

Journal of the Senate

Tuesday, March 8, 2011

Pursuant to Rule 8 of the Senate Rules, in the absence of the President (who was Acting Governor in the absence of the Governor) and the President *pro tempore*, the time for convening of the Senate having been set at nine o'clock and thirty minutes, the Senate was called to order by John H. Bloomer, Jr., Secretary of the Senate.

Devotional Exercises

Devotional exercises were conducted by the Reverend Amelia Pitton of Montpelier.

Senator Campbell Assumes the Chair

Pledge of Allegiance

Pages Amanda Dean and Celia Feal-Staub then led the members of the Senate in the pledge of allegiance.

Message from the House No. 27

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 passed a House bill of the following title:

H. 26. An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf.

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

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 70. House concurrent resolution in celebration of the 100th anniversary of Lyndon State College.

H.C.R. 71. House concurrent resolution honoring the life of Rutland native John Deere on his 207th birthday.

H.C.R. 72. House concurrent resolution congratulating Miles Yucht of Shaftsbury on his scholastic achievement as a 2010 Siemens Award winner.

H.C.R. 73. House concurrent resolution recognizing the importance of after-school programs for the youth of Vermont.

H.C.R. 74. House concurrent resolution congratulating the Weston Playhouse Theater Company in celebration of its 75th (diamond) anniversary.

H.C.R. 75. House concurrent resolution honoring Clyde Prouty for his exemplary public service on behalf of the town of Londonderry.

H.C.R. 76. House concurrent resolution honoring the national and community service of Carlisle Coates of Williston.

H.C.R. 77. House concurrent resolution honoring Ted's Barber Shop in Manchester .

H.C.R. 78. House concurrent resolution congratulating the Lawrence Memorial Library in Bristol on its centennial anniversary.

H.C.R. 79. House concurrent resolution congratulating Northeast Slopes of East Corinth on its silver anniversary.

H.C.R. 80. House concurrent resolution congratulating Elizabeth Cushman Titus Putnam of Shaftsbury on being the first conservationist awarded the Presidential Citizens Medal.

H.C.R. 81. House concurrent resolution congratulating the 2011 Vermont winners of Prudential Spirit of Community Awards.

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

The Governor has informed the House that on the February 23, 2011, he approved and signed a bill originating in the House of the following title:

H. 30. An act relating to requiring the board of governors of the unified towns and gores of Essex County to hear tax appeals.

Bills Introduced

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

S. 81.

By Senators Ayer, Ashe, Baruth, Fox, Galbraith, Giard, Kittell, Lyons, MacDonald, McCormack, Miller, Pollina, Snelling, Starr and White,

An act relating to idling of heavy-duty motor vehicles.

To the Committee on Transportation.

S. 82.

By Senator Flory,
An act relating to vital records.
To the Committee on Health and Welfare.

S. 83.

By Senators Pollina, Kittell and McCormack,
An act relating to renal dialysis patient safety.
To the Committee on Health and Welfare.

S. 84.

By Senators Flory, Benning, Mazza and Starr,
An act relating to removing the requirement of legislative approval of continued operation of a nuclear power plant.
To the Committee on Finance.

S. 85.

By Senator Flory,
An act relating to small claims procedures.
To the Committee on Judiciary.

S. 86.

By Senators Brock and McCormack,
An act relating to requiring that postretirement adjustments to retirement allowances be made pursuant to the Northeast Region Consumer Price Index.
To the Committee on Government Operations.

S. 87.

By Senator Flory,
An act relating to confidentiality of law enforcement internal investigation records.
To the Committee on Government Operations.

S. 88.

By Senator Ayer,

An act relating to involuntary medication.

To the Committee on Health and Welfare.

Bill Referred

House bill of the following titles was read the first time and referred:

H. 26.

An act relating to limiting the application of fertilizer containing phosphorus or nitrogen to nonagricultural turf.

To the Committee on Natural Resources and Energy.

Joint Resolution Placed on Calendar**J.R.S. 20.**

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

By Senator Nitka,

J.R.S. 20. Joint resolution providing for a Joint Assembly to vote on the retention of a Chief Justice and four Justices of the Supreme Court, three Judges of the Superior Court, and seven Judges of the District Court.

Whereas, declarations have been submitted by the following justices and judges that they be retained for another six-year term, the Honorable Justice Reiber, Justice Burgess, Justice Dooley, Justice Johnson, Justice Skoglund, Judge Bent, Judge Corsones, Judge Wesley, Judge Devine, Judge DiMauro, Judge Eaton, Judge Keller, Judge Kupersmith, Judge Levitt and Judge Rainville, and

Whereas, the procedures of the Joint Committee on Judicial Retention require at least two public hearings and the review of information provided by each judge and the comments of members of the Vermont bar and the public, and

Whereas, the Committee anticipates that it will be unable to fulfill its responsibilities under subsection 608(b) of Title 4 to evaluate the judicial performance of the judges seeking to be retained in office by March 10, 2011, the date specified in subsection 608(e) of Title 4, and for a vote in Joint Assembly to be held on March 17, 2011, 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*

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, March 24, 2011, at nine o'clock and thirty minutes in the forenoon to vote on the retention of a Chief Justice and four Associate Justices of the Supreme Court, three Superior Court Judges, and seven District Court Judges. In case the vote to retain said Justices and Judges 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.

Bill Passed

Senate bill of the following title was read the third time and passed:

S. 48. An act relating to prohibiting a sex offender from using a false name when creating a social networking website profile.

Consideration Postponed

Senate bill entitled:

S. 58.

An act relating to jurisdiction of a crime committed when the defendant was under the age of 16.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Joint Resolutions Adopted in Concurrence

Joint House resolutions entitled:

J.R.H. 11. Joint resolution urging Congress to approve a streamlined sales tax agreement that will authorize the national collection of sales tax from online sales.

J.R.H. 12. Joint resolution urging Congress to retain federal community services block grant funding for the balance of fiscal year 2011 at its current operating level.

Having been placed on the Calendar for action, were taken up.

Thereupon, the resolutions were severally adopted in concurrence.

Message from the House No. 28

A message was received from the House of Representatives by Mr. William M. MaGill, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 275. An act relating to the recently deployed veteran tax credit.

H. 299. An act relating to repealing the provision that some school district budgets be presented to the voters by means of a divided question.

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

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, are hereby adopted in concurrence:

By Representatives Miller and Campton,

By Senators Hartwell and Sears,

H.C.R. 72.

House concurrent resolution congratulating Miles Yucht of Shaftsbury on his scholastic achievement as a 2010 Siemens Award winner.

By Representative Mrowicki and others,

H.C.R. 73.

House concurrent resolution recognizing the importance of after-school programs for the youth of Vermont.

By Representative Olsen,

By Senators Campbell, McCormack and Nitka,

H.C.R. 74.

House concurrent resolution congratulating the Weston Playhouse Theater Company in celebration of its 75th (diamond) anniversary.

By Representative Olsen,

By Senators Galbraith and White,

H.C.R. 75.

House concurrent resolution honoring Clyde Prouty for his exemplary public service on behalf of the town of Londonderry.

By Representatives Macaig and McCullough,

By Senator Lyons,

H.C.R. 76.

House concurrent resolution honoring the national and community service of Carlisle Coates of Williston.

By Representatives Olsen and Wilson,

By Senators Hartwell and Sears,

H.C.R. 77.

House concurrent resolution honoring Ted's Barber Shop in Manchester .

By Representatives Sharpe and Fisher,

By Senators Ayer and Giard,

H.C.R. 78.

House concurrent resolution congratulating the Lawrence Memorial Library in Bristol on its centennial anniversary.

By Representative Davis and others,

H.C.R. 79.

House concurrent resolution congratulating Northeast Slopes of East Corinth on its silver anniversary.

By Representatives Miller and Campton,

By Senators Sears and Hartwell,

H.C.R. 80.

House concurrent resolution congratulating Elizabeth Cushman Titus Putnam of Shaftsbury on being the first conservationist awarded the Presidential Citizens Medal.

By Representative Partridge and others,

By Senators Kitchel, Benning, Galbraith, White, Hartwell, Sears, Carris, Flory and Mullin,

H.C.R. 81.

House concurrent resolution congratulating the 2011 Vermont winners of Prudential Spirit of Community Awards.

[The full text of the House concurrent resolutions appeared in the Senate calendar addendum for February 24, 2011, and, if adopted in concurrence by the House, will appear in the volume of the Public Acts and Resolves to be published for this session of the seventieth-first biennial session of the Vermont General Assembly.]

Adjournment

On motion of Senator Mazza, the Senate adjourned until eleven o'clock and thirty minutes in the morning.