

Journal of the Senate

FRIDAY, FEBRUARY 27, 2009

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 29

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 Senate proposals of amendment to House proposal of amendment to a Senate bill of the following title:

S. 13. An act relating to improving Vermont's sexual abuse response system.

And has concurred therein.

Message from the House No. 30

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. 3. An act relating to technical corrections to the public institutions and corrections statutes.

H. 36. An act relating to repealing the charter of the Enosburg Falls Incorporated School District.

H. 95. An act relating to the approval of an amendment to the charter of the city of Burlington.

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

Bills Introduced

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

S. 105.

By Senators Doyle, Scott and Shumlin,

An act relating to compensation to municipalities for release of offenders by the Department of Corrections.

To the Committee on Institutions.

S. 106.

By Senator Bartlett,

An act relating to approval of the adoption of the charter of the Morristown Corners Water Corporation.

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. 107.

By the Committee on Economic Development, Housing and General Affairs,

An act relating to an entrepreneurial manifesto for Vermont.

Bill Introduced

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

S. 108.

By Senators Bartlett and Ashe,

An act relating to the sharing of excess revenues from the sale of nuclear-generated energy to benefit all Vermont ratepayers.

To the Committee on Finance.

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. 109.

By the Committee on Natural Resources and Energy,

An act relating to brominated flame retardants.

Bills Referred

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

H. 3.

An act relating to technical corrections to the public institutions and corrections statutes.

To the Committee on Institutions.

H. 36.

An act relating to repealing the charter of the Enosburg Falls Incorporated School District.

To the Committee on Government Operations.

H. 95.

An act relating to the approval of an amendment to the charter of the city of Burlington.

To the Committee on Government Operations.

Rules Suspended; Committees Relieved of Further Consideration; Bills Committed**S. 81.**

On motion of Senator Ayer, the rules were suspended, and S. 81 was taken up for immediate consideration, for the purpose of relieving the Committee on Finance from further consideration of the bill. Thereupon, on motion of Senator Ayer, the Committee on Finance was relieved of Senate bill entitled:

An act relating to insurance coverage for oral anticancer medications, and the bill was committed to the Committee on Health and Welfare.

S. 86.

On motion of Senator Nitka, the rules were suspended, and S. 86 was taken up for immediate consideration, for the purpose of relieving the Committee on Judiciary from further consideration of the bill. Thereupon, on motion of Senator Nitka, the Committee on Judiciary was relieved of Senate bill entitled:

An act relating to the administration of trusts,
and the bill was committed to the Committee on Finance.

Bill Called Up**S. 7.**

Senate bill of the following title was called up by Senator Racine, and, under the rule, placed on the Calendar for action the next legislative day:

An act to prohibit the use of lighted tobacco products in the workplace.

Rules Suspended; House Proposal of Amendment Concurred In**J.R.S. 21.**

Appearing on the Calendar for notice, on motion of Senator Kittell, the rules were suspended and House proposal of amendment to joint resolution entitled:

Joint resolution in support of the United States dairy industry.

Was taken up for immediate consideration.

The House proposes to the Senate to amend the joint resolution by striking out all after the title and inserting in lieu thereof the following:

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 national average of \$14,000.00 per cow per year, primarily in local economies, and

Whereas, the absence of profitable prices in the dairy industry for farmers, the lack of competition in milk processing ownership, as well as outdated regulations are causing an economic crisis in the dairy 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 Income Loss Contract (MILC) payment program established in the 2002 Farm Bill, and

Whereas, the amount of funding included in the 2008 Farm Bill for the MILC-X (Milk Income Loss Contract-Extended) payment program did not anticipate this sudden decline in the price that farmers receive from the processors, and

Whereas, the MILC-X 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 MILC-X payment program, a large number of dairy farmers, 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 MILC-X 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; and

4) Setting regional prices to reflect accurately and realistically the cost of production, *and be it further*

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

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Consideration Resumed; Bill Passed**S. 34.**

Consideration was resumed on Senate bill entitled:

An act relating to the agreement among the states to elect the president by national popular vote.

Thereupon, the question, Shall the bill be amended as recommended by Senators Brock and Starr?, was disagreed to on a division of the Senate, Yeas 6, Nays 19

Thereupon, the bill was read the third time and passed on a roll call, Yeas 15, Nays 10.

Senator Brock having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Flanagan, Giard, Hartwell, Kittell, Lyons, McCormack, Nitka, Racine, Sears, White.

Those Senators who voted in the negative were: Brock, Choate, Doyle, Kitchel, MacDonald, Maynard, Mullin, Scott, Snelling, Starr.

Those Senators absent or not voting were: Cummings, Illuzzi, Mazza, Miller, Shumlin (presiding).

Bill Passed**S. 92.**

Senate bill entitled:

An act relating to financing campaigns for elected office.

Was taken up.

Thereupon, pending third reading of the bill, Senator Brock moved to amend the bill by as follows

First: By striking out Sec. 4 in its entirety and inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 17 V.S.A. § 2805 is amended to read:

§ 2805. LIMITATIONS OF CONTRIBUTIONS

(a) A candidate ~~for state representative or local office~~ or political committee shall not accept contributions totaling more than ~~\$200.00~~ \$1,000.00

from a single source, ~~political committee or political party in~~ for any two-year general election cycle.

~~(b) A candidate for state senator or county office or political committee shall not accept contributions totaling more than \$300.00 \$3,000.00 from a single source, political committee or political party in for any two-year general election cycle. A candidate for the office of governor, lieutenant governor, secretary of state, state treasurer, auditor of accounts, or attorney general shall not accept contributions totaling more than \$400.00 from a single source, political committee or political party in any two-year general election cycle. A political committee, other than a political committee of a candidate, or a political party shall not accept contributions totaling more than \$2,000.00 from a single source, political committee or political party in any two-year general election cycle.~~

~~(b) A single source, political committee or political party shall not contribute more to a candidate, political committee or political party than the candidate, political committee or political party is permitted to accept under subsection (a) of this section.~~

~~(c) A candidate, political party or political committee shall not accept, in any two-year general election cycle, more than 25 percent of total contributions from contributors who are not residents of the state of Vermont or from political committees or parties not organized in the state of Vermont.~~

A single source or political committee shall not contribute more to a candidate or political committee than the candidate or political committee is permitted to accept under subsections (a) and (b) of this section.

(d) A candidate shall not accept a monetary contribution in excess of \$50.00 unless made by check, credit or debit card, or other electronic transfer.

(e) A candidate, political party, or political committee shall not knowingly accept a contribution which is not directly from the contributor, but was transferred to the contributor by another person for the purpose of transferring the same to the candidate, or otherwise circumventing the provisions of this chapter. It shall be a violation of this chapter for a person to make a contribution with the explicit or implicit understanding that the contribution will be transferred in violation of this subsection.

(f) This section shall not be interpreted to limit the amount a candidate or his or her immediate family may contribute to his or her own campaign. For purposes of this subsection, "immediate family" means ~~individuals related to the candidate in the first, second or third degree of consanguinity~~ a candidate's spouse or civil union partner, parent, grandparent, child, grandchild, sister,

brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, legal guardian, or former legal guardian.

(g) The limitations on contributions established by this section shall not apply to contributions made for the purpose of advocating a position on a public question, including a constitutional amendment.

(h) For purposes of this section, the term “candidate” includes the candidate’s political committee.

(i) The contribution limitations contained in this section shall be adjusted for inflation by increasing them based on the Consumer Price Index. Increases shall be rounded up to the nearest \$10.00. Increases shall be effective for the first two-year general election cycle beginning after the general election held in 2010. On or before July 1, 2011, the secretary of state shall calculate and publish the amount of each limitation that will apply to the election cycle in which July 1, 2011 falls. On July 1 of each subsequent odd-numbered year, the secretary shall publish the amount of each limitation for the election cycle in which that publication falls.

(j) Contributions accepted by candidates shall be treated as follows:

(1) A candidate who accepts a contribution prior to the date of the primary election may designate the contribution or portion of the contribution as either a primary or general election contribution. Once designated, a general election contribution accepted prior to the primary election shall be accounted for separately.

(2) A contribution accepted by a candidate after the date of the primary election shall be a general election contribution. A candidate may designate a contribution or portion of the contribution accepted after the date of the primary election as a primary election contribution only for the purpose of retiring debt incurred for the primary election.

(3) Contributions that were accepted prior to the primary election may be used for the general election if all debt incurred for the primary election has been retired.

(4) Expenditures related to a previous two-year general election cycle and contributions to retire a debt of a previous two-year general election cycle shall be attributed to the earlier two-year general election cycle.

(k) The following shall apply to an independent candidate who certifies to the secretary of state that he or she will not accept contributions from any political party:

(1) The candidate may accept contributions from one political committee, designated by the candidate, up to the limitations set forth in subsection (e) of this section for political party contributions; and

(2) For the purposes of this chapter, "contribution" shall not include:

(A) Compensation paid by one political committee, designated by the candidate, to its employees;

(B) Costs paid by one political committee, designated by the candidate, in connection with a campaign event.

(1) A candidate accepts a contribution when the contribution is deposited in the candidate's campaign account.

Second: By striking out Sec. 5 in its entirety

Which was disagreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 22, Nays 3.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Bartlett, Campbell, Carris, Choate, Doyle, Flanagan, Giard, Hartwell, Kitchel, Kittell, Lyons, MacDonald, McCormack, Nitka, Racine, Scott, Sears, Snelling, Starr, White.

Those Senators who voted in the negative were: Brock, Maynard, Mullin.

Those Senators absent or not voting were: Cummings, Illuzzi, Mazza, Miller, Shumlin (presiding).

Bill Passed

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

S. 59. An act relating to approval of expenditures for gifts.

Joint Resolution Adopted in Concurrence

J.R.H. 9.

Joint House resolution entitled:

Joint resolution designating December 10, 2009 as Human Rights Day.

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

Rules Suspended; Bills Messaged

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 34, S. 59, S. 92.

Message from the House No. 31

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. 17. Joint resolution requesting the Department of Health to complete and update its study on the relationship of the closed Vermont Asbestos Group mine in the towns of Eden and Lowell to occurrences of asbestos-related illness.

And has passed the same in concurrence.

Message from the House No. 32

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. 22. Joint resolution providing for a Joint Assembly to vote on the retention of three Superior Judges, and one District Judge.

And has adopted the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, March 17, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 15.