

Journal of the House

Thursday, February 24, 2011

At one o'clock and fifteen minutes 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 Governor

A message was received from His Excellency, the Governor, by Mrs. Alexandra Maclean, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the twenty-third day of February, 2011, he approved and signed a bill originating in the House of the following title:

H. 30 An act relating to requiring the board of governors of the unified towns and gores of Essex County to hear tax appeals

Message from the Senate No. 20

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 passed Senate bills of the following titles:

S. 14. An act relating to display of POW/MIA flag.

S. 31. An act relating to the Agreement Among the States to Elect the President by National Popular Vote.

S. 37. An act relating to expungement of a nonviolent misdemeanor criminal history record.

S. 73. An act relating to raising the penalties for eluding a police officer.

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

The Senate has considered House proposal of amendment to Joint Senate Resolution of the following title:

J.R.S. 16. Joint resolution requesting that penalties under the No Child Left Behind Act be suspended until the Elementary and Secondary Education Act is reauthorized in a revised form.

And has concurred therein.

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. 321

By Reps. Lorber of Burlington, Branagan of Georgia, Haas of Rochester, Browning of Arlington, Davis of Washington, French of Randolph, Lenex of Shelburne, Macaig of Williston and South of St. Johnsbury,

House bill, entitled

An act relating to a task force on children and families affected by the criminal justice system;

To the committee on Human Services.

H. 322

By Reps. Donovan of Burlington, Aswad of Burlington, Buxton of Royalton, Jerman of Essex, Macaig of Williston, Sharpe of Bristol and Wizowaty of Burlington,

House bill, entitled

An act relating to authorizing voting student members to serve on local school boards;

To the committee on Education.

H. 323

By Reps. Donovan of Burlington, Aswad of Burlington, Bohi of Hartford, Buxton of Royalton, Clarkson of Woodstock, Davis of Washington, Lenex of Shelburne, Mitchell of Barnard, Pearson of Burlington, Shand of Weathersfield, Sharpe of Bristol and Sweaney of Windsor,

House bill, entitled

An act relating to the number of prekindergarten children included within a school district's average daily membership;

To the committee on Education.

H. 324

By Reps. Donovan of Burlington, Aswad of Burlington, Bohi of Hartford, Buxton of Royalton, Davis of Washington, Lenex of Shelburne, Macaig of Williston, Mitchell of Barnard, Mrowicki of Putney, Pearson of Burlington, Peltz of Woodbury, South of St. Johnsbury and Wizowaty of Burlington,

House bill, entitled

An act relating to renal dialysis patient safety;

To the committee on Human Services.

H. 325

By Rep. Clarkson of Woodstock,

House bill, entitled

An act relating to small claims procedures;

To the committee on Judiciary.

H. 326

By Rep. Botzow of Pownal,

House bill, entitled

An act relating to automobile minimum liability coverage;

To the committee on Transportation.

H. 327

By Rep. Koch of Barre Town,

House bill, entitled

An act relating to the uniform principal and income act ;

To the committee on Judiciary.

H. 328

By Reps. Atkins of Winooski, Buxton of Royalton, Kitzmiller of Montpelier, Klein of East Montpelier, Lenex of Shelburne, Lippert of Hinesburg, Macaig of Williston, Marek of Newfane, McCullough of Williston, McFaun of Barre Town, Munger of South Burlington, Partridge of Windham,

Reis of St. Johnsbury, Spengler of Colchester, Trieber of Rockingham, Yantachka of Charlotte and Young of Albany,

House bill, entitled

An act relating to the repeal of the delinquent property tax penalty;

To the committee on Ways and Means.

H. 329

By Rep. Kitzmiller of Montpelier,

House bill, entitled

An act relating to technical corrections to the workers' compensation statutes;

To the committee on Commerce and Economic Development.

H. 330

By Rep. Botzow of Pownal,

House bill, entitled

An act relating to workers' compensation premiums;

To the committee on Commerce and Economic Development.

House Resolution Placed on Calendar

H.R. 8

House resolution opposing the federal expenditure reductions in H.R.1 as passed by the United States House of Representatives and strongly urging Congress to adopt a fairer and more equitable legislative alternative

Offered by: Representatives Stevens of Waterbury, Bohi of Hartford, Botzow of Pownal, Browning of Arlington, Buxton of Royalton, Clarkson of Woodstock, Courcelle of Rutland City, Dakin of Chester, Davis of Washington, Donovan of Burlington, Edwards of Brattleboro, Ellis of Waterbury, Evans of Essex, Font-Russell of Rutland City, French of Randolph, Gilbert of Fairfax, Haas of Rochester, Head of South Burlington, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Klein of East Montpelier, Krebs of South Hero, Leriche of Hardwick, Malcolm of Pawlet, Miller of Shaftsbury, Mrowicki of Putney, Munger of South Burlington, Nuovo of Middlebury, Partridge of Windham, Pearson of Burlington, Pugh of South Burlington, Shand of Weathersfield, Sharpe of Bristol, South of St. Johnsbury, Stevens of Shoreham, Stuart of Brattleboro, Taylor of Barre City, Weston of Burlington, Wizowaty of Burlington and Young of Albany

Whereas, federal FY 2011 expenditures are currently premised on interim funding pursuant to Pub.L. No. 111-322 which expires on March 4, 2011, and the recently enacted state FY 2011 budget adjustment act was based on the Pub.L. No. 111-322 funding levels, and

Whereas, on Saturday, February 19, the United States House of Representatives (the House) passed H.R.1, legislation funding the federal government for the balance of federal FY 2011, by legislating cuts that, according to the Center on Budget Policies and Priorities, are \$100 billion below the President's FY 2011 proposal and \$64 billion below the annualized funding level provided for in Pub.L. No. 111-322, and

Whereas, even in late 1995, when the federal government was shuttered in a severe budget dispute, federal support levels to the states were not reduced during a federal fiscal year already under way, and

Whereas, the specific program reductions Vermonters would sustain in comparison to the funding amounts approved in Pub.L. No. 111-322 as a result of the House-passed version of H.R.1 include: Byrne Justice Assistance Grants (\$400,000), K-12 education (\$5,100,000), Pell Grants (\$8,000,000), vocational and adult education (\$240,000), Workforce Investment Act Job Training (\$5,300,000), Mental Health and Substance Abuse Block Grants (\$1,124,000), Selected Low-Income Housing Programs (\$1,200,000), Clean Water and Drinking Water State Revolving Funds (\$12,000,000), and Community Development Block Grant (\$5,700,000), and

Whereas, there will also be funding reductions in Community Health Centers, the Low Income Home Energy Assistance Program (LIHEAP), and the Environmental Protection Agency-Lake Champlain Water Quality Improvement Project (\$2,600,000), and the Corporation for Public Broadcasting funding is eliminated, resulting in a loss of 10 percent of Vermont Public Radio's and 15 percent of Vermont Public Television's FY 2011 budgeted operating amounts, and

Whereas, these funding reductions will result in the loss of jobs, benefits, or both for Vermonters struggling to survive the great recession, and

Whereas, while the federal government needs to address its annual budget deficits and long-term debt, the extreme funding reductions contained in H.R.1 endanger Vermont's passage from recession to recovery, now therefore be it

Resolved by the House of Representatives:

That this legislative body opposes the federal expenditure reductions in H.R.1 as passed by the United States House of Representatives and strongly urges Congress to adopt a fairer and more equitable legislative alternative that

honors the commitments the federal government has made to Vermonters, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the Vermont Congressional Delegation and via e-mail to each member of Congress.

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

Bill Amended, Read Third Time and Passed

H. 26

House bill, entitled

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf

Was taken up and pending third reading of the bill, **Rep. McCullough of Williston** moved to amend the bill as follows:

First: In Sec. 1, 10 V.S.A. § 1266b(a), by striking subdivision (5) in its entirety and inserting in lieu thereof the following:

(5) "Phosphorus fertilizer" means fertilizer labeled for use on turf in which the available phosphate content is greater than 0.67 percent by weight.

Second: In Sec. 1, 10 V.S.A. § 1266b(b), by striking subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) The secretary of agriculture, food and markets shall approve a standard, which may authorize multiple testing methods, for the soil test required under subdivision (1)(A) of this subsection.

Third: In Sec. 1, 10 V.S.A. § 1266b(e), by striking subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) Post in the location where phosphorus fertilizer is displayed a clearly visible sign that is at least eight and one-half inches by 11 inches in size and that states "Phosphorus runoff poses a threat to water quality. Most Vermont lawns do not benefit from fertilizer containing phosphorus. Under Vermont law, fertilizer containing phosphorus shall not be applied to lawn unless applied to new lawn, damaged lawn, or lawn that is deficient for phosphorus as indicated by a soil test."

Fourth: In Sec. 1, 10 V.S.A. § 1266b, by striking subsection (f) in its entirety and inserting in lieu thereof the following:

(f) Violations. A person who knowingly and intentionally violates this section shall be subject to a civil penalty of not more than \$500.00 per violation. A violation of this section shall be enforceable in the judicial bureau pursuant to the provisions of chapter 29 of Title 4 in an action that may be brought by the agency of agriculture, food and markets or the agency of natural resources. A violation enforced by the agency of natural resources under this section shall be treated as an environmental violation under chapter 29 of Title 4 for the purposes of appeal and setting the applicable penalty.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Bill Read Second Time; Consideration Interrupted by Recess

H. 299

Rep. Gilbert of Fairfax spoke for the committee on Education.

House bill entitled

An act relating to repealing the provision that some school district budgets be presented to the voters by means of a divided question

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Recess

At two o'clock in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and forty-five minutes in the afternoon, the Speaker called the House to order.

Consideration Resumed; Third Reading Ordered

H. 299

Consideration resumed on House bill entitled

An act relating to repealing the provision that some school district budgets be presented to the voters by means of a divided question;

Pending the question, Shall the bill be read the third time? **Rep. Schuermann of Stowe** moved to amend the bill as follows:

By striking Sec. 4 in its entirety and adding two new sections to be Secs. 4 and 5 to read:

Sec. 4. Sec. 46 of No. 160 of the Acts of the 2009 Adj. Sess. (2010) as amended by Sec. 102 of No. ___ (H.65) of 2011 is amended to read:

Sec. 46. FUTURE OF EDUCATION GOVERNANCE AND EDUCATION FINANCE

(a) The blue ribbon tax structure commission created in Sec. H.56 of No. 1 of the Acts of the Special Session of 2009 shall, with the aid of public hearings and other public involvement:

(1) Goals. In consultation with the house committees on education and on ways and means and the senate committees on education and on finance, identify the five most important short-term goals and the five most important long-term goals for an education system, taking into account the following: student educational achievement, education governance, finance, spending controls, and cost savings; and design a quantifiable nonmonetary measure of whether schools provide a “substantially equal educational opportunity” for student educational achievement; and report its findings by July 1, 2011.

(2) Evaluation. Evaluate Vermont’s current education governance, finance, and spending control systems in light of the goals established in subdivision (1) of this subsection, the current education governance model, and the proposed changes to education governance made by the general assembly and determine the elements of the current systems which achieve these goals well and should be maintained and those elements which do not achieve these goals well and should be modified or eliminated and report its findings by September 1, 2011.

(3) Proposals. Develop new systems of education finance, spending controls, and cost savings guided by but not limited to the goals established in subdivision (1) of this subsection and the elements identified in subdivision (2) of this subsection to be maintained, modified, or eliminated and report its proposals by December 15, 2011. At least one of the proposed systems shall advance recommendations set forth in the December 2009 report of the education transformation policy commission created by the state board of education, and shall incorporate all of the following concepts:

(A) The proposed system shall eliminate existing supervisory unions and replace them with 15 education districts (“EDs”). The boundaries of the new EDs shall be roughly the same as the current regional technical center districts.

(B) The proposed system shall provide students the option to attend any elementary or secondary school operated by the ED or to have tuition paid

by the ED to any public or approved independent school located within or outside the ED.

(C) The proposed system shall eliminate the statewide education property tax system. Each ED shall develop an ED-wide budget and shall be empowered to assess a property tax within the ED to fund the budget. Funds raised through the ED-wide property tax shall remain within and be distributed by the ED. Nonproperty tax funds shall continue to be paid into the statewide education fund and shall be used for categorical aid to the EDs and to ensure substantial equality of educational opportunity for all students throughout Vermont.

(D) The proposed system shall eliminate the common level of appraisal and replace it with a rolling reappraisal conducted within each ED.

(b) Advisory panel. In order to facilitate its study of the education systems in subsection (a) of this section, the commission may appoint an advisory panel of individuals who have a familiarity with education assessment, education governance, or education finance and have a demonstrated commitment to supporting a high-quality and efficient public education system with high outcomes and have demonstrated an understanding of both the state and local aspects of public education in Vermont. The advisory panel may include professionals in education and in taxation; representatives of municipal government, of the education community, of taxpayers, or of other interests; civic-minded Vermonters; or others as the commission may determine, but shall not include current members of the general assembly. The commission may delegate fact-finding and other supporting tasks to the advisory panel and may request the panel to participate in any meetings or hearings of the commission; and the panel may itself convene meetings, including public hearings.

(c) Reports. All reports, recommendations, ~~or~~ and proposals required in this section shall be submitted to the house committees on education and on ways and means and to the senate committees on education and on finance and to the house clerk and the senate secretary.

~~(e)~~(d) The house committees on education and on ways and means and the senate committees on education and on finance may meet in October, November, and December 2011 to consider and propose legislation based upon the reports of the commission under this section for the 2012 session.

~~(d)~~(e) To advance the purpose for which it was formed and any education-related purpose with which it is charged during the 2009–2010 biennium, the commission shall also examine and propose an appropriate balance between education funding from education property taxes and education funding from

the general fund and other source and analyze and recommend alternative means of maintaining the balance. In fiscal year 2011, the balance will be 68.2 percent of education funding from education property tax revenues and 31.8 percent of education funding from the general fund and other education funding sources. In comparison, in fiscal year 2005, that balance was 60.8 percent and 39.2 percent, respectively. The commission shall report its analysis and recommendations to the house and senate committees on education and on appropriations, the house committee on ways and means, and the senate committee on finance on or before December 15, 2011.

Sec. 5. EFFECTIVE DATE; APPLICATION

This act shall take effect on passage. Secs. 1 through 3 of this act shall apply to budgets for fiscal year 2013 and after.

Thereupon, **Rep. Deen of Westminster** raised a Point of Order that the amendment is not germane to the bill, which Point of Order the Speaker ruled well taken.

Rep. Scheuermann of Stowe moved to suspend the rules to permit consideration of a non-germane question, which was disagreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

H. 275

Rep. Kitzmiller of Montpelier spoke for the committee.

Rep. Weston of Burlington, for the committee on Ways and Means, to which had been referred House bill, entitled

An act relating to the recently deployed veteran tax credit

Recommended in favor of its passage when amended as follows:

First: In Sec. 1, 32 V.S.A. § 5930nn, by adding a new subsection (b) to read:

(b) A recently deployed veteran shall be eligible for a credit against the income tax liability imposed under this chapter in an amount equal to \$2,000.00 for expenses associated with one start-up business. A credit under this subsection may only be taken for a business started on or before December 31, 2012, that is located within Vermont, and that shows a net profit for the year in which the credit is taken.

and by redesignating the current subsections (b)–(d) as (c)–(e)

Second: In Sec. 1, 32 V.S.A. § 5930nn, in redesignated (c), after the word “hire,” by adding , or in the tax year following the date that the start-up business was created,

Third: In Sec. 1, 32 V.S.A. § 5930nn, in redesignated (d)(3), by adding (C) to read:

(C) for the purposes of the credit in subsection (b) of this section, a person who at the time of starting up a new business:

(i) is collecting or eligible to collect unemployment benefits; or

(ii) has exhausted his or her unemployment benefits.

Fourth: In Sec. 1, 32 V.S.A. § 5930nn, in redesignated (d), by adding a (4) to read:

(4) “Expense associated with a start-up business” means the following expenses:

(i) Expenses associated with the development of a business plan;

(ii) Professional services associated with the formation of the business (e.g., attorney and accounting services);

(iii) An analysis or survey of potential markets, products, labor supply, or transportation facilities;

(iv) Advertisements for the opening of the business;

(v) Salaries and wages for employees who are being trained and their instructors;

(vi) Travel and other necessary costs for securing prospective distributors, suppliers, or customers;

(vii) Salaries and fees for executives and consultants, or for similar professional services.

Fifth: Sec. 1, 32 V.S.A. § 5930nn, in redesignated (e)(3), after the word “compliance,” by inserting , or in the case of a credit under subsection (b) of this section, a recently deployed veteran’s compliance,

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the report of the committee on Ways and Means was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Fagan of Rutland City** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the

question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 136. Nays, 0.

Those who voted in the affirmative are:

Acinapura of Brandon	Font-Russell of Rutland City	McCullough of Williston
Ancel of Calais	Frank of Underhill	McFaun of Barre Town
Andrews of Rutland City	French of Shrewsbury	McNeil of Rutland Town
Atkins of Winooski	French of Randolph	Miller of Shaftsbury
Bartholomew of Hartland	Gilbert of Fairfax	Mitchell of Barnard
Batchelor of Derby	Grad of Moretown	Mook of Bennington
Bissonnette of Winooski	Greshin of Warren	Morrissey of Bennington
Bohi of Hartford	Haas of Rochester	Mrowicki of Putney
Botzow of Pownal	Head of South Burlington	Munger of South Burlington
Branagan of Georgia	Heath of Westford	Myers of Essex
Brennan of Colchester	Hebert of Vernon	Nuovo of Middlebury
Browning of Arlington	Helm of Fair Haven	O'Brien of Richmond
Burditt of West Rutland	Higley of Lowell	Olsen of Jamaica
Burke of Brattleboro	Howard of Cambridge	Partridge of Windham
Buxton of Royalton	Hubert of Milton	Pearce of Richford
Campton of Bennington	Jerman of Essex	Pearson of Burlington
Canfield of Fair Haven	Jewett of Ripton	Peaslee of Guildhall
Cheney of Norwich	Johnson of South Hero	Perley of Enosburgh
Christie of Hartford	Keenan of St. Albans City	Poirier of Barre City
Clarkson of Woodstock	Kitzmiller of Montpelier	Potter of Clarendon
Condon of Colchester	Klein of East Montpelier	Pugh of South Burlington
Conquest of Newbury	Koch of Barre Town	Ralston of Middlebury
Consejo of Sheldon	Komline of Dorset	Ram of Burlington
Copeland-Hanzas of Bradford	Krebs of South Hero	Reis of St. Johnsbury
Corcoran of Bennington	Kupersmith of South Burlington	Savage of Swanton
Courcelle of Rutland City	Lanpher of Vergennes	Scheuermann of Stowe
Crawford of Burke	Larocque of Barnet	Shand of Weathersfield
Dakin of Chester	Larson of Burlington	Sharpe of Bristol
Davis of Washington	Lawrence of Lyndon	Shaw of Pittsford
Deen of Westminster	Lenes of Shelburne	Smith of New Haven
Degree of St. Albans City	Leriche of Hardwick	Spengler of Colchester
Devereux of Mount Holly	Lewis of Berlin	Stevens of Waterbury
Dickinson of St. Albans Town	Lewis of Derby	Stevens of Shoreham
Donaghy of Poultney	Lippert of Hinesburg	Stuart of Brattleboro
Donahue of Northfield	Lorber of Burlington	Sweaney of Windsor
Donovan of Burlington	Macaig of Williston	Taylor of Barre City
Eckhardt of Chittenden	Malcolm of Pawlet	Till of Jericho
Edwards of Brattleboro	Manwaring of Wilmington	Toll of Danville
Ellis of Waterbury	Marcotte of Coventry	Townsend of Randolph
Emmons of Springfield	Marek of Newfane	Trieber of Rockingham
Evans of Essex	Martin of Springfield	Turner of Milton
Fagan of Rutland City	Martin of Wolcott	Waite-Simpson of Essex
Fisher of Lincoln	Masland of Thetford	Webb of Shelburne
	McAllister of Highgate	Weston of Burlington
		Wilson of Manchester

Woodward of Johnson	Yantachka of Charlotte
Wright of Burlington	Young of Albany

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Aswad of Burlington	Johnson of Canaan	Strong of Albany
Bouchard of Colchester	Kilmartin of Newport City	Winters of Williamstown
Clark of Vergennes	Moran of Wardsboro	Wizowaty of Burlington
Hooper of Montpelier	Peltz of Woodbury	
Howrigan of Fairfield	South of St. Johnsbury	

Judicial Nominating Board Members Approved

The Speaker nominated **Reps. Jerman of Essex, Acinapura of Brandon and Lippert of Hinesburg** to the Judicial Nominating Board.

Rep. Leriche of Hardwick moved the election of the slate of candidates as nominated by the Speaker, which was agreed to.

Adjournment

At three o'clock and forty-five 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.