

Journal of the House

Thursday, January 27, 2011

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rev. Ann Grady of Christ Episcopal Church, Montpelier, VT.

Message from the Senate No. 8

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolutions of the following titles:

J.R.S. 12. Joint resolution relating to weekend adjournment.

J.R.S. 13. Joint resolution urging the United States Department of Homeland Security not to close the international port of entry at Morses Line in the town of Franklin.

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

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 2. Senate concurrent resolution honoring Hildred Tatro for her exemplary role as co-librarian at the Enosburg Public Library.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 20. House concurrent resolution congratulating Frederick Martin Wilkens on his 90th birthday.

H.C.R. 21. House concurrent resolution honoring Grafton volunteer firefighter Richard Thompson and sending best wishes for recovery to Beatrice Fisher who he gallantly rescued from her burning home.

H.C.R. 22. House concurrent resolution honoring Roland Dion for his dedicated public and community service in the city of Winooski.

H.C.R. 23. House concurrent resolution congratulating the town of Brandon on its 250th anniversary.

H.C.R. 24. House concurrent resolution honoring Brattleboro American Legion Band manager Don Strange.

H.C.R. 25. House concurrent resolution commemorating the restoration and sesquicentennial anniversary of the historic Brandon Town Hall.

H.C.R. 26. House concurrent resolution recognizing January 2011 as National Human Trafficking Awareness Month in Vermont.

H.C.R. 27. House concurrent resolution congratulating the 2010 Champlain Valley Union High School Redhawks Division I and New England championship girls' cross-country team.

H.C.R. 28. House concurrent resolution congratulating Jennifer Lawson of Waltham on being named the 2011 Vermont Teacher of the Year .

H.C.R. 29. House concurrent resolution congratulating Dr. Joe Klopfenstein on being named the American Association of Bovine Practitioners' 2010 Bovine Practitioner of the Year.

H.C.R. 30. House concurrent resolution extending best wishes to Pete's Greens organic farm on the reconstruction of its burned barn in Craftsbury.

Rules Suspended; House Bills Introduced

House bills of the following titles were severally introduced. Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 107

By Rep. Lippert of Hinesburg,

House bill, entitled

An act relating to establishing that traffic tickets and video recordings of roadside DUI stops are public records;

To the committee on Judiciary.

H. 108

By Rep. Masland of Thetford,

House bill, entitled

An act relating to a committee to study implementing a mandatory sobriety program for repeat DUI offenders;

To the committee on Judiciary.

H. 109

By Reps. Till of Jericho, Aswad of Burlington, Dakin of Chester, Evans of Essex, Fisher of Lincoln, Frank of Underhill, French of Randolph, Jerman of Essex, Kitzmiller of Montpelier, Kupersmith of South Burlington, Lenes of Shelburne, Macaig of Williston, Mitchell of Barnard, Mrowicki of Putney, Nuovo of Middlebury, Poirier of Barre City, Shand of Weathersfield, Spengler of Colchester, Stevens of Waterbury, Waite-Simpson of Essex, Weston of Burlington and Wizowaty of Burlington,

House bill, entitled

An act relating to raising the cigarette and tobacco products tax rates;

To the committee on Ways and Means.

H. 110

By Rep. Stevens of Waterbury,

House bill, entitled

An act relating to a statewide education property tax;

To the committee on Ways and Means.

H. 111

By Rep. Lippert of Hinesburg,

House bill, entitled

An act relating to access to records under personal service or privatization contracts entered into by the state;

To the committee on Government Operations.

H. 112

By Reps. Stevens of Waterbury and Savage of Swanton,

House bill, entitled

An act relating to the creation of a one-percent income tax credit for emergency medical personnel or volunteer firefighters;

To the committee on Ways and Means.

H. 113

By Reps. Cheney of Norwich and Edwards of Brattleboro,

House bill, entitled

An act relating to property tax exemptions for energy-efficiency and renewable-energy improvements;

To the committee on Ways and Means.

H. 114

By Reps. McCullough of Williston, Stevens of Waterbury and Shaw of Pittsford,

House bill, entitled

An act relating to electrical installations;

To the committee on General, Housing and Military Affairs.

H. 115

By Rep. Poirier of Barre City,

House bill, entitled

An act relating to reinstating driving privileges for offenders on furlough;

To the committee on Corrections and Institutions.

H. 116

By Rep. Cheney of Norwich,

House bill, entitled

An act relating to prohibiting smoking in motor vehicles when a child is present;

To the committee on Human Services.

H. 117

By Reps. Pugh of South Burlington and Grad of Moretown,

House bill, entitled

An act relating to restrictions on nighttime operation of motor vehicles by junior operators and holders of learner's permits;

To the committee on Transportation.

H. 118

By Reps. Masland of Thetford and Cheney of Norwich,

House bill, entitled

An act relating to municipal establishment of speed limits within 1,000 feet of schools;

To the committee on Transportation.

H. 119

By Reps. Cheney of Norwich and Toll of Danville,

House bill, entitled

An act relating to requiring illumination of lights on vehicles while windshield wipers are in use;

To the committee on Transportation.

H. 120

By Reps. Fagan of Rutland City, Acinapura of Brandon, Andrews of Rutland City, Aswad of Burlington, Batchelor of Derby, Bohi of Hartford, Burditt of West Rutland, Canfield of Fair Haven, Christie of Hartford, Courcelle of Rutland City, Crawford of Burke, Deen of Westminster, Degree of St. Albans City, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Donovan of Burlington, Eckhardt of Chittenden, French of Shrewsbury, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Hooper of Montpelier, Howrigan of Fairfield, Hubert of Milton, Jerman of Essex, Johnson of Canaan, Kilmartin of Newport City, Koch of Barre Town, Krebs of South Hero, Lewis of Berlin, Lewis of Derby, Lippert of Hinesburg, Manwaring of Wilmington, Marcotte of Coventry, McAllister of Highgate, McCullough of Williston, McFaun of Barre Town, McNeil of Rutland Town, Munger of South Burlington, Myers of Essex, Olsen of Jamaica, Pearce of Richford, Potter of Clarendon, Reis of St. Johnsbury, Savage of Swanton, Scheuermann of Stowe, Shaw of Pittsford, Strong of Albany, Stuart of Brattleboro, Till of Jericho, Toll of Danville, Webb of Shelburne and Winters of Williamstown,

House bill, entitled

An act relating to commemorative Boy Scout motor vehicle plates;

To the committee on Transportation.

H. 121

By Reps. Canfield of Fair Haven, Acinapura of Brandon, Andrews of Rutland City, Batchelor of Derby, Bissonnette of Winooski, Bouchard of Colchester, Burditt of West Rutland, Campton of Bennington, Cheney of Norwich, Condon of Colchester, Consejo of Sheldon, Courcelle of Rutland City, Crawford of Burke, Degree of St. Albans City, Devereux of Mount Holly, Dickinson of St. Albans Town, Donaghy of Poultney, Eckhardt of Chittenden, Fagan of Rutland City, Gilbert of Fairfax, Grad of Moretown,

Head of South Burlington, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell, Hubert of Milton, Klein of East Montpelier, Komline of Dorset, Larocque of Barnet, Lawrence of Lyndon, Lewis of Berlin, Lorber of Burlington, Marcotte of Coventry, Masland of Thetford, McAllister of Highgate, Mitchell of Barnard, Moran of Wardsboro, Morrissey of Bennington, Mrowicki of Putney, Myers of Essex, Obuchowski of Rockingham, Pearce of Richford, Peaslee of Guildhall, Perley of Enosburgh, Ram of Burlington, Savage of Swanton, Shaw of Pittsford, Smith of New Haven, South of St. Johnsbury, Stevens of Waterbury, Stevens of Shoreham, Taylor of Barre City and Till of Jericho,

House bill, entitled

An act relating to establishing a special motorcycle registration plate for veterans;

To the committee on Transportation.

H. 122

By Rep. Masland of Thetford,

House bill, entitled

An act relating to implementing the recommendations of Vermont's Blue Ribbon Tax Structure Commission to expand the base for sales and use taxes, and lower the sales and use tax rates;

To the committee on Ways and Means.

H. 123

By Rep. Deen of Westminster,

House bill, entitled

An act relating to labeling genetically engineered salmon;

To the committee on Fish, Wildlife & Water Resources.

H. 124

By Reps. Stevens of Waterbury, Branagan of Georgia, Consejo of Sheldon, Masland of Thetford, Ram of Burlington and Webb of Shelburne,

House bill, entitled

An act relating to the office of Native American affairs;

To the committee on General, Housing and Military Affairs.

H. 125

By Rep. Cheney of Norwich,

House bill, entitled

An act relating to expediting appeals of renewable energy plants eligible for federal renewable electricity production tax credits;

To the committee on Natural Resources and Energy.

H. 126

By Reps. Pugh of South Burlington, Munger of South Burlington, Ram of Burlington and Wizowaty of Burlington,

House bill, entitled

An act relating to requiring postsecondary credits in African-American history as a condition of teacher licensing;

To the committee on Education.

H. 127

By Reps. Sweaney of Windsor, Bohi of Hartford, Botzow of Pownal, Cheney of Norwich, Christie of Hartford, Clarkson of Woodstock, Hubert of Milton, Lorber of Burlington, Miller of Shaftsbury and Ram of Burlington,

House bill, entitled

An act relating to malt and vinous beverages;

To the committee on General, Housing and Military Affairs.

H. 128

By Reps. Sweaney of Windsor, Hubert of Milton, Lorber of Burlington, Miller of Shaftsbury and Ram of Burlington,

House bill, entitled

An act relating to the sale of alcoholic beverages at public events;

To the committee on General, Housing and Military Affairs.

H. 129

By Rep. Pugh of South Burlington,

House bill, entitled

An act relating to advanced practice registered nurses and mental health treatment;

To the committee on Human Services.

H. 130

By Rep. Johnson of Canaan,

House bill, entitled

An act relating to the agency of natural resources' delegated authority to enforce the federal Clean Water Act;

To the committee on Fish, Wildlife & Water Resources.

Joint Resolution Adopted in Concurrence**J.R.S. 12**

By Senators Carris and Mullin,

J.R.S. 12. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 28, 2011, it be to meet again no later than Tuesday, February 1, 2011.

Was taken up read and adopted in concurrence.

Joint Resolution Placed on Calendar**J.R.S. 13**

By Senators Brock, Illuzzi, Kittell and Starr,

J.R.S. 13. Joint resolution urging the United States Department of Homeland Security not to close the international port of entry at Morses Line in the town of Franklin.

Whereas, the communities along the Quebec–Vermont border have been culturally and economically intertwined for generations, and many local residents are bilingual in English and French, with friends and relatives on both sides of the international border, and

Whereas, the United States Department of Homeland Security has announced its intention to close the small, but locally essential, port of entry at Morses Line, and

Whereas, this decision was reached following a locally held public hearing at which the discussion centered exclusively on the proposed federal acquisition of privately owned farmland to accommodate a much larger port of entry building and not on the question of whether there should be a port of entry, and

Whereas, since the closure decision was announced, there has been an overwhelming outpouring of opposition from local residents, the business community, and governmental officials to retain the Morses Line border crossing, and

Whereas, this strong consensus of opposition was expressed at a second public hearing held in Franklin in September 2010, and

Whereas, the president of the Franklin County International Firefighters Association, which includes members of firefighting companies on both sides of the Vermont–Quebec border that provide mutual aid, stated the closure would increase cross-border emergency response time, and

Whereas, the owners of the Tyler Place Family Resort in Highgate Springs and general store proprietors from both Highgate and Franklin spoke of their strong reliance on the Morses Line border crossing for their economic vitality, especially tourist-related business, and

Whereas, agriculturally, farmers would lose a local crossing to drive their equipment across the border for repairs, and the next nearest port of entry would not be legally accessible for this purpose as it is a state highway, and

Whereas, as a result, fertilizer deliveries from Canada to local farmers would be reduced in number and promptness of delivery, and

Whereas, at the second public hearing, now Governor Peter Shumlin spoke in favor of retaining the Morses Line port of entry, and a similar message of support was presented on behalf of former Lt. Governor Brian Dubie, who now serves as the governor’s special liaison with the government of the province of Quebec, and

Whereas, Christian Ouellet M.P., who represents the Brome-Missisquoi constituency of Canadian border communities across from Franklin and Highgate and is a member of the parliamentary border caucus, appeared at the hearing to express his support for the Morses Line facility, and

Whereas, staff representatives of Senators Leahy and Sanders and Congressman Welch each appeared at the meeting in support of the port of entry and subsequently sent a joint letter to United States Secretary of Homeland Security Janet Napolitano, urging that the Morses Line port of entry remain open, and

Whereas, far less traffic passes through the Morses Line port of entry than its counterpart in Highgate at the northern terminus of Interstate 89 and should not need to be housed in as elaborate or as large a facility, and

Whereas, every effort should be made to minimize the amount of private farmland required for the continuance of the Morses Line port of entry, and

Whereas, if a minimal amount of private farmland must absolutely be acquired, then the landowner is entitled to truly fair and reasonable compensation, and

Whereas, the Department of Homeland Security is now receiving additional public comments on the future of the Morses Line port of entry before a final determination is rendered, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges the United States Department of Homeland Security to retain the port of entry at Morses Line; that any renovations to the existing building be less elaborate than previously proposed in keeping with the realistic expectation of future traffic flow; that the acquisition of private farmland for building renovations be minimized to the greatest degree possible; and that if any land is acquired, the landowners be provided with a reasonable compensation that accurately reflects the fair market value of the land, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to United States Secretary of Homeland Security Janet Napolitano, to the town clerks of Franklin and Highgate, to Christian Ouellet M.P. in Cowansville, Quebec, and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, placed on the Calendar for action tomorrow under Rule 52.

House Resolution Referred to Committee

H.R. 5

House resolution, entitled

House resolution amending the rules and orders of the House of Representatives related to member-sponsored funding of a specific construction project and the preparation of fiscal notes for bills prior to second reading

Offered by: Representatives Dickinson of St. Albans Town, Browning of Arlington, Canfield of Fair Haven, Degree of St. Albans City, Donaghy of Poultney, Donahue of Northfield, Fagan of Rutland City, Higley of Lowell, McFaun of Barre Town, Morrissey of Bennington, Pearce of Richford, Reis of St. Johnsbury, Savage of Swanton, Smith of New Haven, Stevens of Shoreham and Webb of Shelburne

Whereas, the members of the general assembly and the public are entitled to the maximum degree of transparency possible in the legislative process, and

Whereas, there is no more fundamental matter related to a bill than its projected implementation and annualized costs as well as the source of the revenue to meet these costs, and

Whereas, currently, many bills the costs of which are unknown are debated on the floor of the house, and

Whereas, although the joint fiscal office does draft fiscal notes when requested, there is not a formal house rule governing when a fiscal note is required, and

Whereas, requiring a fiscal note for every bill introduced could prove overly burdensome for the joint fiscal office, and a more reasonable policy would require a fiscal note as a prerequisite for a bill being read a second time on the floor of the house, and

Whereas, a type of legislation subject to especially close scrutiny is a legislator's earmarking of funds for a specific public- or private-sector construction or programmatic project, and

Whereas, the legislative approval of funding for those projects that entail state appropriations of \$10,000 or more should be debated publicly, either in committee or on the floor of the house, now therefore be it

Resolved by the House of Representatives:

That the rules and orders of the House of Representatives be amended:

First: By adding a new Rule 44a to read:

44a. No bill shall be read a second time unless the Joint Fiscal Office has prepared and distributed to all members of the House a fiscal note detailing the projected cost to and any revenue that will be raised for the treasury of the state of Vermont for the first three fiscal years that the legislation is in operational effect.

Second: By adding a new Rule 44b to read:

44b. The narrative text establishing a specific construction or programmatic project (unless included in legislation that the executive or judicial branch submits for the General Assembly's consideration) shall include the name of the project's sponsor(s) immediately adjacent to the project's description, state whether any sponsor(s) will benefit financially from the project, and, if the proposed expenditure of state funds for the project is at least \$10,000.00, there shall be a public debate in a committee

or on the House floor prior to the third reading of the bill in which the proposed project is contained.

Which was read and referred to the committee on Rules.

Joint Resolution Adopted

J.R.H. 9

Joint resolution, entitled

Joint resolution explaining the importance and value of maple syrup and the University of Vermont's Proctor Maple Research Center;

Was taken up and adopted on the part of the House.

**Rules Suspended: Proposal of Amendment Agreed to;
Third Reading Ordered; Rules Suspended; Bill Read the Third Time
and Passed in Concurrence with Proposal of Amendment; Rules
Suspended and Bill was Ordered Messaged to the Senate Forthwith**

S. 1

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to An act relating to technical amendments to the judicial restructuring act of 2010;

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. French of Shrewsbury, for the committee on Judiciary, to which had been referred the bill reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 6, by striking "\$45,701.00" where it twice appears and inserting in lieu thereof "50 percent of the salary of the most highly paid probate judge"

Second: In Sec. 9, 4 V.S.A. § 691, by striking subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) With respect to counties where the assistant judges have elected to offer passport processing services, the court administrator and the assistant judges shall enter into a memorandum of understanding providing for the acceptance and processing of United States passport applications. The memorandum may provide for performance of passport acceptance and processing duties by the court clerk, county clerk, a superior court staff person serving as county clerk

pursuant to subsection (b) of this section, or any other court or county employee.

Third: In Sec. 10, 24 V.S.A. § 131, after the word “property,” by striking the word “shall” and inserting in lieu thereof the word “may”

Fourth: In Sec. 11, 24 V.S.A. § 184, after the word “shall” by inserting “, if so directed by the assistant judges.”

Thereupon, the bill was read the second time and report of the committee on Judiciary agreed to.

Pending the question, Shall the bill be read the third time? Rep. French of Shrewsbury moved to propose to the Senate to further amend the bill as follows:

By striking Sec. 8 in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to and third reading ordered.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with proposal of amendment and, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Rules Suspended; Favorable Report; Third Reading Ordered;
Rules Suspended; Bill Read the Third Time and Passed; Rules
Suspended and Bill was Ordered Messaged to the Senate Forthwith**

H. 81

On motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to approval of the adoption and codification of the charters of the town of Danville and the Danville school district

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Devereux of Mount Holly, for the committee on Government Operations, to which the bill had been referred, reported in favor of its passage.

Thereupon, the bill was read the second time and third reading ordered.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Turner of Milton** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Members Appointed to Committees

The Speaker appointed members to the following committees:

New England Board of Higher Education

Rep. Miller of Shaftsbury

Pre-K 16 Council

Rep. Peltz of Woodbury

Vermont Interactive Television Coordinating Council

Rep. Keenan of St. Albans City

Vermont Child Poverty Council

Partridge of Windham

Donovan of Burlington

Pugh of South Burlington

Health Care Reform Commission

Rep. Till of Jericho

Rep. Fisher of Lincoln

Rep. Larson of Burlington

Rep. McFaun of Barre Town

Adjournment

At one o'clock and forty minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.