

# Journal of the House

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Wednesday, April 11, 2012

**Rep. Leriche of Hardwick** in Chair.

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

## **Devotional Exercises**

Devotional exercises were conducted by Rev. Janice Chileck of the United Church of Bellows Falls, Bellows Falls, VT.

## **Bill Referred to Committee on Appropriations**

**S. 222**

Senate bill, entitled

An act relating to cost-sharing for employer-sponsored insurance assistance plans

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

## **Joint Resolution Referred to Committee**

**J.R.H. 34**

Joint resolution urging the Federal Highway Administration to reconsider the breadth and applicability of the road sign requirements

Offered by: Representatives Scheuermann of Stowe, Andrews of Rutland City, Batchelor of Derby, Botzow of Pownal, Branagan of Georgia, Browning of Arlington, Burditt of West Rutland, Buxton of Tunbridge, Christie of Hartford, Clarkson of Woodstock, Crawford of Burke, Degree of St. Albans City, Dickinson of St. Albans Town, Donovan of Burlington, Eckhardt of Chittenden, Gilbert of Fairfax, Hooper of Montpelier, Johnson of Canaan, Kupersmith of South Burlington, Lewis of Berlin, Marcotte of Coventry, Martin of Wolcott, McAllister of Highgate, Olsen of Jamaica, Peaslee of Guildhall, Peltz of Woodbury, Pugh of South Burlington, Ralston of Middlebury, Savage of Swanton, Shaw of Pittsford, Smith of New Haven, Stuart of Brattleboro, Sweaney of Windsor, Toll of Danville, Turner of Milton, Winters of Williamstown, Wright of Burlington and Young of Glover

Whereas, in 2000 and 2003, the Federal Highway Administration (FHWA) updated the Manual on Uniform Traffic Control Devices (MUTCD) to include new standards for road sign lettering size, and

Whereas, in 2009, a further MUTCD revision included a requirement that lettering on signs must use upper and lower cases because the FHWA has determined that dual case lettering is easier to read, although this requirement does not carry a specific deadline, and

Whereas, the most recent MUTCD specifies the following sign letter sizes for post-mounted street name signs: four-inch upper case and three-inch lower case letters for local roads with speed limits of 25 mph or less; six-inch upper case and 4.5-inch lower case letters for multi-lane roads with speed limits of 40 miles per hour or less, or two-lane roads with any speed limit; and eight-inch upper case and six-inch lower case letters for multi-lane highways with speed limits of more than 40 mph, and

Whereas, current MUTCD deadlines specify replacement of most noncomplying post-mounted street signs by 2012 (and 2018 for replacement of post-mounted street signs on multi-lane roads with speed limits greater than 40 mph), and

Whereas, on August 31, 2011, public pressure caused the FHWA to issue a notice of proposed amendments to the MUTCD which, if adopted, would eliminate these specific compliance dates, and

Whereas, even if the compliance dates are eliminated, signs that need to be replaced at the end of their useful service life must comply with MUTCD standards, and

Whereas, if a Vermont community fails to comply, it could lose federal aid for any of its federal aid highways and conceivably state transportation funds as the state requires that state-supported roads be in compliance with all legal requirements, and

Whereas, these federal requirements will alter the character of road signs, especially in rural communities and at places such as covered bridges, and

Whereas, as reported in the *Stowe Reporter*, Steve Jeffrey, the executive director of the Vermont League of Cities and Towns, stated that the street sign size issue “certainly is being discussed broadly across the state,” and

Whereas, the *Stowe Reporter* article on federal road sign requirements was written because in Stowe this topic is at the forefront of public attention, and

Whereas, the Stowe selectboard has agreed to install these new larger signs on Stowe Hollow Road in order to receive federal support for needed guardrail repairs, and

Whereas, although agreeing to the sign requirement, the selectboard also wrote a letter to federal and state officials requesting that the regulatory requirements be reconsidered, stating in part that a compliant sign “makes every street corner look like the interstate highway system” and further observing, “It should be understood that Vermont is heavily dependent on travel and tourism tied to our historic character and natural beauty,” and

Whereas, Stowe Town Manager Charles Safford has estimated that to replace all of the road signs in Stowe would cost \$56,000.00, and

Whereas, in a state that prides itself on its ban on billboard advertising and restrictions on highway informational signs, the implementation of the new federal road sign requirements, especially in small town centers and rural and scenic locations, would negate the continuing work across the state to preserve the charm and natural beauty of Vermont, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Highway Administration to reconsider the breadth and applicability of the road sign requirements currently contained in the Manual on Uniform Traffic Control Devices, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Transportation Ray LaHood, Federal Highway Administrator Victor M. Mendez, Vermont secretary of transportation Brian Searles, and the Vermont Congressional Delegation.

Which was read and, in the Speaker’s discretion, treated as a bill and referred to the committee on Transportation.

**Joint Resolution Referred to Committee**

**J.R.H. 35**

Joint resolution in support of striking teachers in the Rutland Southwest Supervisory Union

Offered by: Representatives Moran of Wardsboro and Davis of Washington

Whereas, in the early morning of April 4, 2012, the Rutland Southwest Supervisory Union closed its schools as contract negotiations between teams representing the Poultney, Wells, Tinmouth, and Middletown Springs school boards and the teachers broke down, and

Whereas, the contract being negotiated is intended, pursuant to state law, to consolidate the four separate contracts currently covering each of the four towns in the Rutland Southwest Supervisory Union, and

Whereas, it appears that the schools in the four towns will be shuttered for an indefinite period of time, and

Whereas, at the time of the closure decision, the two sides had reached accord on compensation and health care coverage issues, and

Whereas, although the financial issues had been decided, matters related to work rules proved impossible to agree upon, and

Whereas, at the center of the dispute is how professional teachers allocate their time during the workday, with the school boards' negotiators insisting that the school boards have exclusive control over exactly how the teachers' daily time is allocated, including, according to the *Rutland Herald*, "preparation time, in-class teaching time, and extra hours teachers would have to abide by," and

Whereas, the school boards' negotiating team asserted that the teachers' version of work rules were from 30 years ago and "won't fly anymore," and

Whereas, Charles Haynes, the chief of the school boards' negotiating team, stated, "We are the administration, we are the boss, you have a job to do, you do it," adding "It's just standard stuff," according to the newspaper report, and

Whereas, another negotiating team member, Poultney High School board member Mary Jo Teetor, said that "management should have jurisdiction how they work . . . management rights," and

Whereas, according to the *Rutland Herald*, the spokesperson for the Vermont-NEA, Darren Allen, indicated that "boards want to control minute-by-minute working conditions, something that isn't in contracts agreed upon for the last 40 years," and he further said of the boards' negotiating team, "They want schools to be closed because they want to be the boss, just to do what we say," and

Whereas, the attitude that the boards' negotiators have adopted is absolutely contrary to the core concept of collective bargaining and damaging to labor relations in public education in Vermont, and

Whereas, were the boards' position to prevail, some other school boards might feel empowered to pursue a similar path and demand strict compliance with their version of work rules for members of the teaching profession without any fair and open negotiations or compromise, and

Whereas, this situation is intolerable and incompatible with the delivery of high-quality education and the fostering of amicable relations between school boards and teachers, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the school boards' negotiating team in the Rutland Southwest Supervisory Union to return immediately to good-faith bargaining as provided by 16 V.S.A. § 2001 both to establish fruitful relations with its teachers and to enable education to resume for the children of its communities, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Rutland Southwest Supervisory Union and Vermont-NEA.

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

**Joint Resolution Adopted in Concurrence**

**J.R.S. 56**

By Senators Carris and Mullin,

**J.R.S. 56.** Joint resolution relating to weekend adjournment.

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

That when the two Houses adjourn on Thursday, April 12, 2012, or, Friday, April 13, 2012, it be to meet again no later than Tuesday, April 17, 2012.

Was taken up read and adopted in concurrence.

**Speaker Smith** in Chair.

**Bill Placed on Calendar**

**H. 757**

House bill, entitled

An act relating to a temporary moratorium on the enforcement of the sales tax on prewritten software that is accessed remotely;

**Rep. Scheuermann of Stowe** asked leave of the House to withdraw the bill and, under the rule, the bill was ordered placed on the Calendar for action on the next legislative day.

**Remarks Journalized**

On motion of **Rep. Degree of St. Albans City**, the following remarks by **Rep. Komline of Dorset** were ordered printed in the Journal:

“Mr. Speaker:

As many of you are aware, House Bill 718 is “resting comfortably” in Appropriations. There is a bill in House Energy that is being held up as well.

Should either of these bills come here to the floor we would be able to attach our amendment regarding the \$21M payback to CVPS customers. This amendment has 72 sponsors and about 10 more people told me they would vote for it but didn’t want to sign on because they wanted to avoid being hassled by big utility lobbyists.

The Representatives in this building have the facts. Their support isn’t based on distorted spin and for anyone to assume otherwise is an insult to these elected officials. We should be able to vote.

80 Members of this house – each representing about 4000 people. That is total of 320,000 Vermonters. We are being blocked from representing these constituents by one person.

Mr. Speaker, I have great respect for you and through these years of working together this respect has only grown. From the time I first arrived here and I’d look across at you and catch your eye as we both experienced frustration with some of floor actions. To the relationship we built when I was in leadership.

We both know that important things can happen in this building when we put our principles above politics.

You have always acted in an honorable manner. And that is why I make this public plea to you now.

Please give us a chance to do the job we were elected to do even if it is opposition to the Administration. Please let the process play out. Please allow our amendment to come to the floor.

### **Consideration Interrupted by Recess**

#### **H. 300**

**Rep. Wright of Burlington** moved that the committee on Education be relieved of further consideration of House bill entitled

An act relating to the requirement of mandatory binding arbitration and the elimination of strikes and imposed contracts in connection with the collective bargaining for teachers’ and school administrators’ contracts;

Pending the question, Shall the Committee on Education be relieved of the bill? **Rep. Wright of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number.

### Recess

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

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

### Consideration Resumed; Committee not Relieved of Bill

#### H. 300

Consideration resumed on House bill, entitled

An act relating to the requirement of mandatory binding arbitration and the elimination of strikes and imposed contracts in connection with the collective bargaining for teachers' and school administrators' contracts;

Thereupon, the Clerk proceeded to call the roll and the question, Shall the Committee on Education be relieved of the bill? was decided in the negative. Yeas, 34. Nays, 105.

Those who voted in the affirmative are:

Acinapura of Brandon	Hebert of Vernon	Myers of Essex
Batchelor of Derby	Helm of Fair Haven	Olsen of Jamaica
Burditt of West Rutland	Higley of Lowell	Peaslee of Guildhall
Canfield of Fair Haven	Johnson of Canaan	Reis of St. Johnsbury
Clark of Vergennes	Komline of Dorset	Savage of Swanton
Degree of St. Albans City	Larocque of Barnet	Scheuermann of Stowe
Devereux of Mount Holly	Lawrence of Lyndon	Shaw of Pittsford
Dickinson of St. Albans Town	Lewis of Berlin	Strong of Albany
Donaghy of Poultney	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 *
	McNeil of Rutland Town	

Those who voted in the negative are:

Ancel of Calais	Browning of Arlington	Copeland-Hanzas of Bradford
Andrews of Rutland City	Burke of Brattleboro	Corcoran of Bennington
Aswad of Burlington	Buxton of Tunbridge	Courcelle of Rutland City
Atkins of Winooski	Campion of Bennington	Crawford of Burke
Bartholomew of Hartland	Cheney of Norwich	Dakin of Chester
Bissonnette of Winooski	Christie of Hartford	Davis of Washington
Bohi of Hartford	Clarkson of Woodstock	Deen of Westminster
Botzow of Pownal	Conquest of Newbury	Donahue of Northfield
Branagan of Georgia	Consejo of Sheldon	

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Donovan of Burlington	Kupersmith of South Burlington	Perley of Enosburgh
Edwards of Brattleboro	Lanpher of Vergennes	Poirier of Barre City
Ellis of Waterbury	Lenes of Shelburne	Potter of Clarendon
Emmons of Springfield	Leriche of Hardwick	Pugh of South Burlington
Evans of Essex	Lippert of Hinesburg	Ralston of Middlebury
Fisher of Lincoln	Lorber of Burlington	Ram of Burlington
Frank of Underhill	Macaig of Williston	Russell of Rutland City
French of Shrewsbury	Malcolm of Pawlet	Shand of Weathersfield
French of Randolph	Manwaring of Wilmington	Sharpe of Bristol
Gilbert of Fairfax	Marek of Newfane	South of St. Johnsbury
Grad of Moretown	Martin of Springfield	Spengler of Colchester
Greshin of Warren	Martin of Wolcott	Stevens of Waterbury
Haas of Rochester	Masland of Thetford	Stuart of Brattleboro
Head of South Burlington	McCullough of Williston	Sweaney of Windsor
Heath of Westford	McFaun of Barre Town	Taylor of Barre City
Hooper of Montpelier	Miller of Shaftsbury	Till of Jericho
Howrigan of Fairfield	Mook of Bennington	Toll of Danville
Jerman of Essex	Moran of Wardsboro	Townsend of Randolph
Jewett of Ripton	Mrowicki of Putney	Trieber of Rockingham
Johnson of South Hero	Munger of South Burlington	Waite-Simpson of Essex
Keenan of St. Albans City	Nuovo of Middlebury	Webb of Shelburne
Kitzmiller of Montpelier	O'Brien of Richmond	Wilson of Manchester
Klein of East Montpelier	Partridge of Windham	Wizowaty of Burlington
Koch of Barre Town	Pearce of Richford	Woodward of Johnson
Krebs of South Hero	Pearson of Burlington	Yantachka of Charlotte
Krowinski of Burlington	Peltz of Woodbury	Young of Glover
		Zagar of Barnard

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

Bouchard of Colchester	Hubert of Milton	Smith of New Haven
Brennan of Colchester	Kilmartin of Newport City	Stevens of Shoreham
Condon of Colchester	Morrissey of Bennington	
Howard of Cambridge	O'Sullivan of Burlington	

**Rep. Wright of Burlington** explained his vote as follows:

“Mr. Speaker:

It is high time the legislature debates H.300, a bill that strives to create a better and more fair system for students and their families as well as teachers and the entire community, while preserving collective bargaining. The Commissioner of Education and the Governor have called for this type of legislation. Why are we afraid to have the debate?”



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**Senate Proposal of Amendment Concurred in****H. 21**

The Senate proposed to the House to amend House bill, entitled  
An act relating to the mutual benefit enterprise act

First: In Sec. 1, in 11C V.S.A. § 203(a), in the second sentence, following the words “filed record” by striking out the words “and a receipt for the fees”

Second: In Sec. 1, in 11C V.S.A. § 207(a), by striking out the word “and” in subdivision (3), by redesignating subdivision (4) as subdivision (5), and by inserting a new subdivision (4) to read as follows:

(4) the name and business address of any director or officer; and

Third: In Sec. 1, in 11C V.S.A. § 207, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) A mutual benefit enterprise or foreign enterprise authorized to transact business in this state shall deliver its annual report to the secretary for filing between January 1 and April 1 of each year, beginning in the year following the calendar year in which the mutual benefit enterprise is formed or the foreign enterprise is authorized to transact business in this state.

Fourth: In Sec. 1, in 11C V.S.A. § 207(e), following the words “designated office,” by striking out the words “the name of the agent for service of process” and inserting in lieu thereof the following: the name or business address of a director or officer

Fifth: In Sec. 1., by striking out 11C V.S.A. § 1214 in its entirety and redesignating that section as “[Reserved.]”

Which proposal of amendment was considered and concurred in.

**Action on Bill Postponed****H. 503**

House bill, entitled

An act relating to eliminating the ability of the sergeant at arms to employ a traffic control officer and requiring the certification of capitol police officers

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until Friday, April 13, 2012.

**Bill Amended, Read Third Time and Passed****H. 679**

House bill, entitled

An act relating to creating a uniform generation tax for renewable energy plants

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

First: In Sec. 1, in 32 V.S.A. § 8701, in subsection (a), after the words “defined in 30 V.S.A. § 8002” by inserting the words “; provided, however, that any tax or exemption under this chapter shall only apply to the fixtures and personal property of a plant, and not to the underlying land”

Second: In Sec. 2, 32 V.S.A. § 3802(17), by striking “if” and inserting in lieu thereof “to the extent”

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

**Third Reading; Bills Passed**

House bills of the following titles were severally taken up, read the third time and passed:

**H. 784**

House bill, entitled

An act relating to approval of the adoption and codification of the charter of the town of Williamstown

**H. 786**

House bill, entitled

An act relating to approval of amendments to the charter of the town of Windsor

**H. 788**

House bill, entitled

An act relating to approval of amendments to the charter of the town of Richmond

**H. 791**

House bill, entitled

An act relating to tax expenditures for nonprofits, charitable organizations, and miscellaneous tax expenditures, as presented in the tax expenditure budget for 2012

**Action on Bill Postponed****S. 116**

Senate bill, entitled

An act relating to probate proceedings;

Was taken up and pending third reading of the bill, on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until the next legislative day.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment****S. 238**

Senate bill, entitled

An act relating to expanding access to driving privileges in Vermont

Was taken up and read the third time.

Pending the question, Shall the bill pass in concurrence with proposal of amendment? **Rep. Browning of Arlington** moved to commit the bill to the committee on Judiciary.

Pending the question, Shall the bill be referred to the the Committee on Judiciary? **Rep. Browning of Arlington** 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 referred to the the Committee on Judiciary? was decided in the negative. Yeas, 18. Nays, 118.

Those who voted in the affirmative are:

Batchelor of Derby	Fagan of Rutland City	Marcotte of Coventry
Browning of Arlington	Hebert of Vernon	Myers of Essex
Burditt of West Rutland	Higley of Lowell	Strong of Albany
Canfield of Fair Haven	Johnson of Canaan	Toll of Danville
Degree of St. Albans City	Koch of Barre Town	Turner of Milton
Devereux of Mount Holly	Lewis of Derby	Winters of Williamstown

Those who voted in the negative are:

Acinapura of Brandon	Bohi of Hartford	Cheney of Norwich
Ancel of Calais	Botzow of Pownal	Christie of Hartford
Andrews of Rutland City	Branagan of Georgia	Clark of Vergennes
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Atkins of Winooski	Burke of Brattleboro	Conquest of Newbury
Bartholomew of Hartland	Buxton of Tunbridge	Consejo of Sheldon
Bissonnette of Winooski	Campion of Bennington	

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Copeland-Hanzas of Bradford	Krebs of South Hero	Peltz of Woodbury
Corcoran of Bennington	Krowinski of Burlington	Perley of Enosburgh
Courcelle of Rutland City	Kupersmith of South Burlington	Poirier of Barre City
Crawford of Burke	Lanpher of Vergennes	Potter of Clarendon
Dakin of Chester	Larocque of Barnet	Pugh of South Burlington
Davis of Washington	Lawrence of Lyndon	Ralston of Middlebury
Deen of Westminster	Lenes of Shelburne	Ram of Burlington
Donaghy of Poultney	Leriche of Hardwick	Reis of St. Johnsbury
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Edwards of Brattleboro	Lorber of Burlington	Scheuermann of Stowe
Ellis of Waterbury	Macaig of Williston	Shand of Weathersfield
Emmons of Springfield	Malcolm of Pawlet	Sharpe of Bristol
Evans of Essex	Manwaring of Wilmington	Shaw of Pittsford
Fisher of Lincoln	Marek of Newfane	South of St. Johnsbury
Frank of Underhill	Martin of Springfield	Spengler of Colchester
French of Shrewsbury	Martin of Wolcott	Stevens of Waterbury
French of Randolph	McAllister of Highgate	Stuart of Brattleboro
Gilbert of Fairfax	McCullough of Williston	Sweaney of Windsor
Grad of Moretown	McFaun of Barre Town	Taylor of Barre City
Greshin of Warren	McNeil of Rutland Town	Till of Jericho
Haas of Rochester	Miller of Shaftsbury	Townsend of Randolph
Head of South Burlington	Mook of Bennington	Trieber of Rockingham
Heath of Westford	Moran of Wardsboro	Waite-Simpson of Essex
Helm of Fair Haven	Mrowicki of Putney	Webb of Shelburne
Hooper of Montpelier	Munger of South Burlington	Wilson of Manchester
Howrigan of Fairfield	Nuovo of Middlebury	Wizowaty of Burlington
Jewett of Ripton	O'Brien of Richmond	Woodward of Johnson
Johnson of South Hero	Olsen of Jamaica	Wright of Burlington
Keenan of St. Albans City	Partridge of Windham	Yantachka of Charlotte
Kitzmiller of Montpelier	Pearce of Richford	Young of Glover
Klein of East Montpelier	Pearson of Burlington	Zagar of Barnard
Komline of Dorset	Peaslee of Guildhall	

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Condon of Colchester	Hubert of Milton	O'Sullivan of Burlington
Dickinson of St. Albans Town	Jerman of Essex	Smith of New Haven
Eckhardt of Chittenden	Kilmartin of Newport City	Stevens of Shoreham
	Masland of Thetford	

Thereupon, the bill was passed in concurrence with proposal of amendment.

**Action on Bill Postponed**

**H. 413**

House bill, entitled

An act relating to creating a civil action against those who abuse, neglect, or exploit a vulnerable adult

Was taken up and pending the question, Shall the House concur in the Senate proposal of amendment? on motion of **Rep. Lippert of Hinesburg**, action on the bill was postponed until Friday, April 13, 2012.

**Adjournment**

At two o'clock and fifty-five minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.