

# Journal of the Senate

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FRIDAY, APRIL 26, 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

A moment of silence was observed in lieu of devotions.

## Message from the House No. 53

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 a bill originating in the Senate of the following title:

**S. 95.** An act relating to municipal utility capital investment.

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 adopted House concurrent resolutions of the following titles:

**H.C.R. 144.** House concurrent resolution honoring the tenth bishop of the Episcopal Diocese of Vermont, the Right Reverend Thomas Clark Ely, for his visionary leadership.

**H.C.R. 146.** House concurrent resolution honoring Joseph L. Choquette III on his multiple career and avocational accomplishments.

**H.C.R. 147.** House concurrent resolution congratulating Essex High School on winning the first Academic WorldQuest Vermont championship.

**H.C.R. 148.** House concurrent resolution honoring Vaughn Altemus for his career achievements in academia and Vermont State government.

**H.C.R. 149.** House concurrent resolution congratulating the Rutland County Humane Society on its 60th anniversary.

**H.C.R. 150.** House concurrent resolution congratulating the Harwood Union High School Highlanders on winning a second consecutive Division II boys' golf championship.

**H.C.R. 151.** House concurrent resolution congratulating the 2019 Enosburg Falls High School Hornets State snowboarding championship team.

**H.C.R. 152.** House concurrent resolution congratulating Nicholas John Blaney of Berkshire on his outstanding snowboarding accomplishments.

**H.C.R. 153.** House concurrent resolution congratulating the 2019 Vermont Shamrocks USA Hockey girls' Tier II 16U national championship team.

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

The House has considered concurrent resolutions originating in the Senate of the following titles:

**S.C.R. 11.** Senate concurrent resolution congratulating Katherine Womeldorf Paterson of Montpelier on winning the 2019 E.B. White Award for her achievement in children's literature.

**S.C.R. 12.** Senate concurrent resolution honoring former Representative and Senator Seth B. Bongartz for his impressive leadership as President of Hildene.

And has adopted the same in concurrence.

### **Rules Suspended; Bill Committed**

#### **H. 460.**

Pending entry on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House bill entitled:

An act relating to sealing and expungement of criminal history records.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Judiciary, Senator Sears moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Judiciary *intact*,

Which was agreed to.

### **Bill Referred to Committee on Appropriations**

#### **H. 16.**

House bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to boards and commissions.

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**House Proposal of Amendment Concurred In****S. 49.**

House proposal of amendment to Senate bill entitled:

An act relating to the regulation of polyfluoroalkyl substances in drinking and surface waters.

Was taken up.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. FINDINGS**

The General Assembly finds that:

(1) Perfluoroalkyl, polyfluoroalkyl substances (PFAS), and other perfluorochemicals are a large group of human-made chemicals that have been used in industry and consumer products worldwide since the 1950s.

(2) PFAS may enter the environment from numerous industrial or commercial sources, including when emitted during a manufacturing process, from the disposal of goods containing PFAS, or from leachate from landfills.

(3) Many PFAS do not readily break down and persist in the environment for a very long time, especially in water, and, consequently, PFAS can be found in many bodies of water and in the blood of humans and wildlife.

(4) The Vermont Department of Health has adopted a health advisory level for certain PFAS of 20 parts per trillion.

(5) The Vermont Water Supply Rule provides that the Secretary of Natural Resources may adopt a Vermont Department of Health advisory level as a maximum contaminant level for a substance.

(6) The Agency of Natural Resources (ANR) has adopted the 20 parts per trillion level as part of ANR's Remediation of Contaminated Properties Rule and Groundwater Protection Rule and Strategy, but not as part of the Vermont Water Supply Rule or the Vermont Water Quality Standards.

(7) To prevent further contamination of State water, and to reduce the potential harmful effects of PFAS on human health and the environment, the State of Vermont should:

(A) require the Agency of Natural Resources to adopt by rule maximum contaminant level or levels for PFAS under the Vermont Water Supply Rule;

(B) prior to adoption by rule of maximum contaminant level or levels for PFAS, require public water systems to monitor for certain PFAS chemicals and respond appropriately when results indicate levels of PFAS in excess of the Vermont Department of Health advisory level;

(C) require the Agency of Natural Resource to adopt surface water quality standards for certain PFAS chemicals; and

(D) authorize the Agency of Natural Resources to require any permitted facility to monitor for any release of a chemical that exceeds a health advisory issued by the Vermont Department of Health.

Sec. 2. INTERIM DRINKING WATER STANDARD; TESTING; PER AND POLYFLUOROALKYL SUBSTANCES

(a) As used in this section:

(1) “Perfluoroalkyl, polyfluoroalkyl substances” or “PFAS substances” means perfluoroalkyl substances and polyfluoroalkyl substances that are detectable using standard analytical methods established by the U.S. Environmental Protection Agency, including regulated PFAS contaminants.

(2) “Regulated PFAS contaminants” means perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and perfluoroheptanoic acid.

(b) On or before December 1, 2019, all public community water systems and all nontransient, noncommunity water systems shall conduct monitoring for the maximum number of PFAS substances detectable from standard laboratory methods.

(c) After completion of initial monitoring under subsection (b), a public community water system or a nontransient, noncommunity water system shall conduct continued monitoring for the presence of regulated PFAS contaminants in drinking water supplied by the system as follows until adoption of the rules required under subsection 3(a) of this act:

(1) If initial monitoring results detect the presence of any regulated PFAS contaminants individually or in combination at or above the Vermont Department of Health advisory level of 20 parts per trillion, the public water system shall conduct continued quarterly monitoring.

(2) If initial monitoring results detect the presence of any regulated PFAS contaminants individually or in combination at or above the reporting level of two parts per trillion but below the Vermont Department of Health advisory level of 20 parts per trillion, the public water system shall conduct continued monitoring annually.

(3) If initial monitoring results detect the presence of any regulated PFAS contaminants below the reporting level of two parts per trillion, the public water system shall conduct continued monitoring every three years.

(d) If monitoring results under subsections (b) or (c) of this section confirm the presence of any regulated PFAS contaminants individually or in combination in excess of the Vermont Department of Health advisory level of 20 parts per trillion, the Agency of Natural Resources shall:

(1) direct the public water system to implement treatment or other remedy to reduce the levels of regulated PFAS contaminants in the drinking water of the public water system below the Vermont Department of Health advisory level; and

(2) direct the public water system to issue a “do not drink” notice to all users of the public water system until the treatment under subdivision (1) of this subsection is completed.

(e) The Secretary may enforce the requirements of this section under 10 V.S.A. chapter 201. A person may appeal the acts or decisions of the Secretary of Natural Resources under this section under 10 V.S.A. chapter 220.

Sec. 3. DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
WATER SUPPLY RULE; MAXIMUM CONTAMINANT LEVEL  
FOR PER AND POLYFLUOROALKYL SUBSTANCES;  
STANDARD FOR PER AND POLYFLUOROALKYL  
SUBSTANCES; CLASS OR SUBCLASSES

(a) On or before February 1, 2020, the Secretary of Natural Resources shall file under 3 V.S.A. § 841 a final proposed rule with the Secretary of State and the Legislative Committee on Administrative Rules establishing under the Department of Environmental Conservation’s Water Supply Rule a maximum contaminant level (MCL) for perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and perfluoroheptanoic acid. The Secretary shall use the Vermont Department of Health’s health advisory level for perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and perfluoroheptanoic acid as the initial basis for developing the MCL under this subsection and may propose adjustments or variances from the advisory level based on scientific evidence, industry standards, or public input.

(b) On or before August 1, 2020, the Secretary of Natural Resources shall initiate a public notice and comment process by publishing an advance notice of proposed rulemaking regarding the regulation under the Department of Environmental Conservation’s Water Supply Rule of per and polyfluoroalkyl (PFAS) compounds as a class or subclasses.

(c) On or before March 1, 2021, the Secretary of Natural Resources shall either:

(1) file a proposed rule with the Secretary of State regarding the regulation of PFAS compounds under the Department of Environmental Conservation's Water Supply Rule as a class or subclasses; or

(2) publish a notice of decision not to regulate PFAS compounds as a class or subclasses under the Department of Environmental Conservation's Water Supply Rule that includes, at a minimum, an identification of all legal, technical, or other impediments to regulating PFAS compounds as a class or subclasses and a detailed response to all public comments received.

(d) If the Secretary of Natural Resources proposes a rule pursuant to subsection (c), on or before December 31, 2021, the Secretary of Natural Resources shall file a final rule with the Secretary of State regarding the regulation of PFAS compounds as a class or subclasses under the Department of Environmental Conservation's Water Supply Rule.

#### Sec. 4. REPEAL; INTERIM DRINKING WATER MONITORING; PFAS CONTAMINANTS

Sec. 2 (interim drinking water monitoring; PFAS contaminants) shall be repealed on the effective date of the rules required under Sec. 3(a) of this act.

#### Sec. 5. VERMONT WATER QUALITY STANDARDS; PER AND POLYFLUOROALKYL SUBSTANCES

(a) On or before January 15, 2020, the Secretary of Natural Resources shall publish a plan for public review and comment for adoption of surface water quality standards for per and polyfluoroalkyl substances (PFAS) that shall include, at a minimum, a proposal for standards for:

(1) perfluorooctanoic acid; perfluorooctane sulfonic acid; perfluorohexane sulfonic acid; perfluorononanoic acid; and perfluoroheptanoic acid; and

(2) the PFAS class of compounds or subgroups of the PFAS class of compounds.

(b) On or before January 1, 2024, the Secretary of Natural Resources shall file a final rule with the Secretary of State to adopt surface water quality standards for, at a minimum, perfluorooctanoic acid, perfluorooctane sulfonic acid, perfluorohexane sulfonic acid, perfluorononanoic acid, and perfluoroheptanoic acid.

Sec. 6. INVESTIGATION OF POTENTIAL SOURCES OF PER AND POLYFLUOROALKYL SUBSTANCES CONTAMINATION

On or before June 1, 2019, the Secretary of Natural Resources shall publish a plan for public review and comment to complete a statewide investigation of potential sources of per and polyfluoroalkyl substances (PFAS) contamination. As part of this investigation, the Secretary shall conduct a pilot project at public water systems to evaluate PFAS that are not quantified by standard laboratory methods using a total oxidizable precursor assay or other applicable analytical method to evaluate total PFAS. The Secretary of Natural Resources shall initiate implementation of the plan not later than July 1, 2019.

Sec. 7. 3 V.S.A. § 2810 is added to read:

§ 2810. INTERIM ENVIRONMENTAL MEDIA STANDARDS

The Secretary of Natural Resources may require any entity permitted by the Agency of Natural Resources to monitor the operation of a facility, discharge, emission, or release for any constituent for which the Department of Health has established a health advisory. The Secretary may impose conditions on a permitted entity based on the health advisory if the Secretary determines that the operation of the facility, discharge, emission, or release may result in an imminent and substantial endangerment to human health or the natural environment. The authority granted to the Secretary under this section shall last not longer than two years from the date the health advisory was adopted.

Sec. 8. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

\* \* \*

(28) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases; ~~and~~

(29) 10 V.S.A. § 1420, relating to abandoned vessels; ~~and~~

(30) 3 V.S.A. § 2810, relating to interim environmental media standards.

\* \* \*

Sec. 9. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

\* \* \*

- (2) 29 V.S.A. chapter 11 (management of lakes and ponds).
- (3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).
- (4) 3 V.S.A. § 2810 (interim environmental media standards).

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Sec. 10. ENVIRONMENTAL MEDIA STANDARDS; GUIDANCE; PLAN

(a) On or before January 1, 2020, the Secretary of Natural Resources shall publish a guidance document for public review and comment that sets forth detailed practices for implementation by the Secretary of Natural Resources of interim environmental media standards authority under 3 V.S.A. § 2810.

(b) On or before January 1, 2020, the Secretary of Natural Resources shall publish for public review and comment a plan to collect data for contaminants in drinking water from public community water systems and all nontransient noncommunity water systems for which a health advisory has been established but no maximum contaminant level has been adopted.

Sec. 11. AGENCY OF NATURAL RESOURCES CONTAMINANTS OF EMERGING CONCERN PILOT PROJECT

On or before January 15, 2020, the Agency of Natural Resources shall submit to the House Committees on Natural Resources, Fish, and Wildlife and on Commerce and Economic Development and the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs a report regarding the management at landfills of leachate containing contaminants of emerging concern (CECs). The report shall include:

- (1) the findings of the leachate treatment evaluation conducted at any landfill in Vermont;
- (2) the Agency of Natural Resources' assessment of the results of landfill leachate evaluations; and



(3) the Agency of Natural Resources' recommendations for treatment of CECs in leachate from landfills, including whether the State should establish a pilot project to test methods for testing or managing CECs in landfill leachate.

Sec. 12. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**Bill Passed in Concurrence with Proposal of Amendment**

**H. 133.**

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

An act relating to miscellaneous energy subjects.

**Consideration Postponed**

House bill entitled:

**H. 275.**

An act relating to the Farm-to-Plate Investment Program.

Was taken up.

Thereupon, pending third reading of the bill, Senator Starr moved that consideration of the bill be postponed until Wednesday, May 1, 2019, which was agreed to.

**Consideration Postponed**

House bill entitled:

**H. 511.**

An act relating to criminal statutes of limitations.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved that consideration of the bill be postponed until Wednesday, May 1, 2019, which was agreed to.

**Bill Passed in Concurrence with Proposals of Amendment**

**H. 526.**

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

An act relating to town clerk recording fees and town restoration and preservation reserve funds.

### **Appointments Confirmed**

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Mullin, Kevin J. of Rutland - Chair, Green Mountain Care Board - August 17, 2018 to February 29, 2024.

Was confirmed by the Senate.

The nomination of

Goldstein, Joan of Royalton - Commissioner, Department of Economic Development - March 1, 2019 to February 28, 2021.

Was confirmed by the Senate.

The nomination of

Levine, Mark A. of Shelburne - Commissioner, Department of Health - March 1, 2019 to February 28, 2021.

Was confirmed by the Senate.

The nomination of

Gobeille, Alfred J. of Shelburne - Secretary, Agency of Human Services - March 1, 2019 to February 28, 2021.

Was confirmed by the Senate.

### **Senate 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 on the part of the Senate:

By Senators Cummings, Perchlik and Pollina,

#### **S.C.R. 11.**

Senate concurrent resolution congratulating Katherine Womeldorf Paterson of Montpelier on winning the 2019 E.B. White Award for her achievement in children's literature.

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By Senators Campion and Sears,

By Reps. Browning and others,

**S.C.R. 12.**

Senate concurrent resolution honoring former Representative and Senator Seth B. Bongartz for his impressive leadership as President of Hildene.

**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. Ancel and others,

By Senators Clarkson and Ingram,

**H.C.R. 144.**

House concurrent resolution honoring the tenth bishop of the Episcopal Diocese of Vermont, the Right Reverend Thomas Clark Ely, for his visionary leadership.

By Reps. Marcotte and others,

By Senator McNeil,

**H.C.R. 146.**

House concurrent resolution honoring Joseph L. Choquette III on his multiple career and avocational accomplishments.

By Reps. Myers and others,

**H.C.R. 147.**

House concurrent resolution congratulating Essex High School on winning the first Academic WorldQuest Vermont championship.

By Reps. Hooper and others,

**H.C.R. 148.**

House concurrent resolution honoring Vaughn Altemus for his career achievements in academia and Vermont State government.

By Reps. Shaw and others,

By Senators Collamore, Hooker and McNeil,

**H.C.R. 149.**

House concurrent resolution congratulating the Rutland County Humane Society on its 60th anniversary.

By Reps. Stevens and others,

**H.C.R. 150.**

House concurrent resolution congratulating the Harwood Union High School Highlanders on winning a second consecutive Division II boys' golf championship.

By Reps. Leffler and others,

**H.C.R. 151.**

House concurrent resolution congratulating the 2019 Enosburg Falls High School Hornets State snowboarding championship team.

By Reps. Fegard and others,

**H.C.R. 152.**

House concurrent resolution congratulating Nicholas John Blaney of Berkshire on his outstanding snowboarding accomplishments.

By Reps. Till and others,

**H.C.R. 153.**

House concurrent resolution congratulating the 2019 Vermont Shamrocks USA Hockey girls' Tier II 16U national championship team.

**Adjournment**

On motion of Senator Mazza, the Senate adjourned, to reconvene on Tuesday, April 30, 2019, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 25.