

# Journal of the Senate

---

FRIDAY, FEBRUARY 12, 2010

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Melvin Bridge of Waterbury.

## Message from the House No. 18

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. 36.** Joint resolution urging Congress to create a cleaner and greener standard for heating oil in the Northeast and to extend the federal tax credit for biodiesel fuel.

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. 48.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

## Message from the House No. 19

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. 507.** An act relating to fostering connections to success in guardianships.

**H. 517.** An act relating to approval of an amendment to the charter of the Village of Enosburg Falls.

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

The House has adopted joint resolution of the following title:

**J.R.H. 38.** Joint resolution relating to the use of the state house for the Green Mountain Boys' State Program.

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

### **Pages Honored**

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with commemorative posters:

Sam Biondolillo of Barre  
Clara Emlen of Calais  
Ira Fisher of Lincoln  
Leah Hanzas of Bradford  
Haddie Lary of Randolph  
Madelyn McCrae of South Burlington  
Hunter Riehle of South Burlington  
Clare Salerno of Johnson  
Nell Sather of Montpelier  
Erin Turner of Milton

### **Bills Referred**

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

#### **H. 507.**

An act relating to fostering connections to success in guardianships.

To the Committee on Health and Welfare.

#### **H. 517.**

An act relating to approval of an amendment to the charter of the Village of Enosburg Falls.

To the Committee on Government Operations.

---

**Joint Resolution Referred****J.R.H. 36.**

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

Joint resolution urging Congress to create a cleaner and greener standard for heating oil in the Northeast and to extend the federal tax credit for biodiesel fuel

Whereas, more than one-half of the homes in Vermont are heated with heating oil, and

Whereas, an ultra-low sulfur standard for heating oil would dramatically cut air emissions while reducing both maintenance costs and consumption, and

Whereas, an ultra-low sulfur fuel standard would allow consumers to utilize more efficient heating oil furnaces and boilers, and

Whereas, heating oil that is blended with up to five percent biodiesel can be used in existing appliances that use heating oil, and

Whereas, an increase in the use of heating oil blended with biodiesel would result in reduced dependence on fossil fuels and foreign oil, and

Whereas, the environmental benefits of ultra-low sulfur diesel and biodiesel blends for space heating are beneficial in reducing both particulate matter and greenhouse gas emissions, and

Whereas, the adoption of a uniform standard for ultra-low sulfur diesel and biodiesel blends in the Northeast region – defined as the group of states consisting of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont – would encourage a market for cleaner and greener heating oil that is more efficient and economical for suppliers and consumers, and

Whereas, the extension of the biodiesel tax credit would increase biodiesel production and allow Vermont farmers to develop the feed stocks and capacity to supply biodiesel to Vermont oil heat retailers, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to: (a) create a uniform heating oil standard for the Northeast states identified in this resolution that requires an ultra-low sulfur distillate fuel blended with up to five percent biodiesel; and (b) extend the \$1 per gallon biodiesel federal tax credit that expired on December 31, 2009, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation.

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

### **Joint Resolution Placed on Calendar**

#### **J.R.H. 38.**

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

Joint resolution relating to the use of the state house for the Green Mountain Boys' State Program

Whereas, the Green Mountain Boys' State Program brings together high school boys from all areas of Vermont to our capital city in order to view and experience firsthand the workings of state government, and

Whereas, the lessons these students learn at Boys' State Program make a significant contribution to their future growth as valuable citizens and leaders of our state, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the House and Senate chambers and all committee and meeting rooms of the state house for the Green Mountain Boys' State Program on Thursday, June 24, 2010, from 8:00 a.m. to 4:15 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 Adopted**

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

By the Committee on Agriculture,

**S.R. 18.** Senate resolution urgently imploring United States Secretary of Agriculture Tom Vilsack to exercise dynamic and innovative leadership in addressing the volatility in the price of milk paid to Vermont's dairy farmers.

*Whereas*, the federal marketing order system no longer works for Vermont dairy farmers, and

*Whereas*, the price of milk is consistently below the price of production and is a major cause in the decline in the number of Vermont dairy farms, and

*Whereas*, according to the Vermont Agency of Agriculture, Food and Markets, the total number of dairy farms in January of each of the following years stood at: 1947 (11,206), 1957 (9,512), 1967 (4,729), 1977 (3,531), 1987 (2,771), 1997 (1,908), 2007 (1,168), and 2010 (1,055), and

*Whereas*, if the statistical dairy farm closure rate of the last two decades continues, by the year 2020 Vermont dairy farms will have nearly vanished from the countryside, and

*Whereas*, the state of Vermont has attempted through various programs, including initiating a regional dairy compact, to revitalize the Vermont Milk Commission, and to provide scientific and business assistance directly to individual farmers, and through agricultural organizations to help create a fair price for the milk that Vermont dairy farmers produce, and

*Whereas*, this pricing problem not only is an ongoing crisis for our dairy farmers, but also it is national in scope and can be addressed only through federal leadership which takes into consideration policy proposals that come from the grass roots level, and

*Whereas*, on Saturday, February 13, 2010, United States Secretary of Agriculture Tom Vilsack will be visiting our state, affording Vermont's dairy farmers and the members of the Vermont Senate the opportunity to express frustration and deep concern regarding the future of Vermont's dairy industry, a major economic driver of our state, and

*Whereas*, this expression will be a way of recognizing and protecting our agricultural heritage and working landscape, *now therefore be it*

***Resolved by the Senate:***

That the Senate of the State of Vermont welcomes United States Secretary of Agriculture Tom Vilsack to Vermont and urgently implores him to exercise dynamic and innovative leadership in addressing the volatility in the price of milk paid to Vermont's dairy farmers, *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 Agriculture Tom Vilsack.

**Message from the Governor**  
**Appointments Referred**

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

Hayward, Robert G., M.D. of Shelburne - Member of the Board of Medical Practice, - from February 1, 2010, to December 31, 2013.

To the Committee on Health and Welfare.

Tarrant, Lori of Colchester - Member of the Board of Medical Practice, - from February 1, 2010, to December 31, 2011.

To the Committee on Health and Welfare.

Clauss, David W., M.D. of Shelburne - Member of the Board of Medical Practice, - from February 1, 2010, to December 31, 2014.

To the Committee on Health and Welfare.

King, Patricia A., M.D. of Burlington - Member of the Board of Medical Practice, - from February 1, 2010, to December 31, 2014.

To the Committee on Health and Welfare.

Plavin, Joshua A., M.D. of Randolph - Member of the Board of Medical Practice, - from February 1, 2010, to December 31, 2014.

To the Committee on Health and Welfare.

Hoser, William K., PA-C of Chester - Member of the Board of Medical Practice, - from February 1, 2010, to December 31, 2014.

To the Committee on Health and Welfare.

Valente, John W. of Rutland - Director of the Vermont Municipal Bond Bank, - from February 1, 2010, to January 31, 2012.

To the Committee on Finance.

Kimel David R. of St. Albans - Director of the Vermont Municipal Bond Bank, - from February 1, 2010, to January 31, 2012.

To the Committee on Finance.

Young, Sheri B. of Orwell - Member of the Vermont Citizens Advisory Committee on Lake Champlain's Future, - from February 4, 2010, to February 28, 2011.

To the Committee on Natural Resources and Energy.

Bentley, Bruce of Rutland - Member of the Natural Gas and Oil Resources Board, - from February 10, 2010, to February 28, 2011.

To the Committee on Natural Resources and Energy.

Morse, Eva of Calais - Member of the Current Use Advisory Board, - from February 9, 2010, to January 31, 2013.

To the Committee on Natural Resources and Energy.

Rowell, Laurie of Saxtons River - Member and Chair Valuation Appeals Board, - from February 9, 2010, to January 31, 2013.

To the Committee on Finance.

Volk, Randall of Hinesburg - Member of the Current Use Advisory Board, - from February 10, 2010, to January 31, 2013.

To the Committee on Natural Resources and Energy.

#### **Bill Passed**

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

**S. 282.** An act relating to updating and clarifying provisions regarding commercial driver licenses and commercial motor vehicles.

#### **Third Reading Ordered**

##### **S. 287.**

Senate committee bill entitled:

An act relating to the licensing and regulation of loan servicers.

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

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

#### **Proposals of Amendment; Third Reading Ordered**

##### **H. 331.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to technical changes to the records management authority of the Vermont State Archives and Records Administration.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 14 in its entirety and inserting in lieu thereof the following:

Sec. 14. 32 V.S.A. § 1712(5) is amended to read:

(5) Fees for vital records shall be equivalent to those received by the commissioner of health or the ~~commissioner of buildings and general services~~ Vermont state archivist pursuant to subsection 1715(a) of this title.

Second: By adding three new sections to be numbered Secs. 15, 16, and 17 to read as follows:

Sec. 15. 24 V.S.A. § 1161(a)(2) is amended to read:

(2) If the instrument is executed on behalf of, or to convey the interest of another party, the same shall be indexed in the name of the other party as grantor. In case the instrument is executed by more than one grantor and to more than one grantee, the name of each grantor and each grantee shall be indexed. When the party is a natural person the name shall be indexed under the first letter of such person's surname, and when the party is a corporation the name shall be indexed under the first letter of the first word of its name disregarding articles and initials. For purposes of this section, a defendant against whose property a writ of attachment is filed or a person against whose property a lien is asserted, shall be considered a grantor, and a plaintiff filing a writ, or a person asserting a lien shall be considered a grantee. ~~Land plats filed in the office shall be indexed in such manner as the state archivist shall by rule prescribe.~~ The general index may be kept electronically.

Sec. 16. 18 V.S.A. § 5008 is amended to read:

§ 5008. TOWN CLERK; RECORDING AND INDEXING PROCEDURES

A town clerk shall file for record and index in volumes all certificates and permits received ~~in a manner prescribed by the state archivist~~ town. Each volume or series shall contain an alphabetical index. Civil marriage certificates shall be filed for record in one volume or series, civil unions in another, birth certificates in another, and death certificates and burial-transit and removal permits in another. However, in a town having less than 500 inhabitants, the town clerk may cause civil marriage, civil union, birth, and death certificates, and burial-transit and removal permits to be filed for record in one volume, provided that none of such volumes shall contain more than 250 certificates and permits. All volumes shall be maintained in the town clerk's office as permanent records.



Sec. 17. 1 V.S.A. § 317(c) is amended to read:

(c) The following public records are exempt from public inspection and copying:

\* \* \*

(39) records held by the agency of human services or the department of banking, insurance, securities, and health care administration, which include prescription information containing patient-identifiable data, that could be used to identify a patient;

(40) records maintained by a Vermont public postsecondary educational institution and its institutionally related foundations concerning donors or potential donors, including: the identity of a donor or prospective donor when the donor or prospective donor requests anonymity as a condition of making the gift; and a donor or prospective donor's personal, marital, familial, financial, tax, estate planning, or gift planning information, provided that:

(A) "donor" within the meaning of this subdivision shall mean a:

(i) natural person;

(ii) private charitable foundation or trust named for a natural person or persons; or

(iii) donor-advised fund, as defined by 26 U.S.C. § 4966(d)(2) of the Internal Revenue Code, when the person holding advisory privileges for the fund is a natural person or is unknown to the postsecondary educational institution;

(B) this subdivision does not apply to benefactors of grants or contracts to the institution for the performance of research;

(C) disclosure shall be required of the purpose, date, amount, and any donor-imposed restrictions on the use of the donation; and

(D) the name of any donor and the amount of a donation made by such donor shall be subject to disclosure if the donor transacts business with the educational institution within three years before or after the date of such donation. For purposes of this subdivision, to "transact business" means the sale or lease of property, goods, or services to the institution in an amount greater than \$10,000.00 in aggregate in a calendar year by the donor, the donor's immediate family, or a business in which the donor is an officer or has a direct ownership interest of greater than five percent of the assets or stock of the business.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Government Operations?, Senator White on behalf of the Committee on Government Operations, moved to amend the proposal of amendment of the Committee on Government Operations as follows:

First: In Sec. 17, 1 V.S.A. § 317(c)(40), by striking out the following: “and its institutionally related foundations” where it appears and inserting in lieu thereof the following: , the Vermont Student Assistance Corporation, or the institutionally related foundations of public postsecondary education institutions or of the Vermont Student Assistance Corporation

Second: By adding a new section to be numbered Sec. 18 to read as follows:

Sec. 18. EFFECTIVE DATE

This act shall take effect upon passage.

Thereupon, the question, Shall the proposal of amendment of the Committee on Government Operations, be amended as recommended by Senator White on behalf of the Committee on Government Operations?, was agreed to.

Thereupon, the proposals of amendment recommended by the Committee on Government Operations, as amended, were agreed to and third reading of the bill was ordered.

### **Consideration Postponed**

Senate bill entitled:

#### **S. 163.**

An act relating to technical corrections to 2009 sex offender legislation.

Was taken up.

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

---

**House Proposal of Amendment to Senate Proposal of Amendment  
Concurred In**

**H. 534.**

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to fiscal year 2010 budget adjustment.

Was taken up.

The House proposes to the Senate to amend the bill by striking out the Fifteenth (emergency housing funding) Senate proposal of amendment.

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

**Adjournment**

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, February 16, 2010, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 48.