

Journal of the Senate

FRIDAY, MARCH 12, 2010

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Douglas Carter of Danville.

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. 488. An act relating to prohibiting the use of felt-soled boots and waders in the waters Vermont.

H. 539. An act relating to amending the charter of the town of Hartford.

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

The House has adopted joint resolutions of the following titles:

J.R.H. 35. Joint resolution urging Congress not to diminish any aspect of the existing state regulatory authority over the insurance industry or consumer protection policy with respect to national banks.

J.R.H. 39. Joint resolution urging Congress not to pursue legislation allowing individuals or small groups to purchase health insurance across state lines or permitting health insurance companies to offer individual or small group health insurance policies to residents of a state if the company is not authorized by that state to offer those policies

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

The Governor has informed the House that on the March 3, 2010, he approved and signed a bill originating in the House of the following title:

H. 533. An act relating to military parents' rights.

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 adopted House concurrent resolutions of the following titles:

H.C.R. 256. House concurrent resolution honoring family caregivers of persons with Alzheimer's and related diseases on the 2010 Alzheimer's Awareness Day at the state house.

H.C.R. 257. House concurrent resolution honoring Jim Matteau on his retirement from the Windham Regional Commission.

H.C.R. 258. House concurrent resolution in memory of Peter S. Clark of Londonderry.

H.C.R. 259. House concurrent resolution honoring Bonnie West and her family for their dedication to serving the citizens of Jamaica.

H.C.R. 260. House concurrent resolution commending Jennifer Clark for her nursing work in Haiti.

H.C.R. 261. House concurrent resolution in memory of former Jamaica selectboard member David L. Hamilton.

H.C.R. 262. House concurrent resolution honoring Chester selectboard chair Richard Jewett.

H.C.R. 263. House concurrent resolution honoring George Cook for his civic and community leadership in the town of Chester.

H.C.R. 264. House concurrent resolution honoring Irene Wood for her public service on behalf of the town of Chester.

H.C.R. 265. House concurrent resolution honoring Chester town auditor Richard Higley.

H.C.R. 266. House concurrent resolution in memory of Linda Ralph and honoring her proprietorship of the Danby Four Corner Store.

H.C.R. 267. House concurrent resolution congratulating the 2010 Vermont Prudential Spirit of Community Award winners.

H.C.R. 268. House concurrent resolution honoring Norton selectboard chair Franklin D. Henry for over a half-century of outstanding public service.

H.C.R. 269. House concurrent resolution congratulating Hannah Kearney on winning the 2010 women's skiing moguls Olympic gold medal.

H.C.R. 270. House concurrent resolution congratulating Representative Martha P. Heath as a recipient of the New England Board of Higher Education's 2010 David C. Knapp Award for Trusteeship.

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

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 passed a House bill of the following title:

H. 237. An act relating to governance of the Vermont state hospital.

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

Message from the House No. 33

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 passed House bills of the following titles:

H. 498. An act relating to maintenance of private roads.

H. 578. An act relating to requiring all state law enforcement officers to serve under the direction and control of the commissioner of public safety.

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

Bill Referred to Committee on Appropriations

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:

H. 761.

An act relating to authorization of High-Speed Intercity Passenger Rail Program grants.

Bills Referred

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

H. 237.

An act relating to governance of the Vermont state hospital.

To the Committee on Government Operations.

H. 488.

An act relating to prohibiting the use of felt-soled boots and waders in the waters of Vermont.

To the Committee on Natural Resources and Energy.

H. 498.

An act relating to maintenance of private roads.

To the Committee on Judiciary.

H. 539.

An act relating to amending the charter of the town of Hartford.

To the Committee on Government Operations.

H. 578.

An act relating to requiring all state law enforcement officers to serve under the direction and control of the commissioner of public safety.

To the Committee on Government Operations.

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. 52. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 12, 2010, it be to meet again no later than Tuesday, March 16, 2010.

Joint Resolution Referred**J.R.H. 35.**

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

Joint resolution urging Congress not to diminish any aspect of the existing state regulatory authority over the insurance industry or consumer protection policy with respect to national banks

Whereas, in 1945, Congress enacted the McCarran-Ferguson Act, 59 Stat. 33, in which section one (15 U.S.C. § 1011) provided “that the continued regulation and taxation by the several States of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States,” and

Whereas, section 2 of the act (15 U.S.C. § 1012) provided that “the business of insurance, and every person engaged therein, shall be subject to the laws of the several States,” and that “No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance,” and

Whereas, the exception to this broad grant of regulatory authority to the states was a proviso that those aspects of the business of insurance not regulated by state law would be subject to federal antitrust law, including the Sherman Act, the Clayton Act, and the Federal Trade Commission Act, and

Whereas, for over six decades, the McCarran-Ferguson Act has successfully continued as the law of the land, and the individual states have demonstrated great competence in regulating the insurance industry, and

Whereas, H.R. 1583, the “Insurance Industry Competition Act of 2009,” was introduced in the current Congress and referred to the House Committee on Financial Services, and

Whereas, this legislation would alter and impinge upon the scope of the states’ current exclusive authority over the insurance industry by amending federal law to modify federal jurisdiction with respect to insurance industry competition, and

Whereas, the House-passed version of H.R. 4173, “The Wall Street Reform and Consumer Protection Act of 2009,” establishes a federal insurance office which although not specifically intended to preempt state authority over the insurance industry does introduce a new federal regulatory mechanism over insurance that has not previously existed, and

Whereas, the states have fought to retain the authority to adopt consumer protection measures for national banks that are not directly related to the business of banking, and

Whereas, although H.R. 4173 does provide that states may adopt consumer protection policies related to national banks and halts the total monopoly that the U.S. Comptroller of the Currency has been asserting in recent years, the leeway granted to the states remains excessively restricted, and

Whereas, the legislation grants preemption authority to the U.S. Comptroller of the Currency, with respect to a legally adopted state consumer protection policy regarding national banks, that “prevents or significantly interferes with the ability of an insured depository institution chartered as a national bank to engage in the business of banking,” and

Whereas, the U.S. Comptroller of the Currency could interpret this language as a broad mandate to preempt state policies designed to protect consumers in their transactions with national banks, and

Whereas, with respect to comprehensive insurance regulation and to state consumer protection policies related to national banks, state regulators, such as the Vermont department of banking, insurance, securities, and health care administration, have a proven record of success, and their jurisdictional authority should not be diminished, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress not to diminish any aspect of the states’ existing regulatory authority over the insurance industry or consumer protection policy with respect to national banks, and

Resolved: That the Secretary of State be directed to send a copy of this resolution to Paulette J. Thabault, Commissioner of Banking, Insurance, Securities, and Health Care Administration, and 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 Finance.

Joint Resolution Referred

J.R.H. 39.

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

Joint resolution urging Congress not to pursue legislation allowing individuals or small groups to purchase health insurance across state lines or

permitting health insurance companies to offer individual or small group health insurance policies to residents of a state if the company is not authorized by that state to offer those policies.

Whereas, Vermont law has required guaranteed issue of health insurance policies in the small group and individual markets since 1992, which means that an insurer cannot reject a Vermont resident's application for health insurance based on the individual's health status or medical conditions, and

Whereas, Vermont law has required community rating in the small group and individual markets since 1992, and

Whereas, most other states do not require guaranteed issue, community rating, or other consumer protections afforded to Vermont residents by law, and

Whereas, allowing the purchase of health insurance across state lines will likely result in many healthy people purchasing insurance out of state where their policies may be rescinded if they become sick, leading them to purchase guaranteed-issue health insurance policies in Vermont, which would create a very sick Vermont risk pool that would be expensive to insure and would increase the cost of health insurance in Vermont, and

Whereas, Vermont has had mental health parity laws in place since 1997 which provide greater protections than federal and many state laws, and

Whereas, out-of-state insurers are already authorized to sell policies in Vermont and across the United States but some have chosen not to offer health insurance in Vermont's small group and individual health insurance markets because of the requirements of guaranteed issue and community rating, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress not to pursue legislation allowing individuals or small groups to purchase health insurance across state lines or permitting health insurance companies to offer individual or small group health insurance policies to residents of a state if the company is not authorized by that state to offer those policies, 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 Finance.

Consideration Postponed

Senate bills entitled:

S. 77.

An act relating to the disposal of electronic waste.

S. 117.

An act relating to the date of the primary election.

S. 207.

An act relating to handling of milk samples.

S. 259.

An act relating to the tuition to be paid by a designating school district.

S. 292.

An act relating to term probation, the right to bail, medical care of inmates, and a reduction in the number of nonviolent prisoners, probationers, and detainees.

Were taken up.

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

Bill Ordered to Lie**H. 331.**

House bill entitled:

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

Was taken up.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Shumlin, the bill was ordered to lie.

House Concurrent Resolutions

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

By All Members of the House,

By All Members of the Senate,

H.C.R. 256.

House concurrent resolution honoring family caregivers of persons with Alzheimer's and related diseases on the 2010 Alzheimer's Awareness Day at the state house.

By Representative Mrowicki and others,

By Senators Shumlin and White,

H.C.R. 257.

House concurrent resolution honoring Jim Matteau on his retirement from the Windham Regional Commission.

By Representative Olsen,

H.C.R. 258.

House concurrent resolution in memory of Peter S. Clark of Londonderry.

By Representative Olsen,

H.C.R. 259.

House concurrent resolution honoring Bonnie West and her family for their dedication to serving the citizens of Jamaica.

By Representatives Donahue and Grad,

By Senators Cummings, Doyle and Scott,

H.C.R. 260.

House concurrent resolution commending Jennifer Clark for her nursing work in Haiti.

By Representative Olsen,

H.C.R. 261.

House concurrent resolution in memory of former Jamaica selectboard member David L. Hamilton.

By Representative Pellett,

H.C.R. 262.

House concurrent resolution honoring Chester selectboard chair Richard Jewett.

By Representative Pellett,

H.C.R. 263.

House concurrent resolution honoring George Cook for his civic and community leadership in the town of Chester.

By Representative Pellett,

H.C.R. 264.

House concurrent resolution honoring Irene Wood for her public service on behalf of the town of Chester.

By Representative Pellett,

H.C.R. 265.

House concurrent resolution honoring Chester town auditor Richard Higley.

By Representatives Komline and Olsen,

H.C.R. 266.

House concurrent resolution in memory of Linda Ralph and honoring her proprietorship of the Danby Four Corner Store.

By Representative Frank and others,

H.C.R. 267.

House concurrent resolution congratulating the 2010 Vermont Prudential Spirit of Community Award winners.

By Representative Johnson,

By Senators Illuzzi and Kitchel,

H.C.R. 268.

House concurrent resolution honoring Norton selectboard chair Franklin D. Henry for over a half-century of outstanding public service.

By All Members of the House,

By All Members of the Senate,

H.C.R. 269.

House concurrent resolution congratulating Hannah Kearney on winning the 2010 women's skiing moguls Olympic gold medal.

By Representative Frank and others,

H.C.R. 270.

House concurrent resolution congratulating Representative Martha P. Heath as a recipient of the New England Board of Higher Education's 2010 David C. Knapp Award for Trusteeship.

Adjournment

On motion of Senator Shumlin, the Senate adjourned, to reconvene on Tuesday, March 16, 2010, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 52.