

Journal of the House

Thursday, March 22, 2012

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

Devotional Exercises

Devotional exercises were conducted by Union School students Kid Pan Alley program, Montpelier, VT.

Committee Bill Introduced

H. 782

Rep. Ancel of Calais, for the committee on Ways and Means, introduced a bill, entitled

An act relating to miscellaneous tax changes for 2012

Which was read the first time and, under the rule, placed on the Calendar for notice tomorrow.

H. 783

By Reps. Kupersmith of South Burlington, Lenos of Shelburne and Webb of Shelburne,

House bill, entitled

An act relating to private highway–rail grade crossings;

To the committee on Transportation.

Senate Bill Referred

S. 106

Senate bill, entitled

An act relating to miscellaneous changes to municipal government law

Was read and referred to the committee on Government Operations.

Rep. Leriche of Hardwick in Chair.

Joint Resolution Referred to Committee

J.R.H. 32

Joint resolution criticizing the March *Reader's Digest* article "Are You Normal or Nuts?"

Offered by: Representatives Donahue of Northfield, Acinapura of Brandon, Andrews of Rutland City, Batchelor of Derby, Bohi of Hartford, Botzow of Pownal, Branagan of Georgia, Browning of Arlington, Clark of Vergennes, Consejo of Sheldon, Copeland-Hanzas of Bradford, Deen of Westminster, Donaghy of Poultney, Edwards of Brattleboro, Fagan of Rutland City, Fisher of Lincoln, Frank of Underhill, French of Randolph, Grad of Moretown, Greshin of Warren, Hooper of Montpelier, Jerman of Essex, Jewett of Ripton, Johnson of South Hero, Koch of Barre Town, Krowinski of Burlington, Leriche of Hardwick, Lewis of Derby, Lippert of Hinesburg, Macaig of Williston, Manwaring of Wilmington, McCullough of Williston, McFaun of Barre Town, Mrowicki of Putney, Munger of South Burlington, Poirier of Barre City, Pugh of South Burlington, Ram of Burlington, Spengler of Colchester, Strong of Albany, Stuart of Brattleboro, Sweaney of Windsor, Till of Jericho, Trieber of Rockingham and Wizowaty of Burlington

Whereas, the era when mental disabilities are publicly stigmatized should be history, but unfortunately this unwarranted negativity persists in 2012, and

Whereas, the state of Vermont has striven to eliminate the demeaning of mental health care through the enactment of Act 25 of 1997, which mandated mental health and substance abuse insurance coverage parity, and

Whereas, in 2011, Act 24 provided for a study to “recommend guidelines for using respectful language when referring to people with disabilities” in Vermont law, and

Whereas, *Reader’s Digest* is a broadly distributed popular magazine reporting on many aspects of American society in articles that are designed for a general readership, and

Whereas, the March 2012 issue of *Reader’s Digest* includes an article entitled “Are You Normal or Nuts?” employing a descriptive term for persons with mental disabilities that is among the most disparaging in the English language, and

Whereas, the disparaging message that this article conveys is exacerbated to an immeasurable degree by the magazine’s cover illustration portraying a large peanut over which the article’s title is superimposed, and

Whereas, this disgraceful graphic illustration also includes in small font the message “Warning: This issue may contain nuts,” under which an arrow points at the cover-dominating peanut, and

Whereas, in one paragraph, the article uses the word “certifiable,” which means certified by a court as requiring involuntary and locked treatment and therefore suggesting that a person with a mental illness always requires involuntary confinement, and

Whereas, a symbolically naive illustration in the article depicts a mentally disabled man sleeping and dreaming that he is the comic book character Superman, with an inserted inscription pointing to the sleeper stating “I’M A BIRD, I’M A PLANE,” and which, as the only illustration of a person with a mental illness, supports a stigmatized view of mental illness and its treatment, and

Whereas, the article was presented as a serious discussion regarding symptoms of mental illness, and

Whereas, that a leading national magazine could be so cavalier about a serious health condition that affects millions of Americans should disappoint and sadden Vermonters, and

Whereas, according to the World Health Organization, “mental illnesses (including depression, bipolar disorder, and schizophrenia) account for nearly 25% of all disability across major industrialized countries,” and

Whereas, as stated on the website of the federal Substance Abuse and Mental Health Services Administration (SAMHSA), “words have power to teach . . . to wound . . . to shape the way people think, feel, and act toward others . . . (and) when a stigmatized group of people, such as those with mental illnesses, is struggling for increased understanding and acceptance, attention to the language used in talking and writing about them is particularly important,” and

Whereas, SAMHSA has recommended “a national campaign to reduce the stigma of seeking care” for mental illness because “stigma impedes people from getting the care they need . . . and is a pervasive barrier to understanding the gravity of mental illnesses,” and

Whereas, the goals and work of SAMHSA and every mental health advocacy group in our country to remove the stigma associated with seeking care and treatment for mental disabilities has been severely impeded as a result of this cavalierly crafted and thoughtlessly presented *Reader’s Digest* article, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly strongly criticizes *Reader’s Digest* for the publication in the March 2012 issue of the article “Are You Normal or Nuts?”

and requests that the magazine immediately issue a public apology that would be published as soon as possible in a forthcoming issue, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Reader's Digest Association President and Chief Executive Officer Robert E. Guth in New York.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on General, Housing and Military Affairs.

Joint Concurrent Resolution Adopted

S.C.R. 39

Whereas, Robert (Bob) Gannett's presence graced the General Assembly during his four terms in the House of Representatives as the member from Brattleboro (1953–1960) and later for ten terms as the senator from Windham County (1973–1992), and

Whereas, when the newly elected Representative Bob Gannett arrived in Montpelier in January 1953, his legal expertise as a respected attorney was acknowledged with his assignment to the Committee on Judiciary, and

Whereas, in 1955, Representative Bob Gannett was appointed to the Committee on Appropriations, and his rapid mastery of budgetary minutiae was a prelude to his service as committee chair during the 1957 and 1959 biennia, and

Whereas, a keen observer of the parliamentary process, in 1957 he served as Speaker Pro Tempore while presiding over the House's deliberations, and

Whereas, near the close of the 1960 Adjourned Session, Representative Bob Gannett's final year in the House of Representatives, his colleagues voted him President of the House of 1959, an organization the members formed for the purpose of holding reunions, and

Whereas, in 1972, the voters of Windham County elected Robert Gannett as their new senator, and he became one of the Senate's most esteemed members, and

Whereas, in his initial senatorial biennium, Senator Bob Gannett sat on the Finance, General and Military, and Highway Traffic committees, and

Whereas, in 1975, he resumed his role as a legislative budget scrutinizer with his appointment as Vice Chair of the Committee on Appropriations, and he subsequently earned the rare distinction of chairing this all-important committee in both the House and the Senate, and

Whereas, the Committee on General and Military Affairs also benefited from his astute leadership as vice chair and chair, and while serving as Chair of

the Committee on Institutions, Senator Bob Gannett was a strong advocate, as was his late wife Sarah Alden (Aldie) Derby Gannett, of state financial assistance for the establishment of a permanent corridor for the Long Trail, helping to create a legacy that will endure for generations to come, and

Whereas, during his senatorial career, his committee assignments also included Senate Government Operations, Senate Transportation, and Joint Fiscal, and his wise parliamentary counsel proved invaluable on both the committees on Senate Rules and Joint Rules, and

Whereas, on the morning of Sunday, April 26, 1992, Senator Bob Gannett concluded his long and illustrious legislative service when he offered the final motion of the 1992 Adjourned Session directing that the President of the Senate appoint a committee to inform the Governor that the Senate was ready to adjourn sine die, and

Whereas, his wealth of common sense, wise judgment, and concern for the well-being of Vermonters was always drawn upon in his decision-making process, and his service in the General Assembly, as an attorney, and in the community at large epitomized the work of a genuine statesman, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly honors former Representative and Senator Robert T. Gannett on his 95th birthday and extends to him best wishes on this special occasion, *and be it further*

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

Remarks Journalized

On motion of **Rep. Edwards of Brattleboro**, the following remarks by **Rep. Deen of Westminister and Koch of Barre Town** were ordered printed in the Journal:

Remarks of **Rep. Deen of Westminister**:

“Madam Speaker:

I had the pleasure of serving with Senator Gannett in the Senate and of course knew him when I shifted to the House. I agree with the comments of the member from Barre Town about Senator Gannett being a consummate gentleman and although I spent years in the Legislature serving with Robert, my comments are about his actions to serve Vermonters when I was not serving in the Legislature myself.

During the 70s and 80s I served as the Executive Director of South East Vermont Community Action Agency. In the early 1980s the federal Congress

changed the federal law and basically disenfranchised the Community Action Agencies in Vermont. The way out of this seemingly impossible situation was to pass state legislation that recognized the Community Action Agencies as state agencies. This was not an easy task since the CAAs had always been federally funded, ran federal programs and served the most vulnerable people in VT so there was no large constituency for the CAAs.

Even though Senator Gannett and I are at different places on the political spectrum he responded to the plight of the CAAs and served as an advocate for passing the necessary state legislation. I would like to thank him for his service to the most vulnerable Vermonters and wish him a happy 95th birthday.”

Remarks of **Rep. Koch of Barre Town:**

“Madam Speaker:

I would like to add a few words concerning the resolution we just adopted honoring former Representative and former Senator Bob Gannett.

There are very few members of this House now who were privileged to serve with Bob Gannett, but those of us who had that privilege know him as the consummate Vermont gentleman. He had a comprehensive knowledge of the workings of Vermont government, and he was always willing to listen to those who had questions or suggestions regarding pending legislation—always in a non-partisan manner. In my view, he sets the ideal of how those of us who work in this building ought to go about serving the people of Vermont.

I thank the person who thought to sponsor this resolution. I am happy to have the opportunity to vote in favor of it and to wish Bob Gannett a very happy 95th birthday, and many more!”

Rules Suspended; Action on Bill Postponed

H. 775

On motion of **Rep. Ralston of Middlebury**, the rules were suspended and House bill, entitled

An act relating to allowed interest rates for installment loans

Appearing on the Calendar for notice, was taken up for immediate consideration.

Pending second reading of the bill, on motion of **Rep. Ralston of Middlebury**, action on the bill was postponed until Wednesday, March, 28, 2012.

Bill Read Second Time; Consideration Interrupted by Recess**H. 781**

Rep. Heath of Westford spoke for the committee on Appropriations.

House bill entitled

An act relating to making appropriations for the support of government

Having appeared on the Calendar one day for notice, was taken up and read the second time and pending the question, Shall the bill be read the third time?

Recess

At one o'clock and ten minutes in the afternoon, the Speaker declared a recess until two o'clock and ten minutes in the afternoon.

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

Consideration Resumed; Bill Amended and Third Reading Ordered**H. 781**

Consideration resumed on House bill entitled

An act relating to making appropriations for the support of government;

Pending third reading of the bill, **Rep. Heath of Westford** moved to amend the bill as follows:

First: In Sec. D.109(a), by striking out the figure "\$20,000,000" and inserting in lieu thereof the figure \$21,000,000.

Which was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Turner of Milton** 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, 101. Nays, 40.

Those who voted in the affirmative are:

Ancel of Calais	Botzow of Pownal	Christie of Hartford
Andrews of Rutland City	Branagan of Georgia	Clarkson of Woodstock
Aswad of Burlington	Brennan of Colchester	Condon of Colchester
Atkins of Winooski	Burke of Brattleboro	Conquest of Newbury
Bartholomew of Hartland	Buxton of Tunbridge	Consejo of Sheldon
Bissonnette of Winooski	Campion of Bennington	Copeland-Hanzas of
Bohi of Hartford	Cheney of Norwich	Bradford

Corcoran of Bennington	Krebs of South Hero	Potter of Clarendon
Courcelle of Rutland City	Krowinski of Burlington	Pugh of South Burlington
Dakin of Chester	Kupersmith of South Burlington	Ralston of Middlebury
Davis of Washington	Lanpher of Vergennes	Ram of Burlington
Deen of Westminster	Lenes of Shelburne	Reis of St. Johnsbury
Devereux of Mount Holly	Leriche of Hardwick	Russell of Rutland City
Donovan of Burlington	Lippert of Hinesburg	Shand of Weathersfield
Edwards of Brattleboro	Lorber of Burlington	Sharpe of Bristol
Ellis of Waterbury	Macaig of Williston	South of St. Johnsbury
Emmons of Springfield	Malcolm of Pawlet	Spengler of Colchester
Evans of Essex	Manwaring of Wilmington	Stevens of Waterbury
Fisher of Lincoln	Marek of Newfane *	Stevens of Shoreham
Frank of Underhill	Martin of Springfield	Stuart of Brattleboro
French of Shrewsbury	Martin of Wolcott	Sweaney of Windsor
French of Randolph	Masland of Thetford	Taylor of Barre City
Gilbert of Fairfax	McCullough of Williston	Till of Jericho
Grad of Moretown	Miller of Shaftsbury	Toll of Danville
Greshin of Warren	Mook of Bennington	Townsend of Randolph
Haas of Rochester	Moran of Wardsboro	Waite-Simpson of Essex
Head of South Burlington	Mrowicki of Putney	Webb of Shelburne
Heath of Westford	Munger of South Burlington	Wilson of Manchester
Hoopier of Montpelier	O'Brien of Richmond	Wizowaty of Burlington
Howrigan of Fairfield	Olsen of Jamaica	Woodward of Johnson
Jerman of Essex	O'Sullivan of Burlington	Yantachka of Charlotte
Jewett of Ripton	Partridge of Windham	Young of Glover
Johnson of South Hero	Peltz of Woodbury	Zagar of Barnard
Kitzmiller of Montpelier	Poirier of Barre City *	
Klein of East Montpelier		

Those who voted in the negative are:

Acinapura of Brandon	Hebert of Vernon	McNeil of Rutland Town
Batchelor of Derby	Helm of Fair Haven	Myers of Essex
Bouchard of Colchester	Hubert of Milton	Pearce of Richford
Browning of Arlington *	Johnson of Canaan	Peaslee of Guildhall
Burditt of West Rutland	Kilmartin of Newport City	Perley of Enosburgh
Canfield of Fair Haven	Koch of Barre Town	Savage of Swanton
Clark of Vergennes	Komline of Dorset	Scheuermann of Stowe
Degree of St. Albans City	Larocque of Barnet	Shaw of Pittsford
Dickinson of St. Albans Town	Lawrence of Lyndon	Smith of New Haven
Donaghy of Poultney	Lewis of Berlin	Strong of Albany
Donahue of Northfield	Lewis of Derby	Turner of Milton
Eckhardt of Chittenden	Marcotte of Coventry	Winters of Williamstown
Fagan of Rutland City	McAllister of Highgate	Wright of Burlington
	McFaun of Barre Town	

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

Crawford of Burke	Keenan of St. Albans City	Pearson of Burlington
Higley of Lowell	Morrissey of Bennington	Trieber of Rockingham
Howard of Cambridge	Nuovo of Middlebury	

Rep. Browning of Arlington explained her vote as follows:

“Mr. Speaker:

I cannot support a budget and the taxes to support it if that 1) shifts a greater burden onto the property tax and raises that rate and 2) fails to address or adjust or reduce in any way the system of tax expenditures that constitute a ‘shadow budget’ of over \$1 billion.”

Rep. Marek of Newfane explained his vote as follows:

“Mr. Speaker:

I joined so many other members in voting to fix our roads and bridges, to replace our destroyed state hospital, to fill the Medicaid gap for vulnerable Vermonters, to increase education funding and reduce property taxes, to sustain our working landscapes and to support other critical programs for our state.

However, now that the time has come to actually appropriate the money to let all those good things happen, many of those who joined me in supporting them suddenly are unwilling to join me in paying for them. My constituents won’t let me have it both ways. They expect Vermont to pay its bills, just as they do.”

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

“Mr. Speaker:

I am very pleased to have voted for this thoughtful and caring budget. The committee, regardless of how they voted, deserve a job well done.”

Bill Amended, Read Third Time and Passed

H. 440

House bill, entitled

An act relating to creating an agency and secretary of education and amending the membership and purpose of the state board of education

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

First: In Sec. 1, 3 V.S.A. § 2702, in subsection (a), by adding a second sentence to read: “The secretary shall serve at the pleasure of the governor.”

Second: In Sec. 1, 3 V.S.A. § 2702, in subsection (c), by striking out the word “public”

Third: In Sec. 2, 16 V.S.A. § 161, in the fourth sentence, by striking out the words: “public education” and inserting in lieu thereof the words: “ensuring quality education for Vermont students”

Fourth: In Sec. 2, 16 V.S.A. § 161, in subdivision (1), in the first sentence, by striking out the following: “, biennially”

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

Third Reading; Bill Passed

H. 467

House bill, entitled

An act relating to limited liability for a landowner who permits a person to enter the owner’s land for recreational use

Was taken up, read the third time and passed.

Bill Read Second Time; Third Reading Ordered

H. 777

Rep. Copeland-Hanzas of Bradford spoke for the committee on Health Care.

House bill entitled

An act relating to licensed midwives and certified nurse midwives

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

Pending the question, Shall the bill be read the third time? **Rep. Kilmartin of Newport City** demanded the yeas and nays, which demand was sustained by the constitutional number.

Pending the call of the roll, **Rep. Degree of St. Albans City** moved to commit the bill to the committee on Judiciary.

Pending the question, Shall the House commit the bill to the committee on Judiciary? **Rep. Kilmartin of Newport City** demanded the yeas and nays, which demand was sustained by the constitutional number.

Thereupon, **Rep. Kilmartin of Newport City** asked and was granted leave of the House to withdraw his request for a roll call vote.

Thereupon, the bill was committed to the committee on Judiciary.

Message from the Senate No. 31

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. 148. An act relating to expediting development of small and micro hydroelectric projects.

S. 201. An act relating to creating full public school choice for high school students .

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

Bill Read Second Time; Third Reading Ordered

H. 778

Rep. Koch of Barre Town spoke for the committee on Judiciary.

House bill entitled

An act relating to structured settlements

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

Bill Read Second Time; Third Reading Ordered

H. 779

Rep. Deen of Westminster spoke for the committee on Fish, Wildlife & Water Resources.

House bill entitled

An act relating to the water quality of state surface waters

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

Bill Amended; Third Reading Ordered**H. 613**

Rep. Buxton of Tunbridge, for the committee on Education, to which had been referred House bill, entitled

An act relating to governance of the Community High School of Vermont

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

Sec. 1. 28 V.S.A. § 120 is amended to read:

§ 120. CORRECTIONS DEPARTMENT EDUCATION PROGRAM;
INDEPENDENT SCHOOL

(a) Authority. An education program is established within the department of corrections for the education of persons who have not completed secondary education and who are committed to the custody of the commissioner of corrections.

(b) Applicability of education provisions. The education program shall be approved by the state board of education as an independent school under 16 V.S.A. § 166, shall comply with the school quality standards provided by 16 V.S.A. § 165, and shall be coordinated with adult education, special education, and technical education.

(c) Program supervision. The commissioner of corrections shall appoint ~~an education supervisor~~ a director of corrections education, who shall be licensed as an administrator under 16 V.S.A. chapter 51, to ~~supervise the community high school~~ serve as the superintendent of the Community High School of Vermont and coordinate use of other education programs by persons under the supervision of the commissioner.

(d) Curriculum. The education program shall offer a minimum course of study, as defined in 16 V.S.A. § 906, and special education programs as required in 16 V.S.A. chapter 101 at each correctional facility and department service center, but is not required to offer a driver training course or a physical educational course.

(e) ~~Commissioner of education's designation of special education program. Notwithstanding any law to the contrary, the commissioner of education, in accordance with the provisions of 16 V.S.A. chapter 101, shall designate a program to provide for the special education of eligible persons who are under the custody of the commissioner of corrections. Within the limits of funds made available for this specific purpose, the commissioner of education shall~~

~~pay the costs of this program in excess of costs defined in subsection (g) of this section. [Repealed.]~~

(f) Reimbursement payments. The provision of 16 V.S.A. § 4012, relating to payment for state-placed students, shall not apply to the corrections education program.

(g) [Repealed.]

(h) Required participation. All persons under the custody of the commissioner of corrections who are under the age of 23 and have not received a high school diploma shall participate in ~~the~~ an education program unless exempted by the commissioner.

Sec. 2. 28 V.S.A. § 121 is amended to read:

§ 121. COMMUNITY HIGH SCHOOL OF VERMONT BOARD

(a) A board is established for the purpose of advising the ~~education supervisor~~ director of corrections education when serving as the superintendent of the Community High School of Vermont, the independent school established in section 120 of this title. The board shall have supervision over policy formation for the ~~independent school~~ Community High School of Vermont, except as otherwise provided, shall recommend school policy to the ~~commissioner of corrections, shall oversee local advisory boards of the school~~ director of corrections education, may create a structure for local advisory boards as it deems appropriate, and shall perform such other duties as requested from time to time by the commissioner of education or of corrections.

(b) The board shall consist of nine members, each appointed by the governor for a three-year term subject to the advice and consent of the senate, in such a manner that no more than three terms shall expire annually, as follows:

(1) ~~Six representatives from the membership of local advisory boards serving the school sites, not to include more than one member from any advisory board~~ selected to ensure geographic representation throughout the state.

(2) Three members-at-large.

(c) The board shall appoint a chair and vice chair, each of whom shall serve for one year or until a successor is appointed by the board.

(d) The board shall report on its activities annually to the state board of education, the secretary of the agency of human services, and the commissioner of corrections.

(e) ~~The board may, with the approval of the commissioner of corrections, appoint the education supervisor of the independent school.~~ The commissioner shall consult with the board prior to appointing the director of corrections education.

Sec. 3. IMPLEMENTATION

Notwithstanding the provisions of Sec. 2, 28 V.S.A. § 121(b)(1), the current members of the board shall serve until the expiration of their respective terms.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Mook of Bennington, for the committee on Government Operations, recommended that the bill ought to pass when amended as recommended by the committee on Education.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committees on Education and Government Operations agreed to and third reading ordered.

Bills Referred to Committee on Ways and Means

House bills of the following titles, appearing on the Calendar, affecting the revenue of the state, under the rule, were referred to the Committee on Ways and Means:

H. 533

House bill, entitled

An act relating to insurance business transfers

H. 776

House bill, entitled

An act relating to encouraging flexible pathways leading to secondary school completion and career and college readiness

Adjournment

At five o'clock and fifty minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock in the forenoon.