

# Journal of the Senate

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TUESDAY, FEBRUARY 14, 2012

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Kevin Rooney of Northfield.

## Pledge of Allegiance

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

## Message from the House No. 21

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. 752.** An act relating to permitting stormwater discharges in impaired watersheds.

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. 254.** House concurrent resolution congratulating the 2011 Springfield High School Division II championship softball team.

**H.C.R. 255.** House concurrent resolution urging the restoration of intercity bus service to Rutland City.

**H.C.R. 256.** House concurrent resolution congratulating Brandon Fire District #1 Superintendent Ray Counter and the Brandon Fire District #1 Prudential Committee on the district's designation as a Class II water system.

**H.C.R. 257.** House concurrent resolution congratulating Kristen Kelliher on becoming the youngest female to scale the highest points in each of the lower 48 states.

**H.C.R. 258.** House concurrent resolution recognizing the spirit of Vermont Strong online, in music, and as a commemorative license plate.

**H.C.R. 259.** House concurrent resolution congratulating the Suicide Six Ski Area in Woodstock on its 75th anniversary.

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

**S.C.R. 35.** Senate concurrent resolution in memory of Arthur Rush Hogan Jr. of Burlington.

**S.C.R. 36.** Senate concurrent resolution in memory of Rutland Regional Planning Commission Executive Director Mark Blucher.

And has adopted the same in concurrence.

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

#### **S. 189.**

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to expanding confidentiality of cases accepted by the court diversion project.

#### **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. 46.** Joint resolution relating to weekend adjournment.

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

That when the two Houses adjourn on Thursday, February 16, 2012, or, Friday, February 17, 2012, it be to meet again no later than Tuesday, February 21, 2012.

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**Joint Resolution Placed on Calendar****J.R.S. 47.**

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

By Senators Ashe, Campbell, Carris, Doyle, Illuzzi, McCormack and Nitka,

**J.R.S. 47.** Joint resolution urging the United States Postal Service not to implement its proposed major reductions and urging Congress to enact the Postal Service Protection Act.

*Whereas*, the motto of the United States Postal Service (USPS) proclaims that “neither rain, nor sleet, nor gloom of night stays these couriers from the swift completion of their appointed rounds,” and

*Whereas*, although severe weather conditions may not be a barrier to the prompt delivery of the United States mail, apparently administrative ineptitude and poor planning may prove a far more likely reason for impeded mail delivery, and

*Whereas*, in 2011, the USPS proposed a major reduction in postal services that if implemented would shutter 252 mail-processing facilities nationwide and could result in the elimination of 100,000 jobs, and

*Whereas*, in Vermont, the White River Junction mail-processing center and potentially 15 local post offices, many of them rural, could close, and

*Whereas*, should the White River Junction processing facility be closed, jobs in Burlington and Manchester, New Hampshire could also be affected, potentially resulting in an overall loss of 51 jobs and the relocation of 195 other USPS employees, and

*Whereas*, Article 1, Section 8, Clause 7 of the United States Constitution provides that “The Congress shall have Power . . . To establish Post Offices and post Roads,” and

*Whereas*, unlike most federally organized agencies, the USPS is entirely self-funded, and USPS revenues help defray the federal deficit, and were these revenues not being diverted for deficit reduction purposes, they could be used to help underwrite the cost of the USPS, and

*Whereas*, the USPS connects virtually every United States and territorial address and is a vital link for locations with inadequate Internet service, as is the case in a number of Vermont communities, and

*Whereas*, the fiscal crisis that confronts the USPS results from a requirement that it prefund its retiree health benefit fund for 75 years in

advance, within a 10-year time frame, at an annual cost of \$5.5 billion, and were this federal requirement struck, the USPS would be operating nearly debt-free and with a \$15 billion line of credit, and

*Whereas*, if these cutbacks come to fruition, the one-day in-state delivery of mail would become a two- to three-day time lag, and

*Whereas*, as an alternative to eliminating the 75-year prefunding requirement, were the price of a first class letter raised from 44 cents to 57 cents, which would still make the USPS the least expensive postal service in the industrial West, then none of the processing plants would need to be closed, and

*Whereas*, in December 2011, in response to the strong public and Congressional outcry, United States Postmaster General Patrick Donahoe delayed the implementation date until May 15, 2012, and

*Whereas*, on the night of January 4, 2012, a large crowd of approximately 500 persons attended a USPS-sponsored forum held at the American Legion Hall in White River Junction where many of the attendees, both postal workers and the general public, expressed strong opposition to the closure plans, criticizing the economic impact on both service quality and the loss of jobs, and

*Whereas*, among the attendees were Governor Peter Shumlin, Secretary of Commerce and Community Development Lawrence Miller, Commissioner of Labor Annie Noonan, the entire Vermont Congressional delegation including United States Senator Bernie Sanders, who spoke of “a death spiral for the post office,” and members of the General Assembly, all of whom were present to express their support for keeping the White River Junction processing center and all Vermont post offices open, and

*Whereas*, in response to the intended USPS reductions, Senator Bernie Sanders has introduced the Postal Service Protection Act, which would: eliminate the 75-year advance funding requirement and enable the USPS to recover the overpayment of at least \$50 billion that it has made to the fund; eliminate the prohibition on the USPS providing nonpostal services; prevent the closing of rural post offices; protect six-day delivery; and protect mail processing facilities, and

*Whereas*, the health of Vermont’s predominantly rural economy is extremely dependent on the robust operation of the United States Postal Service’s six-days-per-week delivery of documents, packages, and personal correspondence, and the closing of the White River Junction processing center

and any local post offices is not easily measurable and could result in unforeseen negative economic consequences for Vermont, and

*Whereas*, the integrity of the USPS would be severely threatened should the proposed reductions take effect, and the legislation that Senator Bernie Sanders has proposed would provide a more sound financial basis for USPS operations, *now therefore be it*

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

That the General Assembly urges the United States Postal Service not to implement its proposed major reductions and further urges Congress to enact the Postal Service Protection Act, *and be it further*

***Resolved:*** That the Secretary of State be directed to send a copy of this resolution to the Northern New England District of the United States Postal Service, to United States Postmaster General Patrick Donahoe, and to the Vermont Congressional Delegation.

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

**House Concurrent Resolution Referred**

**H.C.R. 255.**

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

By Representatives Russell of Rutland City, Acinapura of Brandon, Andrews of Rutland City, Canfield of Fair Haven, Courcelle of Rutland City, Donaghy of Poultney, Eckhardt of Chittenden, Fagan of Rutland City, French of Shrewsbury, Helm of Fair Haven, Malcolm of Pawlet, McNeil of Rutland Town, Potter of Clarendon and Shaw of Pittsford,

By Senators Carris, Flory and Mullin,

House concurrent resolution urging the restoration of intercity bus service to Rutland City.

Whereas, Rutland City, the second largest city in Vermont, has confronted transportation challenges for many years, as have many other communities in Vermont, and

Whereas, unlike Burlington, the state's largest city to the north, Rutland City lacks immediate access to the nation's interstate highway system, and highway passage to the east is especially challenging in the wintertime across Route 4, which winds on an upward path through the Green Mountains, and

Whereas, intercity Amtrak connections are limited to the Ethan Allen Express, featuring a single inbound and outbound Amtrak train each day, and

Whereas, air service is restricted to the three daily flights between Southern Vermont Regional Airport and Boston, Massachusetts, and

Whereas, although Marble Valley Regional Transit District provides bus service within Rutland City and to Fair Haven, Manchester, and Middlebury, none is offered beyond these locations, and

Whereas, for many years, Vermont Transit (which operated as a subsidiary of Greyhound Lines Inc. from the 1970s until 2008) provided intercity bus service from Rutland north to Burlington, south to Albany, New York, and east to White River Junction, with connections from these destinations to points across the United States and Canada, and

Whereas, the Albany–Burlington route, an important service along Vermont’s western corridor, was terminated in 2005, and

Whereas, the remaining two-way service from White River Junction to Rutland took to the highway for the final time in 2008, and

Whereas, the lack of even limited intercity bus service for over three years has deprived Rutland area residents of the most affordable means of long distance transportation, and presents a hurdle for travelers attempting to reach the Rutland area, and

Whereas, Rutland boasts a state-of-the-art multi-modal transit center that could readily accommodate additional bus traffic and passengers, and

Whereas, the discontinuance or lack of intercity bus service is a problem statewide, and the agency of transportation is currently undertaking a study of intercity bus needs in the state and funding priorities for the establishment of new intercity bus lines, and

Whereas, the restoration of at least limited intercity bus service would be a welcome transportation option for Rutland residents and for residents of the state as a whole, and would prove economically beneficial for the Rutland area and the state, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the agency of transportation to complete expeditiously its study of intercity bus needs and funding priorities, and urges the restoration of intercity bus service to and from Rutland and the provision of intercity bus service to and from other communities with demonstrated intercity transportation needs, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to David Leach, president and chief executive officer, Greyhound Lines Inc., Dallas, Texas; Randall Charlebois, general manager and vice president, Premier Coach Company, Inc., Milton, Vermont; Jeff Adams, director of marketing, Yankee Trails World Travel, Rensselaer, New York; Eric Chatier, manager, Dartmouth Coach, Concord, New Hampshire; Peter A. Picknelly, president and chief executive officer, Peter Pan Bus Lines Inc., Springfield, Massachusetts; John Sharrow, manager, Mountain Transit Inc, Milton, Vermont; Harry Blunt Jr., president, Concord Coach Lines, Concord, New Hampshire; and Brian Searles, Vermont secretary of transportation.

Thereupon, the President, in his discretion, treated the Concurrent resolution as a bill and referred it to the Committee on Transportation.

**Bill Referred**

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

**H. 752.**

An act relating to permitting stormwater discharges in impaired watersheds.

To the Committee on Natural Resources and Energy.

**Bill Amended; Third Reading Ordered**

**S. 245.**

Senate bill entitled:

An act relating to requiring cardiovascular care instruction as a secondary school graduation requirement.

Having been called up, was taken up.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Education?, Senator Baruth, on behalf of the Committee on Education, moved that the recommendation of amendment be amended by striking out Sec. 1 in its entirety.

Which was agreed to.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Education, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

**Bills Passed**

Senate bills of the following titles were severally read the third time and passed:

**S. 113.** An act relating to prevention, identification, and reporting of child abuse and neglect at independent schools.

**S. 236.** An act relating to health care practitioner signature authority.

**Bill Amended; Bill Passed****S. 203.**

Senate bill entitled:

An act relating to child support enforcement.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears, on behalf of the Committee on Judiciary, moved to amend the bill as follows

First: In Sec. 5, 15 V.S.A. § 662(a), after the first sentence, by adding a new sentence to read as follows: A party shall provide the affidavit of income and assets to the court and the opposing party on or before the date of the case management conference scheduled or, if no conference is scheduled, at least five business days before the date of the first scheduled hearing before the magistrate.

Second: By adding a new section to be numbered Sec. 5a to read as follows:

Sec. 5a. 15 V.S.A. § 668 is amended to read:

**§ 668. MODIFICATION OF ORDER**

(a) On motion of either parent or any other person to whom custody or parental rights and responsibilities have previously been granted, and upon a showing of real, substantial and unanticipated change of circumstances, the court may annul, vary or modify an order made under this subchapter if it is in the best interests of the child, whether or not the order is based upon a stipulation or agreement.

(b) Whenever a judgment for physical responsibility is modified, the court shall order a child support modification hearing to be set and notice to be given to the parties. Unless good cause is shown to the contrary, the court shall simultaneously issue a temporary order pending the modification hearing, if adjustments to those portions of any existing child support order or wage withholding order that pertain to any child affected by the modification are



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necessary to assure that support and wages are paid in amounts proportional to the modified allocation of responsibility between the parties.

Which was agreed to.

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

### **Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 113, S. 203, S. 236.**

### **Message from the House No. 22**

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. 565.** An act relating to regulating licensed lenders and mortgage loan originators.

**H. 754.** An act relating to the education property tax rate and base education amount for fiscal year 2013.

**H. 755.** An act relating to extending the deadline for adoption of certain health department rules.

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

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 45.** Joint resolution expressing sincere appreciation to Margaret Lucenti for her dedicated public service.

And has adopted the same in concurrence.

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until ten o'clock and fifteen minutes in the forenoon on Thursday, February 16, 2012.