerk of the House be directed to send a copy of this resolution to the Vermont Congressional Delegation.

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Which was read and referred to the committee on General, Housing and Military Affairs.

**House Resolution Adopted**

**H.R. 26**

House resolution, entitled

House resolution calling for full equal rights and treatment for all members of our diverse community

Offered by: Representative Lippert of Hinesburg, Grad of Moretown, Head of South Burlington, Howard of Rutland City, Larson of Burlington, Leriche of Hardwick, Lorber of Burlington, Marek of Newfane and Wizowaty of Burlington

Whereas, Vermont has a long history of welcoming and embracing all of its citizens, taking pride in a community where diversity is our greatest asset, and

Whereas, the lesbian, gay, bisexual, and transgender (LGBT) community is a vital and vibrant part of our state, playing an integral part in Vermont's cultural, business, and economic health, and

Whereas, lesbian, gay, bisexual, and transgender Vermonters are our neighbors, family members, friends, coworkers, teachers, health care workers, police officers, business owners, policy makers, and community leaders, and

Whereas, LGBT youth and adults continue to experience inequality, discrimination, and harassment on a regular basis, and

Whereas, Vermont's LGBT youth and their allies are continuously working to make sure their schools and communities are free of bullying and harassment and accessible to all Vermont youth, and

Whereas, the LGBT community of Vermont has responded assertively and compassionately to HIV-AIDS for 25 years and continues to support prevention, education, and medical care services to all Vermonters, and

Whereas, this House celebrates Vermont's making history in passing an equal marriage law through our legislative process, and

Whereas, Vermont is proud that organizations and groups such as the RU12? Community Center, Outright Vermont, the Samara Foundation of Vermont, Vermont CARES, Vermont TransAction, the Vermont Freedom to Marry Task Force, Pride Vermont, and the Vermont People with AIDS Coalition exist to provide important services to our citizens, and



Whereas, today, February 5, 2010, is the annual lesbian, gay, bisexual, transgender, questioning, and allies (LGBTQA) Visibility Day at the state house, now therefore be it

Resolved by the House of Representatives:

That this legislative body, on LGBTQA Visibility Day at the state house, calls for full equal rights and treatment for all members of our diverse community, and be it further

Resolved: That this legislative body calls upon all citizens of this great state to join in honoring members of our diverse community and the organizations that serve them, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to RU12? Community Center in Burlington.

Which was read and adopted.

**Third Reading; Bill Passed in Concurrence  
With Proposals of Amendment**

**S. 163**

Senate bill, entitled

An act relating to technical corrections to 2009 sex offender legislation

Was taken up, read the third time and passed in concurrence with proposals of amendment.

**Request to Withdraw Bill and Placed on Calendar for Action**

**H. 385**

House bill, entitled

An act relating to laptops for legislators

**Rep. Atkins of Winooski** asked leave of the House to withdraw the bill and, under the rule, the bill was ordered placed on the Calendar for Action on the next legislative day.

**Adjournment**

At ten o'clock and five minutes in the forenoon, on motion of **Rep. Morley of Barton**, the House adjourned until Tuesday, February 9, 2010, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 46.