

# Journal of the Senate

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THURSDAY, APRIL 19, 2018

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Taihaku of East Calais.

## Message from the House No. 48

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 considered Senate proposals of amendment to the following House bills:

**H. 551.** An act relating to flags and flag-flying protocol.

**H. 566.** An act relating to animal cruelty.

And has severally concurred therein.

The Governor has informed the House that on the April 17, 2018, he approved and signed bills originating in the House of the following titles:

**H. 585.** An act relating to management of records.

**H. 615.** An act relating to prohibiting the use of drones near correctional facilities.

**H. 616.** An act relating to thermal efficiency monies and biomass-led district heat.

**H. 686.** An act relating to establishing the Child Fatality Review Team.

## Rules Suspended; Bill Committed

### H. 663.

Appearing on the Calendar for notice, on motion of Senator Starr, the rules were suspended and House bill entitled:

An act relating to municipal land use regulation of accessory on-farm businesses.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Agriculture, Senator Starr moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Natural Resources and Energy with the report of the Committee on Agriculture *intact*,

Which was agreed to.

#### **Bills Referred to Committee on Finance**

House bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

**H. 684.** An act relating to professions and occupations regulated by the Office of Professional Regulation.

**H. 777.** An act relating to the Clean Water State Revolving Loan Fund.

**H. 780.** An act relating to portable rides at agricultural fairs, field days, and other similar events.

**H. 897.** An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

**H. 917.** An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

#### **Governor's Veto Overridden**

Senate Bill entitled:

**S. 103.** An act relating to the regulation of toxic substances and hazardous materials.

Was taken up.

Thereupon, the pending question, Shall the bill pass, notwithstanding the refusal of the Governor to approve it?, was decided in the affirmative on a roll call required by the Vermont Constitution, Yeas 22, Nays 8. (the necessary *override* two-thirds vote *having* been attained).

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, White.

**Those Senators who voted in the negative were:** Benning, Branagan, Brock, Collamore, Flory, Mazza, Soucy, Westman.

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**Bill Passed in Concurrence with Proposals of Amendment****H. 914.**

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

An act relating to reporting requirements for the second year of the Vermont Medicaid Next Generation ACO Pilot Project.

**Joint Resolution Adopted in Concurrence****J.R.H. 15.**

Joint House resolution of the following title was read the third time and adopted in concurrence:

Joint resolution requesting the Federal Trade Commission, the Federal Communications Commission, and Congress to adopt more effective measures to enforce the federal Do Not Call list and to police illegal robocalls.

**Proposals of Amendment; Third Reading Ordered****H. 608.**

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

An act relating to creating an Older Vermonters Act working group.

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

First: In subsection (b), in the introductory paragraph, by striking out the number “15” and inserting in lieu thereof the number 18

Second: In subsection (b), by inserting a new subdivision to be subdivision (5) to read as follows:

(5) the Attorney General or designee;

and by renumbering the existing subdivisions (5)–(12) to be subdivisions (6)–(13)

Third: In subsection (b), by inserting two new subdivisions to be subdivisions (14) and (15) to read as follows:

(14) the Executive Director of the Alzheimer’s Association, Vermont Chapter, or designee;

(15) the Director of Support and Services at Home (SASH) or designee;

and by renumbering the existing subdivisions (13) and (14) to be subdivisions (16) and (17)

Fourth: In subsection (c), in the introductory paragraph, following “Community of Vermont Elders,” by striking out the following: “the Alzheimer’s Association,”

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

Senator Westman, 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 Health and Welfare with the following amendment thereto:

By striking out Sec. 3, Older Vermonters Act working group; report, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

### Sec. 3. OLDER VERMONTERS ACT WORKING GROUP; REPORT

(a) Creation. There is created an Older Vermonters Act working group for the purpose of developing recommendations for an Older Vermonters Act that aligns with the federal Older Americans Act, the Vermont State Plan on Aging, and the Choices for Care program.

(b) Membership. The working group shall be composed of the following 18 members:

(1) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(2) the Director of Health Promotion and Disease Prevention at the Department of Health or designee;

(3) the Commissioner of Labor or designee;

(4) the Attorney General or designee;

(5) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(6) the State Long-Term Care Ombudsman;

(7) the Director of Vermont Associates for Training and Development or designee;

(8) a representative of the Vermont Association of Adult Day Services, appointed by the Association;

(9) a representative of home health agencies, appointed jointly by the VNAs of Vermont and Bayada Home Health Care;

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(10) a representative of long-term care facilities, appointed by the Vermont Health Care Association;

(11) the Director of the Center on Aging at the University of Vermont or designee;

(12) a representative of the Vermont Association of Senior Centers and Meal Providers, appointed by the Association;

(13) the Executive Director of the Alzheimer's Association, Vermont Chapter, or designee;

(14) the Director of Support and Services at Home or designee;

(15) two older Vermonters from different regions of the State, appointed by the Advisory Board established by 33 V.S.A. § 505; and

(16) two family caregivers of older Vermonters, one of whom is a family member of an older Vermonter and one of whom is an informal provider of in-home and community care, appointed by the Advisory Board established by 33 V.S.A. § 505.

(c) Powers and duties. The working group, in consultation with elder care mental health clinicians, the Vermont Chamber of Commerce, the Community of Vermont Elders, AARP Vermont, the Elder Law Project at Vermont Legal Aid, the Vermont Public Transportation Association, and other interested stakeholders, shall develop recommendations on the following:

(1) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living as a State Unit on Aging;

(2) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living with respect to the management, approval, and oversight of services provided to eligible older Vermonters through the Choices for Care program;

(3) the roles and responsibilities of the Area Agencies on Aging as the designated regional planning organizations serving older Vermonters and family caregivers;

(4) the roles and responsibilities of the network of providers of services to older Vermonters and family caregivers;

(5) a description of a comprehensive and coordinated system of services and supports for older Vermonters and family caregivers as envisioned by the Older Americans Act and the Choices for Care program, including supportive services, nutrition services, health promotion and disease prevention services, family caregiver services, employment services, and protective services;

(6) a description of how such a system would be coordinated across State agencies, provider networks, and geographic regions;

(7) how to ensure that such a system would target those in greatest economic and social need;

(8) ways to encourage and educate older Vermonters to continue in the workforce and to become or remain involved in their communities through participation in volunteer activities and opportunities for civic engagement; and

(9) ways to educate employers about the value of the older Vermont talent cohort and the benefits of maintaining a multigenerational workforce, as well as identification of models that may be replicated across sectors and industries.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before December 1, 2019, the working group shall submit its recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall chair the working group and shall call the first meeting of the working group, which shall occur on or before September 15, 2018.

(2) The working group shall meet as often as reasonably necessary to develop its recommendations, but not less frequently than once every two months.

(3) The working group shall cease to exist upon submitting its report to the General Assembly on or before December 1, 2019.

(g) 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 at meetings of the working group shall be entitled to reimbursement of expenses pursuant to 32 V.S.A. § 1010. Reimbursement payments to these members shall be made from monies appropriated to the Department of Disabilities, Aging, and Independent Living.

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 Health and Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Health and Welfare, as amended, were agreed to and third reading of the bill was ordered.

### **Proposals of Amendment; Third Reading Ordered**

#### **H. 921.**

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

An act relating to nursing home oversight.

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

First: In Sec. 1, nursing home oversight working group; report, in subsection (c), at the end of subdivision (4), by striking out the word “and” following the semicolon

Second: In Sec. 1, nursing home oversight working group; report, in subsection (c), at the end of subdivision (5)(C), by striking out the period and inserting in lieu thereof the following: ; and

Third: In Sec. 1, nursing home oversight working group; report, in subsection (c), by adding a subdivision (6) to read as follows:

(6) review the Division of Rate Setting’s rules regarding Medicaid reimbursements to nursing homes, including whether current reimbursement amounts support ongoing financial stability and whether a 90 percent occupancy level requirement continues to be necessary and appropriate.

Fourth: By striking out Secs. 3, transfer of ownership; expedited certificate of need process, and 4, effective dates, in their entirety and inserting in lieu thereof the following:

#### **Sec. 3. TRANSFER OF NURSING HOME OWNERSHIP; INTERIM REVIEW PROCESS**

(a) The Secretary of Human Services shall develop a process by which the Agency of Human Services shall accept and review applications for transfers of ownership of nursing homes in lieu of the certificate of need process, including:

(1) examining the potential buyer's financial and administrative capacity to purchase and operate the nursing home in a manner that will provide high-quality services and a safe and stable environment for nursing home residents;

(2) allowing the Agency of Human Services 30 calendar days from the date the application is complete to review the application and to request and obtain any additional information the Agency deems necessary in order to approve or deny the application for transfer of nursing home ownership; provided that the time during which the applicant is responding to the Agency's request for additional information shall not be included within the Agency's 30-day review period; and

(3) requiring the Agency of Human Services to issue a written decision approving or denying the application for transfer of nursing home ownership within 45 calendar days following the 30-day review period.

(b) Applicants who filed a letter of intent or application for a certificate of need with the Green Mountain Care Board for transfer of nursing home ownership on or before July 1, 2018 may elect to have the proposed transfer reviewed under the process established in subsection (a) of this section in lieu of continuing with the certificate of need process. Any such applicant shall file an application with the Agency of Human Services in accordance with the process established by the Secretary.

#### Sec. 4. EFFECTIVE DATES

(a) Sec. 1 (Nursing Home Oversight Working Group) and this section shall take effect on passage.

(b) Sec. 2 (18 V.S.A. § 9434) shall take effect on July 1, 2018 and shall apply to all transfers of ownership initiated on or after that date.

(c) Sec. 3 (transfer of nursing home ownership; interim review process) shall take effect on July 1, 2018.

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.

#### **Message from the House No. 49**

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



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Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 484.** An act relating to consumer protections related to involuntary towing and storage of motor vehicles and abandoned motor vehicles.

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

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 56.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The House has considered Senate proposals of amendment to the following House bills:

**H. 300.** An act relating to the statute of limitations for recovery and possession of property actions against the grantee of a tax collector's deed.

**H. 429.** An act relating to establishment of a communication facilitator program.

**H. 906.** An act relating to professional licensing for service members and veterans.

And has severally concurred therein.

### **Adjournment**

On motion of Senator Ashe, the Senate adjourned until eleven o'clock and thirty minutes in the morning.