

# Journal of the Senate

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FRIDAY, MARCH 1, 2013

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Neil Carr of Brookfield.

## Message from the House No. 25

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 adopted House concurrent resolutions of the following titles:

**H.C.R. 39.** House concurrent resolution honoring Charles Rivers for 50 years of public service on behalf of the towns of Pittsford and Brandon.

**H.C.R. 40.** House concurrent resolution in memory of Representative Greg Clark.

**H.C.R. 41.** House concurrent resolution honoring the Vermont state employees for their exemplary public service during, and in the aftermath of, Tropical Storm Irene.

**H.C.R. 42.** House concurrent resolution commemorating the sestercentennial anniversary of the town of Milton.

**H.C.R. 43.** House concurrent resolution honoring Robert K. Allen for his public service in the town of Reading.

**H.C.R. 44.** House concurrent resolution designating February 27, 2013 Afterschool & Summer Learning Day at the State House.

**H.C.R. 45.** House concurrent resolution commemorating the 70th anniversary of the heroic sacrifice of George Lansing Fox, one of the Four Immortal Chaplains.

**H.C.R. 46.** House concurrent resolution congratulating the Londonderry Volunteer Rescue Squad on a half-century of exemplary community service.

**H.C.R. 47.** House concurrent resolution in memory of Joan Mulhern.

**H.C.R. 48.** House concurrent resolution congratulating the town of Whiting on its sestercentennial anniversary.

**H.C.R. 49.** House concurrent resolution congratulating the 2013 Mt. Anthony Union High School Patriots Berkshire Swim League championship boys' and girls' teams.

**H.C.R. 50.** House concurrent resolution honoring Art Bradley, Kelly James, and Bob Warner as founding members of the Weybridge Volunteer Fire Department.

**H.C.R. 51.** House concurrent resolution honoring Tom Charbonneau.

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

#### **Joint Resolution Placed on Calendar**

#### **J.R.S. 17.**

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Nitka,

**J.R.S. 17.** Joint resolution providing for a Joint Assembly to vote on the retention of seven Superior Judges and one Magistrate.

*Whereas*, declarations have been submitted by the following seven Superior Judges that they be retained for another six-year term, Judge William D. Cohen, Judge James R. Crucitti, Judge Robert Gerety, Jr., Judge Kevin William Griffin, Judge M. Kathleen Manley, Judge Timothy B. Tomasi, Judge Thomas Zonay and one Magistrate that she be retained for another six year term, Magistrate Barbara Zander, and

*Whereas*, the procedures of the Joint Committee on Judicial Retention require at least one public hearing and the review of information provided by each candidate and the comments of members of the Vermont bar and the public, and

*Whereas*, the Committee was unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the candidates seeking to be retained in office by March 14, 2012, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 21, 2013, the date specified in subsection 10(b) of Title 2, and

*Whereas*, subsection 608(g) of Title 4 permits the General Assembly to defer action on the retention of judges to a subsequent Joint Assembly when the Committee is not able to make a timely recommendation, *now therefore be it*

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

That the two Houses meet in Joint Assembly on Thursday, March 28, 2013, at ten o'clock and thirty minutes in the forenoon to vote on the retention of seven Superior Judges and one Magistrate. In case the vote to retain said Judges and Magistrate shall not be made on that day, the two Houses shall meet in Joint Assembly at nine o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

**Bills Introduced**

Senate bills of the following titles were severally introduced, read the first time and referred:

**S. 145.**

By Senators Pollina, Cummings and Doyle,

An act relating to the tethering and sheltering of dogs.

To the Committee on Judiciary.

**S. 146.**

By Senator Mullin,

An act relating to requiring a notice of intent to file a claim for medical malpractice cases.

To the Committee on Judiciary.

**Bills Passed**

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

**S. 25.** An act relating to public advocacy in utility matters.

**Proposals of Amendment; Bill Passed in Concurrence with Proposals of Amendment****H. 41.**

House bill entitled:

An act relating to civil forfeiture of retirement payments to public officials convicted of certain crimes.

Was taken up.

Thereupon, pending third reading of the bill, Senator French, moved that the Senate propose to the House to amend the bill as follows:

In Sec. 1, 32 V.S.A. § 625, in subsection (b), in the second sentence, by inserting after “any court of competent jurisdiction” and before the comma, the following: that relates to the crime related to public office of which the member was convicted

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Sears, moved that the Senate further propose to the House to amend the bill as follows:

In Sec. 1, 32 V.S.A. § 623, by inserting a new subsection (h) to read:

(h) If the Court determines that a member’s retirement benefits should be forfeited to any degree, the maximum value of the benefits ordered forfeited shall not be greater than ten times the amount of monetary loss suffered by the State, a county, a municipality, or by any other person as a result of the crime related to public office.

And by relettering the existing subsection (h) and the remaining subsection to be alphabetically correct.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

### **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 severally adopted in concurrence:

By Representatives South and Masland,

#### **H.C.R. 31.**

House concurrent resolution honoring Vermont State Police Sergeant Todd A. Protzman.

By Representative Koch and others,

By Senators Benning, Cummings, Doyle, Flory, French, Galbraith, Kitchel, Mazza, Mullin, Nitka and Pollina,

#### **H.C.R. 32.**

House concurrent resolution honoring the 2012 class of Vermont Boy Scouts awarded the rank of Eagle.

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By Representative Hooper and others,

**H.C.R. 33.**

House concurrent resolution designating February 14 as One Billion Rising Day in Vermont.

By Representative Devereux,

By Senators Nitka, Campbell and McCormack,

**H.C.R. 34.**

House concurrent resolution congratulating the 2012 Black River High School Presidents' Division IV girls' championship soccer team.

By Representatives Townsend and Deen,

**H.C.R. 35.**

House concurrent resolution commending watershed organizations for their role in river and lake cleanup activities in Vermont.

By Representative Jerman and others,

By Senators Cummings, Doyle and Pollina,

**H.C.R. 36.**

House concurrent resolution congratulating the Vermont Historical Society on its 175th anniversary.

By Representatives Poirier and Taylor,

**H.C.R. 37.**

House concurrent resolution honoring Arthur A. Ristau of Barre.

By Representative Head and others,

**H.C.R. 38.**

House concurrent resolution congratulating the Vermont Housing and Conservation Board on its 25th anniversary.

By Representatives Shaw and Carr,

By Senators Flory, French and Mullin,

**H.C.R. 39.**

House concurrent resolution honoring Charles Rivers for 50 years of public service on behalf of the towns of Pittsford and Brandon.

By All Members of the House,

By All Members of the Senate,

**H.C.R. 40.**

House concurrent resolution in memory of Representative Greg Clark.

By Representative Davis and others,

By Senators Doyle and McCormack,

**H.C.R. 41.**

House concurrent resolution honoring the Vermont state employees for their exemplary public service during, and in the aftermath of, Tropical Storm Irene.

By Representative Turner and others,

**H.C.R. 42.**

House concurrent resolution commemorating the sescentennial anniversary of the town of Milton.

By Representative Clarkson,

By Senators Campbell, McCormack and Nitka,

**H.C.R. 43.**

House concurrent resolution honoring Robert K. Allen for his public service in the town of Reading.

By Representative Mrowicki and others,

**H.C.R. 44.**

House concurrent resolution designating February 27, 2013 Afterschool & Summer Learning Day at the State House.

By Representative Quimby,

**H.C.R. 45.**

House concurrent resolution commemorating the 70th anniversary of the heroic sacrifice of George Lansing Fox, one of the Four Immortal Chaplains.

By Representative Goodwin and others,

By Senators Campbell, Galbraith, Hartwell, McCormack, Nitka, Sears and White,

**H.C.R. 46.**

House concurrent resolution congratulating the Londonderry Volunteer Rescue Squad on a half-century of exemplary community service.

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By Representative McCormack and others,

By Senators Doyle, Fox, MacDonald, McCormack and Pollina,

**H.C.R. 47.**

House concurrent resolution in memory of Joan Mulhern.

By Representative Stevens,

By Senators Ayer and Bray,

**H.C.R. 48.**

House concurrent resolution congratulating the town of Whiting on its sestercentennial anniversary.

By Representative Campion and others,

By Senators Hartwell and Sears,

**H.C.R. 49.**

House concurrent resolution congratulating the 2013 Mt. Anthony Union High School Patriots Berkshire Swim League championship boys' and girls' teams.

By Representative Smith,

By Senators Ayer and Bray,

**H.C.R. 50.**

House concurrent resolution honoring Art Bradley, Kelly James, and Bob Warner as founding members of the Weybridge Volunteer Fire Department.

By Representative Smith,

By Senators Ayer and Bray,

**H.C.R. 51.**

House concurrent resolution honoring Tom Charbonneau.

**Adjournment**

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, March 12, 2013, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 4.