

Journal of the House

Wednesday, January 8, 2014

At twelve o'clock noon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Rules Suspended; House Bills Introduced

Pending first reading of the bills, on motion of **Rep. Turner of Milton**, the rules were suspended and the bills were read the first time by number and referred or placed on the Calendar as follows:

H. 560

By Rep. Wizowaty of Burlington,
House bill, entitled

An act relating to requiring law enforcement agencies to develop policies to resolve conflicts in the community and address misconduct without making arrests or filing criminal charges;

To the committee on Judiciary.

H. 561

By Rep. Wizowaty of Burlington,
House bill, entitled

An act relating to requiring that all law enforcement agencies collect data on traffic stops including drivers' age, gender, race, and ethnicity;

To the committee on Judiciary.

H. 562

By Reps. Ancel of Calais and Klein of East Montpelier,
House bill, entitled

An act relating to establishing speed limits on town highways;

To the committee on Transportation.

H. 563

By Reps. Botzow of Pownal, Bouchard of Colchester, Carr of Brandon,

Cross of Winooski, Dickinson of St. Albans Town, Kitzmiller of Montpelier, Marcotte of Coventry, Ralston of Middlebury and Young of Glover,

House bill, entitled

An act relating to captive insurance laws and accreditation standards;

To the committee on Commerce and Economic Development.

Joint Resolution Adopted in Concurrence

J.R.S. 34

By Senator Campbell,

J.R.S. 34. Joint resolution to provide for a Joint Assembly to hear the budget message of the Governor.

Resolved by the Senate and House of Representatives:

That the two Houses meet in Joint Assembly on Wednesday, January 15, 2013, at two o'clock in the afternoon to receive the budget message of the Governor.

Was taken up read and adopted in concurrence.

Joint Resolution Adopted in Concurrence

J.R.S. 35

By Senator Campbell,

J.R.S. 35. Joint resolution relating to Town Meeting adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, February 28, 2014, or Saturday, March 1, 2014, it be to meet again no later than Tuesday, March 11, 2014.

Was taken up read and adopted in concurrence.

Joint Resolution Adopted in Concurrence

J.R.S. 36

By Senators Baruth and Benning,

J.R.S. 36. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, January 10, 2014, it be to meet again no later than Tuesday, January 14, 2014.

Was taken up read and adopted in concurrence.

Action on Bill Postponed**S. 25**

Senate bill, entitled

An act relating to public advocacy in utility matters

Was taken up and pending the reading of the report of the committee on Commerce and Economic Development, on motion of **Rep. Botzow of Pownal**, action on the bill was postponed until the next legislative day.

Action Postponed**H. 524**

The Senate proposed to the House to amend House bill, entitled

An act relating to making technical amendments to education laws

First: By striking Secs. 16 through 22 in their entirety and inserting in lieu thereof 7 new sections to be Secs. 16 through 22 to read:

Sec. 16. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 1, subchapter 2, which shall include §§ 41–55, is added to read:

Subchapter 2. Federal Funds

* * *

Sec. 17. 16 V.S.A. § 168 is amended to read:

§ ~~168~~ 41. ~~AUTHORITY OF STATE BOARD OF EDUCATION AGENCY TO UTILIZE USE~~ FEDERAL FUNDS TO AID EDUCATION

(a) The ~~state board~~ Agency of Education is designated as the sole state agency to establish and administer ~~through the department of education~~ any statewide plan ~~which is now or hereafter may be~~ required as a condition for receipt of federal funds ~~as may be made available to the state of Vermont by the Congress of the United States, or administrative ruling pursuant thereto, State~~ for any educational purposes, including technical education and adult education and literacy. ~~It~~ The Agency shall also be the agency to accept and administer federal funds ~~which federal legislation requires that require administration by~~ a state education agency having jurisdiction of elementary and secondary education ~~to administer~~.

(b) Subject to the approval of the ~~governor~~ Governor, the ~~board~~ Agency may accept and ~~utilize such~~ use federal funds. It may establish criteria and procedures to conform with any requirements established for the use of ~~such~~

the funds and may take such other action as may be required to comply with any condition for receipt of ~~such~~ federal aid.

Sec. 18. 16 V.S.A. § 169 is amended to read:

§ ~~169~~ 42. ACCEPTANCE, DISTRIBUTION AND ACCOUNTING OF FEDERAL FUNDS

(a) The ~~state treasurer~~ State Treasurer, acting upon the order of the ~~commissioner or his or her authorized representative~~ Secretary, shall accept, distribute, and account for federal funds available for use by the ~~state board~~ Agency. Funds shall be distributed and accounted for by the ~~state treasurer~~ State Treasurer in accordance with the laws of ~~this state~~ Vermont, but if there is a conflict between those laws; and the laws or regulations of the United States, then federal law shall apply. The ~~commissioner~~ Secretary shall ~~cause to be submitted to the United States such detailed statements of the amounts so prepare and submit federally required statements of funds received and disbursed as shall be required by the United States.~~ The ~~commissioner~~ Secretary shall cause an audit to be made of ~~such~~ the federal funds and shall submit a copy thereof to a properly authorized official of the United States of the audit as required by the laws or regulations of the United States federal law. ~~Such~~ The audit shall be supported by any reports from the supervisory union, local school districts, or other recipients of federal funds as may be required by the ~~commissioner or the United States~~ Secretary or the federal government.

(b) The ~~state treasurer may deliver to the superintendent or~~ State Treasurer may directly deposit checks payable to a supervisory union or ~~to any school district within that supervisory union~~ it or may deliver checks to the superintendent of the supervisory union.

* * *

Sec. 19. 16 V.S.A. § 144b is amended to read:

§ ~~144b~~ 43. FEDERAL EDUCATION AID FUNDS; ADMINISTRATION; LOCAL EDUCATION AGENCY

(a) The ~~state board of education~~ Agency, as sole state agency, may administer ~~such~~ federal funds as may be made available to the ~~state~~ State under ~~Public Law 89-10, known as the Elementary and Secondary Education Act of 1965, Public L. No. 89-10, as amended, and Public Law 107-110, known as the No Child Left Behind Act of 2001, Public L. No 107-110.~~ Those funds may be accepted and shall be distributed and accounted for by the ~~state treasurer~~ State Treasurer in accordance with that law and rules and regulations

of the United States issued under it if there is conflict between that law or those rules and regulations and the laws of this ~~state~~ State.

(b) For purposes of distribution of funds under this section, a supervisory union ~~or supervisory district~~ shall be a local education agency as that term is defined in 20 U.S.C. § 7801(26).

(c) For purposes of determining pupil performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318, a school district shall be a local education agency.

Sec. 20. [Deleted.]

Sec. 21. 16 V.S.A. § 172 is amended to read:

§ ~~172~~ 44. FEDERAL FUNDS; SCHOOL FOOD PROGRAMS

The ~~state board~~ Agency is authorized to accept and use federal funds made available ~~by legislation of the congress to the several states~~ to the State for school food programs under the National School Lunch Act, ~~The~~ the Child Nutrition Act, and any amendments ~~thereto~~ to those laws.

Sec. 22. REDESIGNATION; ADDITION OF SUBCHAPTER

16 V.S.A. chapter 3, subchapter 2, which shall include §§ 175–178, is added to read:

Subchapter 2. Postsecondary Schools

* * *

Second: By striking out Sec. 69 in its entirety.

Third: In Sec. 113, 16 V.S.A. § 1071, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read:

(e) Regional calendar. Before April 1 of each year, the superintendents of schools and the headmasters of public schools not managed by school boards in an area shall meet, and by majority vote, establish a uniform calendar within that area for the following school year. The calendar shall include student attendance days, periods of vacation, holidays, and teacher in-service education days and shall comply with subsection (a) of this section. Unless permitted by the ~~commissioner~~ Secretary, no area served by a regional technical center shall be divided into two or more calendar regions.

Fourth: By striking out Sec. 233 in its entirety.

Fifth: By striking out Sec. 303 (effective date) in its entirety, and inserting six new sections to be Secs. 303 through 308 to read as follows:

* * * Special Education Employees; Transition to Employment
by Supervisory Unions * * *

Sec. 303. 2010 Acts and Resolves No. 153, Sec. 18, as amended by 2011 Acts and Resolves No. 58, Sec. 18, is further amended to read:

Sec. 18. TRANSITION

(a) Each supervisory union shall provide for any transition of employment of special education and transportation ~~staff~~ employees by member districts to employment by the supervisory union, pursuant to Sec. 9 of this act, 16 V.S.A. § 261a(a)(6), and (8)(E) by:

(1) providing that the supervisory union assumes all obligations of each existing collective bargaining agreement in effect between the member districts and their special education employees and their transportation employees until the agreement's expiration, subject to employee compliance with performance standards and any lawful reduction in force, layoff, nonrenewal, or dismissal;

(2) providing, in the absence of an existing recognized representative of its employees, for the immediate and voluntary recognition by the supervisory union of the recognized representatives of the employees of the member districts as the recognized representatives of the employees of the supervisory union;

(3) ensuring that an employee of a member district who is not a probationary employee shall not be considered a probationary employee upon transition to the supervisory union; and

(4) ~~containing an agreement~~ negotiating a collective bargaining agreement, addressing special education employees, with the recognized representatives of the employees of the member districts that is effective on the day the supervisory union assumes obligations of existing agreements regarding how the supervisory union, prior to reaching its first collective bargaining agreement with its special education employees and with its transportation employees, will address issues of seniority, reduction in force, layoff, and recall, which, for the purposes of this section, shall be: the exclusive representative of special education teachers; the exclusive representative of the special education administrators; and the exclusive bargaining agent for special education paraeducators if the supervisory union has elected to employ special education paraeducators pursuant to subdivision (b)(3) of this section. The supervisory union shall become the employer of these employees on the date specified in the ratified agreement.

(b) For purposes of this section and Sec. 9 of this act, "special education employee" shall include a special education teacher, a special education

administrator, and a special education paraeducator, which means a teacher, administrator, or paraeducator whose job assignment consists of providing special education services directly related to students' individualized education programs or to the administration of those services. Provided, however, that "special education employee" shall include a "special education paraeducator" only if the supervisory union board elects to employ some or all special education paraeducators because it determines that doing so will lead to more effective and efficient delivery of special education services to students. If the supervisory union board does not elect to employ all special education paraeducators, it must use objective, nondiscriminatory criteria and identify specific duties to be performed when determining which categories of special education paraeducators to employ.

(c) Education-related parties to negotiations under either Title 16 or 21 shall incorporate in their current or next negotiations matters addressing the terms and conditions of special education employees.

(d) If a supervisory union has not entered into a collective bargaining agreement with the representative of its prospective special education employees by August 15, 2015, it shall provide the Secretary of Education with a report identifying the reasons for not meeting the deadline and an estimated date by which it expects to ratify the agreement.

Sec. 304. 16 V.S.A. § 1981(8) is amended to read:

(8) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in professional negotiations with a teachers' or administrators' organization.

Sec. 305. 21 V.S.A. § 1722(18) is amended to read:

(18) "School board negotiations council" means, for a supervisory district, its school board, and, for school districts within a supervisory union, the body comprising representatives designated by each school board within the supervisory union and by the supervisory union board to engage in collective bargaining with their school employees' negotiations council.

Sec. 306. APPLICABILITY

Only school districts and supervisory unions that have not completed the transition of special education employees to employment by the supervisory union or have not negotiated transition provisions into current master agreements as of the effective dates of Secs. 24 through 27 of this act are subject to the employment transition provisions of those sections.

Sec. 307. REPORT

On or before January 1, 2017, the Secretary of Education shall report to the House and Senate Committees on Education regarding the decisions of supervisory unions to exercise or not to exercise the flexibility regarding employment of special education paraeducators provided in Sec. 24 of this act and may propose amendments to Sec. 24 or to related statutes as he or she deems appropriate.

Sec. 308. EFFECTIVE DATE

This act shall take effect on passage.

Pending the question, Shall the House concur in the State proposal of amendment? on motion of **Rep. Stuart of Brattleboro**, action on the bill was postponed until the next legislative day.

Adjournment

At twelve o'clock and sixteen minutes in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.