

Journal of the Senate

THURSDAY, FEBRUARY 19, 2009

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 22

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 adopted House concurrent resolutions of the following titles:

H.C.R. 44. House concurrent resolution in memory of Capitol Police Chief David Alan Janawicz.

H.C.R. 45. House concurrent resolution congratulating Robert Matteson of Bennington on his extraordinary accomplishments as a masters runner.

H.C.R. 46. Honoring the exemplary public service of retired Department of Fish and Wildlife Director of Law Enforcement Robert J. Rooks.

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.

H.C.R. 48. House concurrent resolution commending the work of the Vermont 2-1-1 telephone support system.

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 .

H.C.R. 50. House concurrent resolution congratulating the Green Mountain Council Boy Scout Eagle Class of 2007.

H.C.R. 51. House concurrent resolution in memory of Sherry Walter Belknap of Bloomfield.

H.C.R. 52. House concurrent resolution honoring Mark Tucci and Silent

Heat .

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.

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

Message from the House No. 23

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 bills of the following titles:

H. 24. An act relating to insurance coverage for colorectal cancer screening.

H. 28. An act relating to temporary wastewater system permits.

H. 31. An act relating to approval of amendments to the charter of the town of Williston.

H. 64. An act relating to eligibility for the state youth hunting programs.

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

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

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

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

And has passed the same in concurrence.

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. 20. Joint resolution providing for a State of the Judiciary message.

Whereas, the State of the Judiciary is an issue of importance to every citizen of the state and every member of this General Assembly; and

Whereas, the General Assembly and the Judiciary, as co-equal branches of state government, should take advantage of opportunities to understand and better appreciate the mission and goals of the other; and

Whereas, a State of the Judiciary message offers a unique opportunity for inter-branch communication on the special challenges currently facing the Judiciary, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Senate and the House of Representatives shall meet in Joint Assembly on Thursday, February 19, 2009, at 11:30 A.M. for the purpose of hearing the Chief Justice of the Supreme Court of the State of Vermont address the Joint Assembly on the State of the Judiciary.

Bills Introduced

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

S. 94.

By Senators Choate, Ashe, Bartlett, Brock, Giard, Kittell, Lyons, Miller, Nitka, Starr and White,

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

To the Committee on Agriculture.

S. 95.

By Senators White and Ayer,

An act relating to requiring accuracy in bid comparisons for state contracts.

To the Committee on Government Operations.

Committee Bill Introduced

Senate committee bill of the following title was introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

S. 96.

By the Committee on Government Operations,

An act relating to unclaimed property.

Bills Introduced

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

S. 97.

By Senators Giard, Ayer and Doyle,

An act relating to a Vermont state employees' cost-savings incentive program.

To the Committee on Government Operations.

S. 98.

By Senators Carris, Ashe, Ayer, Campbell, Choate, Giard, MacDonald, Miller, Racine and Starr,

An act relating to increased compliance testing of tobacco licensees.

To the Committee on Economic Development, Housing and General Affairs.

S. 99.

By Senator Lyons,

An act relating to amending the Act 250 criteria relating to traffic, scattered development, and rural growth areas.

To the Committee on Natural Resources and Energy.

S. 100.

By Senators Campbell and Sears,

An act relating to the elimination of legislators as members of the boards of trustees of the Vermont State Colleges and the University of Vermont.

To the Committee on Education.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 24.

An act relating to insurance coverage for colorectal cancer screening.

To the Committee on Health and Welfare.

H. 28.

An act relating to temporary wastewater system permits.

To the Committee on Natural Resources and Energy.

H. 31.

An act relating to approval of amendments to the charter of the town of Williston.

To the Committee on Government Operations.

H. 64.

An act relating to eligibility for the state youth hunting programs.

To the Committee on Natural Resources and Energy.

Rules Suspended; Committee Relieved of Further Consideration; Bill Committed**Senate Executive Order 01-09.**

On motion of Senator White, the rules were suspended, and Executive Order 01-09 was taken up for immediate consideration, for the purpose of relieving the Committee on Economic Development, Housing and General Affairs from further consideration of the bill. Thereupon, on motion of Senator White, the Committee on Economic Development, Housing and General Affairs was relieved of Executive Order entitled:

01-09. Merger of Department of Housing and Community Affairs and Department of Economic Development within the Agency of Commerce and Community Development,

and the Executive Order was committed to the Committee on Government Operations.

Joint Resolution Placed on Calendar**J.R.S. 21.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senate Committee on Agriculture,

J.R.S. 21. Joint resolution in support of the United States dairy industry.

Whereas, the dairy industry is a keystone industry which not only supports rural communities but enhances other sections of agriculture and provides open space for recreation, sports and tourism, and

Whereas, the dairy industry provides an economic impact of an estimated \$14,000 per cow per year, primarily in local economies, and

Whereas, the lack of stable dairy product prices, concentration of process and capacity, outdated regulations, and labor shortages are creating a crisis in the industry, and

Whereas, in the past few weeks, the price that milk processors pay farmers for their milk has dropped as much as 50 percent, and

Whereas, the legal vehicle for assisting farmers when the price of milk drops precipitously is the Milk Loss Contract (MLC) payment program established in the 2002 Farm Bill, and

Whereas, the amount of funding included in the 2008 Farm Bill for the MLC payment program did not anticipate this sudden decline in the price that farmers receive from the processors, and

Whereas, the MLC payment program is targeted primarily at smaller dairy farms of the size typical in Vermont, and

Whereas, without additional funding in the FY 2009 Agriculture Appropriations Bill for the MLC payment program, a large number of dairy farmers, possibly including many in Vermont, will cease operations permanently, and

Whereas, a significant loss of capacity would create a dependence on imported milk and other dairy products and reduce our nation's food security, and

Whereas, the federal 2008 Farm Bill creates a review process for federal milk marketing orders, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly of the State of Vermont urges the President, Congress and the United States Department of Agriculture to acknowledge the importance of the dairy industry nationwide as well as the unique aspects of the dairy industry region-by-region through:

- 1) Providing for increased funding in the FY 2009 Agriculture appropriations bill for the MLC payment program;
- 2) Funding and implementing the federal milk marketing order study as outlined in the 2008 Farm Bill, with regional representation from producers, processors and state policy-makers;
- 3) Implementation of fair tariffs on imported dairy solids;

4) Setting regional prices to reflect accurately and realistically the cost of production; and

5) Addressing the problems of labor shortages within the dairy industry by providing more opportunity for training and education as well as a sensible approach to imported labor, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the Secretary of State be directed to send copies of this resolution to President Barack Obama, United States Secretary of Agriculture Tom Vilsack, to United States Senator Patrick Leahy, to United States Senator Bernard Sanders, and to United States Representative Peter Welch.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bill Passed

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

S. 12. An act relating to not requiring the physical presence of a defendant or offender at certain court proceedings.

Rules Suspended; Bill Committed

S. 57.

Senate bill entitled:

An act relating to municipal regulation of water capacity.

Was taken up.

Thereupon, pending the reading of the report of the Committee on Government Operations, Senator Lyons moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources and Energy with the report of the Committee on Government Operations *intact*,

Which was agreed to.

Message from the House No. 24

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 considered joint resolution originating in the Senate of the following title:

J.R.S. 20. Joint resolution providing for a State of the Judiciary message.

And has passed the same in concurrence.

Bills Amended; Third Readings Ordered

S. 67.

Senate committee bill entitled:

An act relating to motor vehicles.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Maynard, 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 pending the question, Shall the bill be read a third time?,

Senator Scott, for the Committee on Transportation, to which the bill was referred, reported recommending that the bill be amended in Sec. 6, 23 V.S.A. § 2083, by striking out subsection (b) and inserting in lieu thereof a new subsection (b) to read as follows:

(b) A person shall not willfully fail to deliver to his or her transferee a certificate of title within 10 days after the transfer. A person who violates this subsection commits a traffic violation and shall be assessed a civil penalty of not more than \$1,000.00.

Thereupon, the recommendation of amendment was agreed to.

Thereupon, the pending question, Shall the bill be read a third time?, was decided in the affirmative.

S. 70.

Senate committee bill entitled:

An act relating to clarifying the procedure for reinstatement of a driver's license based on total abstinence from alcohol and drugs.

Having appeared on the Calendar for notice for one day, was taken up.

Senator Maynard, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended in Sec. 1, 23 V.S.A. § 1209a(b)(1) by striking out the figure "\$250.00" and inserting in lieu thereof the figure \$1,000.00

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 on a division of the Senate, Yeas 16, Nays 12, and third reading of the bill was ordered.

S. 73.

Senator MacDonald, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to the universal service fund.

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

Sec. 1. LEGISLATIVE FINDINGS AND STATE AUTHORITY

(a) The general assembly finds that the services on which chapter 88 of Title 30 imposes a universal service charge should not depend upon regulatory classifications. Therefore, this chapter imposes duties on service providers independent of whether those providers are subject to regulation under other chapters of this title and independent of whether the Federal Communications Commission has defined a service to be a telecommunications service, an information service, an interstate service, an intrastate service, or otherwise.

(b) In chapter 88 of Title 30, the state of Vermont is exercising its authority to impose a tax on commerce occurring in this state. It is not acting under authority delegated to the state by the Communications Act of 1934, as amended by the Telecommunications Act of 1996.

Sec. 2. 30 V.S.A. § 7501 is amended to read:

§ 7501. PURPOSE; DEFINITIONS

(a) It is the purpose of this act to create a financial structure that will allow every Vermont household to obtain basic telecommunications service at an affordable price, and to finance that structure with a proportional charge on all telecommunications transactions that interact with the public switched network.

(b) As used in this chapter:

(1) “Ancillary services” means services that are associated with or incidental to the provision of telecommunications services, including but not limited to detailed telecommunications billing, directory assistance, vertical service, and voice mail services.

(2) “Basic telecommunications service” means that a customer has available at his or her location:

(A) switched voice grade interactive telecommunications service permitting origination and termination of calls;

(B) the ability to transmit network switching instructions through tones generated by customer-owned equipment;

(C) the ability to transmit and receive the customer’s computer-generated digital data, either by digital or analog transmission, reliably and at common transmission rates, using customer-owned equipment;

(D) the ability to communicate quickly and effectively with emergency response personnel; and

(E) telecommunications relay service, as authorized under section 218a of this title.

~~(2)~~(3) “Interactive” means that a communications medium is regularly used to transmit information in two directions.

~~(3) — “Private network” means a telecommunications system entirely owned and operated by a single corporate or individual person other than a telecommunications service provider and not available to the general public.~~

~~(4) “Public switched network” means the communications network owned and operated by telecommunications service providers, some of whom are common carriers.~~

“Coin-operated telephone service” means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

~~(5) — “Telecommunications service” means the transmission of any interactive electromagnetic communications that passes through the public switched network. The term includes, but is not limited to, transmission of voice, image, data and any other information, by means of but not limited to wire, electric conductor cable, optic fiber, microwave, radio wave, or any combinations of such media, and the leasing of any such service.~~

~~(A) Telecommunications service includes but is not limited to:~~

~~(i) local telephone service, including any facility or service provided in connection with such local telephone service;~~

~~(ii) toll telephone service;~~

~~(iii) directory assistance;~~

~~(iv) two-way cable television service; and~~

~~(v) mobile telephone or telecommunication service, both analog and digital.~~

~~(B) Notwithstanding the above, for purposes of this chapter, telecommunications service does not include:~~

~~(i) Services consisting primarily of the creation of artistic material or other information that is later transmitted over telecommunications equipment, including information services and electronic bulletin boards, but only to the extent that charges for such information processing are separated from charges for other telecommunications services, and only to the extent that such information is not used by any telecommunications service provider in the administration of the telecommunications network.~~

~~(ii) Mobile radio and paging services that do not have an electronic interface into the public switched network.~~

~~(iii) Private network services; provided, however, that payments by a private network to a telecommunications service provider, such as for point-to-point transmission services, are not exempt under this subdivision.~~

~~(iv) [Repealed.]~~

~~(v) Telecommunications services paid for at the point of purchase by depositing coins or currency.~~

~~(vi) Charges incurred by utilizing prepaid telephone calling cards or prepaid authorization numbers.~~

~~(6) “Telecommunications service provider” means a company required by law to hold a certificate of public good from the public service board to offer telecommunications service for intrastate service, or is authorized by the Federal Communications Commission to offer interstate telecommunications service.~~

~~(5) “Directory assistance” means an ancillary service of providing telephone number information or address information, or both.~~

~~(6) “Paging service” means a telecommunications service that provides transmission of coded radio signals for the purpose of activating specific pagers; and such transmissions may include messages or sounds, or both.~~

~~(7) “Prepaid calling service” means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code,~~

whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(8) “Prepaid wireless calling service” means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services including the download of digital products delivered electronically, content and ancillary services, which service must be paid for in advance and which is sold in predetermined units or dollars of which the number declines with use in a known amount.

(9) “Retail sale” or “sold at retail” means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

(10)(A) “Sales price” means the total amount of consideration, including cash, credit, property, and services, for which services are sold, leased, or rented, valued in money, whether received in money or otherwise, without deduction for the following:

(i) The seller’s cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expenses of the seller;

(iii) Charges by the seller for any services necessary to complete the sale, other than installation charges;

(iv) Delivery charges; and

(v) Consideration received by the seller from third parties if:

(I) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(II) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(III) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(IV) One of the following criteria is met:

(aa) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(bb) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a “preferred customer” card that is available to any patron does not constitute membership in such a group); or

(cc) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(B) Sales price shall not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iv) Installation charges;

(v) Credit for any trade-in; and

(vi) Telecommunications nonrecurring charges.

(11) “Telecommunications service” means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point or between or among points. The term “telecommunications service” includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over internet protocol services or is classified by the Federal Communications Commission as enhanced or value added. Telecommunications service does not include:

(A) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where such purchaser’s primary purpose for the underlying transaction is the processed data or information;

(B) Installation or maintenance of wiring or equipment on a customer’s premises;

(C) Tangible personal property;

(D) Advertising, including but not limited to directory advertising;

(E) Billing and collection services provided to third parties;

(F) Internet access service;

(G) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services shall include but not be limited to cable service as defined in 47 U.S.C. § 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

(H) Ancillary services; or

(I) Digital products delivered electronically, including but not limited to software, music, video, reading materials, or ring tones.

(12) “Telecommunication nonrecurring charges” means an amount billed for the installation, connection, change, or initiation of telecommunications service received by the customer.

(13) “Value-added nonvoice data service” means a service, that otherwise meets the definition of telecommunications service, in that computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(14) “Vertical service” means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

Sec. 3. 30 V.S.A. § 7502(a) is amended to read:

(a) Consistent with the purposes of this chapter, the public service board and the department of public service may interpret the provisions of this chapter. Any person aggrieved by any such interpretation or policy may file with the public service board a petition for a declaratory ruling. Such a petition may include a request to determine whether newly created services, and other services not specifically mentioned by the ~~definition of telecommunications service~~ definitions in this chapter, ~~are telecommunications service~~ fall within the scope of one or another service defined in this chapter. All services declared to be ~~telecommunications services~~ within the scope of

this chapter shall thereafter be subject to the charge imposed by subchapter 3 of this chapter.

Sec. 4. 30 V.S.A. § 7503(b) and (e) are amended to read:

(b) The fiscal agent shall be selected by the public service board after competitive bidding. No ~~telecommunications~~ service provider required to collect the universal service charge shall be eligible to be the fiscal agent. The duties of the fiscal agent shall be determined by a contract with a term not greater than three years.

(e) The financial accounts of the fiscal agent shall be available at reasonable times to any ~~telecommunications~~ service provider in this state required to collect the universal service charge. The public service board may investigate the accounts and practices of the fiscal agent and may enter orders concerning the same.

Sec. 5. 30 V.S.A. § 7521 is amended to read:

§ 7521. CHARGE IMPOSED; ~~WHOLESALE EXEMPTION~~

(a) A universal service charge is imposed on the sales price of all retail sales of ancillary and telecommunications service provided to a Vermont address, except coin-operated telephone service, paging service, prepaid calling service, prepaid wireless calling service, or value-added nonvoice data service. Where the location of a service and the location receiving the bill differ, the location of the service shall be used to determine whether the charge applies. The charge is imposed on the person purchasing the service, but shall be collected by the ~~telecommunications~~ service provider. When any portion of a bundle of services sold for a single price includes a service subject to the charge, the charge shall be calculated based on the price of the bundle, unless the service provider can identify the portion of the bundle not attributable to services subject to the charge through reasonable and verifiable standards based on the service provider's books and records kept in the regular course of business for other purposes, including but not limited to nontax purposes. Each ~~telecommunications~~ service provider that is required to file tariffs with the public service board shall include in its tariffs ~~filed at the public service board~~ a description of its billing procedures for the universal service fund charge.

* * *

Sec. 6. 30 V.S.A. § 7522 is amended to read:

§ 7522. REBATE FOR PAYMENT ELSEWHERE

When a ~~telecommunications~~ service is subject to the charge imposed by section 7521 of this title and also to a similar charge imposed for similar purposes in another state, the customer shall be liable only for the difference between the amount demonstrably paid in the other state and the amount due in this state.

Sec. 7. 30 V.S.A. § 7524(a), (c), and (d) are amended to read:

(a) ~~Telecommunications service~~ Service providers shall pay to the fiscal agent all universal service charge receipts collected from customers. A report in a form approved by the public service board shall be included with each payment.

(c) ~~Telecommunications service~~ Service providers shall maintain records adequate to demonstrate compliance with the requirements of this chapter. The board or the fiscal agent may examine those records in a reasonable manner.

(d) When a payment is due under this section by a ~~telecommunications~~ service provider who has provided customer credits under the lifeline program, the amount due may be reduced by the amount of credit granted.

Sec. 8. 30 V.S.A. § 7525(d) and (e) are amended to read:

(d) Upon petition of the fiscal agent, the public service board may impose, after notice and an opportunity for hearing, civil penalties against a ~~telecommunications~~ service provider who is delinquent in making payments to the fiscal agent. Any penalty imposed may be based upon the size and duration of the violation, but no such penalty shall exceed twice the amount of the delinquency or \$1,000.00, whichever is larger.

(e) A ~~telecommunications~~ service provider who has filed reports required by this chapter shall not be liable for delinquent payments that were due more than three years before the fiscal agent gave notice of delinquency to the provider.

Sec. 9. 30 V.S.A. § 7502(b) is amended to read:

(b) By rule or general order, the public service board may adopt procedures and standards to implement its responsibilities under this chapter. Rules may further clarify terms used in this chapter and may specify how to calculate line equivalents for the minimum or alternative charge imposed on presubscribed services. To the extent applicable, the public service board shall use the

procedures and standards applicable to the setting of rates for regulated utilities. Those procedures may be designed to expedite the annual establishment of amounts to be collected and distributed by the fiscal agent.

Sec. 10. 30 V.S.A. § 7521(b) is amended to read:

(b) ~~The universal service charge shall not apply to wholesale transactions between telecommunications service providers where the service is a component part of a service provided to an end user. This exemption includes, but is not limited to, network access charges and interconnection charges paid to a local exchange carrier.~~ The board may establish by rule a minimum charge per telephone line or telephone line equivalent per month of service or portion thereof if the board finds that to do so is necessary to ensure sufficient revenues for payment from the fund or to ensure equity among different types of telephone users. The board may also establish by rule a flat charge per telephone line or telephone line equivalent in lieu of the rate of charge established in subsection (a) of this section if the board finds that it is administratively efficient to do so and not contrary to the public good.

Sec. 11. 30 V.S.A. § 7523(a) is amended to read:

(a) Annually, after considering the probable expenditures for programs funded pursuant to this chapter, the probable service revenues of the industry and seeking recommendations from the department, the public service board shall establish a rate of charge to apply during the 12 months beginning on the following September 1. However, the rate so established shall not at any time exceed two percent of retail telecommunications service. The board's decision shall be entered and announced each year before July 15. However, if the general assembly does not enact an authorization amount for E-911 before July 15, the board may defer decision until 30 days after the E-911 authorization is established, and the existing charge rate shall remain in effect until the board establishes a new rate. Rates established by the board on a per-line or line-equivalent basis may be set notwithstanding the maximum percentage rate established by this section, but shall not be set at a rate that collects in excess of that which is required to support the program purposes as established by law and any necessary reserve.

Sec. 12. EFFECTIVE DATE

This act shall take effect upon passage.

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.

Consideration Postponed

Senate bill entitled:

S. 84.

An act relating to Vermont Veterans' Memorial Cemetery.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Rules Suspended; Immediate Consideration; Joint Resolution Adopted on the Part of the Senate**J.R.S. 21.**

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

Joint resolution in support of the United States dairy industry.

Was taken up for immediate consideration.

Thereupon, the question, Shall the joint resolution be adopted on the part of the Senate?, was agreed to.

Joint Assembly

At ten o'clock, and thirty minutes the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

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.

And pursuant to

J.R.S. 20. Joint resolution providing for a State of the Judiciary message.

The Senate repaired to the hall of the House.

Having returned therefrom, at twelve o'clock and forty-five minutes, the President assumed the Chair.

Adjournment

On motion of Senator Shumlin, the Senate adjourned until eight o'clock and fifty-five minutes in the morning.