

Journal of the House

Wednesday, April 18, 2018

At one o'clock in the afternoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Celine Morris, Barton, VT.

Message from the Senate No. 51

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

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

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.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 316. House concurrent resolution congratulating the 2018 Mount St. Joseph Academy Mounties on winning a fourth consecutive Division IV girls' basketball championship.

H.C.R. 317. House concurrent resolution congratulating the 2018 Windsor High School Yellowjackets Division III championship girls' basketball team.

H.C.R. 318. House concurrent resolution congratulating the 2018 St. Johnsbury Academy Hilltoppers State championship boys' alpine skiing team.

H.C.R. 319. House concurrent resolution congratulating the Boys & Girls Clubs of Vermont's 2018 Youth of the Year honorees.

H.C.R. 320. House concurrent resolution recognizing the centrality of small business in the growth and prosperity of the Vermont economy.

H.C.R. 321. House concurrent resolution commemorating the 50th anniversary of the federal Fair Housing Act and designating April 2018 as Fair Housing Month in Vermont.

H.C.R. 322. House concurrent resolution congratulating the 2018 Jr Iron Chef VT winning teams.

H.C.R. 323. House concurrent resolution designating Tuesday, April 10, 2018 as Equal Pay Day.

H.C.R. 324. House concurrent resolution congratulating the 2018 Vermont FARMS 2+2 program for its contribution to Vermont's agricultural heritage and the program's 2018 scholarship recipients.

H.C.R. 325. House concurrent resolution honoring Rutland Superintendent of Schools Mary Moran on her extraordinary 47-year career in public education.

H.C.R. 326. House concurrent resolution congratulating Owen Pelletier of Rivendell Academy on being named a 2017 Valley News High School Athlete of the Year.

H.C.R. 327. House concurrent resolution honoring Chittenden community leader Robert Bearor.

Message from the Senate No. 52

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part adopted joint resolution of the following title:

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

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

Pursuant to the request of the House for a Committee of Conference on the disagreeing votes of the two Houses on House bill entitled:

H. 562. An act relating to parentage proceedings.

The President pro tempore announced the appointment as members of such Committee on the part of the Senate:

Senator Nitka
Senator Sears
Senator Benning

The Governor has informed the Senate that on April 16, 2018, he returned without signature and *vetoed* a bill originating in the Senate of the following title:

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

“April 16, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.103, *An act relating to the regulation of toxic substances and hazardous materials*, without my signature because of my objections described herein:

During the second half of this Legislative Biennium, I have been consistent in my commitment to support legislation that makes Vermont more affordable, grows the economy, and protects the most vulnerable. My concerns with this bill center around these priorities, because – while it aims to protect Vermonters – it is duplicative to existing measures that already achieve its desired protections. In my view S.103 will jeopardize jobs and make Vermont less competitive for businesses. However, as I detail below, we have a path forward to work together to enact this bill if the Legislature desires.

The State has taken clear and decisive action since the discovery of PFOA in the drinking water of Bennington and North Bennington in 2016 to address this public health crisis, hold the responsible parties accountable, and provide stronger protections from this happening again. This includes the enactment of Act 55 of 2017, which I proudly signed in to law last June. Act 55 has helped strengthen the State’s response to PFOA contamination by establishing a process to hold parties that contaminate groundwater responsible for connecting impacted Vermonters to municipal water. We will continue to stand with the affected communities, and act forcefully, until we reach a complete resolution for those affected. This has resulted in one settlement agreement which provides a substantial although partial resolution. This case will be completely resolved either through an additional settlement agreement or as a result of litigation. Either way, we will ensure the polluter is held responsible for the contamination and the cleanup.

No community should have to endure what the impacted communities are going through. The patience and perseverance of these communities, as we

work together to resolve this crisis, has been amazing. We will continue to ensure all Vermonters have clean drinking water, however S.103 does nothing to enhance our ability to hold violators accountable, reconnect water lines, or directly address our ongoing response to the Per- and Polyfluoroalkyl Substances (PFAS) contamination. The bill ultimately has many negative unintended consequences, threatening our manufacturers' ability to continue to do business in Vermont, and therefore, our ability to retain and recruit more and better paying jobs.

In July of 2017, I established, via Executive Order, the Interagency Committee on Chemical Management (ICCM) and the Citizens Advisory Panel (CAP). My primary intent behind establishing these bodies was to better coordinate chemical management and identify gaps in management. Through the ICCM we continue to work to prevent future contamination and minimize the risk of harmful chemicals. This is one of several reasons many of the State's manufacturing employers have expressed opposition to this legislation. The ICCM and CAP in EO 13-17 have similar membership and responsibilities to those envisioned by S.103, making these sections duplicative. Instead of creating a redundant body, I propose we work together to align Sections 1 and 2 of S.103 to the existing ICCM and CAP membership and charge. That way the ICCM, which has been meeting for the better part of a year, can continue this important work unabated.

Further, to the extent this Executive branch entity has been given the resources of the Legislature's Council for legislative drafting and Joint Fiscal Office for fiscal and economic analyses with the goal of recommending legislation to the Legislature, this bill presents a separation of powers issue by improperly allocating legislative resources to the Executive branch and charging the Executive branch with doing the work of the Legislature. Pursuant to Chapter II, Section 20 of the Vermont Constitution, the Governor has independent authority to bring such business before the Legislature as he deems necessary. Pursuant to Chapter II, Section 6, the Legislature has separate Constitutional authority to prepare bills and enact them into laws. The Legislature does not have the authority to enlist the Executive branch to provide services necessary to the Legislature for purposes of developing its own legislative initiatives. Also, since the bill originally created an "intergovernmental" hybrid Committee, which the Legislature must have recognized was constitutionally suspect under our tripartite system of government, the bill still includes unnecessary language on meeting structure and operations, which hampers the ability of the committee to effectively carry on its work.

The existing ICCM has already conducted a thorough review of current state chemical management, evaluated what it would take to create a unified chemical reporting system and which programs make sense to participate. It

has also identified proposed changes to the Toxics Use and Hazardous Waste Use Reduction Act, and has identified a proposed process to conduct ongoing review of chemical management to ensure dynamic responses to changing health and use information. That work has been proposed to the CAP, and the CAP is scheduled to provide written comments by April 25. The ICCM is due to report its first round of recommendations to me on July 1, which if we align and codify the Committee in statute, can also be presented to the Legislature.

It is possible to continue to keep Vermonters safe without harming the economy or costing the state good jobs. We cannot afford to give manufacturers another reason to look elsewhere for their location or expansion needs. In Vermont, this sector has not rebounded as well from the Great Recession as compared to other parts of the country, and other states are more aggressively recruiting good paying manufacturing jobs. We must pursue policies that enhance and encourage the possibility for more production and jobs for Vermonters, not fewer. Section 8 of this bill puts the growth of this sector at risk by creating more uncertainty and unpredictability for business operations by disturbing a process laid out in Act 188 of 2014. Act 188 creates a robust regulatory process that requires manufacturers of children's products disclose to the Department of Health whether a product contains any of the 66 chemicals listed in the law. The Department has collected millions of lines of data since the enactment of Act 188 and asks for more information than any other state. This information is maintained in a public database for interested consumers and parents. While it took Washington State eight years to get such a program up and running, it took Vermont only two and a half years; manufacturers started reporting on January 1, 2017.

In addition, Act 188 addresses how to review other chemicals that may be added to the list by rule. The law directs the Commissioner of Health to provide to an established Working Group no fewer than two listed chemicals every year, for review, to determine whether that chemical should be labeled and/or banned from sale in children's or consumer products in Vermont. It would be virtually unprecedented when compared to other states with similar authority for there not to be a secondary review from a technical and practicality standpoint providing a check and balance when evolving the list. This Working Group met for the first time in July of 2017; its work is underway with a collaborative approach to responsible regulation. The regulatory process is working and should proceed as originally envisioned. With a robust process in place, children will not be any safer as a result of the proposed changes contained in this bill.

Additionally, the changes contained in Section 8 to the "weight of credible scientific evidence" and exposure requirements will make Vermont an outlier. Vermont will be a less friendly place for the manufacturers to locate and sell

their products here. Furthermore, there are many federal laws and safety standards which are relevant to the regulation of chemicals. Our economy is diverse but still very small. We must not put ourselves at another competitive disadvantage versus other states in the region and nation.

In 2016 the manufacturing sector alone accounted \$1.67 billion in Vermont wages. As of the last reported quarter (3rdq17), it accounted for \$418 million in wages with 29,584 Vermonters employed in the manufacturing sector. If we add the natural resources and mining, and construction sectors to the above it would represent \$658 million in wages and 50,300 persons total working in the goods producing domain.

There is an economic multiplier for these sectors since most of the manufactured product is exported out of state thereby bringing more dollars into Vermont than a limited local market for the goods. To put these producers at risk without giving the ICCM, CAP and Act 188 Working Group time to do their work and formulate recommendations puts the employees engaged in those activities, and the state's overall economy, at greater risk.

If the Legislature agrees to make the changes I am seeking – simple codification of EO 13-17 in Sections 1 and 2, and removal of Section 8 – we can together enact legislation that will continue to contribute to public health and safety. Sections 3 through 6 will enable consumers to have greater information about potential contaminants that may affect their health while at the same time not impacting the marketability of people's homes. I believe greater knowledge and understanding of threats to people's drinking water will help protect the most vulnerable Vermonters.

As noted, based on the outstanding objections outlined above I cannot support this legislation as written and must return it without my signature pursuant to Chapter II, §11 of the Vermont Constitution.

Sincerely,

Philip B. Scott
Governor"

House Bill Introduced

H. 928

By the committee on Government Operations,

An act relating to compensation for certain State employees (Pay Act);

Pursuant to House rule 48, bill placed on the Calendar for notice.

Bill Referred to Committee on Ways and Means**S. 272**

House bill, entitled

An act relating to miscellaneous changes to laws related to motor vehicles

Appearing on the Calendar, affecting the revenue of the state, under rule 35(a), was referred to the committee on Ways and Means.

Joint Resolution Adopted in Concurrence**J.R.S. 56**

By Senator Ashe,

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

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 20, 2018, it be to meet again no later than Tuesday, April 24, 2018.

Was taken up, read and adopted in concurrence.

Senate Proposal of Amendment Concurred in**H. 906**

The Senate proposed to the House to amend House bill, entitled

An act relating to professional licensing for service members and veterans

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, 26 V.S.A. § 906(c)(3), after the following: “has completed a minimum of 8,000 hours and four years of active duty field work” by inserting the following: as a 12R Electrician or equivalent

Second: In Sec. 3, 26 V.S.A. § 2194(b)(3), after the following: “has completed a minimum of 8,000 hours and four years of active duty field work” by inserting the following: as a 12K Plumber or equivalent

Third: After Sec. 7, by inserting a Sec. 8 to read as follows:

Sec. 8. REPORTING; UTILIZATION BY SERVICE MEMBERS AND VETERANS

(a) The Executive Director of the Division of Fire Safety shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations

regarding:

(1) the number of journeyman electrician licenses issued to service members and veterans pursuant to 26 V.S.A. § 906(c) during the previous calendar year;

(2) the number of journeyman plumber licenses issued to service members and veterans pursuant to 26 V.S.A. § 2194(b) during the previous calendar year; and

(3) the number of instances during the previous calendar year in which the Electrician's Licensing Board, in determining the qualifications of a service member or veteran for a master electrician license, gave recognition to an applicant's experience as a 12R Electrician or equivalent in the U.S. Armed Forces as required by 26 V.S.A. § 907(b).

(b) The Director of the Office of Professional Regulation shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations regarding:

(1) the number of licenses to practice as a registered nurse issued to service members and veterans pursuant to 26 V.S.A. § 1622(b) during the previous calendar year; and

(2) the number of licenses to practice as a nursing assistant issued to service members and veterans pursuant to 26 V.S.A. § 1643(b) during the previous calendar year.

(c) The Commissioner of Motor Vehicles shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations regarding the number of service members and veterans who, during the previous calendar year, were certified to perform inspections without being required to pass an examination as provided pursuant to 23 V.S.A. § 1227(b)(2).

(d) The Commissioner of Health shall, on or before February 1 of each year, report to the House Committees on Commerce and Economic Development, on General, Housing, and Military Affairs, and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations regarding the number of service members and veterans who, during the previous calendar year, were deemed to have knowledge of the prevention of food-borne disease, be able to

apply the Hazard Analysis Critical Control Point principles, and have met the criteria for “demonstration of knowledge” requirements set forth by the Department of Health in rule for the purposes of obtaining a food establishment license as provided pursuant to 18 V.S.A. § 4303(b) and the total number of food establishment licenses issued to those service members and veterans.

And by renumbering the remaining section to be numerically correct.

Which proposal of amendment was considered and concurred in.

Action on Bill Postponed

S. 267

House bill, entitled

An act relating to timing of a decree nisi in a divorce proceeding

Was taken up and pending the report of the committee on Judiciary, on motion of **Rep. Lalonde of South Burlington**, action on the bill was postponed until April 20, 2018.

Third Reading; Bill Passed

H. 482

House bill, entitled

An act relating to consumer protection

Was taken up, read the third time and passed.

Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered

S. 92

Rep. Houghton of Essex, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to interchangeable biological products

Reported in favor of its passage in concurrence with proposal of amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Interchangeable Biological Products * * *

Sec. 1. 18 V.S.A. § 4601 is amended to read:

§ 4601. DEFINITIONS

~~For the purposes of this chapter, unless the context otherwise clearly requires~~ As used in this chapter:

(1) “Brand name” means the registered trademark name given to a drug product by its manufacturer or distributor; “Biological product” means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition in human beings.

(2) “Generic name” means the official name of a drug product as established by the United States Adopted Names Council (USAN) or its successor, if applicable; “Brand name” means the registered trademark name given to a drug product by its manufacturer or distributor.

(3) “Pharmacist” means a natural person licensed by the state board of pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons;

(4) “Generic drug” means a drug listed by generic name and considered to be chemically and therapeutically equivalent to a drug listed by brand name, as both names are identified in the most recent edition of or supplement to the federal U.S. Food and Drug Administration’s “Orange Book” of approved drug products; Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).

(4) “Generic name” means the official name of a drug product as established by the U. S. Adopted Names Council (USAN) or its successor, if applicable.

(5) “Interchangeable biological product” means a biological product that the U.S. Food and Drug Administration has:

(A) licensed and determined, pursuant to 42 U.S.C. § 262(k)(4), to be interchangeable with the reference product against which it was evaluated; or

(B) determined to be therapeutically equivalent as set forth in the latest edition of or supplement to the U.S. Food and Drug Administration’s Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).

(6) “Pharmacist” means a natural person licensed by the State Board of Pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons.

(5)(7) “Prescriber” means any duly licensed physician, dentist, veterinarian, or other practitioner licensed to write prescriptions for the treatment or prevention of disease in man or animal.

(8) "Proper name" means the non-proprietary name of a biological product.

(9) "Reference product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which the interchangeable biological product was evaluated by the U.S. Food and Drug Administration pursuant to 42 U.S.C. § 262(k).

Sec. 2. 18 V.S.A. § 4605 is amended to read:

§ 4605. ALTERNATIVE DRUG OR BIOLOGICAL PRODUCT
SELECTION

(a)(1) When a pharmacist receives a prescription for a drug ~~which~~ that is listed either by generic name or brand name in the most recent edition of or supplement to the U.S. Department of Health and Human Services' publication Approved Drug Products With Therapeutic Equivalence Evaluations (the "Orange Book") of approved drug products, the pharmacist shall select the lowest priced drug from the list which is equivalent as defined by the "Orange Book," unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug.

(2) When a pharmacist receives a prescription for a biological product, the pharmacist shall select the lowest priced interchangeable biological product unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced biological product.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, when a pharmacist receives a prescription from a Medicaid beneficiary, the pharmacist shall select the preferred brand-name or generic drug or biological product from the Department of Vermont Health Access's preferred drug list.

(b) The purchaser shall be informed by the pharmacist or his or her representative that an alternative selection as provided under subsection (a) of this section will be made unless the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(c) When refilling a prescription, pharmacists shall receive the consent of

the prescriber to dispense a drug or biological product different from that originally dispensed, and shall inform the purchaser that a generic substitution shall be made pursuant to this section unless the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(d) Any pharmacist substituting a generically equivalent drug or interchangeable biological product shall charge no more than the usual and customary retail price for that selected drug or biological product. This charge shall not exceed the usual and customary retail price for the prescribed brand.

(e)(1) Except as described in subdivision (4) of this subsection, within five business days following the dispensing of a biological product, the dispensing pharmacist or designee shall communicate the specific biological product provided to the patient, including the biological product's name and manufacturer, by submitting the information in a format that is accessible to the prescriber electronically through one of the following:

- (A) an interoperable electronic medical records system;
- (B) an electronic prescribing technology;
- (C) a pharmacy benefit management system; or
- (D) a pharmacy record.

(2) Entry into an electronic records system as described in subdivision (1) of this subsection shall be presumed to provide notice to the prescriber.

(3)(A) If a pharmacy does not have access to one or more of the electronic systems described in subdivision (1) of this subsection, the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using telephone, facsimile, electronic transmission, or other prevailing means.

(B) If a prescription is communicated to the pharmacy by means other than electronic prescribing technology, the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using the electronic process described in subdivision (1) of this subsection unless the prescriber requests a different means of communication on the prescription.

(4) Notwithstanding any provision of this subsection to the contrary, a pharmacist shall not be required to communicate information regarding the biological product dispensed in the following circumstances:

- (A) the U.S. Food and Drug Administration has not approved any

interchangeable biological products for the product prescribed; or

(B) the pharmacist dispensed a refill prescription in which the product dispensed was unchanged from the product dispensed at the prior filling of the prescription.

(f) The Board of Pharmacy shall maintain a link on its website to the current lists of all biological products that the U.S. Food and Drug Administration has determined to be interchangeable biological products.

Sec. 3. 18 V.S.A. § 4606 is amended to read:

§ 4606. BRAND CERTIFICATION

If the prescriber has determined that the generic equivalent of a drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall indicate "brand necessary," "no substitution," "dispense as written," or "DAW" in the prescriber's own handwriting on the prescription blank or shall indicate the same using electronic prescribing technology and the pharmacist shall not substitute the generic equivalent or interchangeable biological product. If a prescription is unwritten and the prescriber has determined that the generic equivalent of the drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall expressly indicate to the pharmacist that the brand-name drug or biological product is necessary and substitution is not allowed and the pharmacist shall not substitute the generic equivalent drug or interchangeable biological product.

Sec. 4. 18 V.S.A. § 4607 is amended to read:

§ 4607. INFORMATION; LABELING

(a) Every pharmacy in the state State shall have posted a sign in a prominent place that is in clear unobstructed view which shall read: "Vermont law requires pharmacists in some cases to select a less expensive generic equivalent drug or interchangeable biological product for the drug or biological product prescribed unless you or your physician direct otherwise. Ask your pharmacist."

(b) The label of the container of all drugs and biological products dispensed by a pharmacist under this chapter shall indicate the generic or proper name using an abbreviation if necessary, the strength of the drug or

biological product, if applicable, and the name or number of the manufacturer or distributor.

Sec. 5. 18 V.S.A. § 4608 is amended to read:

§ 4608. LIABILITY

(a) Nothing in this chapter shall affect a licensed hospital with the development and maintenance of a hospital formulary system in accordance with that institution's policies and procedures that pertain to its drug distribution system developed by the medical staff in cooperation with the hospital's pharmacist and administration.

(b) The substitution of a generic drug or interchangeable biological product by a pharmacist under the provisions of this chapter does not constitute the practice of medicine.

Sec. 6. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

* * *

(g) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall apply the same cost-sharing requirements to interchangeable biological products as apply to generic drugs under the plan.

(h) As used in this section:

* * *

(6) "Interchangeable biological products" shall have the same meaning as in 18 V.S.A. § 4601.

~~(h)~~(i) The Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

* * * Health Insurance Plan Reporting * * *

Sec. 7. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

* * *

(b)(1) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any

other information required by the Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection (c) of this section. In addition, the insurer shall post the summaries on its website.

(2)(A) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall disclose to the Board:

(i) for all covered prescription drugs, including generic drugs, brand-name drugs excluding specialty drugs, and specialty drugs dispensed at a pharmacy, network pharmacy, or mail-order pharmacy for outpatient use:

(I) the percentage of the premium rate attributable to prescription drug costs for the prior year for each category of prescription drugs;

(II) the year-over-year increase or decrease, expressed as a percentage, in per-member, per-month total health plan spending on each category of prescription drugs; and

(III) the year-over-year increase or decrease in per-member, per-month costs for prescription drugs compared to other components of the premium rate; and

(ii) the specialty tier formulary list.

(B) The insurer shall provide, if available, the percentage of the premium rate attributable to prescription drugs administered by a health care provider in an outpatient setting that are part of the medical benefit as separate from the pharmacy benefit.

(C) The insurer shall include information on its use of a pharmacy benefit manager, if any, including which components of the prescription drug coverage described in subdivisions (A) and (B) of this subdivision (2) are managed by the pharmacy benefit manager, as well as the name of the pharmacy benefit manager or managers used.

(c)(1) The Board shall provide information to the public on the Board's website about the public availability of the filings and summaries required under this section.

~~(2)(A) Beginning no later than January 1, 2014, the~~ The Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection (b) of this section on the Board's website within five calendar days of following filing. The Board shall also establish a mechanism

by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

* * *

Sec. 8. 18 V.S.A. § 4636 is added to read:

§ 4636. IMPACT OF PRESCRIPTION DRUG COSTS ON HEALTH

INSURANCE PREMIUMS; REPORT

(a)(1) Each health insurer with more than 1,000 covered lives in this State shall report to the Green Mountain Care Board, for all covered prescription drugs, including generic drugs, brand-name drugs, and specialty drugs provided in an outpatient setting or sold in a retail setting:

(A) the 25 most frequently prescribed drugs and the average wholesale price for each drug;

(B) the 25 most costly drugs by total plan spending and the average wholesale price for each drug; and

(C) the 25 drugs with the highest year-over-year price increases and the average wholesale price for each drug.

(2) A health insurer shall not be required to provide to the Green Mountain Care Board the actual price paid, net of rebates, for any prescription drug.

(b) The Green Mountain Care Board shall compile the information reported pursuant to subsection (a) of this section into a consumer-friendly report that demonstrates the overall impact of drug costs on health insurance premiums. The data in the report shall be aggregated and shall not reveal information as specific to a particular health benefit plan.

(c) The Board shall publish the report required pursuant to subsection (b) of this section on its website on or before January 1 of each year.

* * * Prescription Drug Price Transparency and Notice of
New High-Cost Drugs * * *

Sec. 9. 18 V.S.A. § 4635 is amended to read:

§ 4635. PHARMACEUTICAL PRESCRIPTION DRUG COST
TRANSPARENCY

(a) As used in this section:

(1) “Manufacturer” shall have the same meaning as “pharmaceutical manufacturer” in section 4631a of this title.

(2) "Prescription drug" means a drug as defined in 21 U.S.C. § 321.

(b)(1)(A) The Green Mountain Care Board, in collaboration with the Department of Vermont Health Access, shall identify create annually up to 15 a list of 10 prescription drugs on which the State spends significant health care dollars and for which the wholesale acquisition cost has increased by 50 percent or more over the past five years or by 15 percent or more over the past 12 months during the previous calendar year, creating a substantial public interest in understanding the development of the drugs' pricing. The drugs identified shall represent different drug classes. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the Department considers to be specialty drugs. The Department shall include the percentage of the wholesale acquisition cost increase for each drug on the list; rank the drugs on the list from those with the largest increase in wholesale acquisition cost to those with the smallest increase; indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both; and provide the Department's total expenditure for each drug on the list during the most recent calendar year.

(B) The Department of Vermont Health Access shall create annually a list of 10 prescription drugs on which the State spends significant health care dollars and for which the cost to the Department of Vermont Health Access, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the Department considers to be specialty drugs. The Department shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both.

(C)(i) Each health insurer with more than 5,000 covered lives in this State for major medical health insurance shall create annually a list of 10 prescription drugs on which its health insurance plans spend significant amounts of their premium dollars and for which the cost to the plans, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, or both, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the health insurer considers to be specialty drugs.

(ii) A health insurer shall not be required to identify the exact percentage by which the net cost to its plans for any prescription drug increased over any specific period of time, but shall rank the drugs on its list in order from the largest to the smallest cost increase and shall provide the insurer's total expenditure, net of rebates and other price concessions, for each drug on the list during the most recent calendar year.

(2) The Board Department of Vermont Health Access and the health insurers shall provide to the Office of the Attorney General and the Green Mountain Care Board the list lists of prescription drugs developed pursuant to this subsection and the percentage of the wholesale acquisition cost increase for each drug and annually on or before June 1. The Office of the Attorney General and the Green Mountain Care Board shall make all of the information available to the public on the Board's website their respective websites.

(c)(1)(A) For each prescription drug identified Of the prescription drugs listed by the Department of Vermont Health Access and the health insurers pursuant to subsection (b) subdivisions (b)(1)(B) and (C) of this section, the Office of the Attorney General shall identify 15 drugs as follows:

(i) of the drugs appearing on more than one payer's list, the Office of the Attorney General shall identify the top 15 drugs on which the greatest amount of money was spent across all payers during the previous calendar year, to the extent information is available; and

(ii) if fewer than 15 drugs appear on more than one payer's list, the Office of the Attorney General shall rank the remaining drugs based on the amount of money spent by any one payer during the previous calendar year, in descending order, and select as many of the drugs at the top of the list as necessary to reach a total of 15 drugs.

(B) For the 15 drugs identified by the Office of the Attorney General pursuant to subdivision (A) of this subdivision (1), the Office of the Attorney General shall require the drug's manufacturer of each such drug to provide a justification all of the following:

(i) Justification for the increase in the wholesale acquisition net cost of the drug to the Department of Vermont Health Access, to one more health insurers, or both, which shall be provided to the Office of the Attorney General in a format that the Office of the Attorney General determines to be understandable and appropriate and shall be provided in accordance with a timeline specified by the Office of the Attorney General. The manufacturer shall submit to the Office of the Attorney General all relevant information and supporting documentation necessary to justify the manufacturer's wholesale acquisition net cost increase over to the Department of Vermont Health

Access, to one more health insurers, or both during the identified period of time, which may include including:

~~(A)(I) all factors that have contributed to the wholesale acquisition~~ each factor that specifically caused the net cost increase over to the Department of Vermont Health Access, to one more health insurers, or both during the specified period of time;

~~(B)(II) the percentage of the total wholesale acquisition cost increase attributable to each factor; and~~

~~(C)(III) an explanation of the role of each factor in contributing to the wholesale acquisition cost increase.~~

(ii) A separate version of the information submitted pursuant to subdivision (i) of this subdivision (1)(B), which shall be made available to the public by the Office of the Attorney General and the Green Mountain Care Board pursuant to subsection (d) of this section. In the event that the manufacturer believes it necessary to redact certain information in the public version as proprietary or confidential, the manufacturer shall provide an explanation for each such redaction to the Office of the Attorney General. The information, format, and any redactions shall be subject to approval by the Office of the Attorney General.

(iii) Additional information in response to all requests for such information by the Office of the Attorney General.

(2) Nothing in this section shall be construed to restrict the legal ability of a prescription drug manufacturer to change prices to the extent permitted under federal law.

~~(d)(1) The Attorney General, in consultation with the Department of Vermont Health Access, shall provide a report to the General Assembly on or before December 1 of each year based on the information received from manufacturers pursuant to this section. The Attorney General shall also post the report and the public version of each manufacturer's information submitted pursuant to subdivision (c)(1)(B)(ii) of this section on the Office of the Attorney General's website.~~

(2) The Green Mountain Care Board shall post on its website the report prepared by the Attorney General pursuant to subdivision (1) of this subsection and the public version of each manufacturer's information submitted pursuant to subdivision (c)(1)(B)(ii) of this section, and may inform the public of the availability of the report and the manufacturers' justification information.

(e) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public

Records Act and shall not be released in a manner that allows for the identification of an individual drug or manufacturer or that is likely to compromise the financial, competitive, or proprietary nature of the information, except for the information prepared for release to the public pursuant to subdivision (c)(1)(B)(ii) of this section.

(f) The Attorney General may bring an action in the Civil Division of the Superior Court, Washington County for injunctive relief, costs, and attorney's fees, and to impose on a manufacturer that fails to provide any of the information required by subsection (c) of this section, in the format requested by the Office of the Attorney General and in accordance with the timeline specified by the Office of the Attorney General, a civil penalty of ~~no~~ not more than \$10,000.00 per violation. Each unlawful failure to provide information shall constitute a separate violation. In any action brought pursuant to this section, the Attorney General shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Protection Act, 9 V.S.A. chapter 63.

Sec. 10. 18 V.S.A. § 4637 is added to read:

§ 4637. NOTICE OF INTRODUCTION OF NEW HIGH-COST

PRESCRIPTION DRUGS

(a) As used in this section:

(1) "Manufacturer" shall have the same meaning as "pharmaceutical manufacturer" in section 4631a of this title.

(2) "Prescription drug" means a drug as defined in 21 U.S.C. § 321.

(b) A prescription drug manufacturer shall notify the Office of the Attorney General in writing if it is introducing a new prescription drug to market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program. The manufacturer shall provide the written notice within three calendar days following the release of the drug in the commercial market. A manufacturer may make the notification pending approval by the U.S. Food and Drug Administration (FDA) if commercial availability is expected within three calendar days following the approval.

(c) Not later than 30 calendar days following notification pursuant to subsection (b) of this section, the manufacturer shall provide all of the following information to the Office of the Attorney General in a format that the Office prescribes:

(1) a description of the marketing and pricing plans used in the launch of the new drug in the United States and internationally;

(2) the estimated volume of patients who may be prescribed the drug;

(3) whether the drug was granted breakthrough therapy designation or priority review by the FDA prior to final approval; and

(4) the date and price of acquisition if the drug was not developed by the manufacturer.

(d) The manufacturer may limit the information reported pursuant to subsection (c) of this section to that which is otherwise in the public domain or publicly available.

(e) The Office of the Attorney General shall publish on its website at least quarterly the information reported to it pursuant to this section. The information shall be published in a manner that identifies the information that is disclosed on a per-drug basis and shall not be aggregated in a manner that would not allow identification of the drug.

(f) The Attorney General may bring an action in the Civil Division of the Superior Court, Washington County for injunctive relief, costs, and attorney's fees and to impose on a manufacturer that fails to provide the information required by subsection (c) of this section a civil penalty of not more than \$1,000.00 per day for every day after the notification period described in subsection (b) of this section that the required information is not reported. In any action brought pursuant to this section, the Attorney General shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Protection Act, 9 V.S.A. chapter 63.

* * * Disclosures by Pharmacists * * *

Sec. 11. 18 V.S.A. § 9473(b) is amended to read:

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; or

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer;

(4) prohibit or penalize a pharmacy or pharmacist for providing information to an insured regarding the insured's cost-sharing amount for a prescription drug; or

(5) prohibit or penalize a pharmacy or pharmacist for the pharmacist or other pharmacy employee disclosing to an insured the cash price for a prescription drug or selling a lower cost drug to the insured if one is available.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

(a) Secs. 1–6 (interchangeable biological products) shall take effect on July 1, 2018.

(b) Sec. 11 (18 V.S.A. § 9473; disclosures by pharmacists) shall take effect on July 1, 2018 and shall apply to all contracts taking effect on or after that date.

(c) The remaining sections shall take effect on passage.

And that after passage the title of the bill be amended to read: “An act relating to prescription drug price transparency and cost containment”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Health Care agreed to and third reading ordered.

**Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 173

Rep. Jessup of Middlesex, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to sealing criminal history records when there is no conviction

Reported in favor of its passage in concurrence with proposal of amendment as follows by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

* * *

(c)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least 10 years have elapsed since the date on which the person

successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence ~~since the person was convicted of the qualifying crime in the last 7 years.~~

(C) The person has not been convicted of a misdemeanor during the past five years.

(D) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

* * *

Sec. 2. 13 V.S.A. § 7603 is amended to read:

§ 7603. EXPUNGEMENT AND SEALING OF RECORD, NO
CONVICTION; PROCEDURE

~~(a) A person who was cited or arrested for a qualifying crime or qualifying crimes arising out of the same incident or occurrence may file a petition with the court requesting expungement or~~ Unless either party objects in the interest of justice, the court shall issue an order sealing of the criminal history record related to the citation or arrest if one of the following conditions is met of a person:

~~(1) No criminal charge is filed by the State and the statute of limitations has expired.~~

~~(2) The twelve months after the dismissal if:~~

~~(A) the court does not make a determination of probable cause at the time of arraignment or dismisses the charge at the time of arraignment and the statute of limitations has expired.; or~~

~~(3)(B) The the charge is dismissed before trial:~~

~~(A) without prejudice and the statute of limitations has expired; or~~

~~(B) with prejudice.~~

~~(4)(2) The at any time if the prosecuting attorney and the defendant and the respondent stipulate that the court may grant the petition to expunge and seal the record.~~

~~(b) The State's Attorney or Attorney General shall be the respondent in the~~

~~matter. If a party objects to sealing or expunging a record pursuant to this section, the court shall schedule a hearing to determine if sealing or expunging the record serves the interest of justice. The petitioner defendant and the respondent prosecuting attorney shall be the only parties in the matter.~~

~~(c) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if it finds that expungement of the criminal history record serves the interest of justice. [Repealed.]~~

~~(d) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if:~~

~~(1) The court finds that sealing the criminal history record better serves the interest of justice than expungement.~~

~~(2) The person committed the qualifying crime after reaching 19 years of age. [Repealed.]~~

~~(e) Unless either party objects in the interest of justice, the court shall issue an order expunging a criminal history record related to the citation or arrest of a person:~~

~~(1) not more than 45 days after:~~

~~(A) acquittal if the defendant is acquitted of the charges; or~~

~~(B) dismissal if the charge is dismissed with prejudice before trial;~~

~~(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to expunge the record.~~

~~(f) Unless either party objects in the interest of justice, the court shall issue an order to expunge a record sealed pursuant to subsection (a) or (g) of this section after the statute of limitations has expired.~~

~~(g) A person may file a petition with the court requesting sealing or expungement of a criminal history record related to the citation or arrest of the person at any time. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record serves the interest of justice.~~

~~(h) The court may expunge any records that were sealed pursuant to this section prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subsection, the court shall provide to the State's Attorney's office that prosecuted the case written notice of its intent to expunge the record.~~

Sec. 3. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

* * *

(d)(1) The court ~~may~~ shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to ~~section 7602 or 7603 of this title~~ this chapter. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case ~~or by the court if the court finds that inspection of the documents is necessary to serve the interest of justice~~. The Administrative Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) All other court documents in a case that are subject to an expungement order shall be destroyed.

(5) The Court Administrator shall establish policies for implementing this subsection.

(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that “NO RECORD EXISTS.”

Sec. 4. DEPARTMENT OF STATE’S ATTORNEYS AND SHERIFFS;
EXPUNGEMENT-ELIGIBLE CRIMES; AUTOMATIC
EXPUNGEMENT AND SEALING OF CRIMINAL HISTORY
RECORDS; REPORT

The Department of State’s Attorneys and Sheriffs, in consultation with the Office of the Court Administrator, the Vermont Crime Information Center, the Office of the Attorney General, the Office of the Defender General, the Center for Crime Victim Services, and Vermont Legal Aid, shall:

(1) consider:

(A) expanding the list of qualifying crimes eligible for expungement pursuant to 13 V.S.A. § 7601 to include any nonviolent drug-related offenses;

(B) the implications of such an expansion on public health, economic

development, and law enforcement efforts in the State; and

(C) the viability of automating the process of expunging and sealing criminal history records;

(2) seek input from the Vermont Governor's Opioid Coordination Council; and

(3) on or before November 1, 2018, report to the Joint Legislative Justice Oversight Committee on the findings of the group, including any recommendations on specific crimes to add to the definition of qualifying crimes pursuant to 13 V.S.A. § 7601.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Judiciary agreed to and third reading ordered.

Second Reading; Proposal of Amendment Agreed to; Third Reading Ordered

S. 289

Rep. Sibilia of Dover, for the committee on Energy and Technology, to which had been referred Senate bill, entitled

An act relating to protecting consumers and promoting an open Internet in Vermont.

Reported in favor of its passage in concurrence with proposal of amendment as follows by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Findings * * *

Sec. 1. FINDINGS

The General Assembly finds and declares that:

(1) Our State has a compelling interest in preserving and promoting an open Internet in Vermont.

(2) As Vermont is a rural state with many geographically remote locations, broadband Internet access service is essential for supporting economic and educational opportunities, strengthening health and public safety networks, and reinforcing freedom of expression and democratic, social, and civic engagement.

(3) The accessibility and quality of communications networks in

Vermont, specifically broadband Internet access service, will critically impact our State's future.

(4) Net neutrality is an important topic for many Vermonters. Nearly 50,000 comments attributed to Vermonters were submitted to the FCC during the *Notice of Proposed Rulemaking* regarding the *Restoring Internet Freedom Order*; WC Docket No. 17-108, FCC 17-166. Transparency with respect to the network management practices of ISPs doing business in Vermont will continue to be of great interest to many Vermonters.

(5) In 1996, Congress recognized that “[t]he Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity” and “[i]ncreasingly Americans are relying on interactive media for a variety of political, educational, cultural, and entertainment services.” 47 U.S.C. § 230(a)(3) and (5).

(6) Many Vermonters do not have the ability to choose easily between Internet service providers (ISPs). This lack of a thriving competitive market, particularly in isolated locations, disadvantages the ability of consumers and businesses to protect their interests sufficiently.

(7) Without net neutrality, “ISPs will have the power to decide which websites you can access and at what speed each will load. In other words, they’ll be able to decide which companies succeed online, which voices are heard – and which are silenced.” Tim Berners-Lee, founder of the World Wide Web and Director of the World Wide Web Consortium (W3C), December 13, 2017.

(8) The Federal Communications Commission’s (FCC’s) recent repeal of the federal net neutrality rules pursuant to its *Restoring Internet Freedom Order* manifests a fundamental shift in policy.

(9) The FCC anticipates that a “light-touch” regulatory approach under Title I of the Communications Act of 1934, rather than “utility-style” regulation under Title II, will further advance the Congressional goals of promoting broadband deployment and infrastructure investment.

(10) The FCC’s regulatory approach is unlikely to achieve the intended results in Vermont. The policy does little, if anything, to overcome the financial challenges of bringing broadband service to hard-to-reach locations with low population density. However, it may result in degraded Internet quality or service. The State has a compelling interest in preserving and protecting consumer access to high quality Internet service.

(11) The economic theory advanced by the FCC in 2010 known as the “virtuous circle of innovation” seems more relevant to the market conditions in

Vermont. See *In re Preserving the Open Internet*, 25 F.C.C.R. 17905, 17910-11 (2010).

(12) As explained in the FCC’s 2010 Order, “The Internet’s openness. . . enables a virtuous circle of innovation in which new uses of the network – including new content, applications, services, and devices – lead to increased end-user demand for broadband, which drives network improvements, which in turn lead to further innovative network uses. Novel, improved, or lower-cost offerings introduced by content, application, service, and device providers spur end-user demand and encourage broadband providers to expand their networks and invest in new broadband technologies.” 25 FCC Rcd. at 17910-11, upheld by *Verizon v. FCC*, 740 F.3d 623, 644-45 (D.C. Circuit 2014).

(13) As affirmed by the FCC five years later, “[t]he key insight of the virtuous cycle is that broadband providers have both the incentive and the ability to act as gatekeepers standing between edge providers and consumers. As gatekeepers, they can block access altogether; they can target competitors, including competitors in their own video services; and they can extract unfair tolls.” *Open Internet Order*, 30 FCC Rcd at para. 20.

(14) The State may exercise its traditional role in protecting consumers from potentially unfair and anticompetitive business practices. Doing so will provide critical protections for Vermont individuals, entrepreneurs, and small businesses that do not have the financial clout to negotiate effectively with commercial providers, some of whom may provide services and content that directly compete with Vermont companies or companies with whom Vermonters do business.

(15) The FCC’s most recent order expressly contemplates state exercise of traditional police powers on behalf of consumers: “we do not disturb or displace the states’ traditional role in generally policing such matters as fraud, taxation, and general commercial dealings, so long as the administration of such general state laws does not interfere with federal regulatory objectives.” *Restoring Internet Freedom Order*; WC Docket No. 17-108, FCC 17-166, para. 196.

(16) The benefits of State measures designed to protect the ability of Vermonters to have unfettered access to the Internet far outweigh the benefits of allowing ISPs to manipulate Internet traffic for pecuniary gain.

(17) The most recent order of the FCC contemplates federal and local enforcement agencies preventing harm to consumers: “In the unlikely event that ISPs engage in conduct that harms Internet openness. . . we find that utility-style regulation is unnecessary to address such conduct. Other legal regimes – particularly antitrust law and the FTC’s authority under Section 5 of

the FTC Act to prohibit unfair and deceptive practices – provide protections to consumers.” para. 140. The Attorney General enforces antitrust violations or violations of the Consumer Protection Act in Vermont.

(18) The Governor’s Executive Order No. 2-18, requiring all State agency contracts with Internet service providers to include net neutrality protections, manifests a significant and reasonable step toward preserving an open Internet in Vermont.

(19) The State has a compelling interest in knowing with certainty what services it receives pursuant to State contracts.

(20) Procurement laws are for the benefit of the State. When acting as a market participant, the government enjoys unrestricted power to contract with whomever it deems appropriate and purchase only those goods or services it desires.

(21) The disclosures required by this act are a reasonable exercise of the State’s traditional police powers and will support the State’s efforts to monitor consumer protection and economic factors in Vermont, particularly with regard to competition, business practices, and consumer choice, and will also enable consumers to stay apprised of the network management practices of ISPs offering service in Vermont.

(22) The State is in the best position to balance the needs of its constituencies with policies that best serve the public interest. The State has a compelling interest in promoting Internet consumer protection and net neutrality standards. Any incidental burden on interstate commerce resulting from the requirements of this act is far outweighed by the compelling interests the State advances.

* * * Consumer Protection; Disclosure; Net Neutrality Compliance * * *

Sec. 2. 9 V.S.A. § 2466c is added to read:

§ 2466c. INTERNET SERVICE; NETWORK MANAGEMENT;

ATTORNEY GENERAL REVIEW AND DISCLOSURE

(a) The Attorney General shall review the network management practices of Internet service providers in Vermont and, to the extent possible, make a determination as to whether the provider’s broadband Internet access service complies with the open Internet rules contained in the Federal Communications Commission’s 2015 Open Internet Order, “Protecting and Promoting the Open Internet,” WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling and Order, 30 FCC Rcd 5601.

(b) The Attorney General shall disclose his or her findings under this

section on a publicly available, easily accessible website maintained by his or her office.

* * * Net Neutrality Study; Attorney General * * *

Sec. 3. NET NEUTRALITY STUDY

On or before December 15, 2018, the Attorney General, in consultation with the Commissioner of Public Service and with input from industry and consumer stakeholders, shall submit findings and recommendations in the form of a report or draft legislation to the Senate Committees on Finance and on Economic Development, Housing and General Affairs and the House Committees on Energy and Technology and on Commerce and Economic Development reflecting whether and to what extent the State should enact net neutrality rules applicable to Internet service providers offering broadband Internet access service in Vermont. Among other things, the Attorney General shall consider:

(1) the scope and status of federal law related to net neutrality and ISP regulation;

(2) the scope and status of net neutrality rules proposed or enacted in state and local jurisdictions;

(3) methods for and recommendations pertaining to the enforcement of net neutrality requirements;

(4) the economic impact of federal or state changes to net neutrality policy, including to the extent practicable methods for and recommendations pertaining to tracking broadband investment and deployment in Vermont and otherwise monitoring market conditions in the State;

(5) the efficacy of the Governor's Executive Order No. 2-18, requiring all State agency contracts with Internet service providers to include net neutrality protections;

(6) proposed courses of action that balance the benefits to society that the communications industry brings with actual and potential harms the industry may pose to consumers; and

(7) any other factors and considerations the Attorney General deems relevant to making recommendations pursuant to this section.

* * * Connectivity Initiative; Grant Eligibility; H.581 * * *

Sec. 4. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service

location in Vermont access to Internet service that is capable of speeds of at least 10 Mbps download and 1 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, “unserved” means a location having access to only satellite or dial-up Internet service and “underserved” means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department’s most recent broadband mapping data. The Department annually shall solicit proposals from service providers to deploy broadband to eligible census blocks. Funding shall be available for capital improvements only, not for operating and maintenance expenses. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the Department also shall consider:

- (1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;
- (2) the price to consumers of services;
- (3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;
- (4) whether the proposal would use the best available technology that is economically feasible;
- (5) the availability of service of comparable quality and speed; and
- (6) the objectives of the State’s Telecommunications Plan.

* * * Effective Date * * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Energy and Technology agreed to and third reading ordered.

Pending the question, Shall the House propose to the Senate to amend the

bill as offered by the committee on Energy and Technology? **Reps. Kimbell of Woodstock; Conquest of Newbury and Sibilis of Dover** moved to amend the proposal of amendment as offered by the committee on Energy and Technology by adding a new Sec. 5, and accompanying reader assistance heading, to read as follows:

* * * Capital Funds; Telecommunications; Reallocation * * *

Sec. 5. REALLOCATION OF TELECOMMUNICATIONS CAPITAL
FUNDS

(a) Mobile Telecommunications Grant Program. In fiscal year 2019, the Department shall solicit proposals from service providers to deploy mobile telecommunications service, including voice and high-speed data, to unserved areas of the State. Funding shall be available for capital expenses only, not for operating and maintenance expenses. In reviewing proposals, the Department shall take into consideration the criteria specified in 30 V.S.A. § 7515b(b) (Connectivity Initiative grant criteria); however, the Department shall give highest priority to proposals that support the deployment of wireless service in municipalities currently without adequate wireless service to ensure wireless access to the statewide Enhanced 911 system, as determined by the Department, in consultation with the Executive Director of the Vermont Enhanced 911 Board, and with particular consideration given to the nine municipalities identified in the Vermont Telecommunications Authority's Cellular Resiliency Project funded by a \$1.6 million grant award from the U.S. Department of Economic Development in 2013.

(b) Capital funds. In 2011, pursuant to 2011 Acts and Resolves No. 40, Sec. 3(b), the General Assembly appropriated to the Vermont Telecommunications Authority (VTA) the sum of \$10,000,000.00 to develop infrastructure to meet the cellular and broadband needs of unserved and underserved Vermonters. In July 2015, the VTA's responsibilities and funds were transferred to the Division for Telecommunications and Connectivity within the Department of Public Service. Of the original \$10,000,000.00 in capital funds transferred to the VTA, now held by the Division for Telecommunications and Connectivity, approximately \$1,900,000.00 remain unspent.

(c) Reallocation of capital funds. In fiscal year 2018, of the \$1,900,000.00 in capital funds referenced in subsection (b) of this section:

(1) The sum of \$900,000.00 shall be used to support the mobile telecommunications grant program established in subsection (a) of this section.

(2) The sum of \$1,000,000.00 shall be transferred to the Connectivity Fund established in 30 V.S.A. § 7516 to support the High-Cost Program and

the Connectivity Initiative.

And by renumbering the remaining section to be numerically correct.

Thereupon, **Rep. Kimball of Woodstock** asked and was granted leave of the House to withdraw the proposal of amendment.

Thereupon, the report of the committee on Energy and Technology was agreed to and third reading was ordered.

**Favorable Report; Second Reading;
Third Reading Ordered**

H. 926

Rep. Lewis of Berlin, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the Town of Colchester

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 300

The Senate proposed to the House to amend House bill, entitled

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

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

Sec. 1. 9 V.S.A. § 2293 is amended to read:

§ 2293. EXTINGUISHMENT OF CLAIM FOR RELIEF

A claim for relief with respect to a transfer or obligation under this chapter is extinguished unless action is brought:

(1) under subdivision 2288(a)(1) of this title not later than four years after the transfer was made or the obligation was incurred or, if later, not later than one year after the transfer or obligation was or could reasonably have been discovered by the claimant;

(2) under subdivision 2288(a)(2) or subsection 2289(a) of this title not later than four years after the transfer was made or the obligation was incurred; or

(3) under subsection 2289(b) of this title, not later than one year after the transfer was made or the obligation was incurred; or

(4) pursuant to the provisions of 32 V.S.A. chapter 133, subchapter 9 for a tax sale, not later than two years after the tax collector's deed is delivered to the successful bidder at the tax sale.

Sec. 2. 32 V.S.A. § 5263 is amended to read:

§ 5263. LIMITATION OF ACTIONS AGAINST GRANTEE IN
POSSESSION

An action for the recovery of lands, or the possession thereof, shall not be maintained against the grantee of such lands in a tax collector's deed, duly recorded, or his or her heirs or assigns, when the grantee, his or her heirs or assigns have been in continuous and open possession of the land conveyed in such deed and have paid the taxes thereon, unless commenced within ~~three years~~ one year after the cause of action first accrues to the plaintiff or those under whom he or she claims.

Sec. 3. 32 V.S.A. § 5252 is amended to read:

§ 5252. LEVY AND NOTICE OF SALE; SECURING PROPERTY

(a) When the collector of taxes of a town or of a municipality within it has for collection a tax assessed against real estate in the town and the taxpayer is delinquent, the collector may extend a warrant on such land. If a collector receives notice from a mobile home park owner pursuant to 10 V.S.A. § 6248(c), the collector shall, within 15 days ~~of~~ after the notice, commence tax sale proceedings to hold a tax sale within 60 days ~~of~~ after the notice. If the collector fails to initiate such proceedings, the town may initiate tax sale proceedings only after complying with 10 V.S.A. § 6249(f). If the tax collector extends the warrant, the collector shall:

(1) File in the office of the town clerk for record a true and attested copy of the warrant and so much of the tax bill committed to the collector for collection as relates to the tax against the delinquent taxpayer, a sufficient description of the land so levied upon, and a statement in writing that by virtue of the original tax warrant and tax bill committed to the collector for collection, the collector has levied upon the described land.

(2) Advertise forthwith such land for sale at public auction in the town where it lies three weeks successively in a newspaper circulating in the vicinity, the last publication to be at least 10 days before such sale.

(3) Give the delinquent taxpayer written notice by ~~registered~~ certified mail requiring a return receipt directed to the last known address of the delinquent of the date and place of such sale at least 10 days prior thereto if the

delinquent is a resident of the town, and 20 days prior thereto if the delinquent is a nonresident of the town. If the notice by certified mail is returned unclaimed, notice shall be provided to the taxpayer by resending the notice by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

(4) Give to the mortgagee or lien holder of record written notice of such sale at least 10 days prior thereto if a resident of the town, and if a nonresident, 20 days' notice to the mortgagee or lien holder of record or his or her agent or attorney by ~~registered~~ certified mail requiring a return receipt directed to the last known address of such person. If the notice by certified mail is returned unclaimed, notice shall be provided by resending the notice by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure.

(5) Post a notice of such sale in some public place in the town.

* * *

Sec. 4. 32 V.S.A. § 5258 is amended to read:

§ 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY RECORDED

(a) The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows:

(1) levy and extending of warrant, \$10.00;

(2) recording levy and extending of warrant in the town clerk's office, \$10.00, to be paid to the town clerk;

(3) notices and publication of notices, actual costs incurred, including the costs of service pursuant to subdivisions 5252(a)(3) and (4) of this title;

(4) expenses actually and reasonably incurred by the town in securing a property for which property taxes are delinquent against illegal activity and fire hazards, to be paid to the town clerk, provided that the expenses shall not exceed 20 percent of the uncollected tax;

(5) when authorized by the selectboard, expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of a tax sale, provided that the expenses shall not exceed 15 percent of the uncollected tax;

(6) travel reimbursement at the rate established by the contract governing State employees;

(7) attending and holding the sale, \$10.00;

(8) making return and recording the return in the town clerk's office, \$10.00, to be paid to the town clerk;

(9) collector's deed, \$30.00;

(b) ~~the~~ The fees and costs allowed in subsection (a) of this section, together with a collector's fee of up to eight percent, shall be in lieu of all other fees and costs.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Which proposal of amendment was considered and concurred in.

Senate Proposal of Amendment Concurred in

H. 429

The Senate proposed to the House to amend House bill, entitled

An act relating to establishment of a communication facilitator program

The Senate proposes to the House to amend the bill in Sec. 2, in the first sentence, after the word "establishment" by inserting the word of.

Which proposal of amendment was considered and concurred in.

Message from the Senate No. 53

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

H. 199. An act relating to reinstating legislative members to the Commission on Alzheimer's Disease and Related Disorders.

And has passed the same in concurrence.

The Senate has considered a bill originating in the House of the following title:

H. 27. An act relating to eliminating the statute of limitations on prosecutions for sexual assault.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

Adjournment

At two o'clock and fifty-one minutes in the afternoon, on motion of **Rep. Savage of Swanton**, the House adjourned until tomorrow at one o'clock in the afternoon.