

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred House Bill
3 No. 901 entitled “An act relating to health information technology and health
4 information exchange” respectfully reports that it has considered the same and
5 recommends that the Senate propose to the House that the bill be amended by
6 striking out all after the enacting clause and inserting in lieu thereof the
7 following:

8 Sec. 1. HEALTH INFORMATION TECHNOLOGY; HEALTH
9 INFORMATION EXCHANGE; PROGRESS REPORTS

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

1 completed and a list of clear objectives to assist the General Assembly in
2 evaluating the success or failure of the parties' work.

3 (b) On or before September 1, 2018, the Department of Vermont Health
4 Access and VITL shall submit to the House Committees on Appropriations, on
5 Health Care, and on Ways and Means; the Senate Committees on
6 Appropriations, on Health and Welfare, and on Finance; the Health Reform
7 Oversight Committee; and the Green Mountain Care Board a contingency plan
8 for health information technology to be used if the Department and VITL are
9 unable to implement the recommendations from the Act 73 report. The
10 contingency plan shall contain the following:

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

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

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

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

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

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

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

19 (e) In addition to the written updates required by subsection (d) of this
20 section, the Department of Vermont Health Access and VITL shall provide
21 testimony on their progress toward implementing the recommendations

1 contained in the Act 73 report at a meeting of the Health Reform Oversight
2 Committee at least once every two months or more frequently if so requested
3 by the Committee. The testimony at the Committee's first meeting after the
4 General Assembly has adjourned in 2018 shall also include information
5 regarding the work plan required by subsection (a) of this section, and the
6 testimony at the Committee's first meeting after September 1, 2018 shall also
7 include information regarding the contingency plan required by subsection (b)
8 of this section.

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

10 § 9351. HEALTH INFORMATION TECHNOLOGY PLAN

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

17 (2) The Department shall submit the proposed Plan to the Green
18 Mountain Care Board annually on or before November 1. The Green
19 Mountain Care Board shall approve, reject, or request modifications to the Plan
20 within 45 days following its submission; if the Board has taken no action after
21 45 days, the Plan shall be deemed to have been approved.

1 the proposed updates by the Green Mountain Care Board, may enter into a
2 contract or grant agreement with ~~VITL or other~~ appropriate entities to update
3 some or all of the Plan. Upon approval ~~by the Secretary of the updated Plan by~~
4 the Green Mountain Care Board, the Department of Vermont Health Access
5 shall distribute the updated Plan ~~shall be distributed~~ to the Secretary of
6 Administration; the ~~Commissioner of Information and Innovation~~ Secretary of
7 Digital Services; the Commissioner of Financial Regulation; ~~the Commissioner~~
8 ~~of Vermont Health Access;~~ the Secretary of Human Services; the
9 Commissioner of Health; the Commissioner of Mental Health; the
10 Commissioner of Disabilities, Aging, and Independent Living; the Senate
11 Committee on Health and Welfare; the House Committee on Health Care;
12 affected parties; and interested stakeholders. Unless major modifications are
13 required, the ~~Secretary~~ Department may present updated information about the
14 Plan to the ~~Green Mountain Care Board and~~ legislative committees of
15 jurisdiction in lieu of creating a written report.

16 * * *

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

18 § 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

19 (a)(1) Governance. The Vermont Information Technology Leaders, Inc.
20 (VITL) Board of Directors shall consist of no fewer than nine nor more than
21 14 members. The term of each member shall be two years, except that of the

1 members first appointed, approximately one-half shall serve a term of one year
2 and approximately one-half shall serve a term of two years, and members shall
3 continue to hold office until their successors have been duly appointed. The
4 Board of Directors shall comprise the following:

5 (A) ~~one member~~ two current members of the General Assembly, one
6 of whom shall be a member of the House of Representatives appointed jointly
7 by the Speaker of the House and the President Pro Tempore of the Senate one
8 of whom shall be a member of the Senate appointed by the Committee on
9 Committees, who and both of whom shall be entitled to the same per diem
10 compensation and expense reimbursement of expenses pursuant to 2 V.S.A.
11 § 406 as provided for attendance at sessions during adjournment of the General
12 Assembly;

13 (B) one individual appointed by the Governor; and

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

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

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

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

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

19 ~~Vermont;~~

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

21 ~~Vermont;~~

1 exchange network shall be managed. The Green Mountain Care Board
2 ~~approves~~ shall have the authority to approve VITL's ~~core activities and~~ budget
3 pursuant to chapter 220 of this title, ~~the Secretary of Administration or~~
4 ~~designee shall enter into procurement grant agreements with VITL pursuant to~~
5 ~~8 V.S.A. § 4089k.~~ Nothing in this chapter shall impede local community
6 providers from the exchange of electronic medical data.

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

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

16 (e) Report. ~~No later than~~ On or before January 15 of each year, VITL shall
17 file a report with the Green Mountain Care Board; the Secretary of
18 Administration; the ~~Commissioner of Information and Innovation~~ Secretary of
19 Digital Services; the Commissioner of Financial Regulation; the Commissioner
20 of Vermont Health Access; the Secretary of Human Services; the
21 Commissioner of Health; the Commissioner of Mental Health; the

1 Commissioner of Disabilities, Aging, and Independent Living; the Senate
2 Committee on Health and Welfare; and the House Committee on Health Care.
3 The report shall include an assessment of progress in implementing health
4 information technology in Vermont and recommendations for additional
5 funding and legislation required. In addition, VITL shall publish minutes of
6 VITL meetings and any other relevant information on a public website. The
7 provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply
8 to the report to be made under this subsection.

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

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

4 (h) [Repealed.]

5 (i) Certification of meaningful use and connectivity.

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

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

15 (j) Scope of activities. VITL and any person who serves as a member,
16 director, officer, or employee of VITL with or without compensation shall not
17 be considered a health care provider as defined in subdivision 9432 of this title
18 for purposes of any action taken in good faith pursuant to or in reliance upon
19 provisions of this section relating to VITL's:

20 (1) governance;

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

6 (C) Annually review ~~the budget and all activities of VITL~~ and
7 approve the budget, consistent with available funds, ~~and the core activities~~
8 ~~associated with public funding, which shall include establishing the~~
9 ~~interconnectivity of electronic medical records held by health care~~
10 ~~professionals and the storage, management, and exchange of data received~~
11 ~~from such health care professionals, for the purpose of improving the quality of~~
12 ~~and efficiently providing health care to Vermonters of the Vermont~~
13 Information Technology Leaders, Inc. (VITL). This review shall take into
14 account VITL’s responsibilities pursuant to section 9352 of this title and the
15 availability of funds needed to support those responsibilities.

16 * * *

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

19 (10) Secs. 48-51 (health claims tax) shall take effect on July 1, 2013 and
20 52 and 53 (health claims tax revenue; Health IT-Fund; sunset) shall take effect
21 on July 1, ~~2018~~ 2019.

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

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

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

15 The Department of Vermont Health Access, in consultation with Vermont
16 Information Technology Leaders, Inc., the Office of the Health Care Advocate,
17 and other interested stakeholders, shall provide recommendations to the House
18 Committees on Health Care and on Energy and Technology and the Senate
19 Committee on Health and Welfare on or before January 15, 2019 regarding
20 whether individual consent to the exchange of health care information through

1 the Vermont Health Information Exchange should be on an opt-in or opt-out
2 basis.

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

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

12 Sec. 9. EFFECTIVE DATE

13 This act shall take effect on passage.

14

15

16 (Committee vote: _____)

17

18

Senator _____

19

FOR THE COMMITTEE