

Journal of the Senate

WEDNESDAY, FEBRUARY 27, 2019

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kim Kie of Barre.

Message from the House No. 19

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 58. An act relating to approval of amendments to the charter of the Town of Barre.

H. 59. An act relating to the codification of the charter of the Rutland County Solid Waste District.

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

Bills Introduced

Senate bills of the following titles were severally introduced, read the first time and referred:

S. 132.

By Senators Campion and Sears,

An act relating to hate crimes and bias incidents.

To the Committee on Judiciary.

S. 133.

By Senator Sears,

An act relating to juvenile jurisdiction.

To the Committee on Judiciary.

S. 134.

By Senator White,

An act relating to background investigations for State employees with access to federal tax information.

To the Committee on Government Operations.

S. 135.

By Senators Balint, Campion, Hooker and Ingram,

An act relating to consumer protection and automobile financing.

To the Committee on Economic Development, Housing and General Affairs.

S. 136.

By Senators Pearson, Ashe, Lyons and Sirotkin,

An act relating to next steps toward implementing a wholesale importation program for prescription drugs from Canada.

To the Committee on Health and Welfare.

S. 137.

By Senators Lyons, Balint, Clarkson, Hardy, Ingram, Sirotkin and White,

An act relating to health insurance coverage for hearing aids.

To the Committee on Finance.

S. 138.

By Senators Hooker, Balint, Benning, Brock, Collamore, Hardy, Ingram, Kitchel, Lyons, MacDonald, Mazza, McNeil, Parent, Pearson, Perchlik, Pollina, Rodgers and Starr,

An act relating to the disposition of the remains of veterans.

To the Committee on Government Operations.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 58.

An act relating to approval of amendments to the charter of the Town of Barre.

To the Committee on Government Operations.

H. 59.

An act relating to the codification of the charter of the Rutland County Solid Waste District.

To the Committee on Government Operations.

Proposal of Amendment; Third Reading Ordered**H. 3.**

Senator Ingram, for the Committee on Education, to which was referred House bill entitled:

An act relating to ethnic and social equity studies standards for public schools.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ETHNIC AND SOCIAL EQUITY STANDARDS ADVISORY
WORKING GROUP

(a) Findings.

(1) In 1999, the Vermont Advisory Committee to the U.S. Commission on Civil Rights published a report titled Racial Harassment in Vermont Public Schools and described the state of racism in public schools. The Committee held various hearings and received reports from stakeholders and concluded that “racial harassment” appeared “pervasive in and around the State’s public schools,” and observed that “the elimination of this harassment” was “not a priority among school administrators, school boards, elected officials, and State agencies charged with civil rights enforcement.”

(2) In 2003, the Commission released a follow-up report concluding that, although some positive efforts had been made since the original report was published, the problem persisted. One of the many problems highlighted at that time was that some curriculum materials and lesson plans promoted racial stereotypes. One of the conclusions was that there was a need for a bias-free curriculum.

(3) In December 2017, the Act 54 report on Racial Disparities in State Systems, issued by the Attorney General and Human Rights Commission Task Force, was released. According to the report, education is one of the five State systems in which racial disparities persist and need to be addressed. The Attorney General and Human Rights Commission held three stakeholder meetings and found “a surprising amount of coalescence around the most important issues” and “the primary over-arching theme was that we will be

able to reduce racial disparities by changing the underlying culture of our state with regard to race.” One of the main suggestions for accomplishing this was to “teach children from an integrated curriculum that fairly represents both the contributions of People of Color (as well as indigenous people, women, people with disabilities, etc.), while fairly and accurately representing our history of oppression of these groups.” The other suggestions were to educate State employees about implicit bias, white privilege, white fragility, and white supremacy and increase the representation of people of color in the State and school labor forces by focusing on recruitment, hiring, and retention, as well as promotion of people of color into positions of authority and responsibility on boards and commissions.

(4) According to the U.S. Department of Justice report on hate crimes in Vermont in 2017, 51 percent of hate crimes were based on a motivation involving racial bias, 23 percent of hate crimes were based on a motivation involving sexual orientation bias, 17 percent of hate crimes were based on a motivation involving religious bias, and 9 percent of hate crimes were based on a motivation involving disability bias.

(5) Acts of harassment and discrimination based on religious affiliation, including but not limited to anti-Semitism and Islamophobia, have been reported in recent Vermont news reports.

(6) Hate symbols have in recent years appeared with disturbing frequency at schools, in public spaces, places of worship, and places of business.

(7) The harassment of marginalized groups, and the lack of understanding of people in power about the magnitude of the systemic impacts of harassment and bias, damage the whole community.

(b) Definitions. As used in this act:

(1) “Ethnic groups” means:

(A) nondominant racial and ethnic groups in the United States, including people who are Abenaki, people from other indigenous groups, people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent; and

(B) groups that have been historically subject to persecution or genocide.

(2) “Ethnic studies” means the instruction of students in prekindergarten through grade 12 in the historical contributions and perspectives of ethnic groups and social groups.

(3) “Social groups” means women and girls, people with disabilities, immigrants, refugees, and individuals who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or nonbinary.

(c) Creation and composition. The Ethnic and Social Equity Standards Advisory Working Group is established. The Working Group shall comprise the following 20 members:

(1) 10 members who are members of, and represent the interests of, ethnic groups and social groups, two of whom shall be high school students;

(2) a Vermont-based, college-level faculty expert in ethnic studies;

(3) the Secretary of Education or designee;

(4) the Executive Director of the Vermont-National Education Association or designee;

(5) the Executive Director of Racial Equity or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) a representative for the Vermont Principals’ Association with expertise in the development of school curriculum;

(8) a representative for the Vermont Curriculum Leaders Association;

(9) the Executive Director of the Vermont Superintendents Association or designee;

(10) the Executive Director of the Vermont Independent Schools Association or designee; and

(11) the Executive Director of the Vermont Human Rights Commission or designee.

(d) Appointment and operation.

(1) The Vermont Coalition for Ethnic and Social Equity in Schools (Coalition) shall appoint the 10 members who represent ethnic groups and social groups and the member identified under subdivision (c)(2) of this section. Appointments of members to fill vacancies to these positions shall be made by the Coalition.

(2) As a group, the Working Group shall represent the breadth of geographic areas within the State and shall have experience in the areas of ethnic standards or studies, social justice, inclusivity, and advocacy for the groups they represent.

(3)(A) The Secretary of Education or designee shall call the first meeting of the Working Group to occur on or before September 1, 2019.

(B) The Working Group shall select a chair from among its members at the first meeting.

(C) A majority of the membership shall constitute a quorum.

(D) The Working Group shall cease to exist on July 1, 2022.

(e) Compensation and reimbursement. Members of the Working Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(f) Appropriation. The sum of \$15,860.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2020 for the per diem compensation and expense reimbursements authorized by subsection (e) of this section to be paid to the members of the Ethnic and Social Equity Standards Advisory Working Group. The Agency shall include in its budget request to the General Assembly for fiscal years 2021 and 2022 the amount of \$15,860.00 for the per diem compensation and expense reimbursements authorized by subsection (e) of this section to be paid to members of the Working Group.

(g) Duties of the Working Group.

(1) The Working Group shall review standards for student performance adopted by the State Board of Education under 16 V.S.A. § 164(9) and, on or before June 30, 2021, recommend to the State Board updates and additional standards to recognize fully the history, contributions, and perspectives of ethnic groups and social groups. These recommended additional standards shall be designed to:

(A) increase cultural competency of students in prekindergarten through grade 12;

(B) increase attention to the history, contribution, and perspectives of ethnic groups and social groups;

(C) promote critical thinking regarding the history, contributions, and perspectives of ethnic groups and social groups;

(D) commit the school to eradicating any racial bias in its curriculum;

(E) provide, across its curriculum, content and methods that enable students to explore safely questions of identity, race equality, and racism; and

(F) ensure that the basic curriculum and extracurricular programs are welcoming to all students and take into account parental concerns about religion or culture.

(2) The Working Group may review State statutes, State Board rules, and school district and supervisory union policies that concern or impact standards for student performance or curriculum used in schools. The State Board may recommend to the General Assembly proposed statutory changes with the following goals:

(A) ensuring that schools:

(i) promote critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(ii) include content and related instructional materials and methods that enable students to explore safely questions of identity and membership in ethnic groups and social groups, race equality, and racism; and

(iii) facilitate a welcoming environment for all students while taking into account parental concerns about bias or exclusion of ethnic groups or social groups; and

(B) ensuring engagement opportunities that provide families a welcoming means of raising any concern about their child's experience as it bears on race or ethnic or social group identity at school.

(3) The Working Group shall include in its report to the General Assembly under subdivisions (h)(2) and (3) of this section any statute, State Board rule, or school district or supervisory union policy that it has identified as needing review or amendment in order to:

(A) promote an overarching focus on preparing all students to participate effectively in an increasingly racially, culturally, and socially diverse Vermont and in global communities;

(B) ensure every student is in a safe, secure, and welcoming learning and social environment in which bias, whether implicit or explicit, toward others based on their membership in ethnic or social groups is acknowledged and addressed appropriately;

(C) challenge racist, sexist, or ableist bias, or bias based on gender or socioeconomic status, using principles aligned with restorative practice;

(D) specify prohibited conduct as it relates to racism, sexism, ableism, and other ethnic and social biases and refers to the process through

which alleged misconduct will be addressed, including disciplinary action as appropriate;

(E) establish disciplinary responses to racial or ethnic and social group incidents that include the utilization of restorative practices where appropriate; and

(F) ensure that the school diversifies its workforce and provides its personnel training in how best to address bias incidents.

(h) Reports.

(1) The Working Group shall, on or before March 1, 2020, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) its plan to accomplish the work described in subdivision (g)(1) of this section; and

(C) its plan to accomplish the work described in subdivisions (g)(2) and (3) of this section.

(2) The Working Group shall, on or before December 15, 2020, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) recommended statutory changes under subdivisions (g)(2) and (3) of this section;

(C) its findings from its review of State Board rules and school district and supervisory union policies under subdivisions (g)(2) and (3) of this section; and

(D) recommendations for training and appropriations to support implementation of the recommended statutory changes.

(3) The Working Group shall, on or before July 1, 2022, submit a report to the General Assembly that includes:

(A) any further recommended statutory changes under subdivisions (g)(2) and (3) of this section;

(B) any further findings from its review of State Board rules and school district and supervisory union policies under subdivisions (g)(2) and (3) of this section; and

(C) recommendations for training and appropriations to support implementation of the recommended changes.

(i) Duties of the State Board of Education. The Board of Education shall, on or before June 30, 2022, consider adopting ethnic and social equity studies standards into standards for student performance adopted by the State Board under 16 V.S.A. § 164(9) for students in prekindergarten through grade 12, taking into account the report submitted by the Working Group under subdivision (g)(1) of this section.

Sec. 2. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

* * *

(17) Report annually on the condition of education statewide and on a ~~school-by-school~~ supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on student performance and hazing, harassment, or bullying incidents shall be disaggregated by student groups, including ethnic, racial, and religious groups, gender, sexual orientation, gender identity, poverty status, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

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

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Education with the following amendments thereto:

First: In Sec. 1, in subdivision (d)(3), by inserting a subparagraph (E) to read as follows:

(E) The Working Group shall have the assistance of the Agency of Education for the purposes of scheduling meetings and processing compensation and reimbursement pursuant to subsection (e) of this section.

Second: In Sec. 1 in subsection (h) (2)(B) before the word “recommended” by adding the word any in subdivision (2)(D) before the word “recommendations” by adding the word any and in subdivision (3)(C) before the word “recommendations” by adding the word any

Third: By striking out Sec. 2 in its entirety and by inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

* * *

(17) Report annually on the condition of education statewide and on a ~~school-by-school~~ supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school,

school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

* * *

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, and the recommendation of proposal of amendment of the Committee on Education was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Education, as amended, was agreed to and third reading of the bill was ordered, on a roll call, Yeas 27, Nays 0.

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

Roll Call

Those Senators who voted in the affirmative were: Balint, Baruth, Benning, Bray, Brock, Champion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Perchlik, Pollina, Rodgers, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe (presiding), Pearson, Sears.

Bill Passed

S. 89.

Senate bill of the following title was read the third time and passed:

An act relating to allowing reflective health benefit plans at all metal levels.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Thursday, February 28, 2019.