

# Journal of the House

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Friday, April 23, 2021

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

## Devotional Exercises

A moment of silence was held in lieu of as devotional.

## Senate Bill Referred

**S. 99**

Senate bill, entitled

An act relating to repealing the statute of limitations for civil actions based on childhood physical abuse

Was read the first time and referred to the Committee on Judiciary.

## Bill Referred to Committee on Appropriations

**S. 102**

Senate bill, entitled

An act relating to the regulation of agricultural inputs for farming

Appearing on the Calendar for Notice, and pursuant to Rule 35(a), carrying an appropriation, was referred to the Committee on Appropriations.

## Third Reading; Bill Passed

**H. 265**

House bill, entitled

An act relating to the Office of the Child Advocate

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

## Second Reading; Consideration Interrupted

**S. 114**

An act relating to improving prekindergarten through grade 12 literacy within the State

The bill having appeared on the Calendar one day for Notice, was taken up and read the second time.

### Recess

At nine o'clock and thirty-eight minutes in the forenoon, the Speaker declared a recess until the fall of the gavel.

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

**Consideration Resumed; Proposal of Amendment Agreed to; Third Reading Ordered; Rules Suspended; Third Reading; Bill Passed in Concurrence with Proposal of Amendment; Rules Suspended; Bill Messaged to Senate Forthwith**

### S. 114

Consideration resumed on Senate bill, entitled

An act relating to improving prekindergarten through grade 12 literacy within the State

**Rep. Webb of Shelburne**, for the Committee on Education, reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Purpose \* \* \*

#### Sec. 1. PURPOSE

(a) The purpose of this act is to continue the ongoing work to improve literacy for all students in the State while recognizing that achieving this goal will require a multiyear and multidimensional effort requiring continued focus by the General Assembly, the Administration, and school leaders.

(b) The State has been awarded Elementary and Secondary School Emergency Relief (ESSER) funding under the American Rescue Plan Act of 2021 Section 2001(f) to carry out, directly or through grants or contracts, activities to address learning loss by supporting the implementation of evidence-based interventions, such as summer learning or summer enrichment programs, extended day programs, comprehensive afterschool programs, or extended school year programs, and ensure that such interventions respond to students' academic, social, and emotional needs and address the disproportionate impact of the coronavirus on at-risk student populations, students experiencing homelessness, and children and youths in foster care, including by providing additional support to local educational agencies to fully address such impacts.

(c) The purpose of the technical support for supervisory unions under Sec. 3 of this act and the contractor support for the Agency of Education under Sec. 4 of this act is to carry out activities to address learning loss and improve literacy outcomes.

\* \* \* Findings \* \* \*

## Sec. 2. FINDINGS

(a) Addressing literacy outcomes is a key strategy for the successful implementation of 2018 Acts and Resolves No. 173. The following findings from the report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” issued by the District Management Group in November 2017, which informed the development of Act 173, support the urgency to improve Vermont’s literacy outcomes relative to special education reform:

(1) “Investing in the effectiveness of core reading instruction is critical for students in general education and students with disabilities.”

(2) “Students with mild-to-moderate disabilities who struggle with reading may not be supported by teachers skilled in the teaching of reading.”

(3) “While some special education teachers across the supervisory unions had a strong background in the teaching of reading, others indicated that they did not have the training or background to be effective supporting students struggling in reading.”

(b) The following data indicate Vermont needs to improve its literacy outcomes at the early grades:

(1) Smarter Balanced Assessment Consortium results from 2016 to 2018 indicate that only about 50 percent of students in grade three were proficient in English Language Arts in each of these years.

(2) From 2015 to 2019, Vermont’s average scale in grade four reading on the National Assessment of Educational Progress dropped every year from a high of 230 to a low score of 222.

(c) The COVID-19 emergency has adversely affected student academic and developmental progress. Failure to address literacy outcomes now could significantly impact student development for many years to come, since literacy is foundational to the success of each student.

(d) The General Assembly recognizes that improving literacy outcomes is a significant challenge for school systems and their constituencies, and that they will require time and assistance in making necessary changes.

\* \* \* Assistance to Support Improved Literacy Outcomes \* \* \*

Sec. 3. ASSISTANCE TO SUPPORT IMPROVED LITERACY  
OUTCOMES

(a) In recognition that literacy proficiency is a foundational learning skill, the technical support provided in this section is designed to assist supervisory unions improve literacy outcomes as part of their implementation of 2018 Acts and Resolves No. 173.

(b)(1) The Agency of Education shall use the funding under Sec. 4(b) of this act to:

(A) provide professional development learning modules for teachers in methods of teaching literacy in the five key areas of literacy instruction as identified by the National Reading Panel, which are phonics, phonemic awareness, vocabulary, fluency, and reading comprehension; and

(B) assist supervisory unions in implementing evidence-based systems-wide literacy approaches that address learning loss due to the COVID-19 pandemic.

(2) The Agency of Education shall, in accordance with the assurances required to be given by the Secretary of Education to the U.S. Department of Education under the American Rescue Plan Act of 2021, direct this funding to:

(A) address learning loss through the implementation of evidence-based interventions that respond to students' academic, social, and emotional needs and address the disproportionate impact of COVID-19 on student groups most impacted by the pandemic and for whom the pandemic exacerbated pre-existing inequities; and

(B) school districts that need additional support as evidenced by their needs assessment priorities in their COVID-19 recovery plans.

(c) The Agency of Education shall use the funding under Sec. 4(a) of this act to retain one or more contractors to provide the following technical assistance to supervisory unions:

(1) recommend how federal funds can be used to implement 2018 Acts and Resolves No. 173 in the context of improving literacy outcomes;

(2) recommend evidence-based best practices in teaching literacy instruction to students in prekindergarten through grade 3;

(3) recommend how to provide professional development for teachers and school leaders in methods of teaching literacy; and

(4) recommend policies, procedures, and other methods to ensure that improvements in literacy outcomes are sustained.

\* \* \* Agency of Education; Literacy Staffing; Appropriations \* \* \*

Sec. 4. AGENCY OF EDUCATION; CONTRACTOR; APPROPRIATIONS

(a) There is appropriated to the Agency of Education from the American Rescue Plan Act of 2021 pursuant to Section 2001(f)(4), Pub. L. No. 117-2 in fiscal year 2022 the amount of \$450,000.00 for the costs of the contractor or contractors under Sec. 3 of this act for fiscal years 2022, 2023, and 2024. The Agency may shift the use of this funding from the contractor or contractors to a limited service position that would expire at the end of fiscal year 2024 within the Agency focused on coordinating the Statewide literacy efforts.

(b) The sum of \$3,060,000.00 is appropriated from the American Rescue Plan Act of 2021 pursuant to Section 2001(f)(1), Pub. L. No. 117-2 to the Agency of Education in fiscal year 2022 for providing professional development learning modules for teachers in methods of teaching literacy and assisting supervisory unions in implementing evidence-based systems-wide literacy approaches that address learning loss for fiscal years 2022, 2023, and 2024. The Agency of Education may set aside not more than two percent of the funds appropriated under this subsection to cover the costs of retaining and overseeing the work of the contractor.

\* \* \* Advisory Council on Literacy \* \* \*

Sec. 5. 16 V.S.A. § 2903a is added to read:

§ 2903a. ADVISORY COUNCIL ON LITERACY

(a) Creation. There is created the Advisory Council on Literacy. The Council shall advise the Agency of Education, the State Board of Education, and the General Assembly on how to improve proficiency outcomes in literacy for students in prekindergarten through grade 12 and how to sustain those outcomes.

(b) Membership. The Council shall be composed of the following 16 members:

(1) eight members who shall serve as ex officio members:

(A) the Secretary of Education or designee;

(B) a member of the Standards Board for Professional Educators who is knowledgeable in licensing requirements for teaching literacy, appointed by the Standards Board;

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

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

(E) the Executive Director of the Vermont Council of Special Education Administrators or designee;

(F) the Executive Director of the Vermont Principals' Association or designee;

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

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

(2) eight members who shall serve two-year terms:

(A) a representative appointed by the Vermont Curriculum Leaders Association;

(B) three teachers appointed by the Vermont-National Education Association who teach literacy, one of whom shall be a special education literacy teacher and two of whom shall teach literacy to students in prekindergarten through grade three;

(C) three community members who have struggled with literacy proficiency or supported others who have struggled with literacy proficiency, one of whom shall be a high school student, appointed by the Agency of Education in consultation with the Vermont Family Network; and

(D) one member appointed by the Agency of Education who has expertise in working with students with dyslexia.

(c) Members with two-year terms.

(1) A member with a term limit shall serve a term of two years and until a successor is appointed. A term shall begin on January 1 of the year of appointment and run through December 31 of the last year of the term. Terms of these members shall be staggered so that not all terms expire at the same time.

(2) A vacancy created before the expiration of a term shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(3) A member with a term limit shall not serve more than two consecutive terms. A member appointed to fill a vacancy created before the

expiration of a term shall not be deemed to have served a term for the purpose of this subdivision.

(d) Powers and duties. The Council shall advise the Agency of Education, the State Board of Education, and the General Assembly on how to improve proficiency outcomes in literacy for students in prekindergarten through grade 12 and how to sustain those outcomes and shall:

(1) advise the Agency of Education on how to:

(A) update section 2903 of this title;

(B) implement the statewide literacy plan required by section 2903 of this title and whether, based on its implementation, changes should be made to the plan; and

(C) maintain the statewide literacy plan;

(2) advise the Agency of Education on what services the Agency should provide to school districts to support implementation of the plan and on staffing levels and resources needed at the Agency to support the statewide effort to improve literacy;

(3) develop a plan for collecting literacy-related data that informs:

(A) literacy instructional practices;

(B) teacher professional development in the field of literacy;

(C) what proficiencies and other skills should be measured through literacy assessments and how those literacy assessments are incorporated into local assessment plans; and

(D) how to identify school progress in achieving literacy outcomes, including closing literacy gaps for students from historically underserved populations;

(4) recommend best practices for Tier 1, Tier 2, and Tier 3 literacy instruction within the multitiered system of supports required under section 2902 of this title to best improve and sustain literacy proficiency; and

(5) review literacy assessments and outcomes and provide ongoing advice as to how to continuously improve those outcomes and sustain that improvement.

(e) Report. Notwithstanding 2 V.S.A. § 20(d), annually on or before December 15, the Council shall submit a written report to the House and Senate Committees on Education with its findings, any recommendations for legislative action, and progress toward outcomes identified in this section. The report shall contain an executive summary, which shall not exceed two pages.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Council to occur on or before August 1, 2021.

(2) The Council shall select a chair from among its members.

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

(4) The Council shall meet not more than eight times per year.

(g) Assistance. The Council shall have the administrative, technical, and legal assistance of the Agency of Education.

(h) Compensation and reimbursement. Members of the Council shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings of the Council per year.

Sec. 6. APPROPRIATION; ADVISORY COUNCIL ON LITERACY

The sum of \$24,000.00 is appropriated from the American Rescue Plan Act of 2021 pursuant to Section 2001(f)(4), Pub. L. No. 117-2 in fiscal year 2022 to the Agency of Education for per diem and reimbursement of expenses for members of the Advisory Council on Literacy created under Sec. 5 of this act for fiscal years 2022, 2023, and 2024.

Sec. 7. REPEAL; ADVISORY COUNCIL ON LITERACY

16 V.S.A. § 2903a (Advisory Council on Literacy) as added by this act is repealed on June 30, 2024.

Sec. 8. IMPLEMENTATION OF THE ADVISORY COUNCIL ON  
LITERACY

(a) The Advisory Council on Literacy, created in Sec. 5 of this act, is established on August 1, 2021.

(b) Members of the Council shall be appointed on or before August 1, 2021 and, for members with a term limit, their service on the Council from the date of appointment through December 31, 2021 shall not be counted toward their term limit.

(c)(1) In order to stagger the terms of the members of the Council, the initial terms of the following members shall be for one year:

(A) two of the teachers appointed under subdivision (b)(2)(B) of Sec. 5 of this act; and

(B) two of the community members appointed under subdivision (b)(2)(C) of Sec. 5 of this act.



(2) After the expiration of the initial term set forth in subdivision (1) of this subsection, Council member terms shall be as set forth in 16 V.S.A. § 2903a(c) in Sec. 5 of this act.

\* \* \* Review of Teacher Preparation Programs \* \* \*

#### Sec. 9. TEACHER PREPARATION PROGRAMS; REVIEW

(a) On or before October 1, 2022, the Agency of Education, in collaboration with the Standards Board for Professional Educators, shall review:

(1) teacher preparation programs to assess to what extent these programs prepare teacher candidates to use “evidence-based literacy instruction”; and

(2) licensing and re-licensing criteria as it pertains to literacy instruction.

(b) As used in this section, “evidence-based literacy instruction” means reading, writing, and spelling instruction that is supported by high-quality research that meets rigorous standards and is proven to translate effectively to classroom practices.

\* \* \* Agency of Education Reports \* \* \*

#### Sec. 10. AGENCY OF EDUCATION; REPORTS

On or before December 15 of each of 2021, 2022, and 2023, the Agency of Education shall report to the General Assembly the statewide progress in achieving the purpose of this act, which is to improve literacy outcomes for all students in the State.

\* \* \* Census-based Funding Advisory Group \* \* \*

Sec. 11. 2018 Acts and Resolves No. 173, Sec. 9 (Census-based Funding Advisory Group), as amended by 2020 Acts and Resolves No. 112, Sec. 4 is further amended to read:

#### Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

\* \* \*

(e) Meetings.

\* \* \*

(4) The Advisory Group shall cease to exist on June 30, 2023.

(f) Reports. On or before January 15, 2019, the Advisory Group shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations on the development of proposed rules to implement this act and any recommendations

for legislation. On or before January 15 of 2020, 2021, ~~and 2022,~~ and 2023, the Advisory Group shall submit a supplemental written report to the House and Senate Committees on Education and the State Board of Education with a status of implementation under this act and any recommendations for legislation.

(g) Reimbursement. Members of the Advisory 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 as permitted under 32 V.S.A. § 1010 for not more than eight meetings per year in fiscal years 2019 and 2020 and not more than 12 meetings per year in each of fiscal years 2021, 2022, and 2023.

(h) Appropriation. The sum of \$5,376.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The sum of \$9,018.00 is appropriated for fiscal year 2021 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. ~~The Agency shall include in its budget request to the General Assembly for each of fiscal years 2022 and 2023 the amount of \$9,018.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.~~

\* \* \* Effective Date \* \* \*

## Sec. 12. EFFECTIVE DATE

This act shall take effect on passage.

**Rep. Scheu of Middlebury**, for the Committee on Appropriations, recommended that the House propose to the Senate to amend the bill as recommended by the Committee on Education.

Thereupon, the report of the Committee on Education was agreed to, and third reading ordered.

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill was placed in all remaining stages of passage. Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Thereafter, on motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Amendment Offered and Withdrawn; Read Third Time; Bill Passed****H. 446**

House bill, entitled

An act relating to miscellaneous natural resources and development subjects

Was taken up, and pending third reading of the bill, **Rep. Rogers of Waterville, Austin of Colchester, Birong of Vergennes, Gregoire of Fairfield, Hango of Berkshire, Higley of Lowell, Leffler of Enosburgh, Noyes of Wolcott, Page of Newport City, Pajala of Londonderry, Sibilia of Dover, Sims of Craftsbury, Surprenant of Barnard, White of Bethel, and Yacovone of Morristown** moved to amend the bill as follows:

First: By adding a new section to be Sec. 22a to read as follows:

Sec. 22a. 10 V.S.A. § 6001(38) and (39) are added to read:

(38) “Forest-based enterprise” means an enterprise that aggregates forest products from forestry operations and adds value through processing or marketing in the forest products supply chain or directly to consumers through retail sales. “Forest-based enterprise” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, wood chips, mulch, and fuel wood; and log and pulp concentration yards. “Forest-based enterprise” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving forest products from forestry operations.

(39) “Forest product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

Second: By adding a new section to be Sec.22b to read as follows:

Sec. 22b. 10 V.S.A. § 6086(c) is amended to read:

(c)(1) Permit Conditions. A permit may contain such requirements and conditions as are allowable proper exercise of the police power and ~~which~~ that are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to ensure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) Permit conditions on a forest-based enterprise.

(A) A permit condition that sets hours of operation for a forest-based enterprise shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section.

(B) Unless an impact under subdivision (a)(1) or (5) of this section would result, a permit issued to a forest-based enterprise shall allow the enterprise to ship and receive forest products outside regular hours of operation. These permits shall allow for deliveries of forest products from forestry operations to the enterprise outside permitted hours of operation, including nights, weekends, and holidays, for a minimum of 60 days per year.

(C) In making a determination under this subdivision (2) as to whether an impact exists, the Board or District Commission shall consider the enterprise's role in sustaining forestland use and the impact of the permit condition on the forest-based enterprise. Conditions shall impose the minimum restriction necessary to address the undue adverse impact.

(3) Permit conditions on the delivery of wood heat fuels. A permit issued to a forest-based enterprise that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the enterprise to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year.

(4) Forest-based enterprises holding a permit may request an amendment to existing permit conditions related to hours of operation and seasonal restrictions to be consistent with subdivisions (2) and (3) of this subsection. Requests for condition amendments under this subsection shall not be subject to Act 250 Rule 34E.

Thereafter, **Rep. Rogers of Waterville** was granted leave to withdraw the amendment. Thereupon, the bill was read the third time and passed.

### **Bill Amended; Read Third Time; Bill Passed**

#### **H. 449**

House bill, entitled

An act relating to the membership and duties of the Vermont Pension Investment Commission and the creation of the Pension Benefits, Design, and Funding Task Force

Was taken up, and pending third reading of the bill, **Rep. Scheuermann of Stowe** moved to amend the bill as follows:

In Sec. 1, 3 V.S.A. chapter 17, in section 521, definitions, in subdivision (3)(A)(i) by inserting “or the individual’s spouse, parent, or child” after “individual” and by striking out subdivision (3)(C) in its entirety.

Which was agreed to. Thereupon, the bill was read the third time and passed.

### **Adjournment**

At ten o'clock and twenty-two minutes in the forenoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until Monday, April 26, 2021, at ten o'clock in the forenoon, pursuant to the provisions of J.R.S. 25.

### **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 on the part of the House:

#### **H.C.R. 45**

House concurrent resolution congratulating Christopher Hodsdon on being named the 2021 Robert F. Pierce Principal of the Year

#### **H.C.R. 46**

House concurrent resolution congratulating the 2021 Champlain Valley Union High School Redhawks boys' Alpine State championship ski team

#### **H.C.R. 47**

House concurrent resolution congratulating the 2021 Champlain Valley Union High School Redhawks girls' Alpine State championship ski team

#### **H.C.R. 48**

House concurrent resolution recognizing the special importance of social workers during the COVID-19 pandemic

#### **H.C.R. 49**

House concurrent resolution honoring Neshobe School principal Judi Pulsifer

#### **H.C.R. 50**

House concurrent resolution recognizing April 2021 as Fair Housing Month in Vermont

**H.C.R. 51**

House concurrent resolution recognizing April 2021 as Organ Donation Month in Vermont

**S.C.R. 4**

Senate concurrent resolution recognizing the week of April 18–24 2021 as Medical Laboratory Professionals Week in Vermont and the essential role of Vermont’s medical laboratories during the COVID-19 pandemic

[The full text of the concurrent resolutions appeared in the House and Senate Calendar Addendums on the preceding legislative day and will appear in the Public Acts and Resolves of the 2021, seventy-sixth Biennial session.]