

# Journal of the Senate

WEDNESDAY, JANUARY 31, 2018

The Senate was called to order by the President.

## Devotional Exercises

Devotional exercises were conducted by the Reverend Cordelia Burpee of South Hero.

## Message from the House No. 9

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 552.** An act relating to approval of the adoption and codification of the charter of the Town of Ferrisburgh.

**H. 573.** An act relating to approval of an amendment to the charter of the City of Rutland.

**H. 691.** An act relating to highway safety.

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

## Joint Resolution Placed on Calendar

### J.R.S. 44.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Ashe,

**J.R.S. 44.** Joint resolution providing for a Joint Assembly for the election of two legislative Trustees of the Vermont State Colleges Corporation.

### *Resolved by the Senate and House of Representatives:*

That the two Houses meet in Joint Assembly on Thursday, February 15, 2018, at ten o'clock and thirty minutes in the forenoon to elect two legislative Trustees of the Vermont State Colleges Corporation to serve a four year term commencing March 1, 2018, and expiring on March 1, 2022. In

case election of all such Trustees shall not be made on that day, the two Houses shall meet in Joint Assembly at ten o'clock and thirty minutes in the forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such Trustees are elected.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action tomorrow.

### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

#### **H. 552.**

An act relating to approval of the adoption and codification of the charter of the Town of Ferrisburgh.

To the Committee on Government Operations.

#### **H. 573.**

An act relating to approval of an amendment to the charter of the City of Rutland.

To the Committee on Government Operations.

#### **H. 691.**

An act relating to highway safety.

To the Committee on Judiciary.

### **Bill Amended; Bill Passed**

#### **S. 29.**

Senate bill entitled:

An act relating to decedents' estates.

Was taken up.

Thereupon, pending third reading of the bill, Senators Benning and Flory moved to amend the bill as follows:

First: In Sec. 3, 14 V.S.A. chapter 42, by striking out section 321 in its entirety and inserting in lieu thereof a new section 321 to read as follows:

§ 321. CONVEYANCE TO DEFEAT SPOUSE'S INTEREST

(a) A voluntary transfer of any property by an individual during a marriage or civil union and not to take effect until at or after the individual's death, made without adequate consideration and for the primary purpose of defeating

~~a surviving spouse in a claim to a spouse's right to claim the survivor's intestate or elective share of the decedent's property so transferred, shall be void and inoperative to bar the claim.—The, unless the surviving spouse waived the survivor's right to make a claim against the deceased spouse's estate or the property transferred pursuant to section 323 of this title. If the surviving spouse has not signed a waiver of spousal rights pursuant to section 323 of this title, then the decedent shall be deemed at the time of his or her death to be the owner and seised of an interest in such of the property sufficient for the purpose of assigning and setting out and the court may:~~

(1) increase the surviving spouse's share of the decedent's probate estate in an amount the court deems reasonable to account for the right the surviving spouse would otherwise have had in the property so transferred; or

(2) if the assets of the decedent's probate estate are insufficient to account for the right the surviving spouse would otherwise have had in the property, then order any other equitable relief the court deems appropriate.

(b) Neither this section nor any other provision of this title shall be construed to affect an enhanced life estate deed. As used in this subsection, "enhanced life estate deed," also known as a "Ladybird deed," shall mean a deed that conveys a future interest in real estate that is revocable or otherwise subject to limitation, with the transfer of the remaining title rights to take place when the grantor dies.

Second: By striking out Sec. 19 in its entirety and inserting in lieu thereof a new Sec. 19 to read as follows:

#### Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2018 and shall apply to wills executed or offered for admission on or after that date.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Benning and Flory?, Senator Benning moved to amend the recommendation of amendment by striking out the *Second* recommendation of amendment in its entirety and inserting in lieu thereof a new *Second* recommendation of amendment as follows:

Second: By striking out Sec. 19 in its entirety and inserting in lieu thereof a new Sec. 19 to read as follows:

#### Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2018 and shall apply to wills executed on or after that date.

Which was agreed to.

Thereupon, the recommendation of amendment, as amended was agreed to.

Thereupon, the bill was read the third time and passed.

**Bill Amended; Third Reading Ordered**

**S. 289.**

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

An act relating to the Vermont Broadband Internet Privacy Act.

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

Sec. 1. 3 V.S.A. § 348 is added to read:

§ 348. CONTRACTS FOR INTERNET SERVICE; 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) An Internet service provider is in compliance with the consumer protection and net neutrality standards of this section if it demonstrates and the Secretary finds that the Internet service provider:

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

(A) blocking lawful content, applications, services, or nonharmful devices, subject to reasonable network management practices that are disclosed to its customers;

(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 practices that are disclosed to its customers;

(C) engaging in paid prioritization or providing preferential treatment of some Internet traffic to any Internet customer, unless these prohibitions are waived pursuant to subsection (c) of this section;

(D) unreasonably interfering with or unreasonably disadvantaging either:

(i) 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

(ii) an edge provider's ability to make lawful content, applications, services, or devices available to a customer; or

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

(2) Publicly discloses accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient to enable consumers to make informed choices regarding the purchase and use of such services and to enable entrepreneurs and other small businesses to develop, market, and maintain Internet offerings. Such disclosure shall be made via a publicly available, easily accessible website.

(c) The Secretary of Administration may waive the prohibition on paid prioritization and preferential treatment under subdivision (b)(1)(C) of this section if the Internet service provider demonstrates and the Secretary finds that the practice would serve a legitimate and significant public interest 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.

Sec. 2. 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. 3. 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)(3), 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. 4. 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)(3), 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. 5. 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)(3), 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. 6. APPLICATION

This act shall apply to all contracts for Internet service entered into or renewed on or after July 1, 2018.

Sec. 7. 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 protecting consumers and promoting an open Internet in Vermont.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Finance?, Senator Brock moved to amend the recommendation of the Committee on Finance in Sec. 1, 3 V.S.A. § 348(b), subdivision (1) before the colon by inserting the words: in Vermont

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Finance, as amended?, Senator Flory moved that action on the bill be postponed until, Friday, February 3, 2018, which was disagreed to.

Thereupon, the recurring question, Shall the bill be amended as recommended by the Committee on Finance, as amended?, was agreed to and third reading of the bill was ordered.

**Adjournment**

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, February 1, 2018.