

Journal of the Senate

TUESDAY, APRIL 14, 2015

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Mary Lewis Webb of White River Junction.

Pledge of Allegiance

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

Bill Referred to Committee on Finance

H. 488.

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation.

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 Baruth and Benning,

J.R.S. 24. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 17, 2015, it be to meet again no later than Tuesday, April 21, 2015.

Joint Resolution Referred

J.R.H. 8.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution relating to military suicides.

Whereas, according to a January 1, 2016, report in the publication *Military Times*, of the military personnel who committed suicide in 2013, nearly two-thirds had seen a doctor within three months before taking their own lives, but fewer than one-half had a mental health diagnosis, and fewer than one-third expressed any intention to hurt themselves, and

Whereas, according to an August 2014 dispatch from the U. S. Department of Veterans Affairs (VA), 8,000 veterans commit suicide annually, and this averages to 22 per day, and

Whereas, the General Assembly acknowledges and appreciates the VA's efforts to increase its resources for mental health counseling and support, including working to improve access to these services for veterans who live more than 40 miles from a VA medical center, and

Whereas, the VA has a toll-free military crisis line (1-800-273-8255) that is accessible to service members and families for suicide prevention purposes, and

Whereas, despite the VA's and the U.S. Department of Defense's (DOD) suicide prevention efforts, including Congress' recent adoption of the Clay Hunt Suicide Prevention for American Veterans Act, the veterans suicide rate remains far too high and may even increase as more men and women in the U.S. Armed Forces return from Afghanistan, and

Whereas, military families have expressed concerns about the delays in obtaining mental health counseling appointments and brand-name prescriptions, and

Whereas, the DOD's anti-stigma campaign, "Real Warriors, Real Battles, Real Strength," brings successfully treated people out of the shadows to share their experiences, explain effective treatments for mental health concerns, and illustrate that seeking treatment will not harm a person's military career, and is promoted on a website, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly recognizes the need for public awareness of the military suicide and veteran suicide rate, and be it further

Resolved: That the General Assembly supports the continuing efforts of the VA, DOD, and many other organizations to address mental health issues, and be it further

Resolved: That the General Assembly suggests that the following additional federal policy options be considered:

- (1) establishing a peer support outreach program for veterans;

(2) reviewing the process for troops who receive unfavorable discharges, possibly because of behavioral problems related to PTSD/TBI; and

(3) training mental health counselors around military acronyms and situations specific to military life to help the veteran feel more comfortable when being treated for a mental health issue, and be it further

Resolved: That the General Assembly suggests that the Vermont National Guard increase educational efforts related to mental health care services in order to reduce both the existing stigma among military personnel and veterans to seek mental health assistance and to lower future suicide rates, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Veterans Affairs Robert A. McDonald, U.S. Secretary of Defense Ash Carter, the Vermont Congressional Delegation, Commissioner of Mental Health Paul Dupre, and Vermont Adjutant General Major General Steven A. Cray.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Government Operations.

Senate Resolution Amended; Third Reading Ordered

S.R. 7.

Senator Campion, for the Committee on Natural Resources & Energy, to which was referred Senate resolution entitled:

Senate resolution relating to climate change.

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

Whereas, according to the United Nations Intergovernmental Panel on Climate Change, the “warming in the climate system is unequivocal,” and “human influence on the climate system is clear,” and

Whereas, heat-trapping particles in the atmosphere, also known as greenhouse gases, absorb heat and cause temperatures in the atmosphere to increase, and, according to the World Resources Institute, the combustion of fossil fuels (for uses including transportation, electricity, heat, industrial processes, cement production, oil refining, and more) accounts for 77 percent of the global greenhouse gas emissions by humans globally, and

Whereas, 10 V.S.A. § 578 explicitly sets forth the goal of the State of Vermont to reduce greenhouse gas pollution as follows:

It is the goal of the State to reduce emissions of greenhouse gases from within the geographic boundaries of the State and those emissions outside the boundaries of the State that are caused by the use of energy in Vermont in order to make an appropriate contribution to achieving the regional goals of reducing emissions of greenhouse gases from the 1990 baseline by:

- (1) 25 percent by January 1, 2012;
- (2) 50 percent by January 1, 2028;
- (3) if practicable using reasonable efforts, 75 percent by January 1, 2050, and

Whereas, in 2013, the Department of Public Service reported to the General Assembly that as of 2011, Vermont's greenhouse gas emissions were almost unchanged from the State's 1990 emissions, and

Whereas, consequently, the State has already failed to meet its statutory goal of a 25 percent reduction in greenhouse gas pollution, and

Whereas, an analysis of state data from the National Climatic Data Center shows that in Vermont, during the years 1948–2011, there was an 84 percent increase in extreme precipitation, and

Whereas, extreme storms and so-called hundred-year floods have already caused hundreds of millions of dollars in damage in this decade alone, and University of Vermont researchers have said Tropical Storm Irene is a “harbinger of what’s to come,” and

Whereas, non fossil-fuel energy generation and conservation technologies reduce greenhouse gas emissions as well as help Vermonters save money and become more energy self-sufficient, and

Whereas, failure to identify accurately any problem precludes the development of effective solutions, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont recognizes that climate change is a real and present danger to health and well-being of all Vermonters, that human activities make a substantive contribution to climate change, and that it is imperative Vermont fulfill its stewardship responsibilities, as expressed in the State's statutory goals for reduced greenhouse gas emissions, by taking steps now to reduce its reliance on fossil fuels, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Congressional Delegation.

And that when so amended the resolution ought to be adopted.

Thereupon, the Senate resolution was read the second time by title only pursuant to Rule 43 and the recommendation of amendment was agreed to.

Thereupon, third reading of the Senate resolution was ordered on a roll call, Yeas 23, Nays 5.

Senator Bray having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Baruth, Bray, Campbell, Campion, Cummings, Degree, Doyle, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: *Benning, Collamore, Flory, McAllister, Rodgers.

Those Senators absent and not voting were: Ayer, Kitchel.

*Senator Benning explained his vote as follows:

“Mr. President:

“I do believe the climate is changing and I do believe that humans have exacerbated that situation. But I do not believe this body should grandstand with meaningless resolutions, which ultimately only serve as a fodder for political and advocacy organizations to extract dollars from their followers.

“By forcing us into categories, these proclamations resolutions position us into making decisions based on passion and emotion, rather than careful and deliberative thought. We in the Senate should strive to be above all that. Accordingly, I did not vote for this resolution.”

Proposals of Amendment; Third Reading Ordered

H. 304.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to making miscellaneous amendments to Vermont’s retirement laws.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By inserting a new section to be numbered Sec. 11 to read as follows:

Sec. 11. 3 V.S.A. § 462 is amended to read:

§ 462. REEXAMINATION OF DISABILITY BENEFICIARY

* * *

(b) Should the medical board report and certify to the retirement board that any disability beneficiary has a residual functional capacity which might enable the beneficiary to return to work, and should the retirement board reasonably conclude that the beneficiary is engaged in or is, as a result of specific findings made by a certified vocational counselor, able to engage in a gainful occupation paying more than the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement, the beneficiary's pension shall be reduced to an amount which, together with his or her annuity and the amount earnable by him or her, shall equal the beneficiary's average final compensation at retirement, adjusted for inflation each year following retirement on the same basis as for beneficiaries as provided in section 470 of this title. ~~Should the beneficiary's earning capacity be later changed, his or her pension may be further modified; provided that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his or her annuity, equals the beneficiary's average final compensation at retirement. For the purposes of this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title. provided that:~~

(1) The retirement board shall provide written notice and an opportunity to be heard to the beneficiary prior to any reduction of the beneficiary's pension under this subsection (b).

(2) If the beneficiary has engaged in a gainful occupation subsequent to receiving disability retirement, the retirement board in its discretion may reject in whole or in part a vocational assessment of the beneficiary's ability to engage in a more gainful occupation and may rely in whole or in part on evidence of the beneficiary's actual earnings in determining the amount earnable by the beneficiary. In addition, if the retirement board's determination is based in whole or in part on a vocational assessment of ability to engage in a gainful occupation, the beneficiary shall be notified of his or her entitlement to the same reemployment rights as are available to State employees under the existing collective bargaining agreement entered into between the State and the applicable bargaining representative, or extension of such contractual benefits. Such rights shall commence as of the date of the determination and shall be based upon the reemployment rights the beneficiary would have had at the time he or she retired from State service.

The reduction of pension amount will be held in abeyance until the reemployment rights have expired. In the event that the beneficiary is subsequently reemployed by the State, the beneficiary's retirement allowance shall cease, effective on the date when reemployment commences. In the event that the beneficiary is not subsequently reemployed by the State, the reduction of the beneficiary's pension shall commence the month following the month in which the beneficiary's reemployment rights expired.

(3) In the event that a beneficiary's pension has been reduced and should the beneficiary's earning capability later change, his or her pension may be further modified; provided that no reemployment rights shall be afforded to the beneficiary in connection with any later change and provided further that the new pension amount, together with the amount earnable by him or her, shall not exceed the beneficiary's average final compensation at retirement, adjusted for inflation.

(4) As used in this subsection, "retirement allowance" shall mean the allowance payable without modification as provided in section 468 of this title.

(c) Every recipient of disability benefits shall, annually on a date determined by the retirement board, file with the State Treasurer a statement certifying, under penalty of perjury and in such form as the retirement board shall prescribe, the full amount of his or her earnings from earned income during the preceding calendar year. The State Treasurer may request, and the beneficiary shall provide within 60 days of such request, additional financial information and records pertinent to the beneficiary's earned income. The beneficiary's statement and accompanying forms and schedules, and any other financial information and records provided by the beneficiary to the State Treasurer shall be confidential. In the event that a beneficiary fails to submit the certification or any required or requested financial information or records pertinent to the beneficiary's earned income, the beneficiary's retirement allowance shall be suspended until all such information and records have been submitted, and in the event that the failure continues for one year, all the beneficiary's rights in and to his or her pension and any pending reemployment rights under this section may be revoked by the board. Notwithstanding any provision of this section to the contrary, if the beneficiary's earned income for the preceding year exceeded the difference between the beneficiary's retirement allowance and his or her average final compensation at retirement, the beneficiary shall refund the portion of the preceding year's retirement allowance that is equal to the amount of the reduction specified in subsection (b), and the refund amount may be offset against the beneficiary's monthly pension benefits. Prior to suspension or revocation of the beneficiary's retirement allowance, reemployment rights, or inception of any offset under

this subsection (c), the retirement board shall provide the beneficiary with written notice and an opportunity to be heard.

Second: By inserting a new section to be numbered Sec. 12 to read as follows:

Sec. 12. 3 V.S.A. § 463 is amended to read:

§ 463. REINSTATEMENT

(a) ~~Should a disability beneficiary be restored to service and should his or her annual earnable compensation then or at any time thereafter be equal to or greater than his or her average final compensation at retirement, or should any other beneficiary be restored to service, his or her retirement allowance shall cease, and the beneficiary shall again become a member of the retirement system, and he or she shall contribute thereafter at the same rate he or she paid prior to retirement.~~ Anything in this subchapter to the contrary notwithstanding, upon his or her subsequent retirement, he or she shall be credited with all the service creditable to him or her at the time of his or her former retirement. However, if such beneficiary is restored to membership after the attainment of ~~the age of 55 years~~ of age, his or her pension upon subsequent retirement shall not exceed the sum of the pension which he or she was receiving immediately prior to his or her last restoration to membership and the pension that may have accrued on account of membership service since his or her last restoration to membership, provided that the rate percent of his or her total pension on his or her subsequent retirement shall not exceed the rate he or she would have received had he or she remained in service during the period of prior retirement.

* * *

Third: By renumbering Sec. 11 (effective date) to be Sec. 13.

And that the bill ought to pass in concurrence with such proposals of amendment.

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

Bill Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 128. An act relating to the use of results-based accountability common language in Vermont law.

H. 320. An act relating to technical corrections.

Third Readings Ordered**H. 268.**

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and the codification of the charter of the Town of Franklin and of the merger of Franklin Fire District No. 1 into the Town.

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.

H. 310.

Senator Mullin, for the Committee on Economic Development, Housing & General Affairs, to which was referred House bill entitled:

An act relating to limited liability companies.

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.

H. 478.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and codification of the charter of the Town of Royalton.

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.

Consideration Postponed**J.R.S. 10.**

Senator Baruth, for the Committee on Economic Development, Housing & General Affairs, to which was referred joint Senate resolution entitled:

Joint resolution expressing deep concern over growing wealth and income inequality and the decline of family income in Vermont.

Reported that the joint resolution ought to be adopted.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and pending the question, Shall the joint resolution be read the third time?, Senator Snelling moved that the bill be ordered to lie.

Which was disagreed to.

Thereupon, pending the question, Shall the joint resolution be read the third time?, Senator McAllister moved that consideration of the resolution be postponed until Thursday, April 16, 2015.

Which was agreed to.

Proposals of Amendment; Third Reading Ordered

H. 98.

Senator McCormack, for the Committee on Health & Welfare, to which was referred House bill entitled:

An act relating to reportable disease registries and data.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 3, 18 V.S.A. § 1129, in subsection (b), in the fourth sentence, by striking out the following: “as defined in 16 V.S.A. § 1691a”

Second: In Sec. 3, 18 V.S.A. § 1129, by adding a new subsection to be subsection (g) to read as follows:

(g) As used in this section, “administrator” means an individual licensed under 16 V.S.A. chapter 5, the majority of whose employed time in a public school, school district, or supervisory union is assigned to developing and managing school curriculum, evaluating and disciplining personnel, or supervising and managing a school system or school program. “Administrator” also means an individual employed by an approved or recognized independent school the majority of whose assigned time is devoted to those duties.

And that the bill ought to pass in concurrence with such proposals of amendment.

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

Proposal of Amendment; Third Reading Ordered

H. 270.

Senator Sears, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to definitions for pretrial screenings and assessments.

Reported recommending that the Senate propose to the House to amend the bill as follows:

By adding two new sections to be numbered Secs. 2 and 3 to read as follows:

Sec. 2. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

* * *

(d)(1) In consideration of the assessment and screening, the court may order the person to comply with any of the following conditions:

(A) meet with a pretrial monitor on a schedule set by the court;

(B) participate in a clinical assessment by a substance abuse or mental health treatment provider; and

(C) comply with any level of treatment or recovery support recommended by the provider;

~~(D) provide confirmation to the pretrial monitor of the person's attendance and participation in the clinical assessment and any recommended treatment; and~~

~~(E) provide confirmation to the pretrial monitor of the person's compliance with any other condition of release.~~

* * *

Sec. 3. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a ~~state's attorney~~ State's Attorney may summon a person who commits an offense to appear before a ~~district or superior court~~ District or Superior Court by a summons in such form as prescribed by the ~~court administrator~~ Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or ~~state's attorney~~ State's Attorney and delivered to the person.

(b) When an individual accepts a precharge services contract, the State's Attorney may issue a new citation ordering the individual to court in the event the individual fails to comply with the terms of the contract. The pretrial monitor may provide the citation to the individual at the time the individual accepts the precharge contract. This shall be considered effective service.

(c) A person so summoned shall appear at the time and place stated in the summons delivered to him or her. A person who does not so appear shall be fined not more than \$100.00 or be imprisoned not more than 90 days, or both.

~~(e)~~(d) A person who does not so appear in response to a summons for a traffic offense as defined in ~~section 23 V.S.A. § 2201 of Title 23~~ shall be fined not more than \$100.00.

And by renumbering the remaining section to be numerically correct.

After passage, the title of the bill is to be amended to read:

An act relating to pretrial screenings and assessments.

And that the bill ought to pass in concurrence with such proposal of amendment.

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

Message from the House No. 48

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 115. An act relating to expungement of convictions based on conduct that is no longer criminal.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

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

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

And has concurred therein.

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

S. 98. An act relating to captive insurance companies.

And has concurred therein.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, April 15, 2015.