

# Senate Calendar

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WEDNESDAY, JANUARY 29, 2014

**SENATE CONVENES AT: 1:30 P.M.**

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**ACTION CALENDAR**

**UNFINISHED BUSINESS OF TUESDAY, JANUARY 28, 2014**

**House Proposal of Amendment to Senate Proposal of Amendment**

**H. 524.**

An act relating to making technical amendments to education laws

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: By deleting Sec. 34 (16 V.S.A. § 254; records check for educator licensure) in its entirety and inserting in lieu thereof the following:

Sec. 34. [Deleted.]

Second: By deleting Sec. 85 (16 V.S.A. § 706g; designation of union school districts) in its entirety and inserting in lieu thereof the following:

Sec. 85. [Deleted.]

Third: By deleting Sec. 105 (16 V.S.A. § 1045; driver training course) in its entirety and inserting in lieu thereof the following:

Sec. 105. [Deleted.]

Fourth: By deleting Secs. 109 (16 V.S.A. § 1049; Adult Diploma Program and General Education Development Program) and 110 (16 V.S.A. § 1049a; High School Completion Program) in their entirety and inserting in lieu thereof the following:

Sec. 109. [Deleted.]

Sec. 110. [Deleted.]

Fifth: By deleting Sec. 130 (16 V.S.A. § 1262a; grants for school meals) in its entirety and inserting in lieu thereof the following:

Sec. 130. [Deleted.]

Sixth: By deleting Sec. 135 (16 V.S.A. § 1431(b); concussion guidelines) in its entirety and inserting in lieu thereof the following:

Sec. 135. [Deleted.]

Seventh: By deleting Sec. 146 (16 V.S.A. § 1541a; career technical education) in its entirety and inserting in lieu thereof the following:

Sec. 146. [Deleted.]

Eighth: By deleting Secs. 215 and 216 (16 V.S.A. § 3224; treasurer's report; grammar school lands) in their entirety and inserting in lieu thereof the following:

Sec. 215. [Deleted.]

Sec. 216. [Deleted.]

Ninth: By deleting Sec. 229 (16 V.S.A. § 3851(c); definition of "eligible institution") in its entirety and inserting in lieu thereof the following:

Sec. 229. [Deleted.]

Tenth: By deleting Sec. 237 (16 V.S.A. § 4011; education payments) in its entirety and inserting in lieu thereof the following:

Sec. 237. [Deleted.]

Eleventh: By deleting Sec. 289 (33 V.S.A. § 703(b); membership of Alcohol and Drug Abuse Council) in its entirety and inserting in lieu thereof the following:

Sec. 289. [Deleted.]

(For text of Senate Proposal of Amendment, see House Journal of January 9, 2014, page 56.)

## **NEW BUSINESS**

### **Third Reading**

#### **H. 198.**

An act relating to the Legacy Insurance Management Act.

### **Second Reading**

#### **Favorable**

#### **H. 593.**

An act relating to the Winooski School District Charter's term of office for the District Treasurer.

**Reported favorably by Senator French for the Committee on Government Operations.**

(Committee vote: 5-0-0)

(No House amendments)

## Favorable with Recommendation of Amendment

### S. 177.

An act relating to nonjudicial discipline.

#### **Reported favorably with recommendation of amendment by Senator McAllister for the Committee on Government Operations.**

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. chapter 39 (courts-martial) §§ 941–945 are designated as subchapter 1, which is added to read:

#### Subchapter 1. General Provisions

Sec. 2. 20 V.S.A. chapter 39 (courts-martial), subchapter 2 is added to read:

#### Subchapter 2. Nonjudicial Discipline

#### § 961. COMMANDING OFFICER NONJUDICIAL DISCIPLINE

(a)(1) A commanding officer may impose nonjudicial discipline upon a service member for minor military offenses without the intervention of a court-martial in accordance with the provisions this subchapter.

(2) The commanding officer who intends to impose nonjudicial discipline upon a service member shall notify him or her of the following:

(A) the nature of the alleged offense;

(B) the commanding officer's intent to dispose of the matter by nonjudicial discipline; and

(C) any other nonjudicial discipline procedural rights established by regulation.

(3) As used in this section, "commanding officer" shall include an officer-in-charge.

(b) A commanding officer may impose upon enlisted members of the officer's command:

(1) an admonition;

(2) a reprimand;

(3) for members who are serving on full-time military orders in excess of 179 days, the forfeiture of up to seven days of pay and, for all others, up to four days of pay;

(4) a fine of not more than seven days' pay;

(5) a reduction to the next inferior pay grade, if the grade from which the member is demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;

(6) extra duties for not more than 14 days, which need not be consecutive; and

(7) restriction to certain specified limits, with or without suspension from duty, for not more than 14 days, which need not be consecutive.

(c) A commanding officer of the grade of major or above may impose upon enlisted members of the officer's command:

(1) any discipline authorized in subdivisions (b)(1), (2), and (3) of this section;

(2) for members who are serving on full-time military orders in excess of 179 days, the forfeiture of not more than one-half of one month's pay per month for up to two months, and, for all others, up to 14 days of pay;

(3) a fine of not more than one month's pay;

(4) a reduction to the lowest or any intermediate pay grade, if the grade from which the member is demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

(5) for members who are serving on full-time military orders in excess of 179 days, the imposition of extra duties for up to 45 days which need not be consecutive, and, for all others, the imposition of extra duties for up to 14 days which need not be consecutive; and

(6) restriction to certain specified limits, with or without suspension from duty, for not more than 60 days, which need not be consecutive.

(d)(1) The Adjutant and Inspector General or an officer of a general or flag rank in command may impose:

(A) upon an officer or warrant officer of the officer's command, any discipline authorized in subdivisions (c)(1), (2), (3), and (6) of this section;

(B) upon an enlisted member of the officer's command, any discipline authorized in subsection (c) of this section.

(2) The Adjutant and Inspector General or an officer of a general or flag rank in command may delegate his or her powers under this subsection to a principle assistant who is a member of the Vermont National Guard.

(e) Whenever any disciplines imposed under this section are to be served consecutively, the total length of the combined discipline shall not exceed the authorized duration of the longest discipline in the combination, and there shall be an apportionment of disciplines so that no single discipline in the combination exceeds its authorized length.

(f)(1) The officer who imposes the discipline or his or her successor in command may at any time suspend, set aside, mitigate, or remit any part or amount of the discipline and restore all rights, privileges, and property affected. The officer also may mitigate a reduction in grade to a forfeiture of pay or mitigate extra duties to a restriction to certain specified limits.

(2) The mitigated discipline shall not be for a greater period than the original discipline mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the discipline.

(g) Whenever a discipline of forfeiture of pay is imposed under this section, the forfeiture may apply to pay accruing before, on, or after the date that discipline is imposed.

#### § 962. SERVICE MEMBERS SUBJECT TO NONJUDICIAL DISCIPLINE

(a) A service member subject to nonjudicial discipline under this subchapter shall, during the course of his or her disciplinary proceedings, have the right to:

(1) consult with a judge advocate or with private counsel at the service member's own expense;

(2) submit matters in extenuation, mitigation, or defense; and

(3) call and examine witnesses, to the extent witness are reasonably available.

(b)(1) Except as provided in subdivision (2) of this subsection, a service member subject to nonjudicial discipline shall have the right to demand a court-martial in lieu of nonjudicial discipline.

(2) A service member subject to nonjudicial discipline shall not have the right to demand a court-martial in lieu of nonjudicial discipline if the service member is notified by the commanding officer that the commanding officer does not intend to impose a restriction to certain specified limits, a fine, or extra duties if, after a hearing, the service member is found guilty of any offense with which he or she is charged.

(c)(1) A service member subject to nonjudicial discipline under this subchapter may elect to have his or her case heard before a nonjudicial discipline panel, described in section 963 of this subchapter.

(2) The service member shall have 24 hours from the commanding officer's notice of his or her intent to dispose of the matter by nonjudicial discipline to make an election for disposition by a nonjudicial panel, and shall have the right to consult with a judge advocate or with private counsel at the service member's own expense prior to making such a decision.

#### § 963. NONJUDICIAL DISCIPLINE PANELS

(a) When a service member elects to have his or her case heard before a nonjudicial discipline panel as provided in section 962 of this subchapter, the panel shall be formed as follows:

(1) The panel shall consist of three members, appointed by the next higher authority of the commanding officer who seeks to impose the nonjudicial discipline.

(2) The members of the panel shall be officers who are senior to the service member requesting the panel. If it is an enlisted service member requesting the panel, there shall be at least one enlisted service member on the panel, but that enlisted service member must be senior to the enlisted service member requesting the panel.

(3) The senior member of the panel shall be the chair. The most junior member shall be the recorder and shall record summaries of the proceedings.

(4) If the nonjudicial discipline is being offered by a general officer, the panel shall consist of three members appointed by the Adjutant and Inspector General with the most senior member being the chair and the most junior member being the recorder, who shall record the summaries of the proceedings.

(b) The panel decision shall be by majority vote. The panel shall have the same authority and responsibility in conducting the proceeding and disposing of the matter, including imposing nonjudicial discipline, as has a commanding officer of the grade of major or above pursuant to this subchapter.

(c)(1) The panel shall forward its recommendation for disposition and imposition of discipline, if any, to the authority who appointed the panel under subsection (a) of this section.

(2)(A) The appointing authority may approve the recommended discipline or any part or amount as the appointing authority sees fit and may

suspend, mitigate, or remit the recommended discipline as he or she deems appropriate.

(B) The appointing authority shall not approve any discipline in excess of that recommended by the panel.

#### § 964. APPEALS FROM NONJUDICIAL DISCIPLINE DECISIONS

(a)(1) A service member disciplined under this subchapter who considers the discipline unjust or disproportionate to the offense may appeal to the next superior authority within 15 days after the discipline is either announced or notice of the discipline is sent to the accused, as the commander under section 961 or the appointing authority under section 963 of this subchapter may determine.

(2) An appeal from the decision of an appointing authority under section 963 of this subchapter shall be taken directly to the next higher authority, unless the action is initiated by a general officer, in which case the Adjutant and Inspector General shall have the final decision.

(b) The appeal shall be promptly forwarded and decided, but the service member disciplined may, in the meantime, be required to undergo the discipline adjudged.

(c)(1) The superior authority may exercise the same powers with respect to the discipline imposed as may be exercised under section 961 or 963 of this subchapter by the officer who imposed the discipline, except that the superior authority shall not impose any discipline in excess of what was originally imposed.

(2) Before acting on an appeal, the authority may refer the case to a judge advocate for consideration and advice.

#### § 965. EFFECT OF NONJUDICIAL DISCIPLINE

(a) The imposition and enforcement of nonjudicial discipline under this subchapter for any act or omission shall not be a bar to trial by court-martial or a civilian court of competent jurisdiction for a serious crime or offense growing out of the same act or omission and not properly punishable under this subchapter.

(b) The fact that nonjudicial discipline has been enforced may be shown by the accused upon trial and, when so shown, it shall be considered in determining the measure of discipline to be adjudged in the event of a finding of guilty.

#### Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2014.

(Committee vote: 5-0-0)



## Report of Committee of Conference

### S. 41.

An act relating to water and sewer service.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S.41. An act relating to water and sewer service.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 5143 is amended to read:

§ 5143. DISCONNECTION OF SERVICE

\* \* \*

(c) The tenant of a rental dwelling noticed for disconnection due to the delinquency of the ratepayer shall have the right to request and pay for continued service from the utility or reconnection of water and sewer service for the rental dwelling, which the utility shall provide. If any water and sewer charges or fees are included in the tenant's rent, the tenant may deduct the cost of any water and sewer service charges or fees paid to the municipality from his or her rent pursuant to 9 V.S.A. § 4459. Under such circumstances, the utility shall not require the tenant to pay any arrearage greater than one billing cycle.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

*ANTHONY POLLINA  
ELDRED FRENCH  
JOSEPH C. BENNING*

*Committee on the part of the Senate*

*RONALD E. HUBERT  
LINDA J. MARTIN  
ANNE H. MOOK*

*Committee on the part of the House*

## **ORDERED TO LIE**

### **S. 165.**

An act relating to collective bargaining for deputy state's attorneys.

**PENDING ACTION:** Third reading of the bill.

## **CONFIRMATIONS**

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Alfred J. Gobeille of Shelburne – Chair of the Green Mountain Care Board – By Sen. Lyons for the Committee on Health and Welfare. (1/29/14)

Mary Lintermann of Stowe – Member of the Vermont Economic Progress Council – By Sen. Collins for the Committee on Economic Development, Housing and General Affairs. (1/30/14)

Mary Anne Gucciardi of So. Burlington – Member of the Employment Security Board – By Sen. Collins for the Committee on Economic Development, Housing and General Affairs. (1/30/14)

Brian Vachon of Middlesex – Member of the Community High School of Vermont Board – By Sen. Collins for the Committee on Education. (1/30/14)

## **PUBLIC HEARINGS**

**Thursday, January 30, 2014** - Room 11 – 10:00 A.M. – 12:00 P.M. – Re: H.208 Earned Sick Days – House Committee on General, Housing, and Military Affairs.

**Thursday, January 30, 2014** – Room 11 – 5:00 – 7:00 P.M. – Re: S.287 Involuntary Treatment and Medication - Senate Committees on Judiciary and Health and Welfare.

**Wednesday, February 6, 2014** – House Chamber – 6:00 – 8:00 P.M. – Re: H.112 Labeling Genetically Modified food products – Senate Committees on Agriculture and Judiciary.

**Thursday, February 13, 2014** – House Chamber – 7:00 - 9:00 P.M. – Re: H.286 Improving the quality of State Waters – House Committee on Agriculture.

**Wednesday, February 19, 2014** – Room 11 – 7:00 – 8:30 P.M. Re: Judicial Retention of Judges – Joint Committee on Judicial Retention.

### **PUBLIC HEARING**

#### **Joint Public Hearing on Fiscal Year 2015 state budget via Vermont Interactive Technologies House and Senate Committees on Appropriations**

**Monday, February 10, 2014, 4:00 - 6:30 p.m.** – The House and Senate Committees on Appropriations will hold a joint public hearing on Vermont Interactive Technologies (V.I.T.) to give Vermonters throughout the state an opportunity to express their views about the state budget for fiscal year 2015. All 13 V.I.T. sites will be available for the hearing: Bennington, Brattleboro, Johnson, Lyndonville, Middlebury, Montpelier, Newport, Randolph Center, Rutland, Springfield, St. Albans, White River Junction and Williston. V.I.T.'s web site has an up-to-date location listing, including driving directions, addresses and telephone numbers, <http://www.vitlink.org/>.

The budget hearing will be VIEWABLE via the Internet if your computer has Flash-based streaming capabilities. Some mobile devices may require additional software.

Go to [www.vitlink.org/streamingmedia/vtcvitopen.php](http://www.vitlink.org/streamingmedia/vtcvitopen.php).

The Governor's budget proposal can be viewed at the Department of Finance's website: [http://finance.vermont.gov/state\\_budget/rec](http://finance.vermont.gov/state_budget/rec). For information about the format of this event or to submit written testimony, call the House Appropriations Committee office at (802) 828-5767 or email [tutton@leg.state.vt.us](mailto:tutton@leg.state.vt.us). Requests for interpreters should be made to the office by 3:00 p.m. on Monday, January 27, 2014.

### **REPORTS ON FILE**

#### **Reports 2014**

Pursuant to the provisions of 2 V.S.A. §20(c), one (1) hard copy of the following report is on file in the office of the Secretary of the Senate. Effective January 2010, pursuant to Act No. 192, Adj. Sess. (2008) §5.005(g) some reports will automatically be sent by electronic copy only and can be found on the State of Vermont Legislative webpage.

1. Sexual Assault and Sexual Harassment; Report. (Vermont National Guard) (November 2013)

### **NOTICE OF JOINT ASSEMBLY**

**Thursday, February 20, 2014 - 10:30 A.M.** - Election of two (2) trustees for the Vermont State Colleges Corporation.

Candidates for the positions of trustee must notify the Secretary of State **in writing** not later than Thursday, February 13, 2014, by 5:00 P.M. pursuant to the provisions of 2 V.S.A. §12(b). Otherwise their names will not appear on the ballots for these positions.

The following rules shall apply to the conduct of these elections:

First: All nominations for these offices will be presented in alphabetical order prior to voting.

Second: There will be only one nominating speech of not more than three (3) minutes and not more than two seconding speeches of not more than one (1) minute each for each nominee.