

Journal of the Senate

FRIDAY, APRIL 10, 2009

The Senate was called to order by the President.

Adjournment

On motion of Senator Mullin, the Senate adjourned until one o'clock in the afternoon.

Called to Order

At one o'clock the Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Taihaku of East Calais.

Message from the House No. 49

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the Governor's veto on Senate bill of the following title:

S. 115. An act relating to civil marriage.

And has passed the same, the refusal of the Governor to approve notwithstanding.

Message from the House No. 50

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 joint resolution of the following title:

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

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

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 28. Joint resolution designating April as sexual violence awareness month.

And has passed the same in concurrence.

Message from the Secretary of the Senate

Pursuant to section 11, chapter II of the Vermont Constitution, the Senate, by a vote of 23 Yeas, 5 Nays, and the House of Representatives, by a vote of 100 Yeas, 49 Nays, voted to override the veto of the Governor to a bill entitled as follows:

S. 115. An act relating to civil marriage.

Accordingly, the bill was delivered on April 8, 2009, to the Secretary of State pursuant to the provisions of title 3, chapter 5 of the Vermont Statutes Annotated.

Message from the House No. 51

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 joint resolutions of the following titles:

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

J.R.H. 20. Joint resolution relating to weekend adjournment.

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

Bills Referred to Committee on Appropriations

S. 97.

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 a Vermont state employees' cost-savings incentive program.

H. 431.

House 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 miscellaneous adjustments to the public retirement systems.

House Requested to Return Bill to Custody of Senate**H. 232.**

On motion of Senator Shumlin, the Senate requested the House to return to the custody of the Senate, House bill entitled:

An act relating to fiscal year 2009 budget adjustment.

Bill Introduced

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

S. 142.

By Senator White,

An act relating to a single statewide hospital system.

To the Committee on Health and Welfare.

Joint Resolution Adopted in Concurrence**J.R.H. 20.**

Joint resolution originating in the House of the following title was read and adopted in concurrence and is as follows:

Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 10, 2009, it be to meet again no later than Tuesday, April 14, 2009.

Joint Resolution Referred**J.R.H. 18.**

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to certain financial and managerial policies of the University of Vermont.

Whereas, the General Assembly chartered the University of Vermont on November 3, 1791 for providing higher public education, and

Whereas, the Vermont Agricultural College was created in accordance with Act 96 of 1864, and

Whereas, under the authority of Act 71 of 1945, these two institutions of higher education were unified into a single educational entity that has garnered great esteem among the citizens of Vermont, and

Whereas, the University of Vermont, notwithstanding the respect it has earned in this state and notwithstanding its unusual legal status and autonomy that combine attributes of both a legislatively chartered private corporation and an instrumentality of the state, should be a responsible institutional citizen in the conduct of its organizational operations and the management of its financial affairs, and

Whereas, the difficult economic times through which our state and nation are living only magnify the need for financial prudence and responsibility at the university, and

Whereas, under these circumstances, recent managerial and financial decisions at the University of Vermont warrant closer examination by the board of trustees of the university, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly urges that:

1) The University of Vermont board of trustees affirm and encourage the process it has initiated as a full board and through its governance and audit committee responsibilities and that is guided by the federal Sarbanes–Oxley Act and the recently passed federal Higher Education Act’s reauthorization to continue to examine and thoroughly update the university’s audit process, to continually update the strategic plan and financial plan, to ensure compliance with federal and state law, and to annually evaluate the performance and compensation of the president in accordance with the trustees’ newly adopted protocol for annual review of the compensation of senior officials;

2) Any program or activity at the University of Vermont that is proposed for elimination and that has an annual budget that equals or exceeds a prudent monetary threshold the trustees have set be subject to a vote of the trustees prior to its elimination, and that the trustees endeavor to include a listing of these decisions in the annual financial report of the university;

3) The University of Vermont continue to make every effort to increase the number of Vermonters in the student body who meet admission stands as the university charter directs, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the president of the University of Vermont and to the chair of the University of Vermont board of trustees.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Government Operations.

Rules Suspended; Committee Relieved of Further Consideration; Joint Resolution Placed on Calendar

J.R.S. 26.

On motion of Senator Sears, the rules were suspended, and J.R.S. 26 was taken up for immediate consideration, for the purpose of relieving the Committee on Judiciary from further consideration of the joint resolution. Thereupon, on motion of Senator Sears, the Committee on Judiciary was relieved of joint Senate resolution entitled:

Joint resolution relating to the legalization of industrial hemp,

and the joint resolution was placed on the Calendar for action the next legislative day.

Joint Resolutions Placed on Calendar

J.R.H. 16.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution designating April as Fair Housing Month in Vermont.

Whereas, the right to dwell wherever any individual wishes without regard to race, religion, national origin, gender, or age was not historically enshrined in federal law, and

Whereas, for generations, millions of Americans were denied the housing of their choice because of one of these factors, and

Whereas, despite the United States Supreme Court's prohibition in 1948 of judicial enforcement of restrictive covenants in the case of Shelley v Kraemer, discriminatory housing policies in neighborhoods, or even entire communities, continued to be legal if privately enforced, and

Whereas, by the middle 1960s, following Congress' passage of both the Civil Rights Act of 1964 and the Voting Rights Act of 1965, housing discrimination remained a barrier in both the rental and sales markets, and

Whereas, the open housing marches that the Rev. Dr. Martin Luther King Jr. led in Chicago in 1966, his assassination on April 4, 1968, and the riots that flowed in its wake proved the catalyst that finally persuaded Congress of the necessity to enact federal fair housing legislation, and

Whereas, Congress responded with unusual haste to President Johnson's urgent appeal, and, within days, on April 11, 1968, he signed the Civil Rights Act of 1968, Title VIII of which is known as the Fair Housing Act, and

Whereas, the legislative breakthrough achieved in this act began a process of guaranteeing that individuals could rent or purchase a home without regard to their religion, race, age, or gender, and, as the act was later amended, disability, and

Whereas, in observance of the signing of the Fair Housing Act of 1968, many jurisdictions are designating April as Fair Housing Month in order both to remember the passage of this historic legislation and to renew the commitment to fair and open housing for all Americans, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly designates April as Fair Housing Month in Vermont, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Human Rights Commission.

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

J.R.H. 19.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing the 2009 Boys' State program to use the state house.

Whereas, the American Legion in Vermont sponsors the Green Mountain Boys' State program which provides an opportunity for boys in high school to study the workings of state government in Montpelier, and

Whereas, as part of their visit to the state's capital city, the boys conduct a mock legislative session in the state house, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the state house for the Green Mountain Boys' State program on Thursday, June 25, 2009 from 8:00 a.m. to 5:00 p.m.

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

Senate Resolution Referred

S.R. 9.

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

By Senators Carris, Ayer, Brock, Cummings, Giard, Maynard, McCormack and Starr,

Senate resolution relating to the treatment of individuals at the United States and Canadian ports of entry along the Vermont-Quebec international border.

Whereas, Vermont and Quebec share a common border, with multiple ports of entry, that stretches from Alburgh to Beecher Falls, and

Whereas, thousands of individuals cross the border weekly, in both directions, for many purposes, including business, family and recreational activities, and

Whereas, everyone recognizes that in the post-9/11 era, international border security has assumed a heightened importance for both the United States and Canada, and

Whereas, despite these legitimate security concerns, the agents of the Canadian Border Security Agency (an agency under the jurisdiction of the Canadian Minister for Public Safety), who staff the ports of entry on the northern side of the Vermont-Quebec border, have routinely demonstrated a courteous and friendly persona toward individuals seeking entry into Canada while still reserving the right to deny entry or to take other law enforcement measures, when a specific situation so warrants, and

Whereas, to the contrary, all too frequently, individuals entering the United States at one of the Vermont ports of entry are subjected to a gruff and harsh reception even when there is no suspicion on the part of a United States Customs and Border Protection agent of any attempt at illegal entry, the bringing into the United States of unauthorized goods, or criminal activity, and

Whereas, the Senate fully recognizes that the agents of United States Customs and Border Protection (an agency of the United States Department of Homeland Security) are following the protocols established on the national level from which they may not individually deviate, and their dedication to serving our nation is not being questioned, and

Whereas, agents of United States Customs and Border Protection are the first official contact with Americans for visitors to our nation, and the impression that is left can be extremely negative, disconcerting and at times hostile, and

Whereas, the reception that visitors receive at our international borders reflects on our nation as a whole and can lead to personal ill will toward the United States that is neither justified nor necessary, and

Whereas, it is imperative that United States Customs and Border Protection develop new and more diplomatic methods for assessing and screening potentially illegal entrants into the United States without displaying the hostility and rudeness that have unfortunately been all too commonly exhibited toward both visitors to and citizens of the United States, and

Whereas, U.S. Customs and Border Protection should adopt a more friendly and positive approach, similar to the one its Canadian counterpart has adopted, *now therefore be it*

Resolved by the Senate:

That this legislative body urges United States Customs and Border Protection to rethink and redesign its protocols for welcoming and inquiring of entrants to the United States at ports of entry in Vermont and nationwide, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to United States Secretary of Homeland Security Janet Napolitano and Acting Commissioner of United States Customs and Border Protection Jayson Ahern in Washington, D.C., to the Canadian Minister of Public Safety, the Honourable Peter Van Loan P.C., M.P., to the President of the Canada Border Security Agency, Stephen Rigby, in Ottawa, and to the Consulate General of Canada in Boston.

Thereupon, the President, in his discretion, treated the resolution as a bill and referred it to the Committee on Economic Development, Housing and General Affairs.

Message from the Governor
Appointments Referred

A message was received from the Governor, by Heidi M. Tringe, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Kenney, Frederick S., II of Jericho – Executive Director of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

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

Gentile, Betsy of Guilford – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

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

Keyser, Christopher S. of Rutland – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

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

Lintermann, Mary of Stowe – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

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

Marshall, Karen of Williston – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

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

Morse, Stephan of Newfane – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

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

Port, Nancy of Burlington – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

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

Rosenquist, Carl of Georgia – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2011.

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

Smith, Rachel of St. Albans – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

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

Young, Mark of Orwell – Member of the Economic Incentive Review Board, - from April 1, 2009, to March 31, 2013.

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

Boucher, Patricia A. LaBier of Enosburg Falls - Member of the Parole Board, - from March 27, 2009, to February 29, 2012.

To the Committee on Institutions.

Germain, Maurice of Colchester - Member of the Transportation Board, - from April 9, 2009, to February 28, 2011.

To the Committee on Transportation.

Consideration Postponed

Senate bills entitled:

S. 99.

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

S. 111.

An act relating to legislative apportionment board appointments.

S. 117.

An act relating to the date of the primary election.

S. 134.

An act relating to the reduction and consolidation of certain nonstanding legislative committees.

Were taken up.

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

Consideration Resumed; Third Reading Ordered

S. 126.

Consideration was resumed on Senate committee bill entitled:

An act relating to digital forensic specialists.

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

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 91. An act relating to operation of vessels on public waters.

S. 94. An act relating to licensing state forestland for maple sugar production.

S. 122. An act relating to recounts in elections for statewide offices.

Bill Amended; Bill Passed

S. 136.

Senate bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senators Sears and White moved to amend the bill by striking out the words "evidence-based" wherever they appear.

Which was agreed to.

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

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

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

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

Bill Passed in Concurrence with Proposal of Amendment

H. 204.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to payment of diversion program fees.

Bill Called Up

H. 11.

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

An act relating to the disposition of property upon death, transfer of interest in vehicle upon death, and homestead exemption.

Rules Suspended; Bills Messaged

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

S. 91, S. 94, S. 122, S. 136, H. 31, H. 95, H. 204.

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, April 14, 2009, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.H. 20.