

Journal of the Senate

TUESDAY, JANUARY 31, 2012

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Nancy McHugh of Waitsfield.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Message from the House No. 13

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 adopted House concurrent resolutions of the following titles:

H.C.R. 243. House concurrent resolution designating January 20, 2012 as Alzheimer's Awareness Day at the State House.

H.C.R. 244. House concurrent resolution designating nurse anesthetists week in Vermont.

H.C.R. 245. House concurrent resolution honoring the heroic radio coverage and community service of WDEV radio during Tropical Storm Irene and congratulating the broadcaster on its 80th anniversary.

H.C.R. 246. House concurrent resolution congratulating *The Vermont Cynic* on winning a 2011 Pacemaker Award for excellence in college journalism.

H.C.R. 247. House concurrent resolution in memory of Dr. Philip Harold Dunham of Brattleboro.

H.C.R. 248. House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship girls' soccer team.

H.C.R. 249. House concurrent resolution congratulating the outstanding Vermont high school women runners who participated in the 2011 Nike Cross Nationals competition.

H.C.R. 250. House concurrent resolution honoring former Director of Retirement Policy & Outreach Cynthia Webster.

H.C.R. 251. House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship boys' soccer team.

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

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 27. Senate concurrent resolution in memory of former Representative John H. Downs.

S.C.R. 28. Senate concurrent resolution celebrating the centennial anniversary of Montpelier City Hall.

S.C.R. 29. Senate concurrent resolution congratulating the 2011 Johnson State College national Division IV championship women's rugby team.

S.C.R. 30. Senate concurrent resolution recognizing the contribution of Kenric A. Kite to the development of public access television in central Vermont.

S.C.R. 31. Senate concurrent resolution honoring Dr. Frank G. Miglorie for his 41 years of service to and outstanding 28-year tenure as President of the College of St. Joseph.

S.C.R. 32. Senate concurrent resolution honoring the public service work of Brattleboro radio station WTSA during Tropical Storm Irene.

S.C.R. 33. Senate concurrent resolution congratulating Rick Cochran of Walden on being named the Vermont and National Small Business Person of the Year.

And has adopted the same in concurrence.

Joint Resolutions Placed on Calendar

Joint Senate resolutions of the following titles were severally offered, read the first time and are as follows:

By Senator Campbell,

J.R.S. 41. Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Thursday, February 16, 2012, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2012, and expiring on March 1, 2016. In case election of all such Trustees 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 in such election, until all such Trustees are elected.

By Senator Campbell,

J.R.S. 42. Joint resolution establishing a procedure for the conduct of the election of two legislative trustees of the Vermont State Colleges Corporation by plurality vote by the General Assembly in 2012.

Whereas, in recent years it has become increasingly necessary to shorten the length of time spent by the General Assembly in joint session for the election of various officials, and

Whereas, if elections for multiple vacancies were to be decided by a plurality vote, then a great savings of time can be effectuated, *now therefore be it*

Resolved by the Senate and House of Representatives:

That, notwithstanding the current provisions of Joint Rule 10, and for this election only, the election of two legislative trustees of the Vermont State Colleges Corporation at a Joint Assembly to be held on February 16, 2012, shall be governed by the following procedure:

(1) All candidates for the office of Trustee shall be voted upon and decided on the same ballot; members may vote for any number of candidates up to and including the maximum number of vacancies to be filled, which in this case shall be two.

(2) The two candidates receiving the greater number of votes shall be declared elected to fill the two vacancies.

(3) In the event that the first balloting for the Trustee vacancies results in a tie vote for one or both of the two vacant positions, then voting shall continue on successive ballots for the unfilled position or positions until the vacancies have been filled by election declared of the two candidates receiving the greater number of votes.

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.

Joint Senate Resolution Adopted on the Part of the Senate

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Carris and Mullin,

J.R.S. 43. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Thursday, February 2, 2012, or, Friday, February 3, 2012, it be to meet again no later than Tuesday, February 7, 2012.

Message from the Governor Appointments Referred

A message was received from the Governor, by Alexandra MacLean, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Kimel, David of St. Albans - Member of the Vermont Municipal Bond Bank, - from February 1, 2012, to January 31, 2014.

To the Committee on Finance.

Valente, John of Rutland - Member of the Medical Practice, Board of, - from January 1, 2012, to December 31, 2016.

To the Committee on Health and Welfare.

Bugbee, Dawn of Colcehster - Member of the Vermont Educational and Health Buildings Financing Agency, - from February 1, 2012, to January 31, 2018.

To the Committee on Finance.

Flood, Patrick of East Calais - Commissioner of the Mental Health, Department of, - from December 21, 2011, to February 28, 2013.

To the Committee on Health and Welfare.

Davies, William of Barton - Member of the Natural Resources Board/Water Resources Panel, - from December 15, 2010, to January 31, 2012.

To the Committee on Natural Resources and Energy.

Wilkel, Elizabeth of Walden - Member of the Natural Resources Board/Land Use Panel, - from February 1, 2012, to January 31, 2016.

To the Committee on Natural Resources and Energy.

Bartlett, William of Hyde Park - Alternative Member of the Natural Resources Board, - from December 30, 2012, to January 31, 2016.

To the Committee on Natural Resources and Energy.

Marro, Nicola of Montpelier - Member of the Transportation Board, - from December 28, 2011, to February 28, 2013.

To the Committee on Transportation.

Illuzzi, Eileen of Newport - Member of the Medical Practice, Board of, - from September 3, 2010, to December 31, 2011.

To the Committee on Health and Welfare.

Bill Referred

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

H. 475.

An act relating to net metering and definitions of capacity.

To the Committee on Finance.

Consideration Resumed; Proposal of Amendment Agreed to; Third Reading Ordered

H. 258.

Consideration was resumed on House bill entitled:

An act relating to public participation in environmental enforcement proceedings.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered on a roll call, Yeas 27, Nays 2.

Senator Sears 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, Fox, Galbraith, Giard, Hartwell, Illuzzi, Kitchel, Kittell, Lyons, MacDonald, Mazza, McCormack, Miller, Mullin, Nitka, Pollina, Snelling, Westman, White.

Those Senators who voted in the negative were: Sears, Starr.

The Senator absent and not voting was: Flory.

Bill Passed in Concurrence

H. 505.

House bill of the following title was read the third time and passed in concurrence:

An act relating to allowing the treasurer to defer the December 1, 2011 education payments to help towns affected by federal disasters in 2011 in Vermont.

Bill Amended; Third Reading Ordered

S. 181.

Senator Doyle, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to school resource officers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 16 V.S.A. § 1167 is added to read:

§ 1167. SCHOOL RESOURCE OFFICER; MEMORANDUM OF UNDERSTANDING

(a) Neither the state board nor the department shall regulate the use of restraint and seclusion in a school by a fully sworn school resource officer certified pursuant to 20 V.S.A. § 2358. This subsection supersedes any state board rule that purports to regulate that use.

(b) A school board or its designee may enter into a memorandum of understanding with a municipal police department or other law enforcement entity to restrict the use or possession of any weapon or device by a school resource officer on school property.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Joint Resolution Adopted in Concurrence**J.R.H. 21.**

Joint House resolution entitled:

Joint resolution supporting the establishment of the National Women's History Museum in Washington, D.C.

Having been placed on the Calendar for action, was taken up and adopted in concurrence.

Senate Resolution Adopted**S.R. 14.**

Senate resolution entitled:

Senate resolution urging Vermonters to respect personal privacy in the dissemination of information heard on a public safety scanning receiver

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

Rules Suspended; Third Reading Ordered, Rules Suspended; Bill Passed in Concurrence; Bill Messaged**H. 507.**

Appearing on the Calendar for notice, on motion of Senator White, the rules were suspended and House bill entitled:

An act relating to authorizing the city of Burlington to issue in fiscal year 2013 the school bond approved in 2009.

Was taken up for immediate consideration.

Senator White, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

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

Thereupon, on motion of Senator White, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was read the third time and passed in concurrence.

Thereupon, on motion of Senator White, the rules were suspended and the bill was ordered messaged to the House forthwith.

Message from the House No. 14

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. 59. An act relating to unfair housing practices.

H. 449. An act relating to the designation of brook trout and walleye pike as the state fish of Vermont.

H. 552. An act relating to payment of workers' compensation benefits by electronic payroll card.

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

The House has adopted joint resolution of the following title:

J.R.H. 22. Joint resolution urging each university and college in Vermont to establish offices to assist students who are United States military veterans.

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

Senate 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, were hereby adopted on the part of the Senate:

By Senators Lyons, Ashe, Baruth, Fox, Mazza, Miller and Snelling,

By Representative Aswad and others,

S.C.R. 34.

Senate concurrent resolution in memory of former Representative Alice Cook Bassett.

By Senators Lyons, Ashe, Baruth, Fox, Mazza, Miller and Snelling,

By Representative Donovan and others,

S.C.R. 35.

Senate concurrent resolution in memory of Arthur Rush Hogan Jr. of Burlington.

[The full text of the Senate concurrent resolutions appeared in the Senate calendar addendum for January 26, 2012, 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.]

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, were hereby adopted in concurrence:

By All Members of the House,

By All Members of the Senate,

H.C.R. 243.

House concurrent resolution designating January 20, 2012 as Alzheimer's Awareness Day at the State House.

By Representative Keenan and others,

By Senators Ayer, Kittell and Pollina,

H.C.R. 244.

House concurrent resolution designating nurse anesthetists week in Vermont.

By Representative Stevens and others,

By Senators Illuzzi, Cummings, Doyle and Pollina,

H.C.R. 245.

House concurrent resolution honoring the heroic radio coverage and community service of WDEV radio during Tropical Storm Irene and congratulating the broadcaster on its 80th anniversary.

By Representative Ram and others,

H.C.R. 246.

House concurrent resolution congratulating *The Vermont Cynic* on winning a 2011 Pacemaker Award for excellence in college journalism.

By Representative Edwards and others,

By Senators White and Galbraith,

H.C.R. 247.

House concurrent resolution in memory of Dr. Philip Harold Dunham of Brattleboro.

By Representative Potter and others,

H.C.R. 248.

House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship girls' soccer team.

By Representative O'Brien and others,

By Senators Lyons and Snelling,

H.C.R. 249.

House concurrent resolution congratulating the outstanding Vermont high school women runners who participated in the 2011 Nike Cross Nationals competition.

H.C.R. 250.

House concurrent resolution honoring former Director of Retirement Policy & Outreach Cynthia Webster.

By Representative Potter and others,

H.C.R. 251.

House concurrent resolution congratulating the Proctor High School Phantoms 2011 Division IV championship boys' soccer team.

[The full text of the House concurrent resolutions appeared in the House calendar addendum for January 26, 2012, 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 until one o'clock and thirty minutes in the afternoon on Thursday, February 2, 2012.