

Journal of the House

Thursday, April 17, 2014

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

Devotional Exercises

Devotional exercises were conducted by Ben Partridge of Windham, Vt.

House Bill Introduced

H. 894

By Reps. Hooper of Montpelier and Kitzmiller of Montpelier,
House bill, entitled

An act relating to approval of amendments to the charter of the City of Montpelier and to merging the Montpelier Fire District No. 1 into the City of Montpelier;

To the committee on Government Operations.

Senate Bill Referred

S. 202

Senate bill, entitled

An act relating to the energy efficiency charge;

To the committee on Rules.

Bill Referred to Committee on Appropriations

S. 40

Senate bill, entitled

An act relating to establishing an interim committee that will develop policies to restore the 1980 ratio of state funding to student tuition at Vermont State Colleges and to make higher education more affordable

Appearing on the Calendar, carrying an appropriation, under rule 35a, was referred to the committee on Appropriations.

**Committee Relieved of Consideration
and Bill Committed to Other Committee**

H.R. 21

Rep. Moran of Wardsboro moved that the committee on General, Housing and Military Affairs be relieved of House resolution, entitled

House resolution expressing support for the continuation of the Vermont State Fair

And that the resolution be committed to the committee on Agriculture and Forest Products, which was agreed to.

Third Reading; Bill Passed

H. 586

House bill, entitled

An act relating to improving the quality of State waters

Was taken up and read the third time.

Pending the question, Shall the bill pass? **Rep. Deen of Westminster** 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 pass? was decided in the affirmative. Yeas, 137. Nays, 4.

Those who voted in the affirmative are:

Ancel of Calais	Copeland-Hanzas of	French of Randolph
Bartholomew of Hartland	Bradford	Gage of Rutland City
Batchelor of Derby	Corcoran of Bennington	Goodwin of Weston
Beyor of Highgate	Cupoli of Rutland City	Grad of Moretown
Bissonnette of Winooski	Dakin of Chester	Greshin of Warren
Botzow of Pownal	Davis of Washington	Haas of Rochester
Branagan of Georgia	Deen of Westminster	Heath of Westford
Browning of Arlington	Devereux of Mount Holly	Hebert of Vernon
Burditt of West Rutland	Dickinson of St. Albans	Helm of Fair Haven
Burke of Brattleboro	Town	Hooper of Montpelier
Campion of Bennington	Donaghy of Poultney	Hoyt of Norwich
Canfield of Fair Haven	Donahue of Northfield	Hubert of Milton
Carr of Brandon	Donovan of Burlington	Huntley of Cavendish
Christie of Hartford	Ellis of Waterbury	Jerman of Essex
Clarkson of Woodstock	Emmons of Springfield	Jewett of Ripton
Cole of Burlington	Evans of Essex	Johnson of South Hero
Condon of Colchester	Fagan of Rutland City	Johnson of Canaan
Connor of Fairfield	Fay of St. Johnsbury	Juskiewicz of Cambridge
Conquest of Newbury	Feltus of Lyndon	Keenan of St. Albans City *
Consejo of Sheldon	Fisher of Lincoln	Kilmartin of Newport City
	Frank of Underhill	Kitzmiller of Montpelier

Klein of East Montpelier	Mook of Bennington	Spengler of Colchester
Koch of Barre Town	Moran of Wardsboro	Stevens of Waterbury
Krebs of South Hero	Morrissey of Bennington	Stevens of Shoreham
Krowinski of Burlington	Mrowicki of Putney	Stuart of Brattleboro
Kupersmith of South Burlington	Myers of Essex	Sweaney of Windsor
Lanpher of Vergennes	Nuovo of Middlebury	Terenzini of Rutland Town
Larocque of Barnet	O'Brien of Richmond	Till of Jericho
Lawrence of Lyndon	O'Sullivan of Burlington	Toleno of Brattleboro
Lenes of Shelburne	Partridge of Windham	Toll of Danville
Lewis of Berlin	Pearce of Richford	Townsend of South Burlington
Lippert of Hinesburg	Pearson of Burlington *	Trieber of Rockingham
Macaig of Williston	Peltz of Woodbury	Turner of Milton
Malcolm of Pawlet	Poirier of Barre City	Van Wyck of Ferrisburgh
Manwaring of Wilmington	Potter of Clarendon	Waite-Simpson of Essex
Marcotte of Coventry	Pugh of South Burlington	Walz of Barre City
Marek of Newfane	Quimby of Concord	Webb of Shelburne
Martin of Springfield	Rachelson of Burlington	Weed of Enosburgh
Martin of Wolcott	Ralston of Middlebury	Wilson of Manchester
Masland of Thetford	Ram of Burlington	Winters of Williamstown
McCarthy of St. Albans City	Russell of Rutland City	Wizowaty of Burlington
McCormack of Burlington	Ryerson of Randolph	Woodward of Johnson
McCullough of Williston	Savage of Swanton	Yantachka of Charlotte
McFaun of Barre Town	Scheuermann of Stowe	Young of Glover
Michelsen of Hardwick	Sharpe of Bristol	Zagar of Barnard
Miller of Shaftsbury	Shaw of Pittsford	
Mitchell of Fairfax	Smith of New Haven	
	South of St. Johnsbury	

Those who voted in the negative are:

Buxton of Tunbridge *	Komline of Dorset
Higley of Lowell	Strong of Albany

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

Bouchard of Colchester	Gallivan of Chittenden	Vowinkel of Hartford
Brennan of Colchester	Head of South Burlington	Wright of Burlington
Cross of Winooski	Shaw of Derby	

Rep. Buxton of Tunbridge explained her vote as follows:

“Mr. Speaker:

I strongly support the protection of Vermont’s waterways. I do not believe that this bill does enough to support our small farming operations in complying with the accepted agricultural practices. I hope that future legislation will designate money to help support these important policies, practices and enforcement.”

Rep. Keenan of St. Albans City explained her vote as follows:

“Mr. Speaker”

I vote yes but with disappointment. We have approved H586 without adequately addressing the low hanging fruit compromising our state waters and, with our failure to provide the needed financial resources to do so, we take the risk of spending millions on municipal discharge systems without making a dent in the poor water quality of our state and risk further action by the EPA.”

Rep. Pearson of Burlington explained his vote as follows:

“Mr. Speaker

It’s heartening to see such strong support for cleaning up our lakes and waterways. But today is a small step. I can only hope that when it comes time to fund subsequent steps, support will remain strong.”

Favorable Report; Third Reading Ordered

H. 870

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to the merger of the Town of Pittsford and the Pittsford Fire District No. 1

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Bill Committed to Committee

H. 123

The Senate proposed to the House to amend House bill, entitled

An act relating to Lyme disease and other tick-borne illnesses

First: By striking Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. PURPOSE

The purpose of this act is to ensure that patients have access to treatment for Lyme disease and other tick-borne illnesses in accordance with their needs, the clinical judgment of their physicians, and any of the guidelines referenced in Sec. 3(4) of this act.

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. POLICY STATEMENT

A policy statement clearly communicating the following shall be issued by the Vermont State Board of Medical Practice to physicians licensed pursuant to 26 V.S.A. chapter 23 and to physician assistants licensed pursuant to 26 V.S.A. chapter 31; the Vermont Board of Osteopathic Physicians to physicians licensed pursuant to 26 V.S.A. chapter 33; the Office of Professional Regulation to naturopathic physicians licensed pursuant to 26 V.S.A. chapter 81; and the Vermont Board of Nursing to advanced practice registered nurses licensed pursuant to 26 V.S.A. chapter 28:

(1) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall document the basis for diagnosis of and treatment for Lyme disease, other tick-borne illness, or coinfection in a patient's medical record;

(2) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent regarding the potential inaccuracy of a diagnostic Lyme disease test prior to its administration;

(3) a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, shall obtain a patient's informed consent in writing prior to administering any proposed long-term treatment for Lyme disease, other tick-borne illness, or coinfection; and

(4) the Board or Office of Professional Regulation shall not pursue disciplinary action against a physician, physician assistant, naturopathic physician, or nurse practitioner, as appropriate, solely for the use of medical care recognized by the guidelines of the Centers for Disease Control and Prevention, Infectious Diseases Society of America, or International Lyme and Associated Diseases Society for the treatment of a patient's symptoms when the patient is clinically diagnosed with Lyme disease or other tick-borne illness; however, this does not preclude discipline for errors, omissions, or other unprofessional conduct when practicing within such guidelines.

Third: By adding a new section to be numbered Sec. 4 to read as follows:

Sec. 4. REPORT

On or before January 15, 2015 and 2016 the Commissioner of Health shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare on the following:

(1) the trends in the spread of Lyme disease and other tick-borne illnesses throughout Vermont, including a description of the surveillance criteria used in evaluating the spread of these diseases; and

(2) the Department of Health's public education initiatives to date regarding the prevention and treatment of Lyme disease and other tick-borne illnesses, including an assessment of each initiative's effectiveness.

And by renumbering the remaining section to be numerically correct.

Which proposal of amendment was considered.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Till of Jericho** moved that the bill be committed to the committee on Health Care, which was agreed to.

Action on Bill Postponed

H. 356

House bill, entitled

An act relating to prohibiting littering in or on the waters of the State

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Deen of Westminster**, action on the bill was postponed until April 23, 2014.

Senate Proposal of Amendment Concurred in

H. 373

The Senate proposed to the House to amend House bill, entitled

An act relating to updating and reorganizing Title 33

First: In Sec. 112, 15 V.S.A. § 1140(b), in subdivisions (10) and (13), by striking out "Network Against Domestic Violence and Sexual Assault" and inserting in lieu thereof Network Against Domestic and Sexual Violence

Second: In Sec. 135, effective dates, after the following: "§ 4809" by inserting the word shall

Which proposal of amendment was considered and concurred in.

Joint Resolution Adopted

J.R.H. 20

Joint resolution, entitled

Joint resolution authorizing Green Mountain Boys State educational program to use the State House;

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

Remarks Not Journalized

Rep. Turner of Milton, moved to journalize the remarks by **Rep. Kilmartin of Newport City**.

Pending the question, Shall the House journalize the remarks of Rep. Kilmartin of Newport City? **Rep. Donahue of Northfield** 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 House journalize the remarks of Rep. Kilmartin of Newport City? was decided in the negative. Yeas, 53. Nays, 79.

Those who voted in the affirmative are:

Batchelor of Derby	Goodwin of Weston	Quimby of Concord
Beyor of Highgate	Hebert of Vernon	Rachelson of Burlington *
Branagan of Georgia *	Helm of Fair Haven	Savage of Swanton
Burditt of West Rutland	Higley of Lowell	Scheuermann of Stowe *
Campion of Bennington	Hubert of Milton	Shaw of Pittsford
Canfield of Fair Haven	Huntley of Cavendish	Smith of New Haven
Clarkson of Woodstock	Johnson of Canaan	Strong of Albany
Connor of Fairfield	Juskiewicz of Cambridge	Sweaney of Windsor
Consejo of Sheldon	Klein of East Montpelier	Terenzini of Rutland Town
Corcoran of Bennington	Komline of Dorset	Toll of Danville
Cupoli of Rutland City	Larocque of Barnet	Townsend of South
Davis of Washington	Lawrence of Lyndon	Burlington
Devereux of Mount Holly	Lewis of Berlin	Trieber of Rockingham
Dickinson of St. Albans	Marcotte of Coventry	Turner of Milton
Town	McFaun of Barre Town	Van Wyck of Ferrisburgh
Donaghy of Poultney	Mitchell of Fairfax	Winters of Williamstown
Donahue of Northfield	Myers of Essex	Wright of Burlington
Fagan of Rutland City	Pearce of Richford	
Feltus of Lyndon	Poirier of Barre City *	

Those who voted in the negative are:

Ancel of Calais	Cross of Winooski *	Greshin of Warren
Bartholomew of Hartland	Dakin of Chester	Haas of Rochester
Bissonnette of Winooski	Deen of Westminster	Heath of Westford
Botzow of Pownal	Donovan of Burlington	Hooper of Montpelier
Burke of Brattleboro	Ellis of Waterbury	Hoyt of Norwich
Buxton of Tunbridge	Emmons of Springfield	Jerman of Essex
Carr of Brandon	Fay of St. Johnsbury	Jewett of Ripton
Christie of Hartford	Fisher of Lincoln	Johnson of South Hero
Condon of Colchester	Frank of Underhill	Keenan of St. Albans City
Conquest of Newbury	French of Randolph	Kitzmiller of Montpelier
Copeland-Hanzas of	Gage of Rutland City	Koch of Barre Town *
Bradford	Grad of Moretown	Krebs of South Hero

Krowinski of Burlington	Michelsen of Hardwick	South of St. Johnsbury
Kupersmith of South Burlington *	Miller of Shaftsbury	Spengler of Colchester
Lanpher of Vergennes	Mook of Bennington	Stevens of Waterbury
Lenes of Shelburne	Moran of Wardsboro	Stuart of Brattleboro
Lippert of Hinesburg	Mrowicki of Putney *	Till of Jericho
Macaig of Williston	Nuovo of Middlebury	Toleno of Brattleboro
Malcolm of Pawlet	O'Brien of Richmond	Waite-Simpson of Essex
Manwaring of Wilmington	Partridge of Windham	Walz of Barre City
Marek of Newfane	Pearson of Burlington	Webb of Shelburne
Martin of Springfield	Peltz of Woodbury	Weed of Enosburgh *
Masland of Thetford	Potter of Clarendon	Wilson of Manchester
McCarthy of St. Albans City	Pugh of South Burlington	Wizowaty of Burlington
McCormack of Burlington	Ralston of Middlebury	Woodward of Johnson
McCullough of Williston	Ram of Burlington	Yantachka of Charlotte
	Ryerson of Randolph	Zagar of Barnard

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

Bouchard of Colchester	Gallivan of Chittenden	Sharpe of Bristol
Brennan of Colchester	Head of South Burlington	Shaw of Derby
Browning of Arlington	Martin of Wolcott	Stevens of Shoreham
Cole of Burlington	Morrissey of Bennington	Vowinkel of Hartford
Evans of Essex	Russell of Rutland City	Young of Glover

Those who abstained:

Kilmartin of Newport City
O'Sullivan of Burlington

Rep. Branagan of Georgia explained her vote as follows:

“Mr. Speaker:

This is an unfortunate situation. But when there is no apology where one is due, hurt lasts a long time. Very unfortunate.”

Rep. Cross of Winooski explained his vote as follows:

“Mr. Speaker:

I voted no on this motion, although I support the concept that every member of this body has the right to speak his or her mind.”

Rep. Koch of Barre Town explained his vote as follows:

“Mr. Speaker:

Sometimes we say things that unintentionally offend others. Sometimes we voice our offense. Sometimes we respond. The time comes when all that needs to be said has been said, and it behooves us to move on.

I respect all those who have engaged in this discussion, and I do not think it is helpful to memorialize their disagreements in our Journal.”

Rep. Kupersmith of South Burlington explained her vote as follows:

“Mr. Speaker:

I understand the wish to have these remarks journalized, but I fear the precedent of having this sort of disagreement extended beyond the verbal.”

Rep. Mrowicki of Putney explained his vote as follows:

“Mr. Speaker:

Obviously we are getting to that time in the session when fatigue feeds misunderstanding and the cumulative stress of the session can amplify those misunderstandings.

I hope we can all take a lesson here as we head to the end of the session to take care in all we do or say – and take an extra breath before we do.”

Rep. Poirier of Barre City explained his vote as follows:

“Mr. Speaker:

I voted yes because I believe this situation is a bad example of how the Vermont legislature should conduct itself. The member from Burlington was out of order to offer her privileged remarks during the orders of the day.”

Rep. Rachelson of Burlington explained her vote as follows:

“Mr. Speaker:

I may not fully understand all the implications of requesting journalizing remarks, but do not want to deny anyone’s request for this. I regret that so much time has been spent that is diverting us from the important work we have to do.

I hope moving forward we can find another way besides this in the chamber to address underlying issues between members.”

Rep. Scheuermann of Stowe explained her vote as follows:

“Mr. Speaker:

I voted yes to journalize the remarks, not only because I appreciated the member’s further explanation of his comment yesterday, but because I cannot ever remember voting against a motion to journalize a member’s remarks.

Given all of the recent talk of etiquette and respect, it is exceptionally disappointing to see the vote fail.

I am hopeful that, sometime soon, we will see the return in this body of mutual respect and understanding.”

Rep. Weed of Enosburg explained her vote as follows:

“Mr. Speaker:

I voted no because the member’s remarks cannot be journalized accurately.”

Message from the Senate No. 49

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 considered bills originating in the House of the following titles:

H. 112. An act relating to the labeling of food produced with genetic engineering.

H. 260. An act relating to electronic insurance notices and credit for reinsurance.

H. 483. An act relating to adopting revisions to Article 9 of the Uniform Commercial Code.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Adjournment

At two o’clock and twenty 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.