

Journal of the Senate

FRIDAY, FEBRUARY 10, 2017

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by Rabbi James Scott Glazier of South Burlington.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters and a small gift of appreciation.

Noah Anderson of Woodstock
William Belluche of Burlington
Olivia Rose Davison of Hardwick
Isidora Dickstein of St. Johnsbury
Aliza Jernigan of Waitsfield
Meghan Kimball of Lake Elmore
Joshua LaJeunesse of Northfield
Mairen Tierney of Newark
Hazel Wagner of Brattleboro
Katy Waterman of Weybridge

Message from the House No. 17

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 a House bill of the following title:

H. 14. An act relating to automated external defibrillators.

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

Message from the House No. 18

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 adopted House concurrent resolutions of the following titles:

H.C.R. 31. House concurrent resolution in memory of Marion Pritchard.

H.C.R. 32. House concurrent resolution designating February 3, 2017 as Wear Red Day at the State House.

H.C.R. 33. House concurrent resolution honoring Bonnie and Timothy Burke for their outstanding work at Wilson House in East Dorset.

H.C.R. 34. House concurrent resolution designating February 8, 2017 as Farm to School Awareness Day at the State House.

H.C.R. 35. House concurrent resolution commemorating the 240th anniversary of the Battle of Hubbardton.

H.C.R. 36. House concurrent resolution congratulating the 2016 Eagle class of Green Mountain Council Boy Scouts.

H.C.R. 37. House concurrent resolution honoring Nathaniel A. Boone of Winhall for his pioneering national service.

H.C.R. 38. House concurrent resolution recognizing the importance of the Black Lives Matter Movement in the U.S. and Vermont Black communities.

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

Bill Introduced

Senate bill of the following title was introduced, read the first time and referred:

S. 81.

By Senators Pearson, Ayer, Clarkson, Ingram, Lyons, MacDonald and Pollina,

An act relating to an occupancy fee.

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

Bill Referred

House bill of the following title was read the first time and referred:

H. 14.

An act relating to automated external defibrillators.

To the Committee on Judiciary.

Bill Passed in Concurrence with Proposal of Amendment**H. 125.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to fiscal year 2017 budget adjustments.

Bill Amended; Third Reading Ordered**S. 10.**

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

An act relating to liability for the contamination of potable water supplies.

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

Sec. 1. 10 V.S.A. § 6615e is added to read:

§ 6615e. RELIEF FOR CONTAMINATED POTABLE WATER SUPPLIES

(a) Definitions. As used in this section:

(1) “Public water system” means any system or combination of systems owned or controlled by a person that provides drinking water through pipes or other constructed conveyances to the public and that has at least 15 service connections or serves an average of at least 25 individuals daily for at least 60 days out of the year. A “public water system” includes all collection, treatment, storage, and distribution facilities under the control of the water supplier and used primarily in connection with the system, and any collection or pretreatment storage facilities not under the control of the water supplier that are used primarily in connection with the system. “Public water system” shall also mean any part of a system that does not provide drinking water, if use of such a part could affect the quality or quantity of the drinking water supplied by the system. “Public water system” shall also mean a system that bottles drinking water for public distribution and sale.

(2) “Public community water system” means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(b) Extension of public community water system. In addition to a response action required under section 6615 or 6615b of this title, any person who the Secretary has determined released perfluorooctanoic acid into the air, groundwater, surface water, or onto the land shall be strictly, jointly, and severally liable for the costs of extending the water supply of a public water system to a property when:

(1) the property is served by a potable water supply regulated under chapter 64 of this title;

(2) the Secretary has determined that the potable water supply on the property:

(A) is a failed supply under chapter 64 of this title due to perfluorooctanoic acid contamination; or

(B) is likely to be contaminated by perfluorooctanoic acid due to the proximity of the public water supply to other public water supplies contaminated by perfluorooctanoic acid or due to other relevant factors; and

(3) the person the Secretary determined released perfluorooctanoic acid into the air, groundwater, surface water, or onto the land is the cause of or contributor to the perfluorooctanoic acid contamination or likely contamination of the potable water supply.

(c) Liability payment. A person liable under subsection (b) of this section for the extension of the water supply of a public water system shall pay the operator of the public water system for the extension of the water supply within 30 days of notification of liability by the Secretary or within an alternate time frame ordered by the Secretary. If the person liable for the extension of the water supply does not pay the operator within the required time frame, the person shall be liable for interest on the assessed cost of the extension of the water supply.

(d) Appeal standard. Notwithstanding subsection 8504(h) of this title, the Environmental Division of the Superior Court shall review an appeal of a decision of the Secretary under this section on the record pursuant to Rule 74 of the Vermont Rules of Civil Procedure. Prior to issuing a final liability determination under subsection (b) of this section, the Secretary shall post a proposed liability determination to the website of the Agency of Natural Resources for public notice and written comment for 30 days. In developing the record of a decision under this section, the Secretary shall provide any person an opportunity to supplement the record of the liability determination.

Sec. 2. APPLICATION OF LIABILITY

(a) This act shall apply to any determination of liability made by the Secretary of Natural Resources under 10 V.S.A. § 6615e after the effective date of the act.

(b) Notwithstanding any contrary provision of 1 V.S.A. § 214, this act shall apply to any relevant release of perfluorooctanoic acid regardless of the date of the relevant release, including releases that occurred prior to the effective date of this act.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

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

Bill Amended; Third Reading Ordered**S. 18.**

Senator Benning, for the Committee on Education, to which was referred Senate bill entitled:

An act relating to freedom of expression for students.

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

Sec. 1. 16 V.S.A. chapter 42 is added to read:

CHAPTER 42. STUDENT RIGHTS**§ 1623. FREEDOM OF EXPRESSION****(a) Findings.**

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) "Media adviser" means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) "School" means a public school operating in the State.

(3) “School-sponsored media” means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) “Student journalist” means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) “Student supervisor” is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) A school is prohibited from subjecting school-sponsored media, other than that listed in subsection (e) of this section, to prior restraint. A school may restrain the distribution of content in student media described in subsection (e), provided that the school's administration shall have the burden of providing lawful justification without undue delay. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 2. 16 V.S.A. § 180 is added to read:

§ 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) “Media adviser” means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) “School” means a public postsecondary school operating in the State.

(3) “School-sponsored media” means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) “Student journalist” means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) “Student supervisor” is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) Absent a showing that a particular publication will cause direct, immediate, and irreparable harm that would warrant the issuance of a prior restraint order against the private media, school officials are not authorized to censor or subject to prior restraint the content of schoolsponsored media. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Education?, Senator Benning moved to amend the recommendation of the Committee on Education as follows:

First: In Sec. 1, in 16 V.S.A. § 1623, in subdivision (a)(3), by inserting the word public before the word “institutions”

Second: In Sec. 2, in 16 V.S.A. § 180, in subdivision (a)(3), by inserting the word public before the word “institutions”

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Education, as amended, was agreed to and third reading of the bill was ordered.

Senate Resolution Adopted

S.R. 6.

Senate resolution entitled:

Senate resolution disapproving of Executive Order 05-17.

Having been placed on the Calendar for action, was taken up and adopted.

Third Reading Ordered

S. 33.

Senator Branagan, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to the Rozo McLaughlin Farm-to-School Program.

Reported that the bill ought to pass.

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

Third Reading Ordered

S. 60.

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to the repeal of 21 V.S.A. § 6.

Reported that the bill ought to pass.

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

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Reps. Frenier and others,

H.C.R. 31.

House concurrent resolution in memory of Marion Pritchard.

By Reps Krowinski and others,

By Senators Clarkson and Lyons,

H.C.R. 32.

House concurrent resolution designating February 3, 2017 as Wear Red Day at the State House.

By Rep. Sullivan,

By Senators Campion and Sears,

H.C.R. 33.

House concurrent resolution honoring Bonnie and Timothy Burke for their outstanding work at Wilson House in East Dorset.

By All Members of the House,

H.C.R. 34.

House concurrent resolution designating February 8, 2017 as Farm to School Awareness Day at the State House.

By Reps. Fagan and others,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, and White,

H.C.R. 36.

House concurrent resolution congratulating the 2016 Eagle class of Green Mountain Council Boy Scouts.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 37.

House concurrent resolution honoring Nathaniel A. Boone of Winhall for his pioneering national service.

By Reps. Christie and others,

By Senators Brooks, Balint, Baruth, Campion, Clarkson, and Pollina,

H.C.R. 38.

House concurrent resolution recognizing the importance of the Black Lives Matter Movement in the U.S. and Vermont Black communities.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, February 14, 2017, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 15.