

# Journal of the Senate

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THURSDAY, MAY 14, 2020

The Senate was called to order by the President.

## Devotional Exercises

A moment of silence was observed in lieu of devotions.

## Message from the House No. 44

A message was received from the House of Representatives by Ms. Alona Tate, 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. 948.** An act relating to temporary municipal proceedings provisions in response to the COVID-19 outbreak.

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. 52.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

## Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the fourteenth day of May 2020 he approved and signed bills originating in the Senate of the following titles:

**S. 182.** An act relating to government operations regarding emergency medical services and public safety in response to COVID-19.

**S. 333.** An act relating to establishing a moratorium on ejection and foreclosure actions during the COVID-19 emergency.

**S. 344.** An act relating to temporary municipal tax rate provisions in response to COVID-19.

### Roll Call

The roll of the Senate was thereupon called by the Secretary, John H. Bloomer, Jr., and it appeared that the following Senators were present.

Addison District	Senator Christopher A. Bray Senator Ruth Ellen Hardy
Bennington District	Senator Brian A. Campion Senator Richard W. Sears, Jr.
Caledonia District	Senator M. Jane Kitchel
Chittenden District	Senator Timothy R. Ashe Senator Philip E. Baruth Senator Deborah J. Ingram Senator Virginia V. Lyons Senator Christopher A. Pearson Senator Michael D. Sirotkin
Essex-Orleans District	Senator Robert A. Starr
Franklin District	Senator Randolph D. Brock Senator Corey J. Parent
Grand Isle District	Senator Richard T. Mazza
Lamoille District	Senator Richard A. Westman
Orange District	Senator Mark A. MacDonald
Rutland District	Senator Brian P. Collamore Senator Cheryl Mazzariello Hooker Senator James L. McNeil
Washington District	Senator Ann E. Cummings Senator Andrew J. Perchlik Senator Anthony Pollina
Windham District	Senator Rebecca A. Balint Senator Jeanette K. White
Windsor District	Senator Alison Clarkson Senator Richard J. McCormack Senator Alice W. Nitka

**Bill Referred**

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

**H. 948.**

An act relating to temporary municipal proceedings provisions in response to the COVID-19 outbreak.

To the Committee on Government Operations.

**Bill Amended; Third Reading Ordered****S. 337.**

Senator Campion, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors.

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

Sec. 1. ALLOWANCE OF THE USE OF ENERGY EFFICIENCY  
CHARGE FUNDS FOR GREENHOUSE GAS EMISSIONS  
REDUCTION PROGRAMS

(a) The electric resource acquisition budget for an entity appointed to provide electric energy efficiency and conservation programs and measures pursuant to 30 V.S.A. § 209(d)(2)(A) for the calendar years 2021–2023 shall be determined pursuant to 30 V.S.A. § 209(d)(3)(B). This section shall apply only if the entity’s total electric resource acquisition budget for 2021–2023 does not exceed the entity’s total electric resource acquisition budget for 2018–2020.

(b) Notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary, the PUC shall authorize an entity pursuant to subsection (a) of this section to spend a portion of its electric resource acquisition budget, in an amount to be determined by the PUC but not to exceed \$2,000,000.00 per year, on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sectors. Programs, measures, and services authorized pursuant to subsection (a) of this section shall:

(1) Reduce greenhouse gas emissions in the thermal energy or transportation sectors, or both.

(2) Have a nexus with electricity usage.

(3) Be additive and complementary to and shall not replace or be in competition with electric utility energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) such that they result in the largest possible greenhouse gas emissions reductions in a cost-effective manner.

(4) Be proposed after the entity consults with any relevant State agency or department and shall not be duplicative or in competition with programs delivered by that agency or department.

(5) Be delivered on a statewide basis. However, if any of these funds are used for services specific to a retail electricity provider, the funds used for services to each retail electricity provider for the calendar years 2021–2023 shall be reasonably proportionate to the energy efficiency charge collected in that territory.

(c) An entity that is approved to provide a program, measure, or service pursuant to this section shall provide the program, measure, or service in cooperation with a retail electricity provider.

(1) The entity shall not claim any savings and reductions in fossil fuel consumption and in greenhouse gas emissions by the customers of the retail electricity provider resulting from the program, measure, or service if the provider elects to offer the program, measure, or service pursuant to 30 V.S.A. § 8005(a)(3) unless the entity and provider agree upon how savings and reductions should be accounted for, apportioned, and claimed.

(2) The PUC shall develop standards and methods to appropriately measure the effectiveness of the programs, measures, and services in relation to the entity’s Demand Resources Plan proceeding.

(d) Any funds spent on programs, measures, and services pursuant to this section shall not be counted towards the calculation of funds used by a retail electricity provider for energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and the calculation of project costs pursuant to 30 V.S.A. § 8005(a)(3)(C)(iv).

(e) On or before April 30, 2021 and every April 30 for three years thereafter, the PUC shall submit a written report to the House Committee on Energy and Technology and the Senate Committees on Natural Resources and Energy and on Finance concerning any programs, measures, and services approved pursuant to this section.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage and shall be repealed as of April 30, 2024.

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 on a roll call, Yeas, 27, Nays 1.

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

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Balint, Baruth, Bray, Campion, Clarkson, Collamore, Cummings, Hardy, Hooker, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, McNeil, Nitka, Parent, Pearson, Perchlik, Pollina, Sears, Sirotkin, Starr, Westman, White.

**The Senator who voted in the negative was:** Brock.

**Those Senators absent and not voting were:** Benning, Rodgers.

### **Bill Passed**

#### **S. 226.**

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

An act relating to statewide public school employee health benefits.

### **Bill Amended; Third Reading Ordered**

#### **S. 185.**

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

An act relating to the adoption of a climate change response plan.

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

\* \* \* Climate Change Response Plan \* \* \*

Sec. 1. 18 V.S.A. chapter 35 is added to read:

#### CHAPTER 35. PUBLIC HEALTH RESPONSE TO CLIMATE CHANGE

#### § 1711. CLIMATE CHANGE RESPONSE PLAN

The Department of Health, in collaboration with the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321, shall develop and adopt a statewide climate change response plan to foster resilience to the impacts of climate change in Vermont.

(1) Using a public health model, the Department's response plan shall seek to prevent and mitigate public health risks caused by climate change in Vermont, with particular attention shown to vulnerable populations, including:

- (A) infants and young children;
- (B) elders;
- (C) persons with physical disabilities;
- (D) persons with a chronic or existing medical condition;
- (E) persons with low income;
- (F) persons who are homeless or lack access to transportation;
- (G) persons living in flood plains; and
- (H) persons whose employment occurs primarily outdoors.

(2) The response plan shall provide actionable strategies specific to both rural and urban communities in the State, including specific strategies that address:

- (A) mental health;
- (B) vector-borne diseases;
- (C) waterborne and foodborne diseases;
- (D) hot weather;
- (E) cyanobacteria;
- (F) extreme storm events; and
- (G) air pollution and pollen.

#### § 1712. CLIMATE CHANGE RESPONSE COMMUNICATION

The Department of Health, in coordination with the regional planning commissions, regional emergency management providers, and the Citizens Assistance Registry for Emergencies, shall develop a plan and communicate with both Vermont communities and each other for the purpose of mitigating and responding to climate change related public health risks in Vermont.

#### Sec. 2. REPORT; CLIMATE CHANGE RESPONSE PLAN

On or before July 1, 2021, the Department of Health shall submit the climate change response plan adopted pursuant to 18 V.S.A. § 1711 to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare.

\* \* \* Regional Planning Commission Involvement in Identifying  
Health Care-Related Needs \* \* \*

Sec. 3. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

\* \* \*

(21) Consult with and assist hospitals licensed pursuant to 18 V.S.A. chapter 43 regarding the development of health needs assessments and other initiatives as needed in accordance with 18 V.S.A. § 9405a.

(22) Consult with and assist the Agency of Human Services, Department of Health, and Vermont Emergency Management to incorporate public health and safety concerns related to climate change into State and local emergency and hazard mitigation, response, and recovery plans.

Sec. 4. 18 V.S.A. § 9405a is amended to read:

§ 9405a. PUBLIC PARTICIPATION AND STRATEGIC PLANNING

(a) Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Regional planning commissions shall be available for consultation and assistance pursuant to 24 V.S.A. § 4345a. Needs identified through the process shall be integrated with the hospital's long-term planning. Each hospital shall post on its website a description of its identified needs, strategic initiatives developed to address the identified needs, annual progress on implementation of the proposed initiatives, opportunities for public participation, and the ways in which the hospital ensures access to appropriate mental health care that meets standards of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

\* \* \*

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

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

And that after passage the title of the bill be amended to read:

An act relating to adopting a climate change response plan and regional planning commission involvement in identifying health care-related needs.

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.

### Consideration Postponed

#### S. 197.

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

An act relating to prohibiting discrimination based on genetic information.

Reported recommending that the Senate amend the bill as follows:

First: By striking out Sec. 3, 18 V.S.A. § 9334, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 18 V.S.A. § 9334 is amended to read:

§ 9334. GENETIC TESTING AS A CONDITION OF INSURANCE  
COVERAGE

(a) No policy of insurance offered for delivery or issued in this State shall be underwritten or conditioned on the basis of:

(1) any requirement or agreement of the individual to undergo genetic testing; ~~or~~

(2) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(3) ~~the results of genetic testing of genetic information of~~ a member of the individual's family.

\* \* \*

Second: By striking out Sec. 4, 8 V.S.A. § 3702, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 8 V.S.A. § 3702 is amended to read:

§ 3702. OTHER PROHIBITED PRACTICES

A life insurance company doing business in the State or an agent thereof shall not do any of the following:



(1) ~~issue~~ Issue a policy of insurance or make an agreement other than that plainly expressed in the policy issued to the insured;

(2) ~~pay~~ Pay or allow, or offer to pay or allow, as an inducement to insurance, a rebate or premium payable on the policy;

(3) ~~grant~~ Grant a special favor or advantage in the dividends or other benefits to accrue thereon;

(4) ~~provide~~ Provide any valuable consideration or inducement not specified in the policy.

(5)(A) Condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) the genetic information of a member of the individual's family.

(B) As used in this subdivision (5), "genetic testing" and "genetic information" have the same meaning as in 18 V.S.A. § 9331.

(C) Notwithstanding subdivisions (A) and (B) of this subdivision (5), a life insurance company or its agent may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for an individual on the individual's family medical history, including the manifestation of a disease or disorder in one or more family members of the individual, provided that there is a relationship between the individual's family medical history and the cost of the insurance risk that the insurer would assume by insuring the individual. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience.

(6) Request, require, purchase, or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested.

Third: By striking out Sec. 5, 8 V.S.A. § 4724, in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 8 V.S.A. § 4724 is amended to read:

§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR  
DECEPTIVE ACTS OR PRACTICES DEFINED

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

\* \* \*

(7) Unfair discrimination; arbitrary underwriting action.

\* \* \*

(D) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance based on medical information, ~~including the results of genetic testing~~, where there is not a relationship between the medical information and the cost of the insurance risk that the insurer would assume by insuring the proposed insured. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience. ~~As used in this subdivision, “genetic testing” shall be defined as the term is defined in 18 V.S.A. § 9331(7).~~

\* \* \*

(F)(i) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance on:

(I) any requirement or agreement of the individual to undergo genetic testing;

(II) genetic information of the individual that may be associated with a potential genetic condition in that individual, but which has not resulted in a diagnosed condition in the individual; or

(III) the genetic information of a member of the individual’s family.

(ii) As used in this subdivision (7)(F), “genetic testing” and “genetic information” have the same meaning as in 18 V.S.A. § 9331.

\* \* \*

(22) Genetic testing.

(A) Conditioning insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing; or

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

~~(iii) the results of genetic testing~~ genetic information of a member of the individual's family ~~unless the results are contained in the individual's medical record.~~

(B) As used in this subdivision (22), "genetic testing" ~~shall be defined as the term is defined~~ and "genetic information" have the same meaning as in 18 V.S.A. § 9331(7) 9331.

Fourth: By striking out Sec. 7, 8 V.S.A. § 8086, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. 8 V.S.A. § 8086 is amended to read:

§ 8086. PREEXISTING CONDITIONS; GENETIC TESTING

\* \* \*

(b)(1) No long-term care insurance policy or certificate may exclude coverage for a loss or confinement which is the result of a preexisting condition, unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

(2)(A) No long-term care insurance policy or certificate may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) the genetic information of a member of the individual's family.

(B) As used in this subdivision, "genetic testing" and "genetic information" have the same meaning as in 18 V.S.A. § 9331.

\* \* \*

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 Health and Welfare?, Senator Ashe moved that consideration be postponed.

Which was agreed to.

**Rules Suspended; Bill Amended; Third Reading Ordered**

**H. 947.**

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

An act relating to temporary municipal tax rate provisions in response to COVID-19.

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be read a third time?, Senators White, Bray, Clarkson, Collamore and Pollina moved that the Senate propose to the House amend the bill as follows:

First: In Sec. 1 (municipal tax rate; temporary authority), immediately following the words “the legislative body of a”, by striking out the word “municipality” and inserting in lieu thereof the following: city, town, or incorporated village

Second: In Sec. 1 (municipal tax rate; temporary authority), immediately following the words “provided that the”, by striking out the word “municipality” and inserting in lieu thereof the following: city, town, or incorporated village

Which was agreed to.

Thereupon, third reading of the bill was ordered.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned, to reconvene on Tuesday, May 19, 2020, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 52.