

Journal of the House

Friday, May 11, 2018

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Carolyn Partridge of Windham.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the Speaker recognized the following named Pages who are completing their service today and presented them with commemorative pins:

Haley Clough
Andrew Gould
Hanna Gustafson
Peyton Jenkins
Isabella LaFemina
Mariah Larson
Fintan Letzelter
Simon Rosenbaum
Charlotte Wood

House Resolution Placed on Calendar

H.R. 28

House resolution, entitled

House resolution requesting the U.S. Food and Drug Administration to revise its draft guidance on nutritional labeling to eliminate the added sugars listing requirement for honey and pure maple syrup

Offered by: Committee on Agriculture and Forestry and Committee on Commerce and Economic Development

Whereas, in February 2016, 11 state maple product associations wrote to the U.S. Food and Drug Administration (FDA) to express their concern regarding false and misleading labeling of products as maple products, despite the sparsity or total lack of either real maple syrup or flavor in these products, and

Whereas, in March 2016, a bipartisan group of federal legislators, including the entire Vermont Congressional Delegation, wrote to the FDA in support of the maple sugar associations' position on maple labeling, and

Whereas, on May 27, 2016, the FDA issued a final rule (81 FR 33742) updating the nutritional facts labeling requirements for package foods to reflect its 2015–2020 *Dietary Guidelines for Americans*, and

Whereas, the rule requires the inclusion of added sugars in the nutritional facts labeling, including for pure maple syrup and honey, even though absolutely no sugar is added to these products, and

Whereas, this new requirement creates labeling problems for maple syrup and honey, because rather than providing accurate nutritional information, it actually serves to mislead and misinform the public about these products, and

Whereas, Vermont Administrative Rule 2:4-205:1(l) defines maple products as “only maple syrup, maple sugar, maple cream, or any other product in which the sugar content is entirely derived from pure maple sap and to which nothing has been added,” and

Whereas, in February 2018, the FDA issued the *Draft Guidance for Industry: Declaration of Added Sugars on Honey, Maple Syrup, and Certain Cranberry Products*, and

Whereas, in response to objections from producers of pure maple syrup, the FDA proposed the cumbersome solution of adding a “†” symbol by the term added sugars and authorizing pure maple syrup producers to include a supplemental denial of any added sugars, and

Whereas, at a May 1 joint appearance with Vermont maple syrup producers at Morse Farm Sugarworks in Montpelier, U.S. Senator Leahy and U.S. Representative Welch criticized the labeling proposal as misinforming consumers about the contents of pure maple syrup and as harming the maple syrup industry, now therefore be it

Resolved by the House of Representatives:

That this legislative body requests the U.S. Food and Drug Administration to revise its draft guidance on nutritional labeling to eliminate the added sugars listing requirement for honey and pure maple syrup, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to the FDA, the Secretary of Agriculture, Food and Markets, the Vermont Maple Sugar Makers’ Association, the Vermont Beekeepers Association, and the Vermont Congressional Delegation.

Which was read and, in the Speaker’s discretion, placed on the Calendar for action tomorrow under Rule 52.

**Committee of Conference Appointed;
Rules Suspended; Bill Messaged to Senate Forthwith**

H. 593

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

An act relating to miscellaneous consumer protection provisions

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Marcotte of Coventry

Rep. Botzow of Pownal

Rep. Conquest of Newbury

Thereupon, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Senate Proposal of Amendment Concurred in

H. 196

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

An act relating to paid family leave

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. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) “Employer” means an individual, organization or governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State ~~which for the purposes of parental leave~~ that employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year ~~and for the purposes of family leave employs 15 or more individuals for an average of at least 30 hours per week during a year.~~

* * *

(3) “Family leave” means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs ~~15~~ 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) the serious illness of the employee; or

(B) the serious illness of the employee’s child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee’s spouse;

(4) ~~“Parental leave” means a leave of absence from employment by an~~

~~employee who works for an employer which employs 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

~~(C)~~ (C) the employee's pregnancy;

~~(A)~~(D) the birth of the employee's child; or

~~(B)~~(E) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care.

~~(5)~~(4) "Serious illness" means an accident, disease, or physical or mental condition that:

* * *

(5) "Commissioner" means the Commissioner of Labor.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks for the following reasons:

(1) ~~for parental leave, during the employee's pregnancy and;~~

(2) ~~following the birth of an~~ the employee's child ~~or;~~

(3) within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption; ~~or foster care;~~

~~(2)~~(4) ~~for family leave, for the serious illness of the employee; or~~

(5) the serious illness of the employee's child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse.

(b) During the leave, at the employee's option, the employee may use accrued sick leave ~~or~~, vacation leave ~~or~~, any other accrued paid leave, ~~not to exceed six weeks~~ Parental and Family Leave Insurance benefits pursuant to subchapter 13 of this chapter, or short-term disability insurance or other insurance benefits. Utilization Use of accrued paid leave, Parental and Family Leave Insurance benefits, or insurance benefits shall not extend the leave provided ~~herein~~ by this section.

* * *

(d) The employer shall post and maintain in a conspicuous place in and about each of ~~his or her~~ its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.

(e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.

(5) An employee may return from leave earlier than estimated upon approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

* * *

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Parental and Family Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 3. 21 V.S.A. chapter 5, subchapter 13 is added to read:

Subchapter 13. Parental and Family Leave Insurance

§ 571. DEFINITIONS

As used in this subchapter:

(1) “Employee” means an individual who receives payments with respect to services performed for an employer from which the employer is required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151, subchapter 4.

(2) “Employer” means an individual, organization, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State.

(3) "Family leave" means a leave of absence from employment by an employee for the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse.

(4) "Parental and bonding leave" means a leave of absence from employment by an employee for:

(A) the birth of the employee's child; or

(B) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care.

(5) "Qualified employee" means an individual who has earned at least \$10,710.00 in wages in Vermont during the last 12 months.

(6) "Serious illness" means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

(7) "Wages" means payments from an employer to an employee that are subject to income tax withholding pursuant to 32 V.S.A. chapter 151, subchapter 4.

§ 572. PARENTAL AND FAMILY LEAVE INSURANCE; SPECIAL FUND; ADMINISTRATION

(a)(1) The Parental and Family Leave Insurance Program is established for the provision of Parental and Family Leave Insurance benefits to eligible employees pursuant to this section.

(2)(A) The Commissioner of Taxes shall administer the collection of contributions, the determination of monetary eligibility for benefits, and the issuance of benefits checks for the program.

(B) The Commissioner of Labor shall administer the receipt and processing of benefits applications, the determination of eligibility for benefits, the collection of overpaid benefits, and all other aspects of the program that are not administered by the Commissioner of Taxes.

(b) The Parental and Family Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Commissioners of Labor and of Taxes for the administration of the Parental and Family Leave Insurance Program and payment of Parental and

Family Leave Insurance benefits provided pursuant to this section. All interest earned on Fund balances shall be credited to the Fund.

(c)(1)(A) The Fund shall consist of contributions equal to 0.136 percent of each employee's covered wages, which an employer shall deduct and withhold from each of its employee's wages.

(B) In lieu of deducting and withholding the full amount of the contribution pursuant to subdivision (A) of this subdivision (1), an employer may elect to pay all or a portion of the contributions due from the employee's covered wages.

(C) As used in this subsection, the term "covered wages" does not include the amount of wages paid to an employee after he or she has received wages equal to \$150,000.00. Beginning on January 1, 2020, and on each subsequent January 1, the amount of wages included in the term "covered wages" shall be increased by the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1. The amount of wages included in the term "covered wages" shall not be decreased.

(2)(A) Notwithstanding subdivision (1)(A) of this subsection (c), the General Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Parental and Family Leave Insurance Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(B) On or before February 1 of each year, the Commissioner of Labor, in consultation with the Commissioner of Taxes, shall report to the General Assembly the rate of contribution necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(d) The Commissioner of Taxes shall require the withholding of the contributions required pursuant to subsection (c) of this section from wages paid by any employer, as if the contributions were an additional Vermont income tax subject to the withholding requirements of 32 V.S.A. § 5841(a). The administrative and enforcement provisions of 32 V.S.A. chapter 151, subchapter 4 shall apply to the withholding requirement under this section as if

the contributions withheld were a Vermont income tax.

§ 573. BENEFITS

(a) Except as otherwise provided pursuant to section 572 of this subchapter, a qualified employee awarded Parental and Family Leave Insurance benefits under this section shall receive 70 percent of his or her average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(b) A qualified employee shall be permitted to receive a total of not more than 12 weeks of Parental and Family Leave Insurance benefits in a 12-month period for family leave or parental and bonding leave, or both, which shall include:

(1) not more than 12 weeks of parental and bonding leave, provided that if both parents are qualified employees they shall be permitted to receive a combined total of not more than 12 weeks of Parental and Family Leave Insurance benefits in a 12-month period for parental and bonding leave; and

(2) not more than six weeks of Parental and Family Leave Insurance benefits in a 12-month period for family leave.

§ 574. APPLICATION FOR BENEFITS; PAYMENT; TAX WITHHOLDING

(a) A qualified employee shall file an application for Parental and Family Leave Insurance benefits with the Commissioner of Labor under this section on a form provided by the Commissioner. The Commissioner shall determine whether the qualified employee is eligible to receive Parental and Family Leave Insurance benefits based on the following criteria:

(1) The purposes for which the claim is made are adequately documented pursuant to rules adopted by the Commissioner.

(2) The Commissioner of Taxes certifies that the individual is a qualified employee.

(3) The qualified employee satisfies the eligibility requirements for the requested leave and has specified the duration of the leave.

(4) The benefits are being requested in relation to a family leave or a parental and bonding leave.

(b)(1) The Commissioner of Labor shall make a determination of each claim not later than five business days after the date the claim is filed, and Parental and Family Leave Insurance benefits shall be paid from the Fund created pursuant to this section. The Commissioner may extend the time in

which to make a determination of a claim by not more than five business days if necessary to obtain documents or information that are needed to make the determination.

(2) The first benefit payment shall be sent to a qualified employee within 14 days after his or her claim is approved, and subsequent payments shall be sent biweekly.

(3) The provisions of section 1367 of this title shall apply to Parental and Family Leave Insurance benefits.

(c)(1) An individual filing a claim for benefits pursuant to this section shall, at the time of filing, be advised that Parental and Family Leave Insurance benefits may be subject to income tax and that the individual's benefits may be subject to withholding.

(2) The Commissioner of Labor shall follow all procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the withholding of income tax.

§ 575. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

(a) The employer of an employee who receives Parental and Family Leave Insurance benefits under this subchapter shall reinstate the employee at the conclusion of his or her family leave or parental and bonding leave, provided the employee is not out of work for a continuous period in excess of 12 weeks. The employee shall be reinstated in the first available suitable position given the position he or she held at the time his or her leave began.

(b) Upon reinstatement, the employee shall regain seniority and any unused accrued paid leave he or she was entitled to prior to the family leave or parental and bonding leave, less any accrued paid leave used during the family leave or parental and bonding leave.

(c)(1) Nothing in this section shall be construed to diminish an employee's rights pursuant to subsection 472(f) of this chapter.

(2) The provisions of this section shall not apply if:

(A) the employee had been given notice, or had given notice, prior to the beginning of his or her leave;

(B) the employee's position would have terminated of its own terms prior to any reinstatement he or she would otherwise be entitled to under this section; or

(C) the employee fails to inform the employer of:

(i) his or her interest in being reinstated at the conclusion of the

leave; and

(ii) the date on which his or her leave is anticipated to conclude.

(D) More than two years have elapsed since the conclusion of the employee's leave.

(d)(1) An employee aggrieved by an employer's failure to comply with the provisions of this section may bring an action in the Civil Division of the Superior Court in the county where the employment is located for compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or other benefits, reinstatement, costs, and other appropriate relief.

(2) A copy of the complaint shall be filed with the Commissioner of Labor.

(3) The court shall award reasonable attorney's fees to the employee if he or she prevails.

§ 576. APPEALS

(a)(1) An employer or individual aggrieved by a decision of the Commissioner of Labor under section 574 or 581 of this subchapter may file with the Commissioner a petition for reconsideration within 30 days after receipt of the decision. The petition shall set forth in detail the grounds upon which it is claimed that the decision is erroneous and may include materials supporting that claim.

(2) If an employer petitions the Commissioner to reconsider a decision pursuant to section 574 or 581 of this subchapter, the Commissioner shall promptly notify the individual of the petition by ordinary, certified, or electronic mail and provide him or her with an opportunity to file an answer to the employer's petition.

(3) The Commissioner shall promptly notify the employer or individual, or both, of his or her decision by ordinary, certified, or electronic mail.

(b)(1) An employer or individual aggrieved by the Commissioner's decision on reconsideration may file an appeal with a departmental administrative law judge within 30 days after receiving the Commissioner's decision. The appeal shall set forth in detail the grounds upon which it is claimed that the decision is erroneous.

(2) The administrative law judge shall, upon not less than five business days' notice, hold a hearing on the appeal as provided pursuant to rules adopted by the Commissioner. After the hearing, all parties to the appeal shall be promptly notified by ordinary, certified, or electronic mail of the findings of

fact, conclusions, and decision of the administrative law judge.

(c) Any party may appeal the administrative law judge's decision to the Supreme Court within 30 days after receiving the decision.

(d) The provisions of section 1353 of this title shall apply to all determinations, redeterminations, findings of fact, conclusions of law, decisions, orders, or judgments entered or made pursuant to this section.

§ 577. FALSE STATEMENT OR REPRESENTATION; PENALTY

A person who willfully makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this subchapter, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than \$20,000.00 and shall forfeit all or a portion of any right to benefits under the provisions of this subchapter, as determined to be appropriate by the Commissioner of Labor or of Taxes, as appropriate, after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

§ 578. RULEMAKING

(a) The Commissioner of Taxes shall adopt rules as necessary to implement the provisions of this subchapter related to the collection of contributions pursuant to section 572 of this subchapter and the determination of monetary eligibility for benefits.

(b) The Commissioner of Labor shall adopt rules as necessary to implement all other provisions of this subchapter.

§ 579. CONFIDENTIALITY OF INFORMATION

(a) Information obtained from an employer or individual in the administration of this subchapter and determinations of an individual's right to receive benefits that reveal an employer's or individual's identity in any manner shall be kept confidential and shall be exempt from public inspection and copying under the Public Records Act. Such information shall not be admissible as evidence in any action or proceeding other than one brought pursuant to the provisions of this subchapter.

(b) Notwithstanding subsection (a) of this section:

(1) an individual or his or her duly authorized agent may be provided with information to the extent necessary for the proper presentation of his or her claim for benefits or to inform him or her of his or her existing or prospective rights to benefits; and

(2) an employer may be provided with information that the Commissioner of Labor or of Taxes determines is necessary to enable the employer to discharge fully its obligations and protect its rights under this subchapter.

§ 580. DISQUALIFICATIONS

A qualified employee shall be disqualified for benefits for any week in which he or she has received:

(1) compensation for temporary partial disability or temporary total disability under the workers' compensation law of any state or under a similar law of the United States; or

(2) unemployment compensation benefits under the law of any state.

§ 581. OVERPAYMENT OF BENEFITS; COLLECTION

(a)(1) Any individual who by nondisclosure or misrepresentation of a material fact, by him or her, or by another person, has received Parental and Family Leave Insurance benefits when he or she failed to fulfill a requirement for the receipt of benefits pursuant to this chapter or while he or she was disqualified from receiving benefits pursuant to section 580 of this chapter shall be liable to repay to the Commissioner of Labor the amount received.

(2) Upon determining that an individual has received benefits under this chapter that he or she was not entitled to, the Commissioner of Labor shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Commissioner the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid.

(3) The determination shall be made within not more than three years after the date of the overpayment.

(b)(1) An individual liable under this section shall repay the overpaid amount to the Commissioner for deposit in the Fund.

(2) If the Commissioner finds that the individual intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, in addition to the repayment under subdivision (1) of this subsection, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits, which shall also be deposited in the Fund.

(3) The Commissioner may collect the amounts due under this section in civil action in the Superior Court.

(c) If an individual is liable to repay any amount pursuant to this section, the Commissioner may withhold, in whole or in part, any future benefits

payable to the individual pursuant to this chapter and credit the withheld benefits against the amount due from the individual until it is repaid in full, less any penalties assessed under subdivision (b)(2) of this section.

(d) In addition to the remedy provided pursuant to this section, an individual who intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits may be subject to the penalties provided pursuant to section 577 of this title.

Sec. 4. ADOPTION OF RULES

(a) On or before April 1, 2019, the Commissioner of Taxes shall adopt rules necessary to implement the provisions of 21 V.S.A. chapter 5, subchapter 13 related to the collection of contributions and the determination of monetary eligibility, which shall include:

- (1) procedures for the collection of contributions;
- (2) procedures for the issuance of benefits payments; and
- (3) reporting and record-keeping requirements for employers.

(b) On or before April 1, 2019, the Commissioner of Labor shall adopt rules necessary to implement all other provisions of 21 V.S.A. chapter 5, subchapter 13, which shall include:

- (1) procedures for receiving and processing applications for benefits;
- (2) acceptable documentation for demonstrating eligibility for benefits;
- (3) forms and requirements for providing certification from a health care provider of the need for family leave that are modeled on the federal rules governing certification of a serious health condition under the Family and Medical Leave Act;

(4) forms and procedures for obtaining authorization for an individual's health care provider to disclose to the Commissioner information necessary to make a determination of the individual's eligibility for benefits; and

(5) procedures for appealing a decision pursuant to 21 V.S.A. § 574 that are modeled, to the extent possible, on the appeals process provided for determinations of benefits in relation to unemployment insurance.

Sec. 5. EDUCATION AND OUTREACH

On or before June 1, 2019, the Commissioner of Labor shall develop and make available on the Department of Labor's website information and materials to educate and inform employers and employees about the Parental and Family Leave Insurance Program established pursuant to 21 V.S.A. chapter 5, subchapter 13.

Sec. 6. ESTABLISHMENT OF PARENTAL AND FAMILY LEAVE
INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL
FUND

Beginning on July 1, 2018, the Commissioner of Finance and Management may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from the Parental and Family Leave Insurance Special Fund necessary to establish the Parental and Family Leave Insurance Program in anticipation of the receipt on or after July 1, 2019 of contributions submitted pursuant to 21 V.S.A. § 572.

Sec. 7. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2021, 2022, and 2023, the Commissioners of Labor and of Taxes, in consultation with the Commissioners of Finance and Management and of Financial Regulation, shall submit a written report to the House Committees on Appropriations, on General, Housing, and Military Affairs, and on Ways and Means and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance regarding the amount and adequacy of the reserves in the Parental and Family Leave Insurance Special Fund and any recommendations for legislative action necessary to ensure that an adequate reserve is maintained in the Fund.

Sec. 8. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

* * *

(F) Parental and Family Leave Insurance benefits pursuant to chapter 5, subchapter 13 of this title.

* * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 3, 4, 5, 6, and 7 shall take effect on July 1, 2018.

(b) Secs. 1, 2, and 8 shall take effect on October 1, 2020.

(c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on July 1, 2019, and, beginning on October 1, 2020, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

Which proposal of amendment was considered.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Rep. Head of South Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the House concur in the Senate proposal of amendment? was decided in the affirmative. Yeas, 90. Nays, 53.

Those who voted in the affirmative are:

Ancel of Calais	Gardner of Richmond	Ode of Burlington
Bartholomew of Hartland	Giambatista of Essex	O'Sullivan of Burlington
Baser of Bristol	Gonzalez of Winooski	Pajala of Londonderry
Belaski of Windsor	Grad of Moretown	Partridge of Windham
Bissonnette of Winooski	Haas of Rochester	Poirier of Barre City
Bock of Chester	Head of South Burlington	Pugh of South Burlington
Botzow of Pownal	Hill of Wolcott	Rachelson of Burlington
Briglin of Thetford	Hooper of Montpelier	Read of Fayston
Brumsted of Shelburne	Hooper of Randolph	Scheu of Middlebury
Buckholz of Hartford	Houghton of Essex	Sharpe of Bristol
Burke of Brattleboro	Howard of Rutland City *	Sheldon of Middlebury
Carr of Brandon	Jessup of Middlesex	Squirrell of Underhill
Chesnut-Tangerman of Middletown Springs	Joseph of North Hero	Stevens of Waterbury
Christensen of Weathersfield	Kimbell of Woodstock	Stuart of Brattleboro
Christie of Hartford	Kitzmiller of Montpelier	Sullivan of Burlington
Cina of Burlington	Krowinski of Burlington *	Taylor of Colchester
Colburn of Burlington	Lalonde of South Burlington	Till of Jericho *
Conlon of Cornwall	Lanpher of Vergennes	Toleno of Brattleboro
Connor of Fairfield	Lefebvre of Newark	Toll of Danville
Conquest of Newbury	Lippert of Hinesburg	Townsend of South Burlington
Copeland-Hanzas of Bradford	Long of Newfane	Trieber of Rockingham
Dakin of Colchester	Lucke of Hartford *	Troiano of Stannard
Deen of Westminster	Macaig of Williston	Walz of Barre City
Donovan of Burlington	Masland of Thetford	Webb of Shelburne
Dunn of Essex	McCormack of Burlington	Weed of Enosburgh
Emmons of Springfield	McCullough of Williston	Willhoit of St. Johnsbury
Fields of Bennington	Miller of Shaftsbury	Wood of Waterbury
Forguites of Springfield	Morris of Bennington *	Yacovone of Morristown
Gannon of Wilmington	Mrowicki of Putney	Yantachka of Charlotte
	Myers of Essex	Young of Glover
	Noyes of Wolcott	

Those who voted in the negative are:

Ainsworth of Royalton	Gage of Rutland City *	Murphy of Fairfax
Bancroft of Westford	Gamache of Swanton	Nolan of Morristown
Batchelor of Derby	Graham of Williamstown	Norris of Shoreham *
Beck of St. Johnsbury	Harrison of Chittenden	Pearce of Richford
Beyor of Highgate	Hebert of Vernon	Potter of Clarendon
Brennan of Colchester	Helm of Fair Haven	Quimby of Concord

Browning of Arlington *	Higley of Lowell *	Rosenquist of Georgia
Burditt of West Rutland	Jickling of Randolph	Savage of Swanton
Canfield of Fair Haven	Juskiewicz of Cambridge	Scheuermann of Stowe
Corcoran of Bennington	LaClair of Barre Town	Shaw of Pittsford
Cupoli of Rutland City	Lawrence of Lyndon	Sibilia of Dover
Devereux of Mount Holly	Lewis of Berlin	Smith of Derby
Dickinson of St. Albans Town	Marcotte of Coventry	Smith of New Haven
Donahue of Northfield *	Martel of Waterford	Strong of Albany
Fagan of Rutland City	Mattos of Milton	Turner of Milton *
Feltus of Lyndon	McCoy of Poultney	Van Wyck of Ferrisburgh *
Frenier of Chelsea	McFaun of Barre Town	Viens of Newport City
	Morrissey of Bennington	Wright of Burlington

Those members absent with leave of the House and not voting are:

Condon of Colchester	Keenan of St. Albans City	Sullivan of Dorset
Keefe of Manchester	Parent of St. Albans Town	Terenzini of Rutland Town

Rep. Browning of Arlington explained her vote as follows:

“Madam Speaker:

I vote no. Instead of creating a new complex mandatory tax financial entitlement program that many Vermonters will pay into and never benefit from, we should be creating a voluntary paid leave insurance program for those Vermonters that want it.”

Rep. Donahue of Northfield explained her vote as follows:

“Madam Speaker:

A short term benefit that – for some people – can result in ultimately losing their job and not even being eligible for unemployment is no benefit at all. Yet all must pay in, even those who cannot use it because of this risk to their family’s economic survival.”

Rep. Gage of Rutland City explained his vote as follows:

“Madam Speaker:

We as a body continually ignore the lost jobs we have created through over regulation, tax increases, and the many burdens we place on businesses, although paid family leave in itself is a good idea. Many businesses cannot afford the disruption to the work environment and potential increases in this tax. As a former seatmate of ours said, ‘This is the death of business in Vermont by a 1000 paper cuts.’”

Rep. Higley of Lowell explained his vote as follows:

“Madam Speaker:

Vermont employers don’t need another mandate coming from Montpelier.”

Rep. Howard of Rutland City explained her vote as follows:

“Madam Speaker:

This is a wonderful benefit for families. I couldn’t use family leave for my husband when he was ill. Outside of having a baby, you never know when you may need to take time to care for a loved one. I fully support this bill.”

Rep. Krowinski of Burlington explained her vote as follows:

“Madam Speaker:

A paid family leave program is necessary to ensure working families can balance work and family needs while maintaining economic security. Family leave insurance is an investment in a healthy Vermont economy and that’s why I voted yes.”

Rep. Lucke of Hartford explained her vote as follows:

“Madam Speaker:

I vote yes; caring for family takes sacrifice. This legislation makes sure family income is not a sacrifice working Vermonters will have to make to be present for their family members in need of care.”

Rep. Morris of Bennington explained her vote as follows:

“Madam Speaker:

I pay unemployment insurance as do many others. I pay health insurance premiums as do many others. I pay auto, home and other insurance premiums so that the protections are there for me when I need them. This is the social contract that a democracy ensures. The people have long asked for this and need this – and will cover the costs to make it happen.”

Rep. Norris of Shoreham explained his vote as follows:

“Madam Speaker:

I voted no, not because I disagree with the idea of helping families deal with issues that keep them from their work. If companies wanted to offer this benefit to attract employees I think that would be a great benefit but I can’t vote to tax every wage earner in Vermont whether they want this insurance or not.”

Rep. Till of Jericho explained his vote as follows:

“Madam Speaker:

I vote yes. H.196 is a huge step forward in making Vermont a more family friendly state. The ability to take time off after arrival of a new baby in the family is profoundly valuable, in many ways.

Not having to choose between employment and caring for a new or ailing family member is a huge relief for Vermonters.”

Rep. Turner of Milton explained his vote as follows:

“Madam Speaker:

This bill imposes a \$16,300,000 new tax on hardworking Vermonters. Yet another example of this legislature driving up the cost of living in Vermont. When will it stop? I vote ‘NO.’”

Rep. Van Wyck of Ferrisburgh explained his vote as follows:

“Madam Speaker:

I voted No. I do not support the further expansion of the Nanny State, further burdensome regulations on businesses, or further payroll taxes.”

Rules Suspended; Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested and Appointed; Rules Suspended; Bill Messaged to Senate Forthwith

H. 913

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to boards and commissions

Was taken up for immediate consideration.

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

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By striking out all after the enacting clause and inserting in lieu thereof the following:

First: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 and an accompanying reader assistance heading to read:

* * * Joint Information Technology Oversight Committee * * *

Sec. 9. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY
OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT
COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight

Committee to oversee investments in and use of information technology in Vermont.

(b) Membership. The Committee shall be composed of six members as follows:

(1) three members of the House of Representatives, not all of whom shall be from the same political party, who shall be appointed by the Speaker of the House; and

(2) three members of the Senate, not all of whom shall be from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

(1) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4) cybersecurity.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Meetings.

(1) The Speaker of the House and the Committee on Committees shall appoint one member from the House and one member of the Senate as co-chairs of the Committee.

(2) A majority of the membership shall constitute a quorum.

(3) The Committee may meet when the General Assembly is in session or at the call of the Co-Chairs.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Second: After Sec. 13a, 2 V.S.A. § 691, by inserting a reader assistance heading and Sec. 13b to read:

* * * Labor Board Review Panel * * *

Sec. 13b. 3 V.S.A. § 921 is amended to read:

§ 921. CREATION; MEMBERSHIP, COMPENSATION

(a) There is hereby created a State Labor Relations Board composed of six members. The Governor shall appoint the members with the advice and consent of the Senate for a term of six years or for the member's unexpired term from a list of nominees presented by the Labor Board Review Panel. The appointments shall be made within 60 days of an expired term or vacancy.

(1) The Labor Board Review Panel shall be composed of five members to include the executive director of the Vermont Bar Association, the Commissioner of Labor, the State Court Administrator, and a ~~Representative~~ representative of ~~Labor~~ labor and a ~~Representative~~ representative of employers, both of whom shall be appointed for two-year terms by the Commissioner of Labor from names provided by labor organizations and employers in the State. The Commissioner shall request names of potential representatives of labor and employers from at least three Vermont labor organizations and three Vermont employer organizations, respectively.

(2) The Labor Board Review Panel shall:

(A) At least 90 days prior to the expiration of a term or as soon as a vacancy is announced or created, ~~the Review Panel shall~~ request from both Vermont labor organizations and Vermont employer organizations, over which the Board has jurisdiction for dispute adjudication, and from organizations that train or employ persons to serve in a neutral role in labor management relations a list of nominees for each position is to be filled. The Review Panel shall issue public notices of vacancies on the Board. An individual may apply for consideration as a nominee for a vacant ~~board~~ Board position.

(B)(i) Consider the experience, knowledge, character, integrity, judgment, and ability to act in a fair and impartial manner of each nominee in compiling a list of nominees for ~~board~~ Board membership. The Review Panel shall consider the skills, perspectives, and experience of the nominees and ensure a continuing balance on the Board of labor, management, and neutral backgrounds in determining those nominees qualified to be forwarded to the Governor under subsection (c) of this section.

(ii) For each individual that the Panel is considering forwarding to the Governor under subsection (c) of this section, the Panel shall interview the individual and contact at least one individual who can serve as a reference for the individual under consideration.

(iii) "Nominees with neutral backgrounds" means individuals in high standing not connected with any labor organization or management

position, and who can be reasonably considered to be able to serve as an impartial individual.

(2)(3) To be eligible for appointment to the Board an individual shall be a citizen of the United States and resident of the State of Vermont for one year immediately preceding appointment. A member of the Board may not hold any other State office.

(3)(4) Each case that comes before the Board for a hearing shall be heard and decided by a panel of three or five members appointed by the Board Chair. Two members of a three-member panel and three members of a five-member panel shall constitute a quorum with authority to conduct a hearing, provided that all members of the Panel shall review the record and participate in the Panel's decision. The Board may review a proposed decision by a Panel prior to its issuance for the sole purpose of insuring that questions of law are being decided in a consistent manner.

* * *

Third: In Sec. 14 (effective dates), following “This act shall take effect on July 1, 2018, except that” by inserting this section and Sec. 9, 2 V.S.A. chapter 18, shall take effect on passage and

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Gannon of Wilmington** moved that the House refuse to concur and ask for a Committee of Conference which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Gannon of Wilmington
Rep. LaClair of Barre Town
Rep. Gardner of Richmond

Thereupon, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Recess

At twelve o'clock and six minutes in the forenoon, the Speaker declared a recess until one o'clock minutes in the afternoon.

At one o'clock and thirty minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 78

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 House proposal of amendment to Senate bill of the following title:

S. 280. An act relating to the Advisory Council for Strengthening Families.
And has concurred therein.

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

H. 576. An act relating to stormwater management.

H. 922. An act relating to making numerous revenue changes.

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

Rules Suspended; Report of Committee of Conference Adopted

S. 85

Appearing on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to simplifying government for small businesses

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended

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.85. An act relating to simplifying government for small businesses.

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. SIMPLIFYING GOVERNMENT FOR SMALL BUSINESSES

(a) The Secretary of State shall serve as the chair of a steering committee, composed of the Secretary of State, the Secretary of Commerce and Community Development, and the Secretary of Digital Services or their designees.

(b) The Secretary of State, in collaboration with the steering committee, and in collaboration with other State agencies and departments and interested stakeholders as necessary, shall:

(1) review and consider the necessary procedural and substantive steps to enhance the Secretary of State's one-stop business portal for businesses, entrepreneurs, and citizens to provide information about starting and operating a business in Vermont; and

(2) submit on or before December 15, 2018:

(A) a design proposal that includes a project scope, timeline, roadmap, and cost projections; and

(B) any statutory or regulatory changes needed to implement the proposal.

(c) The steering committee shall evaluate the cost and efficacy, and integrate into the current one-stop portal to the extent feasible, features that:

(1) enhance State websites to simplify registrations and provide a clear compilation of other State business requirements, including permits and licenses;

(2) simplify the mechanism for making payments to the State by allowing a person to pay amounts he or she owes to the State for taxes, fees, or other charges to a single recipient within State government;

(3) simplify annual filing requirements by allowing a person to make a single filing to a single recipient within State government and check a box if nothing substantive has changed from the prior year;

(4) provide guidance, assistance with navigation, and other support to persons who are forming or operating a small business;

(5) after registration, provide information about additional and ongoing State requirements and a point of contact to discuss questions or explore any assistance needed;

(6) provide guidance and information about State and federal programs and initiatives, as well as State partner organizations and Vermont-based businesses of interest; and

(7) map communication channels for project updates, including digital channels such as e-mail, social media, and other communications.

(d) State agencies and departments shall provide assistance to the steering committee upon its request.

(e) The steering committee shall focus its review on providing services through the one-stop business portal primarily for the benefit of businesses with 20 or fewer employees.

(f) The Agency of Digital Services shall assign a project manager or business

analyst to report directly to the Secretary of State to assist with the implementation of this act through June 30, 2019 for the purpose of developing and implementing a one-stop navigable portal for businesses, entrepreneurs, and citizens to access information about starting a business in Vermont, and to provide ongoing support to businesses interfacing with State government.

Sec. 2. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 1(f) shall take effect on July 1, 2018.

*SEN. ALISON CLARKSON
SEN. DAVID J. SOUCY
SEN. MICHAEL D. SIROTKIN
Committee On The Part Of The Senate*

*REP. LINDA K. MYERS
REP. AMY D. SHELDON
REP. CHARLES A. KIMBELL
Committee On The Part Of the House*

Which was considered and adopted on the part of the House.

Rules Suspended; Report of Committee of Conference Adopted

S. 179

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to community justice centers

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended

Report of Committee of Conference

S.179

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.179. An act relating to community justice centers.

Respectfully reports that it has met and considered the same and recommends

that the Senate accede to the House proposal of amendment

SEN. ALICE W. NITKA
SEN. RICHARD W. SEARS
SEN. MARGARET K. FLORY
Committee On The Part Of The Senate

REP. ALICE M. EMMONS
REP. CHARLES H. SHAW
REP. CURT D. TAYLOR
Committee On The Part Of The House

Which was considered and adopted on the part of the House.

Rules Suspended; Report of Committee of Conference Adopted

S. 269

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and Senate bill, entitled

An act relating to blockchain, cryptocurrency, and financial technology

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended

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.269. An act relating to blockchain, cryptocurrency, and financial technology.

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:

* * * Definition of Blockchain Technology * * *

Sec. 1. 12 V.S.A. § 1913 is amended to read:

§ 1913. BLOCKCHAIN ENABLING

(a) As used in this section, ~~“blockchain technology”~~:

(1) “Blockchain” means a ~~mathematically~~ cryptographically secured,

chronological, and decentralized consensus ledger or consensus database, whether maintained via Internet interaction, peer-to-peer network, or otherwise other interaction.

(2) “Blockchain technology” means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

* * *

* * * Personal Information Protection Companies * * *

Sec. 2. 8 V.S.A. chapter 78 is added to read:

CHAPTER 78. PERSONAL INFORMATION PROTECTION

COMPANIES

§ 2451. DEFINITIONS

As used in this section:

(1) “Personal information” means data capable of being associated with a particular natural person, including gender identification, birth information, marital status, citizenship and nationality, biometric records, government identification designations, and personal, educational, and financial histories.

(2) “Personal information protection company” means a business that is organized for the primary purpose of providing personal information protection services to individual consumers.

(3) “Personal information protection services” means receiving, holding, and managing the disclosure or use of personal information concerning an individual consumer:

(A) pursuant to a written agreement, in which the person receiving the individual consumer’s information agrees to serve as a personal information protection company, and which specifies the types of personal information to be held and the scope of services to be provided on behalf of the consumer; and

(B) in the best interests and for the protection and benefit of the consumer.

§ 2452. PERSONAL INFORMATION AS THE SUBJECT OF A

FIDUCIARY RELATIONSHIP

A personal information protection company that accepts personal information pursuant to a written agreement to provide personal information protection services has a fiduciary responsibility to the consumer when providing personal protection services.

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION

COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a certificate of authority from the Department.

(c) A personal information protection company shall:

(1) be organized or authorized to do business under the laws of this State;

(2) maintain a place of business in this State;

(3) appoint a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever the registered agent cannot with reasonable diligence be found at the Vermont registered office of the company, the Secretary of State shall be an agent of the company upon whom any process, notice, or demand may be served;

(4) annually hold at least one meeting of its governing body in this State, at which meeting one or more members of the body are physically present; and

(5) develop, implement, and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards sufficient to protect personal information, and which may include the use of blockchain technology, as defined in 12 V.S.A. § 1913, in some or all of its business activities.

§ 2454. NAME; OFFICE

A personal information protection company shall file with the Department of Financial Regulation the name it proposes to use in connection with its business, which the Department shall not approve if it determines that the name may be misleading, likely to confuse the public, or deceptively similar to any other business name in use in this State.

§ 2455. CONDUCT OF BUSINESS

(a) A personal information protection company may:

(1) operate through remote interaction with the individuals entrusting personal information to the company, and there shall be no requirement of Vermont residency or other contact for any such individual to establish such a relationship with the company; and

(2) subject to applicable fiduciary duties, the terms of any agreement with the individual involved, and any applicable statutory or regulatory provision:

(A) provide elements of personal information to third parties with which the individual seeks to have a transaction, a service relationship, or other particular purpose interaction;

(B) provide certification or validation concerning personal information;

(C) receive compensation for acting in these capacities.

(b) An authorization to provide personal information may be either particular or general, provided it meets the terms of any agreement with the individual involved and any rules adopted by the Department of Financial Regulation.

§ 2456. FEES; AUTHORITY OF DEPARTMENT

(a)(1) The Department of Financial Regulation shall assess the following fees for a personal information protection company:

(A) an initial registration fee of \$1,000.00, which includes a licensing fee of \$500.00 and an investigation fee of \$500.00;

(B) an annual renewal fee of \$500.00;

(C) a change in address fee of \$100.00.

(2) The Department shall have the authority to bill a personal information protection company for examination time at its standard rate.

(b) In addition to other powers conferred by this chapter, the Department shall have the authority to review records, conduct examinations, and require annual audits of a personal information protection company.

§ 2457. REPORTS; RULES

(a) The Department of Financial Regulation may prescribe by rule the timing and manner of reports by a personal information protection company to the Department.

(b) The Department may adopt rules to govern other aspects of the business of a personal information protection company, including its protection and safeguarding of personal information and its interaction with third parties with respect to personal information it holds.

Sec. 3. IMPLEMENTATION; REPORTS; RULES

On or before January 15, 2020, the Department of Financial Regulation shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a progress report that addresses:

(1) the implementation of Sec. 2 of this act; and

(2) the status of rulemaking pursuant to its authority under 8 V.S.A. § 2457.

* * * Insurance and Banking Study * * *

Sec. 4. INSURANCE; BANKING; DFR STUDY; REPORT

(a) The Department of Financial Regulation shall review the potential application of blockchain technology to the provision of insurance and banking

and consider areas for potential adoption and any necessary regulatory changes in Vermont.

(b) On or before January 15, 2019, the Department shall submit a report of its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

* * * FinTech Summit; Blockchain Promotion * * *

Sec. 5. FINTECH SUMMIT

The Agency of Commerce and Community Development, in collaboration with the Department of Financial Regulation, the University of Vermont and State Agricultural College, the Vermont State Colleges, Norwich University, Vermont Law School, the Agency of Education, and regional CTE centers, and in consultation with private sector practitioners, may organize and hold a FinTech Summit to:

(1) explore legal and regulatory mechanisms to promote the adoption of financial technology in State government;

(2) explore opportunities to promote financial technology and economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency providers and proponents; and

(3) explore opportunities to integrate financial technology into secondary and postsecondary education in Vermont.

Sec. 6. BLOCKCHAIN AND FINANCIAL TECHNOLOGY PROMOTION

The Agency of Commerce and Community Development shall incorporate into one or more of its economic development marketing and business support programs, events, and activities the following topics:

(1) opportunities to promote blockchain technology and financial technology-related economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency;

(2) legal and regulatory mechanisms that enable and promote the adoption of blockchain technology and financial technology in this State; and

(3) educational and workforce training opportunities in blockchain technology, financial technology, and related areas.

* * * Enabling Provisions; Blockchain-Based LLCs * * *

Sec. 7. 11 V.S.A. chapter 25, subchapter 12 is added to read:

Subchapter 12. Blockchain-Based Limited Liability Companies

§ 4171. DEFINITIONS

As used in this section:

(1) “Blockchain technology” has the same meaning as in 12 V.S.A. § 1913.

(2) “Participant” means:

(A) each person that has a partial or complete copy of the decentralized consensus ledger or database utilized by the blockchain technology, or otherwise participates in the validation processes of such ledger or database;

(B) each person in control of any digital asset native to the blockchain technology; and

(C) each person that makes a material contribution to the protocols.

(3) “Protocols” means the designated regulatory model of the software that governs the rules, operations, and communication between nodes on the network utilized by the participants.

(4) “Virtual currency” means a digital representation of value that:

(A) is used as a medium of exchange, unit of account, or store of value; and

(B) is not legal tender, whether or not denominated in legal tender.

§ 4172. ELECTION

A limited liability company organized pursuant to this title for the purpose of operating a business that utilizes blockchain technology for a material portion of its business activities may elect to be a blockchain-based limited liability company (BLLC) by:

(1) specifying in its articles of organization that it elects to be a BLLC; and

(2) meeting the requirements in subdivision 4173(2) and subsection 4174(a) of this title.

§ 4173. AUTHORITY; REQUIREMENTS

Notwithstanding any provision of this chapter to the contrary:

(1) A BLLC may provide for its governance, in whole or in part, through blockchain technology.

(2) The operating agreement for a BLLC shall:

(A) provide a summary description of the mission or purpose of the BLLC;

(B) specify whether the decentralized consensus ledger or database utilized or enabled by the BLLC will be fully decentralized or partially decentralized and whether such ledger or database will be fully or partially public or private, including the extent of participants’ access to information and read and write permissions with respect to protocols;

(C) adopt voting procedures, which may include smart contracts carried out on the blockchain technology, to address:

(i) proposals from managers, members, or other groups of participants in the BLLC for upgrades or modifications to software systems or protocols, or both;

(ii) other proposed changes to the BLLC operating agreement; or

(iii) any other matter of governance or activities within the purpose of the BLLC;

(D) adopt protocols to respond to system security breaches or other unauthorized actions that affect the integrity of the blockchain technology utilized by the BLLC;

(E) provide how a person becomes a member of the BLLC with an interest, which may be denominated in the form of units, shares of capital stock, or other forms of ownership or profit interests; and

(F) specify the rights and obligations of each group of participants within the BLLC, including which participants shall be entitled to the rights and obligations of members and managers.

§ 4174. MULTIPLE ROLES OF MEMBERS AND MANAGERS

(a) A member or manager of a BLLC may interact with the BLLC in multiple roles, including as a member, manager, developer, node, miner, or other participant in the BLLC, or as a trader and holder of the currency in its own account and for the account of others, provided such member or manager complies with any applicable fiduciary duties.

(b) The activities of a member or manager who interacts with the BLLC through multiple roles are not deemed to take place in this State solely because the BLLC is organized in this State.

§ 4175. CONSENSUS FORMATION ALGORITHMS AND GOVERNANCE PROCESSES

In its governance, a BLLC may:

(1) adopt any reasonable algorithmic means for accomplishing the consensus process for validating records, as well as requirements, processes, and procedures for conducting operations, or making organizational decisions on the blockchain technology used by the BLLC; and

(2) in accordance with any procedure specified pursuant to section 4173 of this title, modify the consensus process, requirements, processes, and procedures, or substitute a new consensus process, requirements, processes, or procedures that comply with the requirements of law and the governance provisions of the BLLC.

§ 4176. SCOPE OF SUBCHAPTER; OTHER LAW

Except as expressly provided otherwise, this subchapter does not exempt a BLLLC from any other judicial, statutory, or regulatory provision of Vermont law or federal law, including State and federal securities laws. Except to the extent inconsistent with the provisions of this subchapter, the provisions of the Vermont Limited Liability Company Act govern.

* * * Blockchain Technology in Public Records * * *

Sec. 8. PUBLIC RECORDS

On or before January 15, 2019, the Vermont State Archives and Records Administration, in collaboration with the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, and the Agency of Digital Services, shall:

(1) evaluate blockchain technology for the systematic and efficient management of public records in accordance with 1 V.S.A. § 317a and 3 V.S.A. § 117;

(2) recommend legislation, including uniform laws, necessary to support the possible use of blockchain technology for the recording of land records pursuant to 24 V.S.A. § 1154 and for other public records; and

(3) submit its findings and recommendations to the House Committee on Commerce and Economic Development; the Senate Committee on Economic Development, Housing and General Affairs; and the House and Senate Committees on Government Operations.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

and that after passage the title of the bill be amended to read: "An act relating to blockchain business development"

*SEN. ALISON CLARKSON
SEN. DAVID J. SOUCY
SEN. REBECCA A. BALINT
Committee On The Part Of The Senate*

*REP. JEAN D. O'SULLIVAN
REP. PATRICIA A. MCCOY
REP. SAMUEL R. YOUNG
Committee On The Part Of The House*

Which was considered and adopted on the part of the House.

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. Savage of Swanton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith.

S. 85

Senate bill, entitled

An act relating to simplifying government for small businesses

S. 179

Senate bill, entitled

An act relating to community justice centers

S. 269

Senate bill, entitled

An act relating to blockchain, cryptocurrency, and financial technology

Rules Suspended; Senate Proposal of Amendment Concurred in; Rules Suspended; Action Ordered Messaged to Senate Forthwith and Bill Delivered to the Governor Forthwith**H. 608**

Appearing on the Calendar for notice, on motion of **Rep. Savage of Swanton**, the rules were suspended and House bill, entitled

An act relating to creating an Older Vermonters Act working group

Was taken up for immediate consideration.

Thereupon, **Rep. Wood of Waterbury** moved that the House recede its proposal and concur in the Senate proposal of amendment which was agreed to.

Thereupon, on motion of **Rep Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith and bill delivered to the Governor forthwith.

Recess

At two o'clock and ten minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At two o'clock and fifty-eight minutes in the afternoon, the Speaker called the House to order.

Rules Suspended; Second Reading; Favorable Report; Third Reading Ordered**S. 241**

On motion of **Rep. Savage of Swanton**, the rules were suspended and Senate

bill, entitled

An act relating to the makeup and duties of the Emergency Medical Services Advisory Committee

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Townsend of South Burlington, for the committee on Government Operations, to which had been referred the Senate bill reported in favor of its passage in concurrence.

Thereupon, the bill was read the second time and third reading was ordered.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 901

The Senate proposed to the House to amend House bill, entitled
An act relating to health information technology and health information exchange

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. HEALTH INFORMATION TECHNOLOGY; HEALTH
INFORMATION EXCHANGE; PROGRESS REPORTS

(a) On or before May 1, 2018, the Department of Vermont Health Access and the Vermont Information Technology Leaders, Inc. (VITL) shall submit to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; and the Green Mountain Care Board a work plan detailing the process by which the Department and VITL shall implement the recommendations of the health information technology report submitted to the General Assembly in accordance with 2017 Acts and Resolves No. 73, Sec. 15 (Act 73 report). The work plan shall be informed by stakeholder and consumer input and by technology options and opportunities. The Plan shall identify potential steps for addressing issues of data ownership and issues of intellectual property. It shall also set forth both a timeline of tasks to be completed and a list of clear objectives to assist the General Assembly in evaluating the success or failure of the parties' work.

(b) On or before September 1, 2018, the Department of Vermont Health Access and VITL shall submit to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; the Joint Information Technology Oversight Committee; and the Green Mountain Care Board a contingency plan for health information technology to be used if the Department and VITL are unable to implement the recommendations from the Act

73 report. The contingency plan shall contain the following:

(1) a description of the health information exchange services that would need to be replaced;

(2) a process for determining the manner in which the services would be replaced and the mechanism for acquiring the replacement services, such as a request for proposals;

(3) an assessment of the State's ownership interests in hardware systems, software systems, applications, data, and other physical and intellectual property that would need to be licensed to a future operator of Vermont's health information exchange;

(4) a plan for transitioning operations from VITL to the new operator or operators; and

(5) the impacts of the change on health care providers, health care consumers, State government, and Vermont's health care reform initiatives.

(c) On or before October 15, 2018, the Department of Vermont Health Access shall submit to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; the Joint Information Technology Oversight Committee; and the Green Mountain Care Board the results of an evaluation, which shall be conducted by an independent entity with expertise in health information technology, of the work plan, the contingency plan, and the Department's and VITL's progress toward implementing the recommendations in the Act 73 report.

(d) On or before May 1, July 1, September 1, and November 1, 2018 and January 1, 2019, the Department of Vermont Health Access and VITL shall provide to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; the Joint Information Technology Oversight Committee; and the Green Mountain Care Board written updates on their progress toward implementing the recommendations contained in the Act 73 report.

(e) In addition to the written updates required by subsection (d) of this section, the Department of Vermont Health Access and VITL shall provide testimony on their progress toward implementing the recommendations contained in the Act 73 report at a meeting of the Health Reform Oversight Committee and at a meeting of the Joint Information Technology Oversight Committee, at least once every two months or more frequently if so requested by a Committee. The testimony at each Committee's first meeting after the General Assembly has adjourned in 2018 shall also include information regarding the work plan required by subsection (a) of this section, and the testimony at each Committee's first meeting after September 1, 2018 shall also include information regarding the contingency plan required by

subsection (b) of this section.

Sec. 2. 18 V.S.A. § 9351 is amended to read:

§ 9351. HEALTH INFORMATION TECHNOLOGY PLAN

(a)(1) ~~The Secretary of Administration or designee~~ Department of Vermont Health Access, in consultation with the Department's Health Information Exchange Steering Committee, shall be responsible for the overall coordination of Vermont's statewide Health Information Technology Plan. The Plan shall be revised annually and updated comprehensively every five years to provide a strategic vision for clinical health information technology.

(2) The Department shall submit the proposed Plan to the Green Mountain Care Board annually on or before November 1. The Green Mountain Care Board shall approve, reject, or request modifications to the Plan within 45 days following its submission; if the Board has taken no action after 45 days, the Plan shall be deemed to have been approved.

(3) ~~The Secretary or designee~~ Department, in consultation with the Steering Committee, shall administer the Plan, which shall include the implementation of an integrated electronic health information infrastructure for the sharing of electronic health information among health care facilities, health care professionals, public and private payers, and patients. The Plan shall include standards and protocols designed to promote patient education, patient privacy, physician best practices, electronic connectivity to health care data, access to advance care planning documents, and, overall, a more efficient and less costly means of delivering quality health care in Vermont.

* * *

(c) ~~The Secretary of Administration or designee may update the Plan~~ Department of Vermont Health Access, in consultation with the Steering Committee and subject to Green Mountain Care Board approval, may propose updates to the Plan in addition to the annual updates as needed to reflect emerging technologies, the State's changing needs, and such other areas as the Secretary or designee Department deems appropriate. The Secretary or designee Department shall solicit recommendations from Vermont Information Technology Leaders, Inc. (VITL) and other entities interested stakeholders in order to update propose updates to the Health Information Technology Plan pursuant to subsection (a) of this section and to this subsection, including applicable standards, protocols, and pilot programs, and following approval of the proposed updates by the Green Mountain Care Board, may enter into a contract or grant agreement with VITL or other appropriate entities to update some or all of the Plan. Upon approval by the Secretary of the updated Plan by the Green Mountain Care Board, the Department of Vermont Health Access

~~shall distribute the updated Plan shall be distributed to the Secretary of Administration; the Commissioner of Information and Innovation Secretary of Digital Services; the Commissioner of Financial Regulation; the Commissioner of Vermont Health Access; the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; the House Committee on Health Care; affected parties; and interested stakeholders. Unless major modifications are required, the Secretary Department may present updated information about the Plan to the Green Mountain Care Board and legislative committees of jurisdiction in lieu of creating a written report.~~

* * *

Sec. 3. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. The Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

(A) ~~one member~~ two current members of the General Assembly, one of whom shall be a member of the House of Representatives appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate one of whom shall be a member of the Senate appointed by the Committee on Committees, who and both of whom shall be entitled to the same per diem compensation and expense reimbursement of expenses pursuant to 2 V.S.A. § 406 as provided for attendance at sessions during adjournment of the General Assembly;

(B) one individual appointed by the Governor; and

(C) ~~one representative of the business community;~~

~~(D) one representative of health care consumers;~~

~~(E) one representative of Vermont hospitals;~~

~~(F) one representative of Vermont physicians;~~

~~(G) one practicing clinician licensed to practice medicine in Vermont;~~

~~(H) one representative of a health insurer licensed to do business in~~

Vermont;

~~(I) the President of VITL, who shall be an ex officio, nonvoting member;~~

~~(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and~~

~~(K) two at-large members representatives of the business community, of health care consumers, of Vermont hospitals, of Vermont-licensed clinicians, and of health insurers licensed to offer plans in Vermont, as well as individuals familiar with health information technology, including, to the extent practicable, one or more individuals who are or have served as the chief technology officer for a health care facility.~~

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

* * *

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan approved by the Green Mountain Care Board pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. After the The Plan shall determine the manner in which Vermont's health information exchange network shall be managed. The Green Mountain Care Board approves shall have the authority to approve VITL's ~~core activities and budget~~ pursuant to chapter 220 of this title, ~~the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k.~~ Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the ~~Department of Information and Innovation~~ Agency of Digital Services shall review VITL's technology for security, privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

(d) Privacy. The standards and protocols implemented by VITL shall be consistent with those adopted by the statewide Health Information Technology Plan pursuant to subsection 9351(e) of this title.

(e) Report. ~~No later than~~ On or before January 15 of each year, VITL shall

file a report with the Green Mountain Care Board; the Secretary of Administration; the ~~Commissioner of Information and Innovation~~ Secretary of Digital Services; the Commissioner of Financial Regulation; the Commissioner of Vermont Health Access; the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; and the House Committee on Health Care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, VITL shall publish minutes of VITL meetings and any other relevant information on a public website. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(f) Funding authorization. VITL is authorized to seek matching funds to assist with carrying out the purposes of this section. In addition, it may accept any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from the federal or any local government, or any agency thereof, and from any person, firm, foundation, or corporation for any of its purposes and functions under this section and may receive and use the same, subject to the terms, conditions, and regulations governing such donations, gifts, and grants. VITL shall not use any State funds for health care consumer advertising, marketing, or similar services unless necessary to comply with the terms of a contract or grant that requires a contribution of State funds.

(g) Waivers. The Secretary of ~~Administration~~ Human Services or designee, in consultation with VITL, may seek any waivers of federal law, of rule, or of regulation that might assist with implementation of this section.

(h) [Repealed.]

(i) Certification of meaningful use and connectivity.

(1) To the extent necessary to support Vermont's health care reform goals or as required by federal law, VITL shall be authorized to certify the meaningful use of health information technology and electronic health records by health care providers licensed in Vermont.

(2) VITL, in consultation with health care providers and health care facilities, shall establish criteria for creating or maintaining connectivity to the State's health information exchange network. VITL shall provide the criteria annually ~~by~~ on or before March 1 to the Green Mountain Care Board established pursuant to chapter 220 of this title.

(j) Scope of activities. VITL and any person who serves as a member,

director, officer, or employee of VITL with or without compensation shall not be considered a health care provider as defined in subdivision 9432 of this title for purposes of any action taken in good faith pursuant to or in reliance upon provisions of this section relating to VITL's:

- (1) governance;
- (2) electronic exchange of health information and operation of the statewide Health Information Exchange Network as long as nothing in such exchange or operation constitutes the practice of medicine pursuant to 26 V.S.A. chapter 23 or 33;
- (3) implementation of privacy provisions;
- (4) funding authority;
- (5) application for waivers of federal law;
- (6) establishment and operation of a financing program providing electronic health records systems to providers; or
- (7) certification of health care providers' meaningful use of health information technology.

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

- (b) The Board shall have the following duties:

* * *

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. ~~In performing its review, the Board shall consult with and consider any recommendations regarding the plan received from the Vermont Information Technology Leaders, Inc. (VITL).~~

(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) ~~Annually review the budget and all activities of VITL and approve the budget, consistent with available funds, and the core activities associated with public funding, which shall include establishing the interconnectivity of electronic medical records held by health care professionals and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters of the Vermont~~

Information Technology Leaders, Inc. (VITL). This review shall take into account VITL's responsibilities pursuant to section 9352 of this title and the availability of funds needed to support those responsibilities.

* * *

Sec. 5. 2013 Acts and Resolves No. 73, Sec. 60(10), as amended by 2017 Acts and Resolves No. 73, Sec. 14, is further amended to read:

(10) Secs. 48-51 (health claims tax) shall take effect on July 1, 2013 and 52 and 53 (health claims tax revenue; Health IT-Fund; sunset) shall take effect on July 1, ~~2018~~ 2019.

Sec. 6. FUTURE OF HEALTH INFORMATION EXCHANGE NETWORK;
LEGISLATIVE INTENT

It is essential to the future of health information technology and health information exchange in Vermont that the recommendations of the health information technology report submitted to the General Assembly in accordance with 2017 Acts and Resolves No. 73, Sec. 15 are successfully implemented in a thorough and timely manner. If they are not successfully implemented pursuant to the timeline adopted in the work plan described in Sec. 1 of this act, it is the intent of the General Assembly to eliminate the designation of Vermont Information Technology Leaders, Inc. to operate the exclusive statewide health information exchange network for Vermont pursuant to 18 V.S.A. § 9352.

Sec. 7. HEALTH INFORMATION EXCHANGE; CONSENT POLICY;
REPORT

The Department of Vermont Health Access, in consultation with Vermont Information Technology Leaders, Inc., the Office of the Health Care Advocate, and other interested stakeholders, shall provide recommendations to the House Committees on Health Care and on Energy and Technology and the Senate Committee on Health and Welfare on or before January 15, 2019 regarding whether individual consent to the exchange of health care information through the Vermont Health Information Exchange should be on an opt-in or opt-out basis.

Sec. 8. IMPROVING INTEROPERABILITY OF ELECTRONIC HEALTH
RECORDS SYSTEMS; REPORT

The Department of Vermont Health Access, in consultation with Vermont Information Technology Leaders, Inc. and other interested stakeholders, shall provide recommendations to the House Committees on Health Care and on Energy and Technology and the Senate Committee on Health and Welfare on or before January 15, 2019 regarding ways to improve the utility and interoperability of electronic health records and health information exchange in Vermont.

Sec. 8a. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY

OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT
COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight Committee to oversee investments in and use of information technology in Vermont.

(b) Membership. The Committee shall be composed of six members as follows:

(1) three members of the House of Representatives, not all of whom shall be from the same political party, who shall be appointed by the Speaker of the House; and

(2) three members of the Senate, not all of whom shall be from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

(1) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4) cybersecurity.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Meetings.

(1) The Speaker of the House and the Committee on Committees shall appoint one member from the House and one member of the Senate as co-chairs of the Committee.

(2) A majority of the membership shall constitute a quorum.

(3) The Committee may meet when the General Assembly is in session or at the call of the Co-Chairs.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

Pending the question Will the House concur in the Senate proposal of amendment? **Rep. Jickling of Randolph**, moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: In Sec. 1, health information technology; health information exchange; reports, in subsections (b), (c), and (d), following “on Health Care,” by inserting “on Energy and Technology,”

Second: In Sec. 3, 18 V.S.A. § 9352, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a)(1) Governance. The Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise ~~the following:~~

~~(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;~~

~~(B) one individual appointed by the Governor;~~

~~(C) one representative of the business community;~~

~~(D) one representative of health care consumers;~~

~~(E) one representative of Vermont hospitals;~~

~~(F) one representative of Vermont physicians;~~

~~(G) one practicing clinician licensed to practice medicine in Vermont;~~

~~(H) one representative of a health insurer licensed to do business in Vermont;~~

~~(I) the President of VITL, who shall be an ex officio, nonvoting member;~~

~~(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and~~

~~(K) two at-large members~~

representatives of the business community, of health care consumers, of Vermont hospitals, of Vermont-licensed clinicians, and of health insurers licensed to offer plans in Vermont, as well as individuals familiar with health information technology, including, to the extent practicable, one or more individuals who are or have served as the chief technology officer for a health care facility.

~~(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.~~

Third: In Sec. 8a, 2 V.S.A. chapter 18, in § 614, by striking out subdivision (e)(1) in its entirety and inserting in lieu thereof a new subdivision (e)(1) to read as follows:

(1) The Committee shall elect a chair and vice chair from among its members and shall adopt rules of procedure. The Chair shall rotate biennially between the House and Senate members.

Fourth: In Sec. 8a, 2 V.S.A. chapter 18, in § 614, by striking out subdivision (e)(3) in its entirety and inserting in lieu thereof a new subdivision (e)(3) to read as follows:

(3) The Committee may meet when the General Assembly is not in session or at the call of the Chair.

Which was agreed to.

Rules Suspended; Report of Committee of Conference Adopted

S. 273

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Brumsted of Shelburne**, the rules were suspended and Senate bill, entitled

An act relating to miscellaneous law enforcement amendments

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of

the two Houses respectfully reported that it met and considered the same and recommended that the Senate accede to the House proposal of amendment and that the House proposal be further amended as follows:

First: By striking out Sec. 7, 20 V.S.A. § 2358 (minimum training standards; definitions), in its entirety and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. COUNCIL; TRAINING PROGRAMS; TRANSITION FROM
LEVEL II TO LEVEL III CERTIFICATION

The Vermont Criminal Justice Training Council shall have a plan, including an implementation schedule, to structure its training programs so that a law enforcement officer with Level II certification may transition to Level III certification without such an officer needing to restart the certification process.

Second: By adding a new section to be Sec. 8a and an accompanying reader assistance heading to read:

* * * Coverage * * *

Sec. 8a. DEPARTMENT OF PUBLIC SAFETY; REPORT ON TOWN
CALLS TO THE VERMONT STATE POLICE

(a) The Department of Public Safety shall determine the number of calls from towns the Vermont State Police received in fiscal year 2018 and, in consultation with the Vermont League of Cities and Towns as necessary, determine the number of those calls that came from each town without a police department.

(b) On or before November 15, 2018, the Commissioner of Public Safety shall report to the Senate and House Committees on Judiciary and on Government Operations regarding the Department's findings as set forth in subsection (a) of this section.

Third: In Sec. 11, 20 V.S.A. § 1818 (Law Enforcement Advisory Board), in subsection (a), by striking out subdivision (12) in its entirety and inserting in lieu thereof a new subdivision (12) to read:

(12) a law enforcement officer appointed by the President of the Vermont State Employees' Association.

Fourth: By striking out Sec. 14 (Department of Public Safety; report on existing State costs of providing dispatch services) and its accompanying reader assistance heading and inserting in lieu thereof a new Sec. 14 and accompanying reader assistance heading to read:

* * * Dispatch * * *

Sec. 14. DEPARTMENT OF PUBLIC SAFETY AND THE VERMONT
ENHANCED 911 BOARD; PROPOSAL FOR AN EQUITABLE
STATEWIDE PUBLIC SAFETY DISPATCH SYSTEM

(a)(1) The Department of Public Safety and the Vermont Enhanced 911 Board shall consult with the Vermont League of Cities and Towns as an equal partner in order to propose a plan that would result in a comprehensive, efficient, and equitably funded public safety dispatch system to dispatch law enforcement, fire, and emergency medical services statewide. In proposing the plan, consideration shall be given to existing and planned regional dispatch centers.

(2) Included in the proposed plan shall be recommendations regarding:

(A) the manner in which different dispatch services should communicate among each other;

(B) whether there should be different dispatching services used among State agencies and departments;

(C) the role of regional dispatch centers;

(D) the funding source or sources for the proposed plan; and

(E) the timeframe for implementing the proposed plan.

(b) On or before November 1, 2019, the Department and the Board shall jointly submit the proposed plan to:

(1) the Senate Committees on Finance, on Government Operations, on Appropriations, and on Economic Development, Housing and General Affairs;

(2) the House Committees on Commerce and Economic Development, on Government Operations, on Appropriations, and on Ways and Means; and

(3) the Governor.

Fifth: In Sec. 15 (effective dates; implementation), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read:

(2) Sec. 7 (Council; training programs; transition from Level II to Level III certification) shall take effect on July 1, 2019.

*SEN. JEANETTE K. WHITE
SEN. BRIAN P. COLLAMORE
SEN. ALISON CLARKSON
Committee On The Part Of The Senate
REP. JESSICA COMAI BRUMSTED
REP. JAMES F. HARRISON
REP. ROBERT B. LACLAIR
Committee On The Part Of The House*

Which was considered and adopted on the part of the House.

**Senate Proposal of Amendment Concurred in
With a Further Amendment Thereto**

H. 675

The Senate proposed to the House to amend House bill, entitled
An act relating to conditions of release prior to trial

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. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person; and

(2) as a result of the threat, place ~~the~~ any other person in reasonable apprehension of death or serious bodily injury to themselves or any person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than \$1,000.00, or both.

(d)(1) A person shall not by words or conduct knowingly:

(A) threaten to use a firearm or an explosive device to harm another person in a school building, on school property, or in an institution of higher education; and

(B) as a result of the threat, place any person in reasonable apprehension of death or serious bodily injury to themselves or any person.

(2) A person who violates this subsection shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

~~(d)~~(e) As used in this section:

(1) “Serious bodily injury” shall have the same meaning as in section 1021 of this title.

(2) “Threat” and “threaten” shall not include constitutionally protected activity.

(3) “Firearm” shall have the same meaning as in section 4016 of this title.

(4) "School property" shall have the same meaning as in section 4004 of this title.

~~(e)~~(f) Any person charged under subsection (a) or (c) of this section who is under 18 years of age shall be adjudicated as a juvenile delinquent.

~~(f)~~(g) It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.

Sec. 2. [Deleted.]

Sec. 3. 16 V.S.A. § 1167 is amended to read:

§ 1167. SCHOOL RESOURCE OFFICER; MEMORANDUM OF UNDERSTANDING

(a) Neither the State Board nor the Agency shall regulate the use of restraint and seclusion on school property by a school resource officer certified pursuant to 20 V.S.A. § 2358.

(b) ~~School boards~~ Prior to utilization of a school resource officer in a school, the school board and relevant law enforcement agencies are encouraged to agency shall enter into memoranda of understanding relating to:

(1) the possession and use of weapons and devices by a school resource officer on school property; and

(2) the nature and scope of assistance that a school resource officer will provide to the school system.

Sec. 4. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO SCHOOL DISCIPLINE PROBLEMS

On or before July 1, 2019, the Agency of Education shall issue guidance to all public school boards and boards of approved independent schools that sets out restorative justice principles for responding to school discipline problems. Each public school board and each board of an approved independent school shall consider this guidance and whether to adopt a policy on the use of restorative justice principles for responding to school discipline problems. The restorative justice principles contained in the Agency guidance shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while suspended or expelled.

Sec. 5. IMPLEMENTATION OF RESTORATIVE JUSTICE PRINCIPLES;
GRANT PROGRAM

(a) The Agency of Education shall establish a grant program to assist public and approved independent schools with the adoption and implementation of restorative justice principles for responding to school discipline problems. The Agency shall determine the eligibility criteria for receiving a grant and determining the grant amount, and shall monitor the use of grant monies.

(b) On or before December 1, 2018, 2019, and 2020, the Secretary of Education shall submit a written report to the House Committees on Education and Judiciary and the Senate Committees on Education and on Judiciary describing the eligibility criteria for receiving a grant and for determining the grant amount, identifying the grant recipients and the amounts they received in grant monies, and the use of grant monies by the recipients.

(c) The sum of \$250,000.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2018 to be carried forward for fiscal year 2019 for the Agency to administer the grant program in accordance with this section.

Sec. 6. EFFECTIVE DATES

Sec. 3 shall take effect July 1, 2018 and 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 school safety.

Pending the question Will the House concur in the Senate proposal of amendment? **Rep. Sharpe of Bristol**, moved to concur in the Senate proposal of amendment with a further amendment thereto as follows:

Sec. 1. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING
TO SCHOOL DISCIPLINE PROBLEMS

On or before July 1, 2019, the Agency of Education shall issue guidance to all public school boards and boards of approved independent schools that sets out restorative justice principles for responding to school discipline problems. Each public school board and each board of an approved independent school shall consider this guidance and whether to adopt a policy on the use of restorative justice principles for responding to school discipline problems. The restorative justice principles contained in the Agency guidance shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while

suspended or expelled.

Sec. 2. IMPLEMENTATION OF RESTORATIVE JUSTICE PRINCIPLES;
GRANT PROGRAM

(a) The Agency of Education shall use funding under 16 V.S.A. § 2969(c) to assist public and approved independent schools with the adoption and implementation of restorative justice principles for responding to school discipline problems. The Agency shall determine the eligibility criteria for receiving a grant and determining the grant amount, and shall monitor the use of grant monies.

(b) On or before December 1, 2018, 2019, and 2020, the Secretary of Education shall submit a written report to the House Committees on Education and on Judiciary and the Senate Committees on Education and on Judiciary describing the eligibility criteria for receiving a grant and for determining the grant amount, identifying the grant recipients and the amounts they received in grant monies, and the use of grant monies by the recipients.

(c) The sum of \$250,000.00 is appropriated from the General Fund in fiscal year 2018 to be carried forward for fiscal year 2019 under 16 V.S.A. § 2969(c) for the Agency to administer the grant program in accordance with this section. The Agency is authorized to make a net-neutral appropriation transfer with education funds appropriated to the Agency in fiscal year 2018 to effectuate this one-time increase in grant funding.

Sec. 3. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) “Law enforcement officer” means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 4. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF
A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to restorative justice principles in school discipline and sexual exploitation of a person in the custody of a law enforcement officer”

Which was agreed to.

Rules Suspended; Bill Messaged to Senate Forthwith

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

H. 675

House bill, entitled

An act relating to conditions of release prior to trial

H. 901

House bill, entitled

An act relating to health information technology and health information exchange

S. 273

Senate bill, entitled

An act relating to miscellaneous law enforcement amendments

Recess

At three o'clock and twenty-six minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At five o'clock and twenty-seven minutes in the evening, the Speaker called the House to order.

Message from Governor

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

Madam Speaker:

I am directed by the Governor to inform the House of Representatives that on the eleventh day of May 2018, he signed bills originating in the House of the following titles:

H. 294 **An act relating to inquiries about an applicant's salary history**

H. 333 **An act relating to identification of gender-free restrooms in public buildings and places of public accommodation**

**Rules Suspended; Senate Proposal of Amendment Concurred in with a
Further Proposal Thereto**

S. 285

Appearing on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to universal recycling requirements

Was taken up for immediate consideration.

The Senate concurs in the House proposal of amendment with the following proposal of amendment thereto:

By adding Sec. 4a and a reader assistance heading to read as follows:

* * * Unclaimed Beverage Container Deposits * * *

Sec. 4a. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT
TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND

(a) As used in this section, “deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

(b) A deposit initiator shall open a separate interest-bearing account to be known as the deposit transaction account in a Vermont branch of a financial institution. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(c) Beginning on July 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the deposit transaction account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(d) Beginning on October 10, 2019, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator’s deposit transaction account in the preceding quarter. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

(1) the balance of the deposit transaction account at the beginning of the preceding quarter;

(2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding quarter;

(5) any income earned on the deposit transaction account in the preceding quarter;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and

(7) any additional information required by the Commissioner of Taxes.

(e)(1) On or before October 10, 2019, and quarterly thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:

(A) income earned on amounts on the deposit transaction account during that quarter; and

(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter.

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's deposit transaction account. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the funds in the deposit initiator's deposit transaction account are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection (e) during the preceding 12 months less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period.

(f) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

Pending the question, Will the House concur in Senate proposal of amendment? **Rep. Sullivan of Burlington** moved that the House concur with a further proposal thereto as follows:

First: In Sec. 4a, 10 V.S.A. § 1530, in subsection (c), by striking out “July 1, 2019” where it appears and inserting in lieu thereof “October 1, 2019”

and in subsection (d), by striking out “October 10, 2019” where it appears and inserting in lieu thereof “January 1, 2020”

and in subdivision (e)(1), by striking out “October 10, 2019” where it appears and inserting in lieu thereof “January 1, 2020”

Second: By adding Sec. 4b to read as follows:

Sec. 4b. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the “Clean Water Fund” to be administered by the Secretary of Administration. The Fund shall consist of:

(1) ~~revenues dedicated for deposit into the Fund by the General Assembly, including from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a; and~~

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; and

(4) other revenues dedicated for deposit into the Fund by the General Assembly.

* * *

Which proposal of amendment was considered and concurred in with a further proposal thereto.

Rules Suspended; Senate Proposal of Amendment Concurred in

H. 576

Appearing on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to stormwater management

Was taken up for immediate consideration.

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:

* * * Three-Acre Stormwater Permit * * *

Sec. 1. FINDINGS

For the purposes of Secs. 1–3 of this act, the General Assembly finds that:

(1) As part of the total maximum daily load (TMDL) plan for Lake Champlain and the implementation plan for the TMDL, the Agency of Natural Resources (ANR) and the U.S. Environmental Protection Agency (EPA) agreed to obtain most of the required pollutant reduction for Lake Champlain from developed lands and nonpoint sources of phosphorus.

(2) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64 (Act 64) to provide ANR with the statutory authority needed to implement the point source and nonpoint source controls of phosphorus agreed to by ANR and EPA.

(3) After enactment of Act 64, EPA finalized the TMDL for Lake Champlain and listed within the accountability framework for the plan all of the point source and nonpoint source control measures that would be implemented in order to provide reasonable assurances, as required by EPA guidance, that the plan will achieve the load reductions necessary to clean up Lake Champlain.

(4) One provision of Act 64 included in the accountability framework for the Lake Champlain TMDL is the requirement that ANR issue by January 1, 2018 a general permit for discharges of stormwater from impervious surface of three or more acres in size when the discharge previously was not permitted or was permitted under standards in place prior to 2002.

(5) ANR did not issue the three-acre permit by January 1, 2018.

(6) As a result, private property owners who would be subject to the three-acre permit lack certainty as to when their property will be required to be permitted and what the permit will require.

(7) ANR's failure to adopt the three-acre permit and its failure to comply with statutory requirements are not accepted by the General Assembly and the citizens of Vermont.

Sec. 2. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

* * *

(b) Definitions. As used in this section:

* * *

(8) “Offset” means a State-permitted or ~~approved~~ State-approved action or project ~~within a stormwater impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a~~

~~third person may complete to mitigate that mitigates~~ the impacts that a discharge of regulated stormwater runoff has on ~~the stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ receiving waters.

* * *

(11) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff ~~to a stormwater-impaired water or for the discharge of phosphorus to Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ in order to mitigate ~~a sediment load level, hydrologic impact, or other impact~~ impacts that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

* * *

(f) Rulemaking. On or before December 31, 2017, the Secretary shall adopt rules to manage stormwater runoff. At a minimum, the rules shall:

* * *

(g) General permits.

(1) The Secretary may issue general permits for classes of stormwater runoff that shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title.

* * *

(3) ~~On or before January 1, 2018,~~ Within 120 days after the adoption by the Secretary of the rules required under subsection (f) of this section, the Secretary shall issue a general permit under this section for discharges of stormwater from impervious surface of three or more acres in size, when the stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under this subdivision (3) ~~of this section~~. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain

watershed, the Lake Memphremagog watershed, no later than or the watershed of a stormwater impaired water on or before October 1, 2023; and

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, ~~2028~~ 2033.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision (3).

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

* * *

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a ~~stormwater impaired~~ stormwater-impaired water, for discharges of phosphorus to Lake Champlain or Lake Memphremagog, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain or Lake Memphremagog:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency, and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge

standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there are sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there are sufficient pollutant load allocations for the discharge, and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

* * *

(k) Report on treatment practices. As part of the report required under section 1389a of this title, the Secretary annually shall report the following:

(1) whether the phosphorus load from new development permitted under this section by the Secretary in the Lake Champlain watershed in the previous calendar year is achieving at least a 70 percent average phosphorus load reduction;

(2) the estimated total phosphorus load reduction from new development, redevelopment, and retrofit of impervious surface permitted under this section in the previous calendar year; and

(3) the number of projects and the percentage of projects as a whole that implemented Tier 1 stormwater treatment practices, Tier 2 stormwater treatment practices, or Tier 3 stormwater treatment practices in the previous calendar year.

Sec. 3. [Deleted.]

* * * Half-Acre Permitting Threshold for Stormwater Discharges * * *

Sec. 4. 10 V.S.A. § 1264(c) is amended to read:

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of ~~one~~ one-half of an acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring

coverage for its municipal separate storm sewer system ~~may~~ shall not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or of less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3) of this section, a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

Sec. 5. APPLICABILITY OF AGENCY RULES

All Agency of Natural Resources rules applicable to the construction of one acre or more of impervious surface shall be applicable to the construction or redevelopment of one-half of an acre or more of impervious surface.

Sec. 6. TRANSITION

The construction or redevelopment of less than one acre of impervious surface shall not require a permit under 10 V.S.A. § 1264(c)(1) provided that:

(1) except for applications for permits issued pursuant to 10 V.S.A. § 1264(c)(4), complete applications for all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been submitted as of July 1, 2022, the applicant does not subsequently file an

application for a permit amendment that would have an adverse impact on water quality, and substantial construction of the project commences within two years from July 1, 2022;

(2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been obtained as of July 1, 2022, and substantial construction of the project commences within two years from July 1, 2022;

(3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no local, State, or federal permits related to the regulation of land use or a discharge to waters of the State are required, and substantial construction of the project commences within two years from July 1, 2022; or

(4) the construction, redevelopment, or expansion is a public transportation project, and as of July 1, 2022, the Agency of Transportation or the municipality principally responsible for the project has initiated right-of-way valuation activities or determined that right-of-way acquisition is not necessary, and substantial construction of the project commences within five years from July 1, 2022.

* * * Stormwater Permit Fees * * *

Sec. 7. 3 V.S.A. 2822(j)(2)(B)(iv)(X) is added to read:

(X) Individual or general operating permits authorizing discharges of stormwater runoff from new development or redevelopment of less than one acre of impervious surface permitted after July 1, 2022 pursuant to 10 V.S.A. § 1264(c)(1) shall be exempt from the fees imposed by subdivisions (I) and (II) of this subdivision.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 1-2 (three-acre stormwater permit) and 7 (permit fees) shall take effect on passage.

(b) Secs. 4-6 (half-acre operational threshold) shall take effect on July 1, 2022.

Which proposal of amendment was considered and concurred in.

Message from the Senate No. 79

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 House proposals of amendment to Senate bill entitled:

S. 257. An act relating to miscellaneous changes to education law.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

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

Senator Baruth
Senator Balint
Senator Branagan

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. 913. An act relating to boards and commissions.

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

Senator Ayer
Senator Clarkson
Senator Pearson

The Senate has considered House proposal of amendment to Senate proposals of amendment to House bill of the following title:

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

And has concurred therein.

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

S. 40. An act relating to increasing the minimum wage.

S. 244. An act relating to repealing the guidelines for spousal maintenance awards.

S. 261. An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience.

S. 276. An act relating to rural economic development.

And has concurred therein.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 222. An act relating to miscellaneous judiciary procedures.

And has concurred therein.

The Senate has considered the reports of the Committees of Conference upon the disagreeing votes of the two Houses upon House bills of the following titles:

H. 143. An act relating to automobile insurance requirements and transportation network companies.

H. 711. An act relating to employment protections for crime victims.

H. 764. An act relating to data brokers and consumer protection.

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

H. 910. An act relating to the Open Meeting Law and the Public Records Act.

And has accepted and adopted the same on its part.

Message from the Senate No. 80

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

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

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 260. An act relating to funding the cleanup of State waters.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

Rules Suspended; Report of Committee of Conference Adopted

S. 289

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

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

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended

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

Respectfully reports that it has met and considered the same and recommends that the bill be amended 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 a state’s exercise of its 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 State has a compelling interest in knowing with certainty what services it receives pursuant to State contracts.

(19) 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.

(20) 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.

(21) 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.

* * * Certificate of Net Neutrality Compliance * * *

Sec. 2. 3 V.S.A. § 348 is added to read:

§ 348. INTERNET SERVICE PROVIDERS; NET NEUTRALITY

COMPLIANCE

(a) The Secretary of Administration shall develop a process by which an Internet service provider may certify that it is in compliance with the consumer protection and net neutrality standards established in subsection (b) of this section.

(b) A certificate of net neutrality compliance shall be granted to an Internet service provider that demonstrates and the Secretary finds that the Internet service provider, insofar as the provider is engaged in the provision of broadband Internet access service:

(1) Does not engage in any of the following practices in Vermont:

(A) Blocking lawful content, applications, services, or nonharmful devices, subject to reasonable network management.

(B) Impairing or degrading lawful Internet traffic on the basis of Internet content, application, or service or the use of a nonharmful device, subject to reasonable network management.

(C) Engaging in paid prioritization, unless this prohibition is waived pursuant to subsection (c) of this section.

(D) Unreasonably interfering with or unreasonably disadvantaging either a customer's ability to select, access, and use broadband Internet access service or lawful Internet content, applications, services, or devices of the customer's choice or an edge provider's ability to make lawful content, applications, services, or devices available to a customer. Reasonable network management shall not be considered a violation of this prohibition.

(E) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of Internet traffic or content to its customers.

(2) Publicly discloses to consumers accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.

(c) The Secretary may waive the ban on paid prioritization under subdivision

(b)(1)(C) of this section only if the Internet service provider demonstrates and the Secretary finds that the practice would provide some significant public interest benefit and would not harm the open nature of the Internet in Vermont.

(d) As used in this section:

(1) “Broadband Internet access service” means a mass-market retail service by wire or radio in Vermont that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. The term also encompasses any service in Vermont that the Secretary finds to be providing a functional equivalent of the service described in this subdivision, or that is used to evade the protections established in this chapter.

(2) “Edge provider” means any person in Vermont that provides any content, application, or service over the Internet and any person in Vermont that provides a device used for accessing any content, application, or service over the Internet.

(3) “Internet service provider” or “provider” means a business that provides broadband Internet access service to any person in Vermont.

(4) “Paid prioritization” means the management of an Internet service provider’s network to favor directly or indirectly some traffic over other traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration, monetary or otherwise, from a third party or to benefit an affiliated entity, or both.

(5) “Reasonable network management” means a practice that has a primarily technical network management justification but does not include other business practices and that is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

(e) The terms and definitions of this section shall be interpreted broadly and any exceptions interpreted narrowly, using relevant Federal Communications Commission orders, advisory opinions, rulings, and regulations as persuasive guidance.

* * * Executive, Legislative, Judicial Branches; Contracts for Internet Service;
Certification of Net Neutrality Compliance * * *

Sec. 3. 3 V.S.A. § 349 is added to read:

§ 349. STATE CONTRACTING; INTERNET SERVICE

The Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State procurement contracts for broadband Internet access

service, as defined in subdivision 348(d)(3) of this title, include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in section 348 of this title.

Sec. 4. 22 V.S.A. § 901 is amended to read:

§ 901. ~~DEPARTMENT OF INFORMATION AND INNOVATION~~
AGENCY OF DIGITAL SERVICES

(a) ~~The Department of Information and Innovation~~ Agency of Digital Services, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:

* * *

(15) To ensure that any State government contract for broadband Internet access service, as defined in 3 V.S.A. § 348(d)(1), contains terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

(b) As used in this section, “State government” means the agencies of the Executive Branch of State government.

Sec. 5. 2 V.S.A. § 754 is added to read:

§ 754. CONTRACTS FOR INTERNET SERVICE

Every contract for broadband Internet access service, as defined in 3 V.S.A. § 348(d)(1), for the Legislative Branch shall include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

Sec. 6. 4 V.S.A. § 27a is added to read:

§ 27a. CONTRACTS FOR INTERNET SERVICE

Every contract to provide broadband Internet access service, as defined in 3 V.S.A. § 348(d)(1), for the Judicial Branch shall include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

Sec. 7. APPLICATION; GOVERNMENT CONTRACTS

The requirements of Secs. 3–6 of this act shall apply to all government contracts for Internet service entered into or renewed on or after either April 15, 2019 or the date on which the Governor’s Executive Order No. 2-18 (Internet neutrality in State procurement) is revoked and rescinded, whichever is earlier.

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

Sec. 8. 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. 9. 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 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. 10. 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. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Which was considered and adopted on the part of the House.

Committee of Conference Appointed

S. 257

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

An act relating to miscellaneous changes to education law

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Sharpe of Bristol

Rep. Cupoli of Rutland City

Rep. Long of Newfane

Rules Suspended; Report of Committee of Conference Adopted

H. 780

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

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

Was taken up for immediate consideration.

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses respectfully reported that it met and considered the same and recommended

To the Senate and House of Representatives:

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

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

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposals 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. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) “Amusement ride” means a mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for~~ For the purposes of this chapter, amusement ride shall also not include bungee jumping, zip lines, or waterslides or obstacle, challenge, or adventure courses.

(2) “Operator” or “owner” means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) “Certificate” or “certificate of operation” means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the Secretary of State has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Secretary of State not fewer than 30 business days before an amusement ride is operated in this State.

(c) The Secretary of State shall issue a “certificate of operation” ~~no later~~ not fewer than 15 business days before the amusement ride is ~~first~~ operated in the State, if the owner or operator submits ~~all~~ the following:

(1) Certificate of insurance in the amount of not less than \$1,000,000.00

that insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of \$100.00.

(3) Proof or a statement of compliance with the requirements of 21 V.S.A. chapter 9.

(e)(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Secretary of State. A certificate of operation shall identify the ride's:

(1) name and model;

(2) serial number;

(3) passenger capacity; and

(4) recommended maximum speed.

(d)(e) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride kept at the office of the amusement ride operator.

(f) The Secretary of State shall:

(1) determine the manner and format of the certificate of operation, any forms to be used to apply for the certificate of operation, the adhesive sticker that shall be affixed to the ride pursuant to subdivision 723a(b)(2) of this title, and the certification to be filed pursuant to subdivision 723a(b)(3) of this title;

(2) make any forms and certifications available on the Secretary of State's website and shall provide adhesive stickers to inspectors;

(3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;

(4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector; or

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subdivision (1)(A); and

(B) insured, including for liability; and

(C) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the American Society for Testing and Materials (ASTM) current standard F770 concerning the practices for ownership, operation, maintenance, and inspection of amusement rides and devices.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Secretary of State within 15 business days following the date of inspection.

(2) An adhesive sticker, in a format to be determined by the Secretary of State, shall be affixed to the ride that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(3) The owner or operator shall submit a certification, in a format to be determined by the Secretary of State, to the organization hosting a fair, field day, or other event or location, at which the owner or operator intends to operate a ride, stating that the ride has been inspected pursuant to subsection (a) of this section and stickers have been affixed pursuant to this subsection prior to the ride being used to carry or convey passengers.

(c) A ride shall be inspected for safety by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Secretary of State or the Office of the Attorney General promptly upon request;

(3) keep a paper or electronic copy of all required forms or certifications, and of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator; and

(4) operate, maintain, and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance, and inspection of amusement rides and devices.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; ~~and~~

(3) be in attendance at all times that the ride is operating; and

(4) operate the ride in accordance with the ride manufacturer's specifications.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgment and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all signage that is reasonably written and posted and all directions from ride operators and owners that are given in a clear and understandable manner.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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

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

ROBERT A. STARR

ANTHONY POLLINA

FRANCIS K. BROOKS

Committee on the part of the Senate

RICHARD H. LAWRENCE

JOHN L. BARTHOLOMEW

SAMUEL R. YOUNG

Committee on the part of the House

Which was considered and adopted on the part of the House.

Rules Suspended; Third Reading; Bill Passed in Concurrence

S. 241

On Senate bill, entitled

An act relating to the makeup and duties of the Emergency Medical Services Advisory Committee

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed in concurrence with proposal of amendment.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. Turner of Milton**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 241

Senate bill, entitled

An act relating to the makeup and duties of the Emergency Medical Services Advisory Committee

S. 257

Senate bill, entitled

An act relating to miscellaneous changes to education law

S. 285

Senate bill, entitled

An act relating to universal recycling requirements

S. 289

Senate bill, entitled

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

Recess

At six o'clock and twenty-one minutes in the evening, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and three minutes in the evening, the Speaker called the House to order.

**Rules Suspended; Second Reading; Favorable Report;
Third Reading Ordered; Rules Suspended; Third Reading; Bill Passed in
Concurrence; Rules Suspended; Bill Messaged to Senate Forthwith**

S. 165

On motion of **Rep. Turner of Milton**, the rules were suspended and Senate bill, entitled

An act relating to preemployment health screenings for hospital employees

Appearing on the Calendar for notice, was taken up for immediate consideration.

Rep. Hebert of Vernon, for the committee on Health Care, to which had been referred the Senate bill reported in favor of its passage.

Thereupon, the bill was read the second time and third reading was ordered.

Thereupon, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed in concurrence.

On motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

Adjournment

At seven o'clock and fifteen minutes in the forenoon, on motion of **Rep. Turner of Milton**, the House adjourned until Saturday, May 12, 2018, at one o'clock and thirty minutes in the afternoon.

Concurrent Resolutions Adopted

The following concurrent resolutions, having been placed on the Consent Calendar on the preceding legislative day, and no member having requested floor consideration as provided by Joint Rules of the Senate and House of Representatives, are hereby adopted in concurrence.

H.C.R. 388

House concurrent resolution honoring exemplary BFA-Fairfax educator Judith Stewart;

H.C.R. 389

House concurrent resolution honoring Carla Lewis for her 40 years of outstanding service as a Fayston Elementary School teacher;

H.C.R. 390

House concurrent resolution honoring Dartmouth College undergraduate students Nicole Beckman, Hanna Bliska, and Eliza Jane Schaeffer for their

research report entitled "Medication Assisted Treatment Programs in State Correctional Facilities in Vermont";

H.C.R. 391

House concurrent resolution in memory of James H. Foster Jr.;

H.C.R. 392

House concurrent resolution honoring Professor and former State Senator William T. Doyle on the conclusion of his distinguished academic career at Johnson State College;

H.C.R. 393

House concurrent resolution congratulating the 75th Annual Vermont Conference on Recreation;

H.C.R. 394

House concurrent resolution honoring Vermont Assistant Adjutant General-Army, Brigadier General Michael T. Heston for his outstanding military and law enforcement leadership;

H.C.R. 395

House concurrent resolution honoring Robert Davis for his achievements as a television news photographer;

H.C.R. 396

House concurrent resolution honoring Curtis R. Whiteway of Craftsbury for his military valor, his participation in the liberation of Nazi concentration and death camps, and as a passionate Holocaust educator;

H.C.R. 397

House concurrent resolution congratulating the Thetford Academy Drama Club on winning a New England Drama Council commendation;

H.C.R. 398

House concurrent resolution honoring Peter Geiss for his exemplary public service as a school board member in the Underhill Central School and Mount Mansfield Modified Union School districts;

H.C.R. 399

House concurrent resolution welcoming to Vermont the Association of Food and Drug Officials' 122nd Annual Educational Conference;

H.C.R. 400

House concurrent resolution recognizing May 20–26 as National Public Works Week in Vermont;

H.C.R. 401

House concurrent resolution honoring Nathaniel Frothingham as an outstanding educator and for his wise journalistic leadership of the Montpelier Bridge;

H.C.R. 402

House concurrent resolution congratulating the St. Johnsbury Academy chess team on winning the 2018 Vermont State Scholastic Chess Championships;

H.C.R. 403

House concurrent resolution in memory of former Governor Philip Henderson Hoff;

H.C.R. 404

House concurrent resolution commemorating the 80-year history of the second Statue of Agriculture on the Vermont State House dome;

H.C.R. 405

House concurrent resolution congratulating Dr. Delores Barbeau on her receipt of the 2018 George F. Leland Community Health Service Award;

H.C.R. 406

House concurrent resolution recognizing June as National Dairy Month in Vermont;

H.C.R. 407

House concurrent resolution honoring former Representative Jeff Young of St. Albans City for his civic and horticultural accomplishments;

H.C.R. 408

House concurrent resolution in memory of Vermont folklorist Gregory L. Sharrow;

[The full text of the concurrent resolutions appeared in the House Calendar Addendum on the preceding legislative day and will appear in the Public Acts and Resolves of the 2018, seventy-fourth Biennial session.]