

Journal of the Senate

TUESDAY, FEBRUARY 17, 2009

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Terry Dorsett of Barre.

Pledge of Allegiance

Pages Laura Harris and Jeff Heney then led the members of the Senate in the pledge of allegiance.

Message from the House No. 21

A message was received from the House of Representatives by Ms. H. Gwynn Zakov, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bill of the following title:

H. 58. An act relating to standards for goat's milk production.

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

Bill Referred to Committee on Appropriations

S. 79

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to restoring student assistance program positions.

Bill Referred to Committee on Finance

S. 27.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

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

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 88.

By Senators Flanagan, McCormack, Ashe, Ayer, Campbell, Choate, Cummings, Giard, Hartwell, Kittell, Lyons, MacDonald, Shumlin, Starr and White,

An act relating to health care financing and universal access to health care in Vermont.

To the Committee on Health and Welfare.

S. 89.

By Senators Shumlin, Ashe, Ayer, Bartlett, Campbell, Choate, Cummings, Flanagan, Giard, Hartwell, Kittell, Lyons, MacDonald, McCormack, Starr and White,

An act relating to a maximum retail price for milk.

To the Committee on Agriculture.

S. 90.

By Senator White,

An act relating to representative annual meetings.

To the Committee on Government Operations.

S. 91.

By Senators Sears, Campbell and Mazza,

An act relating to operation of vessels on public waters.

To the Committee on Judiciary.

S. 92.

By Senator White,

An act relating to financing campaigns for elected office.

To the Committee on Government Operations.

Bill Referred

House bill of the following title was read the first time and referred:

H. 58.

An act relating to standards for goat's milk production.

To the Committee on Agriculture.

Joint Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senator Shumlin,

J.R.S. 19. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 20, 2009, it be to meet again no later than Tuesday, February 24, 2009.

Committee Bill Introduced; Rules Suspended; Bill Referred

Senate committee bill of the following title was introduced, read the first time:

S. 93.

By the Committee on Transportation,

An act relating to commercial vehicle operation on the interstate system.

Thereupon, pending entry of the bill on the Calendar for notice the next legislative day, on motion of Senator Shumlin, the rules were suspended and the bill was taken up for immediate consideration.

Thereupon, pending second reading of the bill, on motion of Senator Shumlin, the bill was referred to the Committee on Finance.

Recess

On motion of Senator Shumlin the Senate recessed until the fall of the gavel.

Called to Order

At nine o'clock and forty-seven minutes in the forenoon the Senate was called to order by the President.

**Rules Suspended; Third Reading Ordered, Rules Suspended; Bill Passed;
Rules Suspended; Bill Messaged**

S. 93.

Pending entry on the Calendar for notice, on motion of Senator Shumlin, the rules were suspended and Senate committee bill entitled:

An act relating to commercial vehicle operation on the interstate system.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Shumlin, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Shumlin, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 29. An act relating to legislative committee subpoena power.

Third Reading Ordered

S. 12.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to not requiring the physical presence of a defendant or offender at certain court proceedings.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The general assembly finds:

(1) Since 1993, the general assembly has expressed concern at the increasing cost of transporting defendants and offenders in state custody from correctional facilities to courts. The financial burden on the ability of the state

to pay for such transports has dramatically increased over the past several years.

(2) The general assembly intends to continue to preserve the due process rights granted by the United States and Vermont Constitutions to defendants and offenders in state custody, but in case-appropriate circumstances to preserve these rights through the use of available interactive technologies now deployed with great success in other states and countries.

(3) Many court hearings can be held without the physical presence of defendants and offenders in the courtroom. Some hearings, such as status conferences, pre-trial conferences, calendar calls, and other similar events, can be held without the participation of the defendant or offender, while many others may be held with the use of telephone, IPTV, VoIP, or other interactive technology.

Sec. 2. Vermont Rule of Criminal Procedure 43(d) is added to read:

RULE 43. PRESENCE OF THE DEFENDANT

(a) Presence Required. The defendant shall be present at the arraignment, at any subsequent time at which a plea is offered, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by this rule.

* * *

(d) Interactive Technology.

(1) The defendant may appear via interactive technology instead of being present at the proceeding in cases where there is no right to bail.

(2) An expert witness may appear at trial via interactive technology if:

(A) the prosecution and the defense consent to such appearance; or

(B) in the event the prosecution and the defense cannot reach agreement, the court orders such appearance.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Senate Resolution Adopted**S.R. 7.**

Senate resolution entitled:

Senate resolution urging Congress to adopt a system of universal health care
Having been placed on the Calendar for action, was taken up and adopted.

Joint Resolution Adopted in Concurrence**J.R.H. 8.**

Joint House resolution entitled:

Joint resolution designating October 17, 2009, as Vermont Pumpkin Carving Day.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence:

By All Members of the House,

By All Members of the Senate,

H.C.R. 44.

House concurrent resolution in memory of Capitol Police Chief David Alan Janawicz.

By Representative Corcoran and others,

By Senators Hartwell and Sears,

H.C.R. 45.

House concurrent resolution congratulating Robert Matteson of Bennington on his extraordinary accomplishments as a masters runner.

By the Committee on Fish, Wildlife and Water Resources,

H.C.R. 46.

Honoring the exemplary public service of retired Department of Fish and Wildlife Director of Law Enforcement Robert J. Rooks.

By Representative Obuchowski and others,

H.C.R. 47.

House concurrent resolution in memory of the American military personnel who have died in the service of their nation in Iraq from March 26, 2008 to January 20, 2009.

By the Committee on Human Services,

H.C.R. 48.

House concurrent resolution commending the work of the Vermont 2-1-1 telephone support system.

By Representative Weston and others,

By Senators Ashe, Ayer, Bartlett, Giard, Hartwell, Illuzzi, Kittell, Mazza, McCormack, Miller, Mullin, Nitka, Racine, Shumlin and Snelling,

H.C.R. 49.

House concurrent resolution congratulating the Republic of Kosovo on the first anniversary of its independence and the Vermont National Guard Troops who have served in Kosovo since 1999 .

By Representative Koch and others,

H.C.R. 50.

House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2007.

By Representative Deen and others,

By Senators Illuzzi and Starr,

H.C.R. 51.

House concurrent resolution in memory of Sherry Walter Belknap of Bloomfield.

By Representative Wilson,

By Senators Hartwell and Sears,

H.C.R. 52.

House concurrent resolution honoring Mark Tucci and Silent Heat .

By Representative McDonald,

By Senators Doyle, Scott and Cummings,

H.C.R. 53.

House concurrent resolution honoring Katherine (Kitty) Langlois for her work at the People's Health & Wellness Clinic in Barre City and in the civic affairs of the town of Berlin.

[The full text of the House concurrent resolutions appeared in the Senate calendar addendum for February 13, 2009, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

Adjournment

On motion of Senator Shumlin, the Senate adjourned until nine o'clock and thirty minutes in the forenoon on Thursday, February 19, 2009.