

# Journal of the Senate

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TUESDAY, MARCH 16, 2010

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

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Pledge of Allegiance

Pages Zivah Solomon and Tanner Starr then led the members of the Senate in the pledge of allegiance.

## Message from the House No. 34

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. 88.** An act relating to adding a dental assistant to the state board of dental examiners.

**H. 647.** An act relating to misclassification of employees to lower premiums for workers' compensation and unemployment compensation.

**H. 695.** An act relating to definition of premises for award of liquor license.

In the passage 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. 52.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

## Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

**S. 88.** An act relating to health care financing and universal access to health care in Vermont.

**S. 239.** An act relating to retiring outdoor wood-fired boilers that do not meet the 2008 emission standard for particulate matter.

#### **Bills Referred to Committee on Finance**

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

**S. 226.** An act relating to medical marijuana dispensaries.

**S. 264.** An act relating to the Vermont dairy industry stabilization and health (DISH) program.

#### **Committee Bills Introduced**

Senate committee bills of the following titles were severally introduced, read the first time, and, under the rule, placed on the Calendar for notice the next legislative day:

##### **S. 293.**

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

An act relating to state standards for boilers and pressure vessels.

##### **S. 294.**

By the Committee on Government Operations,

An act relating to identification in electioneering communications and penalties for campaign finance violations.

##### **S. 295.**

By the Committee on Agriculture,

An act relating to the creation of an agricultural development director.

##### **S. 296.**

By the Committee on Institutions,

An act relating to sale or lease of the John H. Boylan state airport.

##### **S. 297.**

By the Committee on Education,

An act relating to miscellaneous changes to education law.

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**Bills Referred**

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

**H. 88.**

An act relating to adding a dental assistant to the state board of dental examiners.

To the Committee on Government Operations.

**H. 647.**

An act relating to misclassification of employees to lower premiums for workers' compensation and unemployment compensation.

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

**H. 695.**

An act relating to definition of premises for award of liquor license.

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

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

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, March 19, 2010, it be to meet again no later than Tuesday, March 23, 2010.

**Consideration Postponed**

Senate bill entitled:

**S. 117.**

An act relating to the date of the primary election.

Was taken up.

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

**Third Readings Ordered****S. 292.**

Senate committee bill entitled:

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.

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

Senator Sears moves to amend the bill as follows

First: In Sec. 5, subsection (c), after the words “the department of corrections shall” by adding the following: request that the court

Second: In Sec. 5, subsection (d), in subdivision (1), by striking out the following: “, as of July 1, 2010” and by adding subdivision (3) to read as follows:

(3) The general assembly finds that a contributing factor to the escalating cost of the corrections’ budget is that inmates are held unnecessarily past their minimum sentence because the department of corrections has not located suitable housing for the inmates in the community. While appropriate community housing is an important consideration in release of inmates, the department of corrections shall not use lack of housing as the sole factor in denying furlough to inmates who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony.

Third: In Sec. 8, subsection (b), by striking out the words “achieve a 25 percent reduction in” and inserting in lieu thereof the following: reduce and after the words “detainee population” by adding the following: to 300 persons

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Illuzzi moves to amend the bill by adding a new section to be numbered Sec. 9a to read as follows:

Sec. 9a. 24 V.S.A. § 290(b) is amended to read:

(b) Full-time deputy sheriffs whose primary responsibility is transportation of prisoners and mentally ill persons shall be paid by the state of Vermont. The appointment of such deputies and their salary shall be approved by the governor, or his designee. The executive committee of the Vermont sheriffs

association and the executive director of the department of state's attorneys and sheriffs shall jointly have authority for the assignment of position locations in the counties of state paid deputy sheriffs and shall review the county location assignments periodically for efficient use of resources.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

### **S. 207.**

Senator Choate, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to handling of milk samples.

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

#### Sec. 1. FINDINGS

(a) The preliminary incubation (PI) count of raw milk is one means of testing and detecting hygiene inadequacies during farm production that may not be apparent with a standard plate count (SPC) alone.

(b) Although the information gained from a PI count test may be valuable for detecting potential sanitation problems and as a quality indicator, the test is often not repeatable, even with identical samples. Therefore, the PI count should be evaluated in conjunction with other quality and sanitation indicators, including the SPC count.

(c) The PI count of milk is not required by the pasteurized milk ordinance (PMO) or any Vermont regulation governing milk safety and sanitation. Nonetheless, at least one milk processor purchasing Vermont milk has used the PI count as the sole basis for denying the shipment of milk.

(d) Vermont law provides that a handler doing business in this state who has a contract with a producer for the purchase of dairy products shall not refuse to purchase dairy products from the producer except for violations of the sanitary regulations or standards applicable to the market in which the dairy product is sold or marketed.

(e) The purpose of this act is to establish that, although the PI count of milk may be used when determining milk quality premium payments and differentials, the PI count cannot serve as the sole basis for rejecting a milk supply.

Sec. 2. 6 V.S.A. § 2816 is added to read:

§ 2816. PRELIMINARY INCUBATION TESTING; REJECTION OF SUPPLY

(a) A handler shall not reject the milk supply of a producer based solely on a preliminary incubation (PI) count.

(b) Notwithstanding subsection (a), a handler may use a preliminary incubation count as a basis for calculating and awarding milk premium or differential payments.

Sec. 3. 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. Senator Choate, on behalf of the Committee on Agriculture, moved to withdraw the recommendation of amendment.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read a third time?, Senator Choate on behalf of the Committee on Agriculture moved to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

(a) The preliminary incubation (PI) count of raw milk is one means of testing and detecting hygiene inadequacies during farm production that may not be apparent with a standard plate count (SPC) alone.

(b) Although the information gained from a PI count test may be valuable for detecting potential sanitation problems and as a quality indicator, the test is often not repeatable, even with identical samples. Therefore, the PI count should be evaluated in conjunction with other quality and sanitation indicators, including the SPC count.

(c) The PI count of milk is not required by the pasteurized milk ordinance or any Vermont regulation governing milk safety and sanitation. Nonetheless, at least one milk processor that purchases Vermont milk has used the PI count as the sole basis for denying the shipment of milk.

(d) Vermont law provides that a handler doing business in this state who has a contract with a producer for the purchase of dairy products shall not refuse to purchase dairy products from the producer except for violations of the

sanitary regulations or standards applicable to the market in which the dairy product is sold or marketed.

(e) The purpose of this act is to establish that the PI count of cows' milk cannot serve as the sole basis for rejecting a milk supply.

Sec. 2. 6 V.S.A. § 2816 is added to read:

§ 2816. PRELIMINARY INCUBATION TESTING; REJECTION OF SUPPLY

A handler shall not reject the milk supply of a producer based solely on a preliminary incubation count.

Sec. 3. MEETING OR INFORMATION CONCERNING PI COUNTS

The secretary of agriculture, food and markets, or his or her designee shall:

(1) convene a meeting of dairy handlers that purchase Vermont cows' milk to discuss the advisability of using preliminary incubation counts as a basis for producer premium payments or differentials; or, alternatively

(2) deliver relevant information to dairy handlers that purchase Vermont cows' milk concerning the advisability of using preliminary incubation counts as a basis for producer premium payments or differentials.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

Which was agreed to.

Thereupon, third reading of the bill was ordered.

**S. 259.**

Senator Flory, for the Committee on Education, to which was referred Senate bill entitled:

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

Reported recommending that the bill be amended by adding a new section to be Sec. 2 to read:

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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. 77.**

An act relating to the disposal of electronic waste.

Was taken up.

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

**Third Reading Ordered****H. 607.**

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

An act relating to codifying and amending the charter of the Chittenden County Transportation Authority.

Reported that the bill ought to pass in concurrence.

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

**Consideration Postponed**

Joint House resolution entitled:

**J.R.H. 34.**

Joint resolution in support of the New England Secondary School Consortium.

Was taken up.

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

**Consideration Postponed**

Senate bills entitled:

**S. 222.**

An act relating to recognition of Abenaki tribes.



**S. 283.**

An act relating to amending miscellaneous motor vehicle laws, eliminating the motorcycle rider training program advisory committee, and repealing the interstate compact for motor vehicle safety equipment.

Were taken up.

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

**Senate 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 on the part of the Senate:

By All Members of the Senate,

By Representative Miller and others,

**S.C.R. 41.**

Senate concurrent resolution in memory of former Representative and Senator Nancy Chard.

By Senators Choate and Kitchel,

By Representatives Reis and South,

**S.C.R. 42.**

Senate concurrent resolution congratulating Ruth (Riddick) McLaine of St. Johnsbury on her 100th birthday.

By the Committee on Finance,

**S.C.R. 43.**

Senate concurrent resolution congratulating Julie Brill on her confirmation as a member of the Federal Trade Commission.

[The full text of the Senate concurrent resolutions appeared in the Senate and House calendar addendum for March 12, 2010, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

**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 Representative Stevens and others,

By All Members of the Senate,

**H.C.R. 271.**

House concurrent resolution commemorating the Green Mountain Club on its centennial anniversary.

By Representative Head and others,

**H.C.R. 272.**

House concurrent resolution honoring the South Burlington Community Library children's librarian Marje Von Ohlsen.

[The full text of the House concurrent resolutions appeared in the House calendar addendum for March 12, 2010, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the sixty-ninth biennial session of the Vermont General Assembly.]

**Adjournment**

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 17, 2010.