

Journal of the Senate

FRIDAY, APRIL 8, 2011

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rich Swanson of Stowe.

Message from the House No. 44

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 House bills of the following titles:

H. 56. An act relating to the Vermont Energy Act of 2011.

H. 439. An act relating to the bill-back authority of the department of public service and the public service board.

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

The House has considered a bill originating in the Senate of the following title:

S. 2. An act relating to sexual exploitation of a minor and the sex offender registry.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolutions of the following titles:

J.R.H. 16. Joint resolution authorizing Green Mountain Boys' State educational program to use the state house.

J.R.H. 18. Joint resolution urging the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor.

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

Message from the House No. 45

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. 73. An act relating to establishing a government transparency office to enforce the public records act.

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

The House has considered a bill originating in the Senate of the following title:

S. 12. An act relating to adding a member from the area agencies on aging to the governor's commission on Alzheimer's disease and related disorders.

And has passed the same in concurrence.

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

H.C.R. 120. House concurrent resolution congratulating the students of Monument Elementary School in Bennington for their special effort to assist the victims of the recent natural and nuclear disasters in Japan.

H.C.R. 121. House concurrent resolution commemorating the 250th anniversary of the town of Hartford.

H.C.R. 122. House concurrent resolution congratulating the Stafford Technical Center SADD chapter on winning the 2010 National SADD Chapter of the Year Award.

H.C.R. 123. House concurrent resolution commemorating the sesquicentennial of the Civil War.

H.C.R. 124. House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Thunderbirds Division II championship boys' basketball team.

H.C.R. 125. House concurrent resolution acknowledging the many Vermonters living with Alzheimer's disease and designating April 1 as Alzheimer's Awareness Day.

H.C.R. 126. House concurrent resolution in memory of Jack Gabriel Hannan, champion freeskier.

H.C.R. 127. House concurrent resolution congratulating the Vermont Children's Trust Foundation on its 20th anniversary and designating April 13, 2011 as Vermont Children's Trust Foundation Day at the State House.

H.C.R. 128. House concurrent resolution congratulating the Peace Corps on half a century of exemplary public service.

H.C.R. 129. House concurrent resolution congratulating James Kochalka on his designation as the first Vermont cartoonist laureate.

H.C.R. 130. House concurrent resolution designating April 27, 2011, as National Walk@Lunch Day in Vermont.

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

Bill Called Up

H. 46.

Senate bill of the following title was called up by Senator Mullin, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to youth athletes with concussions participating in athletic activities.

Joint Resolutions Placed on Calendar

Joint resolutions originating in the House of the following titles were severally read the first time and are as follows:

J.R.H. 16.

Joint resolution authorizing Green Mountain Boys' State educational program to use the state house.

Whereas, the American Legion in Vermont sponsors the Green Mountain Boys' State program which provides an opportunity for boys in high school to study the workings of state government in Montpelier, and

Whereas, as part of their visit to the state's capital city, the boys conduct a mock legislative session in the state house, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the state house for the Green Mountain Boys' State program on Thursday, June 23, 2011 from 8:00 a.m. to 5:00 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont headquarters in Montpelier.

J.R.H. 18.

Joint resolution urging the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor.

Whereas, for many years there has been strong support in the private and public sectors, and across partisan lines, for the rebuilding of Vermont's western rail corridor that would enable the resumption of passenger rail service from Albany, New York to Burlington via Bennington, Manchester, Rutland, and Middlebury, and improve freight service as well, and

Whereas, the Amtrak Ethan Allen Express, whose annual ridership increased by 2.7 percent in 2010, was inaugurated in December 1996, and provides Rutland a connection with the Amtrak network, but its passage through Vermont ends a few miles west of Rutland at the New York state line, and

Whereas, a train serving all the major communities of the western corridor, which lacks an interstate highway, would prove even more successful, and

Whereas, twice, since Congress appropriated funds for improving intercity passenger rail infrastructure, the state of Vermont applied for a \$74-million grant to make progress on the needed upgrades to the western corridor's infrastructure, and

Whereas, although major funding was awarded to make improvements to the Vermonter's rail infrastructure on the eastern side of the state, the Ethan Allen Express request was twice denied, and

Whereas, federal passenger rail funds have been awarded to states that have ultimately turned them back while Vermont's broadly supported funding requests for the western corridor have been rejected, and

Whereas, the state of Florida has recently turned back \$2.4 billion for the construction of a new high speed rail line, and the Federal Railroad Administration (FRA) is soliciting requests for proposals to reallocate these funds, and

Whereas, the state of Vermont is once again submitting a well-structured proposal, in the amount of \$80 million, to upgrade the western corridor section from Rutland to Burlington which would be an important step in restoring the entire route from Albany to Burlington, and

Whereas, in order to emphasize the depth of support for the western corridor proposal, Congressman Peter Welch invited FRA Deputy Administrator Karen Rae to a rally held in Rutland in support of the Vermont funding proposal, and

Whereas, in attendance at the rally to advocate for the federal funding were Congressman Welch, Governor Peter Shumlin, Transportation Secretary Brian Searles, and many local and state business leaders, all of whom voiced enthusiastic support for the western corridor funding, and

Whereas, a further, and equally significant, demonstration of the state's commitment to the western corridor is Sec. 9 of H.443, the FY 2012 transportation bill, that encourages the agency of transportation to apply for federal funding for the western corridor upgrade and further authorizes a state match of up to \$15 million should a federal grant be awarded, and

Whereas, no state could possibly have initiated more dispositive measures to prove to the FRA that a passenger rail improvement grant is truly desired and has tangible and genuine support, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Railroad Administration to award a passenger rail improvement grant to the state of Vermont for upgrading the western rail corridor, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to Federal Railroad Administrator Joseph Szabo, to Deputy Federal Railroad Administrator Karen Rae, to Governor Peter Shumlin, to Secretary of Transportation Brian Searles, and to the Vermont Congressional Delegation.

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

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 106.

By Senator White,

An act relating to miscellaneous changes to municipal government law.

To the Committee on Government Operations.

Rules Suspended; Committee Relieved of Further Consideration; Bill Committed

H. 254.

On motion of Senator Campbell, the rules were suspended, and H. 254 was taken up for immediate consideration, for the purpose of relieving the Committee on Rules from further consideration of the bill. Thereupon, on motion of Senator Campbell, the Committee on Rules was relieved of House bill entitled:

An act relating to consumer protection,
and the bill was committed to the Committee on Judiciary.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 56.

An act relating to the Vermont Energy Act of 2011.
To the Committee on Rules.

H. 73.

An act relating to establishing a government transparency office to enforce the public records act.
To the Committee on Rules.

H. 439.

An act relating to the bill-back authority of the department of public service and the public service board.
To the Committee on Rules.

Third Reading Ordered

S. 105.

Senator Starr, for the Committee on Appropriations, to which was referred Senate bill entitled:

An act relating to miscellaneous agricultural subjects.
Reported that the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered**H. 275.**

Senator McCormack, for the Committee on Finance, to which was referred House bill entitled:

An act relating to the recently deployed veteran tax credit.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out subsection (b) in its entirety, and by redesignating subsections (c)–(e) as (b)–(d)

Second: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (b), after the word “hire” by striking out the words “, or in the tax year following the date that the start-up business was created.”

Third: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out redesignated (c)(3)(C) in its entirety

Fourth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, by striking out redesignated (c)(4) in its entirety

Fifth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (d)(3), after the word “compliance” by striking out the words “, or in the case of a credit under subsection (b) of this section, a recently deployed veteran’s compliance.”

Sixth: In Sec. 1, 32 V.S.A. chapter 151, subchapter 11N, § 5930nn, in redesignated (d), by striking out “and” at the end of subdivision (4), and by striking the period at the end of subdivision (5) and inserting in lieu thereof the following: ; and, and by adding a subdivision (6) to read as follows:

(6) engage in efforts to promote the hiring of recently deployed veterans through the hiring practices of the state of Vermont.

Seventh: By striking out Sec. 2 (Effective Date) in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. APPROPRIATION

To the extent that the July 2011 official revenue forecast is increased by up to \$560,000.00, the amount of the increase up to \$560,000.00 is appropriated from the general fund to the military department for the purpose of continuing Vermont national guard outreach services in Vermont that are currently supported by funds from the United States Department of Defense.

Eighth: By adding a Sec. 3 to read as follows:

Sec. 3. ADEQUATE OUTREACH FUNDING

Prior to September 30, 2011, the adjutant general shall report to the joint fiscal committee regarding the status of federal funding for Vermont national guard outreach services in Vermont. If the adjutant general reports that federal funding for the Vermont national guard outreach services in Vermont is restored for federal fiscal year 2012 at or above the funding levels for federal fiscal year 2011 or at levels sufficient to continue the program, then notwithstanding any language in Sec. 2 of this act, all funds appropriated under Sec. 2 shall be deposited in the general fund.

Ninth: By adding a Sec. 4 to read as follows:

Sec. 4. EFFECTIVE DATES

(a) Secs. 1, 3, and this section of this act shall take effect on passage.

(b) Sec. 2 shall take effect on September 30, 2011.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Nitka, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Finance with the following amendments thereto:

First: By striking out Sec. 2 (Appropriation) in its entirety and inserting in lieu thereof:

Sec. 2. [Deleted.]

Second: By striking out Sec. 3 (Adequate Outreach Funding) in its entirety and inserting in lieu thereof:

Sec. 3. [Deleted.]

Third: By striking out Sec. 4 (Effective Dates) in its entirety and inserting in lieu thereof:

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee

on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Finance, as amended, were agreed to and third reading of the bill was ordered on a roll call, Yeas 27, Nays 1.

Senator Carris having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Baruth, Benning, Brock, Campbell, Carris, Cummings, Doyle, Flory, Fox, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Nitka, Pollina, Sears, Snelling, Starr, Westman, White.

The Senator who voted in the negative was: Galbraith.

Those Senators absent and not voting were: Miller, Mullin.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 26.

Joint Senate resolution entitled:

Joint resolution strongly reaffirming the general assembly's enthusiastic support for the Vermont Association of Snow Travelers' conversion of the Lamoille Valley Railroad rail bed into a four-season recreational trail and alternative transportation path.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

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 Representative Campion and others,

By Senators Hartwell and Sears,

H.C.R. 120.

House concurrent resolution congratulating the students of Monument Elementary School in Bennington for their special effort to assist the victims of the recent natural and nuclear disasters in Japan.

By Representative Bohi and others,
By Senators Campbell, McCormack and Nitka,

H.C.R. 121.

House concurrent resolution commemorating the 250th anniversary of the town of Hartford.

By Representative Shaw and others,

H.C.R. 122.

House concurrent resolution congratulating the Stafford Technical Center SADD chapter on winning the 2010 National SADD Chapter of the Year Award.

By All Members of the House,

H.C.R. 123.

House concurrent resolution commemorating the sesquicentennial of the Civil War.

By Representative Savage and others,

By Senators Brock and Kittell,

H.C.R. 124.

House concurrent resolution congratulating the 2011 Missisquoi Valley Union High School Thunderbirds Division II championship boys' basketball team.

By All Members of the House,

By All Members of the Senate,

H.C.R. 125.

House concurrent resolution acknowledging the many Vermonters living with Alzheimer's disease and designating April 1 as Alzheimer's Awareness Day.

By Representative Howard and others,

H.C.R. 126.

House concurrent resolution in memory of Jack Gabriel Hannan, champion freeskier.

By Representative Lenex and others,

By Senators Ashe, Baruth, Doyle, Fox, Miller, Nitka and Snelling,

H.C.R. 127.

House concurrent resolution congratulating the Vermont Children's Trust Foundation on its 20th anniversary and designating April 13, 2011 as Vermont Children's Trust Foundation Day at the State House.

By Representative Haas and others,

By Senators Cummings, Ashe, Ayer, Carris, Fox, Giard, Lyons, MacDonald, McCormack, Nitka and Starr,

H.C.R. 128.

House concurrent resolution congratulating the Peace Corps on half a century of exemplary public service.

By Representatives Martin and Emmons,

By Senators Campbell, McCormack and Nitka,

H.C.R. 129.

House concurrent resolution congratulating James Kochalka on his designation as the first Vermont cartoonist laureate.

By Representative Frank and others,

H.C.R. 130.

House concurrent resolution designating April 27, 2011, as National Walk@Lunch Day in Vermont.

[The full text of the House concurrent resolutions appeared in the Senate calendar addendum for April 7, 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 Campbell, the Senate adjourned, to reconvene on Tuesday, April 12, 2011, at nine o'clock in the forenoon pursuant to J.R.S. 25.