

Journal of the Senate

FRIDAY, MARCH 2, 2012

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

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 considered Senate proposal of amendment to House bill entitled:

H. 630. An act relating to reforming Vermont's mental health system.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Pugh of South Burlington

Rep. Haas of Rochester

Rep. Emmons of Springfield

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 278. House concurrent resolution commemorating the 30th anniversary of the Vietnam Veterans Memorial, "The Wall," in Washington, D.C. and all Vietnam War Veterans.

H.C.R. 279. House concurrent resolution commemorating the 30th anniversary of the Vermont Vietnam Veterans Memorial and all Vietnam War Veterans.

H.C.R. 280. House concurrent resolution commemorating the 250th anniversary of the town of Bristol.

H.C.R. 281. House concurrent resolution honoring radio station WBTV-AM in Bennington for its public service broadcasting during Tropical Storm Irene.

H.C.R. 282. House concurrent resolution expressing solidarity with the people of Japan on the first anniversary of the 2011 triple disaster.

H.C.R. 283. House concurrent resolution in memory of former Representative Harvey B. Otterman Jr. of Topsham.

H.C.R. 284. House concurrent resolution honoring Orange clerk-treasurer Rita Bisson for her outstanding 33 years of public service.

H.C.R. 285. House concurrent resolution commemorating the 250th anniversary of the incorporation of the Essex County towns of Averill, Bloomfield, Lemington, and Lewis.

H.C.R. 286. House concurrent resolution honoring Big Heavy World and its volunteer staff for its significant 15-year contribution to music and the creative economy in Vermont.

H.C.R. 287. House concurrent resolution commemorating the 250th charter anniversary of the town of Shaftsbury.

H.C.R. 288. House concurrent resolution commemorating the 250th anniversary of the town of Charlotte.

H.C.R. 289. House concurrent resolution commemorating the 250th anniversary of the town of Ferrisburgh.

H.C.R. 290. House concurrent resolution commemorating the 250th anniversary of the chartering of the town of Monkton.

H.C.R. 291. House concurrent resolution honoring Addison town clerk Jane Grace for her exemplary 40 years of public service.

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

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 38. Senate concurrent resolution honoring the six fire chiefs past and present who have given over 280 years of combined service to the Marshfield Volunteer Fire Department.

And has adopted the same in concurrence.

Bill Referred to Committee on Appropriations**S. 89.**

Senate 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:

An act relating to Medicaid for Working Persons with Disabilities.

Bills Referred

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

H. 577.

An act relating to public water systems.

To the Committee on Natural Resources and Energy.

H. 756.

An act relating to the sales and use tax exemption for packaging equipment.

To the Committee on Finance.

Third Reading Ordered**S. 128.**

Senator Illuzzi, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

Reported that the bill ought to pass.

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

Consideration Resumed; Third Reading Ordered**S. 129.**

Consideration was resumed on Senate bill entitled:

An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

Thereupon, the recurring question, Shall the bill be read the third time?, was decided in the affirmative.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 189. An act relating to expanding confidentiality of cases accepted by the court diversion project.

S. 197. An act relating to hospital-based outpatient fees.

S. 199. An act relating to immunization exemptions and the immunization pilot program.

Third Reading Ordered**S. 251.**

Senate committee bill entitled:

An act relating to miscellaneous amendments to laws pertaining to motor vehicles.

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

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass.

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

Third Reading Ordered**S. 147.**

Senator McCormack, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to granting staff of the departments of corrections and for children and families ex officio status for the purpose of obtaining and providing notary public services.

Reported that the bill ought to pass.

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

Bill Amended; Third Reading Ordered**S. 230.**

Senator Brock, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to property and casualty insurers and electronic notices.

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

Sec. 1. 8 V.S.A. § 3666 is added to read:

§ 3666. DELIVERY OF NOTICES BY ELECTRONIC MEANS

(a) As used in this section:

(1) “Delivered by electronic means” includes:

(A) delivery to an electronic mail address at which a party has consented to receive notice; and

(B) posting on an electronic network, together with separate notice to a party sent to the electronic mail address at which the party has consented to receive notice of the posting.

(2) “Party” means an applicant, an insured, or a policyholder.

(b) Subject to subsection (d) of this section, any notice to a party required under section 3880, 3881, 4224, 4225, 4712, or 4713 of this title may be, but is not required to be delivered by electronic means provided the process used to obtain consent of the party to have notice delivered by electronic means meets the requirements of 9 V.S.A. chapter 20, the Uniform Electronic Transactions Act.

(c) Delivery of a notice pursuant to subsection (b) of this section shall be considered equivalent to any delivery method required under section 3883, 4226, or 4714 of this title, including delivery by first-class mail, certified mail, certificate of mail, or certificate of mailing.

(d) A notice may be delivered by electronic means by an insurer to a party under this section if:

(1) The party has affirmatively consented to such method of delivery and not subsequently withdrawn consent.

(2) The party, before giving consent, is provided with a clear and conspicuous statement:

(A) informing the party of:

(i) the right of the party to have the notice provided or made available in paper or another nonelectronic form at no additional cost;

(ii) the right of the party to withdraw consent to have notice delivered by electronic means;

(iii) whether the party's consent applies:

(I) only to the particular transaction as to which the notice must be given; or

(II) to identified categories of notices that may be delivered by electronic means during the course of the party's relationship with the insurer;

(iv) how, after consent is given, the party may obtain a paper copy of a notice delivered by electronic means at no additional cost; and

(v) the procedures the party must use to withdraw consent to have notice delivered by electronic means and to update information needed to contact the party electronically.

(3) The party:

(A) before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice delivered by electronic means; and

(B) consents electronically or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices delivered by electronic means as to which the party has given consent.

(4) After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice to which the consent applies:

(A) provides the party with a statement of:

(i) the revised hardware and software requirements for access to and retention of a notice delivered by electronic means; and

(ii) a revised statement required by subdivision (2) of this subsection; and

(B) the party affirmatively consents to continued delivery of notices by electronic means.

(e) Every notice delivered pursuant to subsection (b) of this section shall include the statement required by subdivision (d)(2) of this section. This section does not otherwise affect the content or timing of any notice required under chapter 105, 113, or 128 of this title.

(f) If a provision of chapter 105, 113, or 128 of this title requiring notice to be provided to a party expressly requires verification or acknowledgment of

receipt of the notice, the notice may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt. Absent acknowledgement of receipt of the initial notice on the part of the party, the insurer shall send two subsequent notices on separate business days.

(g) The legal effectiveness, validity, or enforceability of any contract or policy of insurance may not be made contingent upon obtaining electronic consent or confirmation of consent of a party in accordance with subdivision (d)(3)(B) of this section.

(h)(1) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice delivered by electronic means to the party before the withdrawal of consent is effective.

(2) A withdrawal of consent by a party is effective within 30 days after receipt of the withdrawal by the insurer.

(3) Failure to comply with subdivision (d)(4) of this section shall be treated as a withdrawal of consent for purposes of this section.

(i) A party who does not consent to delivery of notices by electronic means under subsection (b) of this section, or who withdraws his or her consent, shall not be subjected to any additional fees or costs for having notices provided or made available in paper or another nonelectronic form.

(j) This section shall not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. chapter 96, relating to the use of an electronic record to provide or make available information that is required to be provided or made available in writing to a party.

Sec. 2. INTERPRETATION

The delivery of notice in accordance with Sec. 1 of this act is intended and shall be construed to meet the requirements of state insurance regulation 78-01, section 1, as revised.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2013 and apply to all policies and certificates delivered, issued for delivery, or renewed in this state on or after that date.

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, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Rules Suspended; Bills Passed; Rules Suspended; Bill Messaged**S. 128.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Illuzzi, the rules were suspended and Senate bill entitled:

An act relating to recognition of the Missisquoi, St. Francis-Sokoki Band as a Native American Indian tribe.

Was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Illuzzi, the rules were suspended, and the bill was ordered messaged to the House forthwith.

S. 129.

Pending entry on the Calendar for action tomorrow, on motion of Senator Illuzzi, the rules were suspended and Senate bill entitled:

An act relating to recognition of the Koasek Abenaki of the Koas as a Native American Indian tribe.

Was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed.

Thereupon, on motion of Senator Illuzzi, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Bill Committed

On motion of Senator Illuzzi, the Committee on Appropriations was relieved of further consideration of Senate bill entitled:

S. 246. An act relating to preserving Vermont's working landscape.

Thereupon, pending entry of the bill on the calendar for notice the next legislative day, Senator Illuzzi moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Economic Development, Housing and General Affairs with the report of the Committee on Agriculture *intact*,

Which was agreed to.

Rules Suspended; Bills Messaged

On motion of Senator Carris, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 189, S. 197, S. 199.

Committee of Conference Appointed**H. 630.**

An act relating to reforming Vermont's mental health system.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Ayer
Senator Hartwell
Senator Mullin

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Senate Concurrent Resolution

The following joint concurrent resolution, 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, was adopted on the part of the Senate:

By Senators Kitchel, Benning and Westman,

By Representative Leriche and others,

S.C.R. 40.

Senate concurrent resolution congratulating Ross Connelly and Thomas F. Kearney on their induction into the New England Newspaper Hall of Fame.

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, were adopted in concurrence:

By All Members of the House,

By All Members of the Senate,

H.C.R. 278.

House concurrent resolution commemorating the 30th anniversary of the Vietnam Veterans Memorial, "The Wall," in Washington, D.C. and all Vietnam War Veterans.

By All Members of the House,

By All Members of the Senate,

H.C.R. 279.

House concurrent resolution commemorating the 30th anniversary of the Vermont Vietnam Veterans Memorial and all Vietnam War Veterans.

By Representatives Sharpe and Fisher,

By Senators Ayer and Giard,

H.C.R. 280.

House concurrent resolution commemorating the 250th anniversary of the town of Bristol.

By Representative Condon and others,

By Senators Sears and Hartwell,

H.C.R. 281.

House concurrent resolution honoring radio station WBTN-AM in Bennington for its public service broadcasting during Tropical Storm Irene.

By Representative Mrowicki and others,

H.C.R. 282.

House concurrent resolution expressing solidarity with the people of Japan on the first anniversary of the 2011 triple disaster.

By All Members of the House,

H.C.R. 283.

House concurrent resolution in memory of former Representative Harvey B. Otterman Jr. of Topsham.

By Representatives Winters and Davis,

By Senators Benning and Kitchel,

H.C.R. 284.

House concurrent resolution honoring Orange clerk-treasurer Rita Bisson for her outstanding 33 years of public service.

By Representative Johnson and others,

By Senators Illuzzi and Starr,

H.C.R. 285.

House concurrent resolution commemorating the 250th anniversary of the incorporation of the Essex County towns of Averill, Bloomfield, Lemington, and Lewis.

By Representative Lorber and others,

H.C.R. 286.

House concurrent resolution honoring Big Heavy World and its volunteer staff for its significant 15-year contribution to music and the creative economy in Vermont.

By Representative Miller,

By Senators Hartwell and Sears,

H.C.R. 287.

House concurrent resolution commemorating the 250th charter anniversary of the town of Shaftsbury.

By Representative Yantachka,

H.C.R. 288.

House concurrent resolution commemorating the 250th anniversary of the town of Charlotte.

By Representatives Clark and Lanpher,

By Senators Ayer and Giard,

H.C.R. 289.

House concurrent resolution commemorating the 250th anniversary of the town of Ferrisburgh.

By Representatives Sharpe and Fisher,

H.C.R. 290.

House concurrent resolution commemorating the 250th anniversary of the chartering of the town of Monkton.

By Representatives Clark and Lanpher,

By Senators Ayer and Giard,

H.C.R. 291.

House concurrent resolution honoring Addison town clerk Jane Grace for her exemplary 40 years of public service.

Adjournment

On motion of Senator Carris, the Senate adjourned, to reconvene on Tuesday, March 13, 2012, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 35.