

Journal of the Senate

FRIDAY, MAY 12, 2017

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Recess

The Chair declared a recess 9:20 A.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 75

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 the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 136. An act relating to miscellaneous consumer protection provisions.

And has adopted the same on its part.

House Proposals of Amendment; Consideration Interrupted by Recess

H. 509.

House proposals of amendment to Senate bill entitled:

An act relating to calculating statewide education tax rates.

Were taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

First: By inserting two new sections to be numbered Secs. 2a and 2b to read as follows:

* * * Education Fund allocation; sales and use tax * * *

Sec. 2a. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) ~~An~~ The Education Fund is established to comprise the following:

* * *

(6) ~~Thirty-five~~ Thirty-seven percent of the revenues raised from the sales and use tax imposed by 32 V.S.A. chapter 233.

* * *

Sec. 2b. 32 V.S.A. § 435 is amended to read:

* * *

(b) The General Fund shall be composed of revenues from the following sources:

* * *

(11) ~~65~~ 63 percent of the revenue from sales and use taxes levied pursuant to chapter 233 of this title;

* * *

Second: By striking out Secs. 3–5 in their entirety, and inserting a reader assistance and inserting in lieu thereof three new sections to be numbered Secs. 3–5 to read as follows:

* * * Unfunded Mandates * * *

Sec. 3. 32 V.S.A. § 305b is added to read:

§ 305b. UNFUNDED EDUCATION MANDATE AMOUNT TRANSFER

Not more than 30 days after the end of each annual legislative session of the General Assembly, the Joint Fiscal Office and the Secretary of Administration, in consultation with the Secretary of Education and with the Secretary of Human Services as appropriate, shall estimate the “unfunded education mandate amount.” This estimate shall equal the total dollar amount necessary for supervisory unions and school districts to perform any action that is required pursuant to legislation enacted during that annual legislative session that has a related direct cost but does not have a specifically identified appropriation for fulfilling that obligation. The estimate shall be for the fiscal year commencing on July 1 of the following year. The Joint Fiscal Office and the Secretary of Administration shall present to the Emergency Board at its July meeting an estimate of the unfunded education mandate amount and the Emergency Board shall determine the unfunded education mandate amount.

The Governor's budget report required under section 306 of this title shall include a transfer of this amount from the General Fund pursuant to 16 V.S.A. § 4025(a)(2) for the fiscal year commencing on July 1 of the following year.

Sec. 4. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) ~~An~~ The Education Fund is established to comprise the following:

* * *

(2) For each fiscal year, the amount of the general funds appropriated or transferred to the Education Fund shall be ~~\$305,900,000.00, to be:~~

(A) the total of \$305,900,000.00 plus the unfunded education mandate amount, as defined in subsection (e) of this section;

(B) increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis through the fiscal year for which the payment is being determined;

(C) plus an additional one-tenth of one percent.

* * *

(e) As used in this section, "unfunded education mandate amount" shall mean the amount appropriated by the General Assembly in any fiscal year for the purpose of providing funding for supervisory unions and school districts to perform any action that is required pursuant to legislation and that has a related direct cost but does not otherwise have a specifically identified appropriation for fulfilling that obligation. The "unfunded education mandate amount" shall include the cumulative amount of these appropriations for all fiscal years in which they are made.

Sec. 5. 16 V.S.A. § 4028(d) is amended to read:

(d) Notwithstanding 2 V.S.A. § 502(b)(2), the Joint Fiscal Office shall prepare a fiscal note for any legislation that requires a supervisory union or school district to perform any action ~~with an associated~~ that has a related direct cost, but does not provide money or a funding mechanism have a specifically identified appropriation for fulfilling that obligation. Any fiscal note prepared under this subsection shall identify whether or not the estimated costs would be considered part of the "unfunded education mandate amount" under 32 V.S.A. § 305b for the next fiscal year. Any fiscal note prepared under this subsection shall be completed no later than the date that the legislation is considered for a vote in the first committee to which it is referred.

Third: In Sec. 1, subdivision (1), by striking out the following: “\$10,015.00” and inserting in lieu thereof the following: \$10,077.00, and in subdivision (2), by striking out the following: “\$11,820.00” and inserting in lieu thereof the following: \$11,851.00

Fourth: In Sec. 2, by striking out the following: “\$1.563” and inserting in lieu thereof the following: \$1.555

Fifth: By striking out Sec. 7, working group, and its reader assistance, and Sec. 8, effective date, and its reader assistance, in their entirety and inserting in lieu thereof reader assistance headings and Secs. 7–8 to read as follows:

* * * Health Care Transition * * *

Sec. 7. SAVINGS FROM HEALTH CARE TRANSITION

(a) As of January 1, 2018, all school employees will be on new health care plans. The new health plans cover the same health care services and networks, but they have lower premium costs. The new plans also create higher out-of-pocket exposure through deductibles and co-payment requirements. However, because the premiums for these plans are markedly lower, there are opportunities to keep employees’ out-of-pocket costs at current levels while also realizing up to \$26 million in annual savings. Based on the data from finalized contracts to date, these savings may result in substantially fewer health care costs than districts have budgeted for fiscal year 2018.

(b) On or before June 30, 2017 or 30 days after the adoption of its annual budget, whichever is later, each supervisory district, supervisory union, and school district shall submit to the Secretary of Education and the Commissioner of Finance and Management a report documenting its actual health care costs for calendar years 2016 and 2017 and its budgeted health care costs for 2018. This report shall be on a form prescribed by the Commissioner of Finance and Management and shall specify the employee contribution and employer contribution totals for each calendar year.

(c) Not later than 60 days after the adoption of all collective bargaining agreements covering health care benefits for school employees for plan year 2018, each supervisory district, supervisory union, and school district shall submit to the Secretary of Education and the Commissioner of Finance and Management, a report documenting its anticipated health care costs for fiscal year 2018, based on the new collective bargaining agreements covering plan year 2018. This report shall be on a form prescribed by the Commissioner of Finance and Management and shall specify the actual employee contribution and employer contribution totals for plan year 2018.

(d) Notwithstanding any other provision of law, for fiscal year 2018 only, the State shall offset the amount of savings between budgeted and actual costs

for health care benefits and coverage against the fiscal year 2018 payment to each supervisory district, supervisory union, or school district; provided, however, the State shall withhold any payment due to a supervisory district, supervisory union, or school district after January 1, 2018, until it has received the report required pursuant to subsections (b) and (c) of this section. The savings offset under this subsection shall remain in the Education Fund in an effort to lower property tax rates in fiscal year 2019.

(e) The Agency of Education shall develop a system for tracking the amount of savings offset for each school district under subsection (d) in fiscal year 2018. Notwithstanding any other provision of law, for each school district for which savings were offset under subsection (d), the Agency of Education shall pay a grant to that district in fiscal year 2019, in an amount equal to the offset savings. The grant shall be paid after the school district budget for fiscal year 2019 is approved by voters and reported to the Agency of Education, and the grant shall be reflected in the homestead property tax rate and income percentage used for that school district in fiscal year 2019.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) Sec. 2a and 2b (Education Fund allocation) shall take effect July 1, 2018 and apply to fiscal year 2019 and after.

(b) This section, Sec. 6a (calculation of rates in certain districts), and Sec. 7 (healthcare transition) shall take effect on passage.

(c) The remaining sections of this act shall take effect on July 1, 2017 and apply to fiscal year 2018 and after.

Thereupon, pending the question, Shall the Senate concur in the House proposals of amendment?, Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Champion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White moved that the Senate concur with the House proposal of amendment to the Senate proposal of amendment, with further amendments as follows:

First: In Sec. 1, subdivision (1), by striking out the following: “\$10,077.00” and inserting in lieu thereof the following: \$10,280.00, and in subdivision (2), by striking out the following: “\$11,851.00” and inserting in lieu thereof the following: \$12,132.00

Second: By striking out the reader assistance and Secs. 2a and 2b (sales and use tax allocation) in their entirety and inserting in lieu thereof new Secs. 2a and 2b to read as follows:

Sec. 2a. [Deleted.]

Sec. 2b. [Deleted.]

Third: By striking out the reader assistance and Secs. 3 through 5 (unfunded mandates) in their entirety and inserting in lieu thereof new Secs. 3 through 5 to read as follows:

Sec. 3. [Deleted.]

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

Fourth: By striking out Sec. 7 (health care transition) in its entirety and inserting in lieu thereof the following:

Sec. 7. SAVINGS FROM HEALTH CARE TRANSITION

(a)(1) As a result of the Affordable Care Act, as of January 1, 2018, all school employees will be on new health care plans. The new health plans cover the same health care services and networks, but they have lower premium costs. The new plans also create higher out-of-pocket exposure through deductibles and co-payment requirements. However, because the premiums for these plans are markedly lower, there are opportunities to keep employees' out-of-pocket costs at current levels while also realizing up to \$26,000,000.00 in annual savings, which would equal approximately \$13,000,000.00 in savings for the second half of fiscal year 2018. These health care savings are returned to taxpayers by reducing homestead property tax rates for fiscal year 2018.

(2) These health care savings can be achieved by an 80/20 employer/employee premium split pegged to the Gold CDHP plan in plan year 2018, and employer contributions toward employees' out-of-pocket costs in amounts that hold school employees harmless over the out-of-pocket exposure for plan year 2017.

(b)(1) For fiscal year 2018 only, each supervisory union and school district shall be responsible for achieving through health care savings an amount equal to a proportional share of \$13,000,000.00. Savings shall not be achieved by reducing any expenditure related to direct instructional services. For fiscal year 2019 and after, the budgets for all supervisory unions and school districts shall continue to reflect these health care savings.

(2) The Secretary of Administration, in collaboration with the Agency of Education, shall consult with the Vermont Education Health Initiative to determine the proportional amount of total health care savings that each supervisory union or school district shall be responsible for achieving in fiscal

year 2018 based on the assumptions described in subdivision (a)(2) of this section and on the number of covered employees per plan tier in each supervisory union or school district in plan year 2017.

(3) On or before June 1, 2017, the Agency of Education shall notify each supervisory union or school district of the amount of health care savings for which it is responsible pursuant to subdivision (2) of this subsection.

(c) Notwithstanding any other provision of law, for fiscal year 2018 only, the State shall reduce the amount of education payments to supervisory unions and schools districts authorized by 16 V.S.A. chapter 133 by \$13,000,000.00, by subtracting the amount of savings allocated to each supervisory union or school district in subsection (b) of this section from the payments due to that supervisory union or school district.

(d) As used in this section, the terms “supervisory union” and “school district” shall have the same meaning as in 16 V.S.A. § 11.

Fifth: By striking out Sec. 8 (effective dates) in its entirety and inserting in lieu thereof two new sections to be Secs. 8 and 9 to read as follows:

Sec. 8. VERMONT EDUCATIONAL HEALTH BENEFITS COMMISSION

(a) The Vermont Educational Health Benefits Commission is created to determine whether and how to establish a single statewide health benefit plan for all teachers, administrators, and municipal school employees in this State.

(b) The Commission shall comprise the following 10 members:

(1) four members of the labor organization representing the majority of teachers, administrators, and municipal school employees in this State, appointed by its membership;

(2) one member on behalf of all other labor organizations representing teachers, administrators, and municipal school employees in this State, jointly appointed by their membership;

(3) three members of the nonprofit organization representing Vermont’s school boards, appointed by that organization’s members; and

(4) two members of the nonprofit organization representing Vermont’s superintendents, appointed by that organization’s members.

(c) The Commission shall determine the advantages and disadvantages of establishing a single statewide health benefit plan for all teachers, administrators, and municipal school employees in this State, including considering transition issues, potential savings from avoided negotiation expenses, whether to use income-sensitized premiums, ways to address benefit disparities between bargaining units, ways to address disparities between

districts, property tax implications, and issues related to uninsured school employees.

(d) On or before November 15, 2017, the Commission shall provide its findings and recommendations, along with any necessary proposed legislation regarding the establishment of a statewide health benefit plan for all teachers, administrators, and municipal school employees in this State, to the House Committees on Education, on General, Housing and Military Affairs, and on Ways and Means and the Senate Committees on Education, on Economic Development, Housing and General Affairs, and on Finance.

Sec. 9. EFFECTIVE DATES

(a) This section, Sec. 6a (calculation of rates in certain districts), and Sec. 7 (health care transition) shall take effect on passage.

(b) Sec. 8 (Vermont Educational Health Benefits Commission) shall take effect on passage, with the first meeting of the Commission to occur on or before July 1, 2017.

(c) The remaining sections of this act shall take effect on July 1, 2017 and apply to fiscal year 2018 and after.

Thereupon, pending the question, Shall the Senate propose to the House to amend the Senate proposal of amendment to the House proposal of amendment, on motion of Senator Degree the Senate recessed until noon.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; House Proposals of Amendment to Senate Proposal of Amendment Concurred in with further Proposals of Amendment; Rules Suspended; Bill Messaged

H. 509.

Consideration was resumed on House bill entitled:

An act relating to calculating statewide education tax rates.

Thereupon, pending the question, Shall the Senate propose to the House to amend the House proposals of amendment to the Senate proposal of amendment with further proposals of amendment as proposed by Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White?, Senator Branagan moved to divide the question and vote on the *fifth* proposal of amendment separately.

Thereupon, the *fifth* proposal of amendment was agreed to on a roll call, Yeas 28, Nays 1.

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

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Branagan, Bray, Brooks, Campion, Clarkson, Collamore, Cummings, Degree, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

The Senator who voted in the negative was: Pearson.

The Senator absent and not voting was: Benning.

Thereupon, the question, Shall the Senate propose to the House to amend the House proposals of amendment to the Senate proposal of amendment with further proposals of amendment as proposed by Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White?, in the *first* through *fourth* proposals of amendment?, were agreed to on a roll call, Yeas 20, Nays 9.

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

Roll Call

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

Those Senators who voted in the negative were: Branagan, Collamore, Degree, Flory, Mazza, McCormack, Mullin, Rodgers, Westman.

The Senator absent and not voting was: Benning.

Thereupon, the question, Shall the Senate propose to the House to amend the House proposals of amendment to the Senate proposal of amendment with further proposals of amendment as proposed by Senators Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Nitka, Pearson, Pollina, Sears, Sirotkin, Starr and White?, as amended?, was agreed to.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Adjournment

On motion of Senator Ashe, the Senate adjourned until two o'clock in the afternoon.

Afternoon

The Senate was called to order by the President.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate**S. 136.**

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to miscellaneous consumer protection provisions.

Was taken up for immediate consideration.

Senator Sirotkin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 136. An act relating to miscellaneous consumer protection provisions.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SUNRISE REVIEW; REPORT

(a) Upon completion of its sunrise review concerning construction contractors, the Office of Professional Regulation (the Office), in addition to the House and Senate Committees on Government Operations, shall submit its sunrise report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) As part of its review and report, the Office shall compile information on how other states address consumer protection in home improvement contracts, including whether contracts should be in writing and at what threshold amount, and how such protections should be incorporated into any regulatory structure recommended by the Office.

Sec. 2. 8 V.S.A. § 10404 is amended to read:

§ 10404. HOME LOAN ESCROW ACCOUNTS

* * *

(c) A lender shall not require a borrower to deposit into an escrow account any greater sum than is sufficient to pay taxes, insurance premiums, and other charges with respect to the residential real estate, subject to the following additional charges:

(1) a lender may require aggregate annual deposits no greater than the reasonably estimated total annual charges plus ~~one-twelfth~~ one-sixth of such total; and

(2) a lender may require monthly deposits no greater than one-twelfth of the reasonably estimated total annual charges plus an amount needed to maintain an additional account balance no greater than ~~one-twelfth~~ one-sixth of such total.

* * *

(g)(1) At least annually, at the completion of the escrow account computation year, a lender shall conduct an escrow account analysis to determine the borrower's monthly escrow account payments for the next computation year based on the borrower's current tax liability, if made available to the lender either by the borrower or the municipality, after any applicable adjustment for a State credit on property taxes.

(2) Upon receipt of a revised property tax bill, the lender shall review the property tax bill and, upon verifying that it has been reduced since the date of the last escrow account analysis, the lender shall, within 30 days of receiving the bill, conduct a new escrow account analysis, recalculate the borrower's monthly escrow payment, and notify the borrower of any change.

(3) ~~The lender shall provide~~ At least annually, and whenever an escrow account analysis is conducted or upon request of the borrower, the lender shall provide to the borrower financial statements relating to the borrower's escrow account in a manner and on a form ~~approved by the Commissioner~~ consistent with the federal Real Estate Settlement Procedures Act. The lender shall not charge the borrower for the preparation and transmittal of such statements.

* * *

Sec. 3. FANTASY SPORTS; FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) Participation in online fantasy sports contests throughout the nation has grown significantly in recent years and it is estimated that approximately 80,000 Vermonters have participated in at least one fantasy sports contest.

(2) At least 10 states have now recognized fantasy sports as a legal, regulated activity, and legislation has been introduced in many more states to recognize, regulate, and tax the activity in order to identify contest operators, ensure fair play, and protect consumers.

(3) Given the widespread participation in online fantasy sports contests, Vermont should carefully consider how best to regulate fantasy sports contests, register fantasy sports contest operators, and provide necessary protection for Vermont consumers.

(b) Purpose. The purpose of Sec. 3 of this act is to direct the Attorney General and the Executive Branch to consider and propose an appropriate registration fee and tax framework for fantasy sports contests.

Sec. 4. FANTASY SPORTS CONTESTS; PROPOSALS

On or before December 15, 2017, the Secretary of Administration shall submit to the House Committee on Ways and Means and the Senate Committee on Finance a proposal for fantasy sports contests concerning:

(1) any amendments to the registration requirements or registration fee imposed in Sec. 5 of this act; and

(2) an appropriate percentage tax on an appropriate measure of revenue.

Sec. 5. 9 V.S.A. chapter 116 is added to read:

CHAPTER 116. FANTASY SPORTS CONTESTS

§ 4185. DEFINITIONS

As used in this chapter:

(1) “Computer script” means a list of commands that can be executed by a program, scripting engine, or similar mechanism that a fantasy sports player can use to automate participation in a fantasy sports contest.

(2) “Confidential fantasy sports contest information” means nonpublic information available to a fantasy sports operator that relates to a fantasy sports player’s activity in a fantasy sports contest and that, if disclosed, may give another fantasy sports player an unfair competitive advantage in a fantasy sports contest.

(3) “Fantasy sports contest” means a virtual or simulated sporting event governed by a uniform set of rules adopted by a fantasy sports operator in which:

(A) a fantasy sports player may earn one or more cash prizes or awards, the value of which a fantasy sports operator discloses in advance of the contest;

(B) a fantasy sports player uses his or her knowledge and skill of sports data, performance, and statistics to create and manage a fantasy sports team;

(C) a fantasy sports team earns fantasy points based on the sports performance statistics accrued by individual athletes or teams, or both, in real world sporting events;

(D) the outcome is determined by the number of fantasy points earned; and

(E) the outcome is not determined by the score, the point spread, the performance of one or more teams, or the performance of an individual athlete in a single real world sporting event.

(4) “Fantasy sports operator” means a person that offers to members of the public the opportunity to participate in a fantasy sports contest for consideration.

(5) “Fantasy sports player” means an individual who participates in a fantasy sports contest for consideration.

(6) “Location percentage” mean the percentage, rounded to the nearest tenth of a percent, of the total of all entry fees collected from fantasy sports players located in Vermont, divided by the total entry fees collected from all fantasy sports players in fantasy sports contests.

(7) “Net fantasy sports contest revenues” means the amount equal to the total of all entry fees that a fantasy sports operator collects from all fantasy sports players, less the total of all sums paid out as winnings to all fantasy sports players, multiplied by the location percentage for Vermont.

§ 4186. CONSUMER PROTECTION

(a) A fantasy sports operator shall adopt commercially reasonable policies and procedures to:

(1) prevent participation in a fantasy sports contest it offers to the public with a cash prize of \$5.00 or more by:

(A) the fantasy sports operator;

(B) an employee of the fantasy sports operator or a relative of the employee who lives in the same household; or

(C) a professional athlete or official who participates in one or more real world sporting events in the same sport as the fantasy sports contest;

(2) prevent the disclosure of confidential fantasy sports contest information to an unauthorized person;

(3) require that a fantasy sports player is 18 years of age or older, and verify the age of each player using one or more commercially available databases, which government or business regularly use to verify and authenticate age and identity;

(4) limit and disclose to prospective players the number of entries a fantasy sports player may submit for each fantasy sports contest;

(5) limit a fantasy sports player to not more than one username or account;

(6) prohibit the use of computer scripts that provide a player with a competitive advantage over another player;

(7) segregate player funds from operational funds, or maintain a reserve in the form of cash, cash equivalents, payment processor receivables, payment processor reserves, an irrevocable letter of credit, a bond, or a combination thereof in an amount that equals or exceeds the amount of deposits in fantasy sports player accounts, for the benefit and protection of fantasy sports player funds held in their accounts; and

(8) notify fantasy sports players that winnings of a certain amount may be subject to income taxation.

(b) A fantasy sports operator shall have the following duties:

(1) The operator shall provide a link on its website to information and resources addressing addiction and compulsive behavior and where to seek assistance with these issues in Vermont and nationally.

(2)(A) The operator shall enable a fantasy sports player to restrict irrevocably his or her own ability to participate in a fantasy sports contest, for a period of time the player specifies, by submitting a request to the operator through its website or by online chat with the operator's agent.

(B) The operator shall provide to a player who self-restricts his or her participation information concerning:

(i) available resources addressing addiction and compulsive behavior;

(ii) how to close an account and restrictions on opening a new account during the period of self-restriction;

(iii) requirements to reinstate an account at the end of the period; and

(iv) how the operator addresses reward points and account balances during and after the period of self-restriction, and when the player closes his or her account.

(3) The operator shall provide a player access to the following information for the previous six months:

(A) a player's play history, including money spent, games played, previous line-ups, and prizes awarded;

(B) a player's account details, including deposit amounts, withdrawal amounts, and bonus information, including amounts remaining for a pending bonus and amounts released to the player.

(c)(1) A fantasy sports operator shall contract with a third party to perform an annual independent audit, consistent with the standards established by the American Institute of Certified Public Accountants, to ensure compliance with the requirements in this chapter.

(2) The fantasy sports operator shall submit the results of the independent audit to the Attorney General.

(d) A fantasy sports operator shall not extend credit to a fantasy sports player.

(e) A fantasy sports operator shall not offer a fantasy sports contest based on the performance of participants in college, high school, or youth athletic events.

§ 4187. FAIR AND TRUTHFUL ADVERTISING

(a) A fantasy sports operator shall not depict in an advertisement to consumers in this State:

(1) minors, other than professional athletes who may be minors;

(2) students;

(3) schools or colleges; or

(4) school or college settings, provided that incidental depiction of nonfeatured minors does not violate this section.

(b) A fantasy sports operator shall not state or imply in an advertisement to consumers in this State endorsement by:

(1) minors, other than professional athletes who may be minors;

(2) collegiate athletes;

(3) colleges; or

(4) college athletic associations.

(c)(1) A fantasy sports operator shall include in an advertisement to consumers in this State information concerning assistance available to problem gamblers, or shall direct consumers to a reputable source of that information.

(2) If an advertisement is of insufficient size or duration to provide the information required in subdivision (1) of this subsection, the advertisement shall refer to a website or application that does prominently include such information.

(d) A fantasy sports operator shall only make representations concerning winnings that are accurate, not misleading, and capable of substantiation at the time of the representation. For purposes of this subsection, an advertisement is misleading if it makes representations about average winnings without equally prominently representing the average net winnings of all players.

§ 4188. EXEMPTION

The provisions of 13 V.S.A. chapter 51, relating to gambling and lotteries, shall not apply to a fantasy sports contest.

§ 4189. REGISTRATION

In addition to applicable requirements under Titles 11–11C for a business organization doing business in this State to register with the Secretary of State, on or before October 15 of each year in which a fantasy sports operator offers a fantasy sports contest to consumers in this State, the operator shall file an annual registration with the Secretary of State on a form adopted for that purpose and pay to the Secretary an annual registration fee in the amount of \$5,000.00.

§ 4190. ENFORCEMENT

(a) A person that violates a provision of this chapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(b) The Attorney General has the authority to adopt rules to implement the provisions of this chapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Sec. 6. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Secs. 1–4 shall take effect on July 1, 2017.

(c) Sec. 5 (fantasy sports contests) shall take effect on January 1, 2018, except that 9 V.S.A. § 4189 (registration requirement) shall take effect on passage.

*MICHAEL D. SIROTKIN
PHILIP E. BARUTH
ALISON CLARKSON*

Committee on the part of the Senate

*MICHAEL J. MARCOTTE
JEAN D. O'SULLIVAN
MATTHEW HILL*

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Recess

On motion of Senator Ashe the Senate recessed until 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Adjournment

On motion of Senator Ashe, the Senate adjourned, to reconvene on Monday, May 15, 2017, at nine o'clock in the morning.