

# Journal of the House

Friday, March 11, 2022

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

## Devotional Exercises

Devotional exercises were conducted by Rep. Anthony of Barre City.

## House Bill Introduced

**H. 721**

By Rep. Notte of Rutland City,

House bill, entitled

An act relating to the right to enroll a child in a public school where the property owned by the child's parent or guardian in the municipality is not their homestead

Was read the first time and referred to the Committee on Education.

## Committee Bill Introduced

**H. 722**

By the Committee on Government Operations,

House bill, entitled

An act relating to final reapportionment of the House of Representatives

Was read the first time, and pursuant to House Rule 48, placed on the Notice Calendar.

## Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Notice Calendar, affecting the revenue of the State or materially affecting the revenue of one or more municipalities, under House Rule 35(a), were referred to the Committee on Ways and Means:

**H. 518**

House bill, entitled

An act relating to the creation of the Municipal Fuel Switching Grant Program

**H. 551**

House bill, entitled

An act relating to prohibiting racially and religiously restrictive covenants in deeds

**Bills Referred to Committee on Appropriations**

House bills of the following titles, appearing or pending appearance on the Notice Calendar, carrying appropriations, under House Rule 35(a), were referred to the Committee on Appropriations:

**H. 96**

House bill, entitled

An act relating to creating the Truth and Reconciliation Commission Development Task Force

**H. 482**

House bill, entitled

An act relating to the Petroleum Cleanup Fund

**H. 492**

House bill, entitled

An act relating to the structure of the Natural Resources Board

**H. 505**

House bill, entitled

An act relating to reclassification of penalties for unlawfully possessing, dispensing, and selling a regulated drug

**H. 624**

House bill, entitled

An act relating to supporting creative sector businesses and cultural organizations

**H. 626**

House bill, entitled

An act relating to the sale, use, or application of neonicotinoid pesticides

**H. 716**

House bill, entitled

An act relating to making miscellaneous changes in education law

**Joint Resolution Placed on Calendar****J.R.S. 44**

By Senator Nitka,

**J.R.S. 44.** Joint resolution providing for a Joint Assembly to vote on the retention of six Superior Judges.

*Whereas*, declarations have been submitted by the following six Superior Judges that they be retained for another six-year term, Judge Thomas S. Durkin, Judge David Fenster, Judge Kerry A. McDonald-Cady, Judge Robert A. Mello, Judge John Pacht, and Judge Helen M. Toor, 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 is 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 17, 2022, the date specified in subsection 608(e) of Title 4, 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*

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

That the two Houses meet in Joint Assembly on Thursday, March 24, 2022, at ten o'clock and thirty minutes in the forenoon to vote on the retention of six Superior Judges. In case the vote to retain said Judges shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed until the above is completed.

Was read and placed on the Action Calendar on the next legislative day pursuant to House Rule 52.

### Vote on Governor's Veto

#### H. 361

An act relating to approval of amendments to the charter of the Town of Brattleboro

Pursuant to Chapter II, Section 11, of the Vermont Constitution, the House is required to reconsider the bill, by voting on whether to pass it by overriding the veto with a two-thirds vote of the members present, and the vote must be taken by roll.

The Clerk proceeded to call the roll on the question, Shall the bill pass, notwithstanding the Governor's refusal to approve the bill?, which was decided in the affirmative. Yeas, 102. Nays, 47. (The necessary two-thirds vote having been attained.)

Those who voted in the affirmative are:

Ancel of Calais	Emmons of Springfield	Ode of Burlington
Anthony of Barre City	Gannon of Wilmington	Pajala of Londonderry
Arrison of Weathersfield	Garofano of Essex	Partridge of Windham
Austin of Colchester	Goldman of Rockingham	Patt of Worcester
Bartholomew of Hartland	Grad of Moretown	Pearl of Danville
Beck of St. Johnsbury	Hooper of Montpelier	Pugh of South Burlington
Birong of Vergennes	Hooper of Randolph	Rachelson of Burlington
Black of Essex	Hooper of Burlington	Rogers of Waterville
Bluemle of Burlington	Houghton of Essex	Satcowitz of Randolph
Bock of Chester	Howard of Rutland City	Scheu of Middlebury
Bongartz of Manchester	James of Manchester	Sheldon of Middlebury
Bos-Lun of Westminster	Jerome of Brandon	Sibilia of Dover
Brady of Williston	Jessup of Middlesex	Sims of Craftsbury
Briglin of Thetford	Killacky of South Burlington	Small of Winooski
Brown of Richmond	Kimbell of Woodstock	Squirrell of Underhill
Brownell of Pownal	Kitzmiller of Montpelier	Stebbins of Burlington
Brumsted of Shelburne	Kornheiser of Brattleboro	Stevens of Waterbury
Burke of Brattleboro	Krowinski of Burlington	Sullivan of Dorset
Burrows of West Windsor	LaLonde of South Burlington	Surprenant of Barnard
Campbell of St. Johnsbury	Lanpher of Vergennes	Taylor of Colchester
Chase of Colchester	Lippert of Hinesburg	Till of Jericho
Christie of Hartford	Long of Newfane	Toleno of Brattleboro
Cina of Burlington	Masland of Thetford	Townsend of South Burlington
Coffey of Guilford	McCarthy of St. Albans City	Troiano of Stannard
Colburn of Burlington	McCormack of Burlington	Vyhovsky of Essex
Colson of Winooski	McCullough of Williston	Walz of Barre City
Conlon of Cornwall	Morris of Springfield	Webb of Shelburne
Copeland Hanzas of Bradford	Mrowicki of Putney	White of Bethel

Corcoran of Bennington	Mulvaney-Stanak of	White of Hartford
Cordes of Lincoln	Burlington	Whitman of Bennington
Dolan of Essex	Nicoll of Ludlow	Wood of Waterbury
Dolan of Waitsfield	Nigro of Bennington	Yacovone of Morristown
Donnally of Hyde Park	Notte of Rutland City	Yantachka of Charlotte
Durfee of Shaftsbury	Noyes of Wolcott	
Elder of Starksboro	O'Brien of Tunbridge	

Those who voted in the negative are:

Achey of Middletown Springs	Higley of Lowell	Norris of Sheldon
Brennan of Colchester	Kascenska of Burke	Norris of Shoreham
Burditt of West Rutland	Labor of Morgan	Page of Newport City
Canfield of Fair Haven	LaClair of Barre Town	Parsons of Newbury
Cupoli of Rutland City	Laroche of Franklin	Peterson of Clarendon
Dickinson of St. Albans Town	Lefebvre of Newark	Rosenquist of Georgia
Donahue of Northfield	Lefebvre of Orange	Scheuermann of Stowe
Fagan of Rutland City	Leffler of Enosburgh	Shaw of Pittsford
Feltus of Lyndon	Marcotte of Coventry	Smith of Derby
Goslant of Northfield	Martel of Waterford	Smith of New Haven
Graham of Williamstown	Mattos of Milton	Strong of Albany
Gregoire of Fairfield	McCoy of Poultney	Terenzini of Rutland Town
Hango of Berkshire	McFaun of Barre Town	Toof of St. Albans Town
Harrison of Chittenden	Morgan, L. of Milton	Walker of Swanton
Helm of Fair Haven	Morgan, M. of Milton	Williams of Granby
	Morrissey of Bennington	
	Murphy of Fairfax	

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

Palasik of Milton

(For text of the Governor's veto letter, see House Journal of March 8, 2022.)

**Third Reading; Recess; Consideration Resumed; Bill Passed**

**H. 115**

House bill, entitled

An act relating to household products containing hazardous substances

Was taken up and read the third time.

At ten o'clock and nineteen minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

At ten o'clock and twenty-eight minutes in the forenoon, the Speaker called the House to order.

Thereupon, consideration of the bill resumed. The bill passed in a vote by division: Yeas, 80; Nays, 35. (Corrected.)

**Second Reading; Bill Amended; Third Reading Ordered****H. 279**

**Rep. Page of Newport City**, for the Committee on Health Care, to which had been referred House bill, entitled

An act relating to miscellaneous changes affecting the duties of the Department of Vermont Health Access

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1992 is amended to read:

§ 1992. MEDICAID COVERAGE FOR ADULT DENTAL SERVICES

(a) Vermont Medicaid shall provide coverage for medically necessary dental services provided by a dentist, dental therapist, or dental hygienist working within the scope of the provider's license as follows:

(1) ~~Up to two visits per calendar year for preventive~~ Preventive services, including prophylaxis and fluoride treatment, with no co-payment. These services shall not be counted toward the annual maximum benefit amount set forth in subdivision (2) of this subsection.

\* \* \*

Sec. 2. 33 V.S.A. § 2001 is amended to read:

§ 2001. LEGISLATIVE OVERSIGHT

(a) ~~In connection with the Pharmacy Best Practices and Cost Control Program, the Commissioner of Vermont Health Access shall report for review by the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare prior to any modifications:~~

~~(1) the compilation that constitutes the preferred drug list or list of drugs subject to prior authorization or any other utilization review procedures;~~

~~(2) any utilization review procedures, including any prior authorization procedures; and~~

~~(3) the procedures by which drugs will be identified as preferred on the preferred drug list, and the procedures by which drugs will be selected for prior authorization or any other utilization review procedure.~~

~~(b) The Committees shall closely monitor implementation of the preferred drug list and utilization review procedures to ensure that the consumer protection standards enacted pursuant to section 1999 of this title are not~~

~~diminished as a result of implementing the preferred drug list and the utilization review procedures, including any unnecessary delay in access to appropriate medications. The Committees shall ensure that all affected interests, including consumers, health care providers, pharmacists, and others with pharmaceutical expertise have an opportunity to comment on the preferred drug list and procedures reviewed under this subsection.~~

~~(e) The Notwithstanding the provisions of 2 V.S.A. § 20(d), the Commissioner of Vermont Health Access shall report annually on or before October 30 to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare concerning the Pharmacy Best Practices and Cost Control Program and the operation of Vermont's pharmaceutical assistance programs for the most recent State fiscal year. Topics covered in the report shall include:~~

~~(1) issues related to drug cost and utilization;~~

~~(2) the effect of national trends on the pharmacy ~~program~~ programs;~~

~~(3) comparisons to other states;~~

~~(4) the Department's administration of Vermont's pharmaceutical assistance programs;~~

~~(5) the Department's use of prior authorization requirements for prescription drugs; and~~

~~(6) decisions made by the Department's Drug Utilization Review Board in relation to both drug utilization review efforts and the placement of drugs on the Department's preferred drug list.~~

~~(d) [Repealed.]~~

~~(e)(b)(1) [Repealed.]~~

~~(2) The Commissioner shall not enter into a contract with a pharmacy benefit manager unless the pharmacy benefit manager has agreed to disclose to the Commissioner the terms and the financial impact on Vermont and on Vermont beneficiaries of:~~

\* \* \*

~~(3)(2) The Commissioner shall not enter into a contract with a pharmacy benefit manager who has entered into an agreement or engaged in a practice described in subdivision ~~(2)~~(1) of this subsection, unless the Commissioner determines that the agreement or practice furthers the financial interests of Vermont and does not adversely affect the medical interests of Vermont beneficiaries.~~

Sec. 3. 33 V.S.A. § 2081 is amended to read:

§ 2081. RULES AND LEGISLATIVE OVERSIGHT RULEMAKING

~~(a) The Agency of Human Services shall adopt rules necessary to implement and administer the provisions of this subchapter, including standards and schedules establishing coverage and exclusion of pharmaceuticals and maximum quantities of pharmaceuticals to be dispensed, and to comply with the requirements of the Medicare Modernization Act. The Agency of Human Services shall submit the proposed rule to the Health Care Oversight Committee. The Health Care Oversight Committee shall review and advise on the Agency rules and policies developed under this subsection and shall submit for consideration any recommendations to the joint Legislative Committee on Administrative Rules.~~

~~(b) DVHA shall report on the status of the pharmaceutical assistance programs established by this subchapter to the Health Care Oversight Committee.~~

Sec. 4. SEPARATE INDIVIDUAL AND SMALL GROUP HEALTH

INSURANCE MARKETS FOR PLAN YEAR 2023 IF FEDERAL  
SUBSIDIES EXTENDED

(a) Purpose. The purpose of this section is to allow for separate individual and small group health insurance markets for plan year 2023 in the event that Congress extends increased opportunities for federal advanced premium tax credits to include plan year 2023 and that extension is enacted on or before September 1, 2022.

(b) Definitions. As used in this section, “health benefit plan,” “registered carrier,” and “small employer” have the same meanings as in 33 V.S.A. § 1811.

(c) Separate plans and community rating. Notwithstanding any provision of 33 V.S.A. § 1811 to the contrary, if the Department of Vermont Health Access, after consultation with interested stakeholders, determines on or before September 1, 2022 that Congress has extended the increased opportunities for federal premium assistance originally made available through the American Rescue Plan Act of 2021, Pub. L. No. 117-2 to eligible households purchasing qualified health benefit plans in the individual market to include plan year 2023, or has made substantially similar opportunities available, then for plan year 2023, a registered carrier shall:

(1) offer separate health benefit plans to individuals and families in the individual market and to small employers in the small group market;



(2) apply community rating in accordance with 33 V.S.A. § 1811(f) to determine the premiums for the carrier's plan year 2023 individual market plans separately from the premiums for its small group market plans; and

(3) file premium rates with the Green Mountain Care Board pursuant to 8 V.S.A. § 4062 separately for the carrier's individual market and small group market plans.

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Notice Calendar, was taken up, read the second time, report of the Committee on Health Care agreed to, and third reading ordered.

### **Second Reading; Bill Amended; Third Reading Ordered**

#### **H. 572**

**Rep. Copeland Hanzas of Bradford**, for the Committee on Government Operations, to which had been referred House bill, entitled

An act relating to the retirement allowance for interim educators

Reported in favor of its passage when amended as follows:

In Sec. 1, amending 16 V.S.A. § 1939, by striking out subsection (d) in its entirety and inserting in lieu thereof a new subsection (d) to read as follows:

(d)(1) Notwithstanding any other provision of law, in any fiscal year, a beneficiary who retired from the System as a Group A or a Group C member may resume service under subsection (a) of this section to serve as an interim school educator for a period not to exceed one school year and receive the beneficiary's retirement allowance for the entire period that service is resumed, provided that:

(A) the beneficiary has received a retirement allowance for six months or more prior to resuming service;

(B) the beneficiary maintains or obtains an active educator's license in the area in which the beneficiary will serve as an interim educator;

(C) the beneficiary makes contributions at the rate established for members of the beneficiary's group for the entire period that service is resumed;

(D) the source of funding for the employer's contributions for the beneficiary for the entire period that service is resumed is consistent with how

contributions are paid for new members in the beneficiary's group as of the date service is resumed; and

(E) the employer of the beneficiary makes payments into the Retired Teachers' Health and Medical Benefits Fund, established in section 1944b of this title, for the entire period that service is resumed in a manner consistent with how those payments are made for new members in the beneficiary's group as of the date service is resumed.

(2) Upon subsequent retirement of a person who once again becomes a member under subdivision (1) of this subsection, the beneficiary shall not be entitled to a retirement allowance separately computed for the period that service was resumed.

(e)(1) Annually, on or before July 15 each year, each superintendent shall submit to the Agency of Education a report on the number of beneficiaries of the System who have resumed service pursuant to subsection (d) of this section.

(2) On or before August 15 each year, the Secretary of Education shall compile the data received by each superintendent pursuant to subdivision (1) of this subsection and submit a report to the Joint Pension Oversight Committee.

**Rep. Scheu of Middlebury**, for the Committee on Appropriations, recommended the bill ought to pass when amended as recommended by the Committee on Government Operations.

The bill, having appeared on the Notice Calendar, was taken up, read second time, the report of the Committee on Government Operations agreed to, and third reading was ordered.

### **Action on Bill Postponed**

#### **H. 629**

House bill, entitled

An act relating to access to adoption records

Was taken up, and pending the reading of the report of the Committee on Judiciary, on motion of **Rep. Goslant of Northfield**, action on the bill was postponed until March 17, 2022.

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**Adjournment**

At ten o'clock and fifty-eight minutes in the forenoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until Tuesday, March 15, 2022, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 45.

**Concurrent Resolutions Adopted**

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Rule 16b of the Joint Rules of the Senate and House of Representatives, are hereby adopted on the part of the House:

**H.C.R. 109**

House concurrent resolution congratulating the 2022 Essex High School Hornets girls' indoor track and field team on winning a second consecutive Division I championship

**H.C.R. 110**

House concurrent resolution congratulating the 2022 Essex High School boys' indoor track and field team on winning a second consecutive Division I championship

**H.C.R. 111**

House concurrent resolution congratulating William O'Neil of Essex on his induction into the Vermont Sports Hall of Fame

**H.C.R. 112**

House concurrent resolution honoring the Voices of St. Joseph's Orphanage

**H.C.R. 113**

House concurrent resolution honoring the USS VERMONT (SSN 792)

**H.C.R. 114**

House concurrent resolution congratulating the 2021 Brattleboro Union High School Colonels Division II championship boys' hockey team

**H.C.R. 115**

House concurrent resolution congratulating the 2022 Essex High School Hornets State championship gymnastics team

**H.C.R. 116**

House concurrent resolution commemorating the 250th anniversary of the New Yorkers' capture and Bennington posse's rescue of early Arlington leader

and pre-Revolutionary War patriot Remember Baker Jr.

**H.C.R. 117**

House concurrent resolution congratulating Catamount Access Television in Bennington on its 30th anniversary

**H.C.R. 118**

House concurrent resolution honoring Diane Dalmasse for her extraordinary half century of State public service and leadership

**H.C.R. 119**

House concurrent resolution honoring Anthony Mariano for 44 years of exemplary athletics leadership at Norwich University

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2022 Adjourned Session.]