

Journal of the House

Friday, May 8, 2015

At nine o'clock and thirty minutes in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by the Speaker.

Memorial Service

The Speaker placed before the House the following name of member of past sessions of the Vermont General Assembly who had passed away recently:

Alvin W. Warner, Member of the House 1973, 1975 & 1977

Thereupon, the members of the House rose for a moment of prayer in memory of the deceased member. The Clerk was thereupon directed to send a copy of the House Journal to the bereaved family

Message from the Senate No. 60

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill of the following title:

H. 105. An act relating to disclosure of sexually explicit images without consent.

And has concurred therein.

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

H. 18. An act relating to Public Records Act exemptions.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 139. An act relating to pharmacy benefit managers and hospital observation status.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill entitled:

S. 9. An act relating to improving Vermont's system for protecting children from abuse and neglect.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Sears
Senator Flory
Senator Lyons

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill entitled:

S. 122. An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles.

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Mazza
Senator Degree
Senator Westman.

Third Reading; Bill Passed in Concurrence

S. 41

Senate bill, entitled

An act relating to developing a strategy for evaluating the effectiveness of individual tax expenditures

Was taken up, read the third time and passed in concurrence.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment**

S. 73

Senate bill, entitled

An act relating to State regulation of rent-to-own agreements for merchandise

Was taken up, read the third time and passed in concurrence with proposal of amendment.

Favorable Report; Third Reading Ordered

H. 508

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the Town of Middlebury

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Favorable Report; Third Reading Ordered

S. 18

Rep. Grad of Moretown, for the committee on Judiciary, to which had been referred House bill, entitled

An act relating to privacy protection

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 25

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

An act relating to natural burial grounds

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 2, 18 V.S.A. § 5319, by striking out subsection (b) subdivision (1) in its entirety and inserting in lieu thereof the following:

(b)(1) ~~No interment~~ Interment of any human body in the earth shall not be made unless the distance from the bottom of the outside coffin or body shall be at least five feet below the natural surface of the ground, excepting only infants under four years of age, whose bodies shall be so interred that the bottom of the outside coffin enclosing them shall be at least three and one-half feet below

the natural surface of the ground or if buried without a coffin shall be so interred that the bottom of the body shall be at least five feet below the natural surface of the ground.

Second: In Sec. 3, 18 V.S.A. § 5323, by striking out subsection (a) subdivision (1) in its entirety and inserting in lieu thereof the following:

(1) section 5310 of this title with regard to the method of platting so as to allow the use of any nonstandard method of locating human remains that enables demarcation in the town land record of the exact location and identity of each buried body, such as by mapping, surveying, or use of a global positioning system;

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed

H. 477

House bill, entitled

An act relating to miscellaneous amendments to election law

Was taken up and pending the question, Will the House concur in the Senate Proposal of amendment?, on motion of **Rep. Cole of Burlington**, action on the bill was postponed for two legislative days.

Recess

At ten o'clock and seven minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock, the Speaker called the House to order.

Committee of Conference Appointed

S. 9

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to improving Vermont's system for protecting children from abuse and neglect

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Pugh of South Burlington

Rep. Grad of Moretown

Rep. Burditt of West Rutland

**Rules Suspended; Taken up for Immediate Consideration; Senate
Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed; Rules Suspended;
Bill Messaged to the Senate**

H. 361

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to making amendments to education funding, education spending, and education governance

Was taken up for immediate consideration.

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

An act relating to making amendments to education funding, education spending, and education governance

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. FINDINGS

(a) Vermont's kindergarten through grade 12 student population has declined from 103,000 in fiscal year 1997 to 78,300 in fiscal year 2015.

(b) The number of school-related personnel has not decreased in proportion to the decline in student population.

(c) The proportion of Vermont students with severe emotional needs has increased from 1.5 percent of the population in fiscal year 1997 to 2.3 percent in fiscal year 2015. In addition, the proportion of students from families in crisis due to loss of employment, opiate addiction, and other factors has also increased during this time period, requiring the State's public schools to fulfill an array of human services functions.

(d) From July 1997 through July 2014, the number of Vermont children ages 6 through 17 residing with families receiving nutrition benefits has increased by 47 percent, from 13,000 to 19,200. While other factors affect student academic performance, studies demonstrate that when the percentage of students in a school who are living in poverty increases, student performance and achievement have a tendency to decrease.

(e) With 13 different types of school district governance structures, elementary and secondary education in Vermont lacks cohesive governance and delivery systems. As a result, many school districts:

(1) are not well-suited to achieve economies of scale; and

(2) lack the flexibility to manage, share, and transfer resources, including personnel, with other school districts and to provide students with a variety of high quality educational opportunities.

(f) 16 V.S.A. § 4010(f) was enacted in 1999 to protect school districts, particularly small school districts, from large, sudden tax increases due to declining student populations. The steady, continued decline in some districts, together with the compounding effect of the legislation as written, has inflated the equalized pupil count in some districts by as much as 77 percent, resulting in artificially low tax rates in those communities.

(g) National literature suggests that the optimal size for student learning is in elementary schools of 300 to 500 students and in high schools of 600 to 900 students. In Vermont, the smallest elementary school has a total enrollment of 15 students (kindergarten–grade 6) and the smallest high school has a total enrollment of 55 students (grades 9–12). Of the 300 public schools in Vermont, 205 have 300 or fewer enrolled students and 64 have 100 or fewer enrolled students. Of those 64 schools, 16 have 50 or fewer enrolled students.

(h) National literature suggests that the optimal size for a school district in terms of financial efficiencies is between 2,000 and 4,000 students. The smallest Vermont school district has an average daily membership (ADM) of six students, with 79 districts having an ADM of 100 or fewer students. Four Vermont school districts have an ADM that exceeds 2,000 students.

(i) Vermont recognizes the important role that a small school plays in the social and educational fabric of its community. It is not the State's intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models.

(j) The presence of multiple public schools within a single district not only supports flexibility in the management and sharing of resources, but it promotes innovation. For example, individual schools within a district can more easily develop a specialized focus, which, in turn, increases opportunities for students to choose the school best suited to their needs and interests.

* * * Preferred Education Governance Structure; Alternative Structure * * *

Sec. 2. PREFERRED EDUCATION GOVERNANCE STRUCTURE;
ALTERNATIVE STRUCTURE

(a) Preferred structure: prekindergarten–grade 12 district. In order to provide substantial equity in the quality and variety of educational opportunities statewide; to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources; and to promote transparency and accountability, the preferred education governance structure in Vermont is a school district that:

(1) is responsible for the education of all resident prekindergarten through grade 12 students;

(2) is its own supervisory district;

(3) has a minimum average daily membership of 900; and

(4) is organized and operates according to one of the four most common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12;

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for all resident students in grade 7 through grade 12; or

(D) a district that operates no schools and pays tuition for all resident students in prekindergarten through grade 12.

(b) Alternative structure: supervisory union. A single prekindergarten–grade 12 district as envisioned in subsection (a) of this section may not be possible or the best model to achieve Vermont’s education goals in all regions of the State. In such situations, a supervisory union composed of multiple member districts, each with its separate school board, can meet the State’s goals, particularly if:

(1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

(2) the supervisory union operates in a manner that maximizes efficiencies through economies of scale and flexible management, transfer, and sharing of nonfinancial resources among the member districts; and

(3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns.

* * * Intent; Protections * * *

Sec. 3. SCHOOL CLOSURE; SMALL SCHOOLS; TUITION PAYMENT;
SCHOOL OPERATION; PROTECTIONS; INTENT

(a) School closure; intent. It is not the State's intent to close schools and nothing in this act shall be construed to require, encourage, or contemplate the closure of schools in Vermont.

(b) Small schools; intent. As stated in Sec. 1 (findings), it is not the State's intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models.

(c) Tuition payment; school operation; protection; intent.

(1) Tuition payment; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades if it chooses to do so and shall not require the district to limit the options available to students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(2) School operation; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades if it chooses to do so and shall not require the district to pay tuition for students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(3) Tuition payment; school operation; intent. Nothing in this act shall be construed to restrict or repeal, or to authorize, encourage, or contemplate the restriction or repeal of, the ability of a school district that, as of the effective date of this section, provides for the education of all resident students in one or more grades:

(A) by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades; or

(B) by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades.

* * * Voluntary Mergers; Incentives; REDS * * *

Sec. 4. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the effective date of merger ~~is on or before July 1, 2017~~ on which the new district becomes operational is on or before July 1, 2020.

Sec. 5. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

* * *

(h) ~~This section is repealed on July 1, 2017.~~ [Repealed.]

* * * Accelerated Activity; Enhanced Incentives * * *

Sec. 6. ACCELERATED MERGER; SUPERVISORY UNION BECOMING A SUPERVISORY DISTRICT; INCENTIVES; REPORT

(a) A newly formed school district shall receive the incentives set forth in subsection (b) of this section if it:

(1) is formed by merging the governance structures of all member districts of a supervisory union into one unified union school district pursuant to the processes and requirements of 16 V.S.A. chapter 11; and, in addition, could include merger with a neighboring supervisory district;

(2) obtains an affirmative vote of all "necessary" districts on or after July 1, 2015, and prior to July 1, 2016;

(3) is responsible for the education of all resident prekindergarten through grade 12 students;

(4) is its own supervisory district;

(5) has a minimum average daily membership of 900 in its first year of operation; and

(6) is organized and operates according to one of the following common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(7) demonstrates in the study committee report presented to the State Board and district voters pursuant to 16 V.S.A. chapter 11 that the proposed governance changes will result in:

(A) increased equity in the quality and variety of educational opportunities;

(B) increased operational efficiencies, through enhanced flexibility to manage, share, and transfer resources;

(C) increased transparency and accountability; and

(D) reduced expenditures per equalized pupil;

(8) becomes operational on or before July 1, 2017; and

(9) provides data as requested by the Agency of Education and otherwise assists the Agency to assess whether and to what extent the consolidation of its governance results in increased educational opportunities, operational efficiencies, transparency, and accountability.

(b) A newly formed school district that meets the criteria set forth in subsection (a) shall receive the following:

(1) Decreased equalized homestead property tax rate or accelerated action incentive grant. A new district's plan of merger shall provide whether, upon creation of the new district, the district shall receive decreased equalized homestead property tax rates during the first five years of operation pursuant to subdivision (A) or an incentive grant during the first year of operation pursuant to subdivision (B):

(A)(i) Decreased homestead property tax rates. Subject to the provisions of subdivision (iii) of this subdivision (A) and notwithstanding any other provision of law, the new district's equalized homestead property tax rate shall be:

(I) decreased by \$0.10 in the first fiscal year of operation;

(II) decreased by \$0.10 in the second fiscal year of operation;

(III) decreased by \$0.08 in the third fiscal year of operation;

(IV) decreased by \$0.06 in the fourth fiscal year of operation; and

(V) decreased by \$0.04 in the fifth fiscal year of operation.

(ii) The household income percentage shall be calculated accordingly.

(iii) During the years in which a new district's equalized homestead property tax rate is decreased pursuant to this subdivision (A), the rate for each town within the new district shall not increase by more than five percent in a single year. The household income percentage shall be calculated accordingly.

(B) Accelerated action incentive grant. During the first fiscal year of operation, the Secretary of Education shall pay to the new district's board an accelerated action incentive grant from the Education Fund equal to \$400.00 multiplied by the total number of resident students in the new district in that year. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(C) Common level of appraisal. Regardless of whether a new district chooses to receive decreased homestead property tax rates or an accelerated action incentive grant, on and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the new district for purposes of determining the homestead property tax rate for each town.

(2) Merger support grant. Notwithstanding any provision of law to the contrary, if the districts forming the new district include at least one "eligible school district," as defined in 16 V.S.A. § 4015, that received a small school support grant under section 4015 in fiscal year 2016, then the new district shall receive an annual merger support grant in each of the first five fiscal years after it begins operation in an amount equal to the small school support grant received by the eligible school district in fiscal year 2016. If more than one merging district was an eligible school district, then the merger support grant

shall be in an amount equal to the total combined small school support grants they received in fiscal year 2016.

(3) Transition facilitation grant. After voter approval of the plan of merger, the Secretary of Education shall pay the transitional board of the new district a transition facilitation grant from the Education Fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) \$150,000.00.

(c) If a new district that receives incentives under this section also meets the eligibility criteria to receive incentives as a regional education district (RED), then the district shall not receive the incentives available to a RED pursuant to 2010 Acts and Resolves No. 153, subsections 4(a), (d), (e) or (g), as amended by 2012 Acts and Resolves No. 156, Sec. 13.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Sharpe of Bristol** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Sharpe of Bristol
Rep. Juskiewicz of Cambridge
Rep. Donovan of Burlington

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Rules Suspended; All Remaining Stages of Passage; Rules Suspended;
Messaged to the Senate Forthwith**

H. 508

House bill, entitled

An act relating to approval of amendments to the charter of the Town of Middlebury

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed and, on motion of **Rep. Turner of Milton** the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Message from Governor

A message was received from His Excellency, the Governor, by Ms. Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. Speaker:

I am directed by the Governor to inform the House that on the seventh day of May, 2015, he approved and signed bills originating in the House of the following titles:

H. 86 An act relating to the Uniform Interstate Family Support Act

H. 304 An act relating to making miscellaneous amendments to Vermont's retirement laws

H. 310 An act relating to limited liability companies

Message from the Senate No. 61

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 361. An act relating to making amendments to education funding, education spending, and education governance.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Message from the Senate No. 62

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

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

H. 480. An act relating to making miscellaneous technical and other amendments to education laws.

H. 492. An act relating to capital construction and State bonding.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill entitled:

S. 102. An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Ashe
Senator Sears
Senator Benning

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 149. House concurrent resolution honoring the Essex High School Air Force Junior Reserve Officer Training Corps unit on its exemplary history.

H.C.R. 150. House concurrent resolution honoring Dave Gram for 30 years of journalism excellence.

H.C.R. 151. House concurrent resolution in memory of Glenn Tosi of Montpelier.

H.C.R. 152. House concurrent resolution congratulating Jacobi Lafferty and Jamison Evans on their New England regional victories in the Elks National Hoop Shoot Free Throw Program.

H.C.R. 153. House concurrent resolution honoring Steven E. Jeffrey for his exemplary leadership of the Vermont League of Cities and Towns.

H.C.R. 154. House concurrent resolution in memory of Seargent Kendall Wild.

H.C.R. 155. House concurrent resolution congratulating Ben Morehouse of Concord on completing a winter season dogsled ascent of Mount Washington.

H.C.R. 156. House concurrent resolution congratulating Kenneth Coonradt on being named the Shaftsbury Historical Society's Ordinary Hero for 2015.

H.C.R. 157. House concurrent resolution honoring Orwell firefighter, first responder, and revered former fire chief Louis Hall.

Adjournment

At one o'clock and eighteen minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock in the forenoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 149

House concurrent resolution honoring the Essex High School Air Force Junior Reserve Officer Training Corps unit on its exemplary history;

H.C.R. 150

House concurrent resolution honoring Dave Gram for 30 years of journalism excellence;

H.C.R. 151

House concurrent resolution in memory of Glenn Tosi of Montpelier;

H.C.R. 152

House concurrent resolution congratulating Jacobi Lafferty and Jamison Evans on their New England regional victories in the Elks National Hoop Shoot Free Throw Program;

H.C.R. 153

House concurrent resolution honoring Steven E. Jeffrey for his exemplary leadership of the Vermont League of Cities and Towns;

H.C.R. 154

House concurrent resolution in memory of Seargent Kendall Wild;

H.C.R. 155

House concurrent resolution congratulating Ben Morehouse of Concord on completing a winter season dogsled ascent of Mount Washington;

H.C.R. 156

House concurrent resolution congratulating Kenneth Coonradt on being named the Shaftsbury Historical Society's Ordinary Hero for 2015;

H.C.R. 157

House concurrent resolution honoring Orwell firefighter, first responder, and revered former fire chief Louis Hall;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2015, seventy-third Biennial session.]