

Journal of the House

Wednesday, April 19, 2017

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

Devotional Exercises

Devotional exercises were conducted by Kathy and Steven Light, Fyre and Lightning Consort, Marshfield, VT.

Bill Referred to Committee on Ways and Means

S. 127

House bill, entitled

An act relating to miscellaneous changes to laws related to vehicles and vessels

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

Bill Referred to Committee on Appropriations

S. 52

House bill, entitled

An act relating to the Public Service Board and its proceedings

Appearing on the Calendar, carrying an appropriation, under rule 35(a), was referred to the committee on Appropriations.

Joint Resolution Referred to Committee

J.R.H. 8

Joint resolution urging the Federal Communications Commission to retain net neutrality rules for Internet access

Offered by: Representatives Botzow of Pownal, Carr of Brandon, Marcotte of Coventry, and Sibilias of Dover

Whereas, the Internet is the primary telecommunications highway for much of the nation's business transactions, personal communications, and entertainment services, and

Whereas, the continuance of the Internet as a fully accessible and nondiscriminatory telecommunications highway, and not one that favors customers based on the level of fee they pay for the service being transmitted,

had been a high priority for the Federal Communications Commission (FCC), and

Whereas, to meet this objective, in 2010, the FCC adopted a regulatory order entitled *Preserving the Open Internet*, 25 F.C.C.R. 17905, also known as the “Open Internet Order,” and established a policy referred to as net neutrality, and

Whereas, this order set forth “disclosure, anti-blocking, and anti-discrimination requirements on broadband providers,” and

Whereas, in January 2014, the U.S. Circuit Court of Appeals for the District of Columbia ruled in *Verizon v. Federal Communications Commission*, 740 F.3d. 623, that the FCC may not impose requirements that “contravene express statutory mandates,” citing Section 706 of the Telecommunications Act that prohibits the FCC from regulating Internet providers as common carriers, and observing that “the Commission has failed to establish that the anti-discrimination and anti-blocking rules do not impose *per se* common carrier obligations,” and

Whereas, in response to the court’s decision, in February 2015, the FCC issued *Report and Order on Remand, Declaratory Ruling and Order*, 30 FCC Rcd. 5601, that again provided for net neutrality but included supporting language that the new order was grounded “in multiple sources of legal authority- including both section 706 of the Telecommunications Act and Title II of the Communications Act,” and

Whereas, once again, the FCC’s net neutrality order was challenged, but in June 2016, the same court took note of the FCC’s revisions and held in *United States Telecom Association v. Federal Communications*, 825 F.3d. 674, that the new order was statutorily compliant and did not violate either due process or First Amendment constitutional rights, and

Whereas, one of the two FCC commissioners dissenting the 2015 order was Ajit Pai, who, in 2017, the President appointed as the new FCC chairman, and

Whereas, Chairman Pai has already taken actions aimed at weakening the net neutrality order, including halting an FCC investigation into wireless providers zero-rating streaming practices that, for example, enable AT&T to offer free streaming of DirectTV, (a video delivery service it owns) and places similar services at a competitive disadvantage for AT&T customers, and

Whereas, the elimination or significant weakening of the FCC’s 2015 net neutrality order will disadvantage less affluent consumers’ Internet use and favor customers willing to pay higher access fees and allow Internet providers to offer preferred access to selected services or block others, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly urges the Federal Communications Commission to retain the 2015 net neutrality order as adopted, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to FCC Commissioner Ajit Pai and to the Vermont Congressional Delegation.

Which was read and, in the Speaker's discretion, treated as a bill and referred to the committee on Energy and Technology pursuant to rule 52.

Joint Resolution Adopted in Concurrence

J.R.S. 31

By Senator Ashe,

J.R.S. 31. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 21, 2017, it be to meet again no later than Tuesday, April 25, 2017.

Was taken up, read and adopted in concurrence.

Message from the Senate No. 46

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. 265. An act relating to the State Long-Term Care Ombudsman.

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 proposals of amendment to Senate bill of the following title:

S. 14. An act relating to expanding the Vermont Practitioner Recovery Network.

And has concurred therein.

Third Reading; Bill Passed**H. 150**

House bill, entitled

An act relating to parole eligibility

Was taken up, read the third time and passed.

**Third Reading; Bill Passed in Concurrence
With Proposal of Amendment****S. 50**

Senate bill, entitled

An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility

Was taken up, read the third time and passed in concurrence with proposal of amendment.

**Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered****S. 12**

Rep. Lalonde of South Burlington, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty

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

Sec. 1. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS**Subchapter 1. Cruelty to Animals****§ 351. DEFINITIONS**

As used in this chapter:

(1) “Animal” means all living sentient creatures, not human beings.

* * *

(19) “Sexual conduct” means:

(A) any act between a person and animal that involves contact

between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; or

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person's body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal.

* * *

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner, or engages in a reckless course of conduct that results in the death of an animal;

* * *

(10) uses a live animal as bait or lure in a race, game, or contest, or in training animals in a manner inconsistent with 10 V.S.A. Part 4 of Title 10 or the rules adopted thereunder;

(11)(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

(F) advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

* * *

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) ~~or~~, (4), or (5) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

* * *

(5) A person who violates subdivision 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

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

S. 75

Rep. Lefebvre of Newark, for the committee on Natural Resources, Fish & Wildlife, to which had been referred Senate bill, entitled

An act relating to aquatic nuisance species control

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

Sec. 1. 10 V.S.A. § 1452 is amended to read:

§ 1452. DEFINITIONS

As used in this chapter:

(1) “Agency” means the ~~agency of natural resources~~ Agency of Natural Resources.

(2) “Aquatic nuisance” means undesirable or excessive substances or populations that interfere with the recreational potential or aquatic habitat of a body of water, including rooted aquatic plants and animal and algal populations. Aquatic nuisances include ~~rooted aquatic plants and animal and algal populations~~ zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), Asian clam (*Corbicula fluminea*), fishhook waterflea (*Cercopagis pengoi*), rusty crayfish (*Orconectes rusticus*), spiny waterflea (*Bythotrephes longimanus*), or other species identified by the Secretary by rule.

(3) “Aquatic plant” means a plant that naturally grows in water, saturated soils, or seasonally saturated soils, including algae and submerged, floating-leafed, floating, or emergent plants.

(4) “Biological controls” ~~mean~~ means multi-cellular organisms.

(5) “Board” ~~means the water resources panel of the natural resources board.~~ [Repealed.]

* * *

(9) “Secretary” means the ~~secretary of natural resources~~ Secretary of Natural Resources.

(10) “Water resources” means the waters and the values inherent or potential in waters and their uses.

(11) “Waters” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs and all bodies of surface waters, artificial or natural, which that are contained within, flow through, or border upon the state State or any portion of it.

(12) “Baitbox” means a receptacle, not exceeding 25 cubic feet in volume, used for holding or keeping baitfish alive for personal use.

(13) “Live well” means a well for keeping fish alive in a vessel by allowing water to circulate through the well.

(14) “Ballast tank” means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(15) “Bilge area” means the lowest point in the vessel where water can collect when the vessel is in its static floating position.

(16) “Decontaminate” means a process used to kill, destroy, or remove aquatic nuisance species and other organic material that may be present in or on a vessel, motor vehicle transporting the vessel, trailer, or other equipment. Decontamination may include washing a vessel, motor vehicle transporting the vessel, trailer, or other equipment with water at a sufficiently high temperature to kill or remove aquatic nuisance species.

(17) “Lake association” means a lake protection organization registered with the Secretary of Natural Resources on a form provided by the Secretary.

(18) “Marina” means a property, other than a public access or landing area regulated under section 4145 of this title, on the shoreline of a water of the State that contains a dock, basin, or ramp that, at no cost or for remuneration, provides to the public secure moorings or vessel access to the water.

(19) “Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including a snowmobile, motorcycle, all-terrain vehicle, farm tractor, or tracked vehicle.

(20) “Personal watercraft” shall have the same meaning as set forth in 23 V.S.A. § 3302.

(21) “Transport” means to move motor vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment over land, but does not include movement within the immediate area required for loading and preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment prior to movement into or away from a body of water.

(22) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft.

Sec. 2. 10 V.S.A. § 1454 is amended to read:

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC
NUISANCE SPECIES

(a) ~~No Transport of aquatic nuisance species; prohibition. A person shall not transport an aquatic plant or, aquatic plant part, zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance species identified by the Secretary by rule to or from any Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer, or other equipment water. This section shall not restrict:~~

(1) proper harvesting or other control activities undertaken for the purpose of eliminating or controlling the growth or propagation of aquatic

plants, zebra mussels, quagga mussels, or other aquatic nuisance species; or

(2) proper collection of water samples for the purpose of water quality monitoring.

(b) Inspection of vessel entering or leaving water. A person transporting a vessel to or from a water shall, prior to launching the vessel and upon leaving a water, inspect the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment, and shall remove and properly dispose of any aquatic plants, aquatic plant parts, and aquatic nuisance species.

(c) Aquatic nuisance species inspection station. It shall be a violation of this section for a person transporting a vessel to or from a water to not have the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment inspected and, if determined necessary, decontaminated at an approved aquatic nuisance species inspection station prior to launching the vessel and upon leaving a water if:

(1) an aquatic nuisance species inspection station is maintained at the area where the vessel is entering or leaving the water;

(2) the aquatic nuisance species inspection station is open; and

(3) an individual operating the aquatic nuisance species inspection station identifies the vessel for inspection or decontamination.

(d) Draining of vessel; transport.

(1)(A) When leaving a water of the State and prior to transport away from the area where the vessel left the water, a person operating a vessel shall drain the vessel, trailer, and other equipment of water, including water in live wells, ballast tanks, and bilge areas. A person is not required to drain:

(i) baitboxes when authorized under 10 App. V.S.A. § 122(5) to transport bait in a baitbox away from a water; or

(ii) vehicles and trailers specifically designed and used for water hauling.

(B) A person operating a vessel shall drain the vessel, trailer, and other equipment of water in a manner to avoid a discharge to the water of the State. This subdivision (d)(1) does not authorize a person to discharge waste, as defined in section 1251 of this title, to waters of the State. A person shall dispose of waste in the manner required by law.

(2) When a person transports a vessel, the person shall remove or open the drain plugs, bailers, valves, and other devices that are used to control the draining of water from ballast tanks, bilge areas, and live wells of the vessel, trailer, and other equipment, except for vehicles and trailers specifically

designed and used for water hauling and emergency response vehicles and equipment.

(e) Exceptions to transport prohibition. The Secretary may ~~grant exceptions to persons to~~ allow the transport of aquatic plants, ~~zebra mussels, quagga mussels,~~ aquatic plant parts, or ~~other~~ aquatic nuisance species for scientific ~~or~~ purposes, educational purposes, or other purposes specifically authorized by the Secretary. When granting exceptions allowing the transport of aquatic plants, aquatic plant parts, or aquatic nuisance species under this subsection, the Secretary shall take into consideration both the value of the scientific or educational purpose and the risk to Vermont surface waters posed by the transport and ultimate use of the specimens. A letter from the Secretary authorizing the transport must accompany the specimens during transport.

(e)(f) Signage; access areas and marinas. Signage shall be posted at all public access and landing areas regulated under section 4145 of this title and at all marinas regarding the requirements of subsections (a)–(d) of this section relating to aquatic nuisance transport and inspection and decontamination of vessels, motor vehicles transporting vessels, trailers, or other equipment. The Secretary shall provide marinas with the signs required under this section.

(g) Violations. A Pursuant to 4 V.S.A. § 1102, a violation of this section may be brought in the Judicial Bureau by any law enforcement officer, as that term is defined in 23 V.S.A. § 3302(2), or, pursuant to section 8007 or 8008 of this title, a violation of this section may be brought in the Environmental Division of the Superior Court. When a violation is brought by an enforcement officer other than an environmental enforcement officer employed by the Agency of Natural Resources, the enforcement officer shall submit to the Secretary a copy of the citation for purposes of compliance with the public participation requirements of section 8020 of this title. If a violation of this section is adjudicated in the Judicial Bureau or the Environmental Division, the violation shall not be addressed or adjudicated a second time in the other court.

Sec. 3. 10 V.S.A. § 1455(a) is amended to read:

(a) ~~No~~ A person may ~~shall not~~ use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices in waters of the State to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the ~~secretary~~ Secretary.

Sec. 4. 10 V.S.A. § 1461 is added to read:

§ 1461. AQUATIC NUISANCE INSPECTION STATIONS; TRAINING PROGRAM

(a) The Secretary of Natural Resources shall establish a training program regarding how to conduct inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall include online training, recorded material, training manuals, or other material that allows a person to complete training remotely.

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall:

(1) require a person operating aquatic nuisance decontamination equipment to complete in-person training conducted by the Secretary or an entity approved by the Secretary; and

(2) instruct participants regarding how to address noncompliance with the requirements of section 1454 of this title, including how to report a violation to law enforcement, if a violation needs to be reported, and how operators of the inspection station do not have law enforcement authority to mandate compliance with the requirements of section 1454 of this title.

(c) In order to establish an aquatic nuisance species inspection station for the purposes of the vessel inspection and decontamination requirements of subsection 1454(c) of this title, a lake association, municipality, or the Commissioner of Environmental Conservation shall apply to the Secretary for approval. As a condition of approval, a representative of an lake association or municipality shall complete the training programs established under subsections (a) and (b) of this section. A lake association or municipality seeking to operate an aquatic nuisance species inspection station shall designate a representative to complete the training programs established under subsections (a) and (b) of this section. In order to operate an aquatic nuisance species inspection station, a lake association or municipality shall own or control aquatic nuisance decontamination equipment.

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (b) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to:

(1) conduct the inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species; and

(2) complete the in-person training required under subsection (b) of this section in order to operate decontamination equipment.

(e) The Secretary may adopt rules under section 1460 of this title to implement the training requirements of this section, including an annual schedule of available training.

Sec. 5. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(27) Violations of 10 V.S.A. § 1454(a)–(d) relating to the transport of aquatic plants and aquatic nuisance species.

Sec. 6. 23 V.S.A. § 3317(b) is amended to read:

(b) A person who violates a requirement under 10 V.S.A. § 1454 shall be subject to enforcement under 10 V.S.A. ~~chapter 201 § 8007 or 8008~~ or a fine under this chapter, provided that the person shall be assessed a penalty or fine of not more than \$1,000.00 for each violation. A person who violates a rule adopted under 10 V.S.A. § 1424 shall be subject to enforcement under 10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of not more than \$300.00 for each violation. A person who violates any of the following sections of this title shall be subject to a penalty of not more than \$300.00 for each violation:

§ 3306(e) marine toilet

§ 3312a operation of personal watercraft

Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers three days prior to placement of the barriers in a water; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered

species.

Sec. 8. REPEAL; BOTTOM BARRIERS

Sec. 7 of this act (bottom barriers for aquatic nuisance control) shall be repealed on March 1, 2018.

Sec. 9. AQUATIC NUISANCE CONTROL GENERAL PERMIT

On or before February 1, 2018, the Secretary of Natural Resources shall issue a general permit for aquatic nuisance control activities. The general permit shall allow for nonchemical aquatic nuisance control activities and any other management or control measures that the Secretary considers appropriate and for which the Secretary has general permit authority under 10 V.S.A. chapter 50. The general permit shall authorize rapid response activities that an individual or lake association may take to control aquatic nuisance species. The provisions of 10 V.S.A. § 1456(a) and (c)–(f) related to the rapid response permits for aquatic nuisance control shall apply to the rapid response activities authorized in the permit required under this section.

Sec. 10. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE
SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

Beginning on July 1, 2017, the Secretary of Natural Resources shall provide education and outreach to the public regarding the transport and inspection requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic nuisance species. The education and outreach shall include a notification in the Department of Fish and Wildlife guides to hunting and fishing in Vermont regarding the aquatic nuisance transport prohibition and the requirements to inspect vessels for aquatic nuisance species when entering or leaving a water.

Sec. 11. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE
CHAMPLAIN

(a) On or before November 15, 2017, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish and Wildlife a report regarding how to control the transport of aquatic nuisances to and from Lake Champlain. The report shall include:

(1) an inventory of the boat decontamination facilities or other aquatic nuisance control measures currently employed at boat launches, marinas, or other areas on Lake Champlain;

(2) a summary of whether the current measures to control aquatic nuisance transport to and from Lake Champlain are adequate;

(3) a proposal for siting boat decontamination facilities or other comparable aquatic nuisance control measures at boat launches, marinas, or other areas on Lake Champlain, including where proposed facilities or other aquatic nuisance control measures would be located;

(4) a summary of how proposed boat decontamination facilities or comparable aquatic nuisance control measures would be staffed, including whether staff would possess sufficient authority to inspect a vessel entering or leaving Lake Champlain in order to require boat decontamination or another aquatic nuisance control measure;

(5) an estimate of the cost to implement proposed boat decontamination facilities or other aquatic nuisance control measures on Lake Champlain; and

(6) a recommendation of whether and how vessels leaving Lake Champlain should be quarantined from entering other waters of the State for a defined time period or until a specific condition is satisfied; and

(7) draft legislation that the Secretary determines is necessary to implement any boat decontamination facility or other aquatic nuisance control measure proposed in the report.

(b) As used in this section, “aquatic nuisance” and “vessel” shall have the same meanings as set forth in 10 V.S.A. § 1452.

Sec. 12. 10 V.S.A. § 1264b is amended to read:

§ 1264b. ~~STORMWATERIMPAIREDWATERSRESTORATION~~

~~STORMWATERFUND~~

(a) A fund to be known as the ~~stormwater-impaired waters restoration fund~~ Stormwater Fund is created in the ~~state treasury~~ State Treasury to be expended by the ~~secretary of natural resources~~ Secretary of Natural Resources. The ~~fund~~ Fund shall be administered by the ~~secretary of natural resources through the facilities engineering division~~ Secretary of Natural Resources. The ~~fund~~ Fund shall consist of:

(1) ~~Stormwater~~ stormwater impact fees paid by permittees ~~in order to~~ meet applicable permitting standards for the discharges of regulated stormwater runoff to the stormwater-impaired waters of the ~~state~~ State and Lake Champlain and waters that contribute to the impairment of Lake Champlain;

(2) ~~Such~~ such sums as may be appropriated or transferred to the ~~fund~~ Fund by the ~~general assembly, the state emergency board, or the joint fiscal committee~~ General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times when the ~~general assembly~~ General Assembly is

not in session;

(3) ~~Principal~~ principal and interest received from the repayment of loans made from the ~~fund~~ Fund;

(4) ~~Private~~ private gifts, bequests, and donations made to the ~~state~~ State for any of the purposes for which the ~~fund~~ Fund was established; and

(5) ~~Other~~ other funds from any public or private source intended for use for any of the purposes for which the ~~fund~~ Fund has been established.

(b) The ~~fund~~ Fund shall maintain separate accounts for each stormwater-impaired water and each phosphorus-impaired lake segment of Lake Champlain and the monies in each account may only be used to fund offsets in the designated water. Offsets shall be designed to reduce the sediment load, phosphorus load, or hydrologic impact of regulated stormwater runoff in ~~stormwater-impaired waters~~ the receiving water. All balances in the ~~fund~~ Fund at the end of any fiscal year shall be carried forward and remain a part of the ~~fund~~ Fund. Interest earned by the ~~fund~~ Fund shall be deposited into the ~~fund~~ Fund.

(c) The ~~facilities—engineering—division~~ Secretary may authorize disbursements from the ~~fund~~ Fund to offsets that meet the requirements of the rule adopted pursuant to subsection 1264a(e) 1264(f) of this title. The public funds used to capitalize the ~~stormwater-impaired waters restoration fund~~ Fund shall:

(1) ~~Be~~ be disbursed only to an offset that is owned or operated by a municipality or a governmental subdivision, agency, or instrumentality; and

(2) ~~Be~~ be disbursed only to reimburse a municipality or a governmental subdivision, agency, or instrumentality for those funds provided by the municipality or governmental subdivision, agency, or instrumentality to complete or construct an offset.

(d) A municipality or governmental subdivision, agency, or instrumentality may, on an annual basis, reserve capacity in an offset that the municipality or governmental subdivision, agency, or instrumentality operates or owns and that meets the requirements of ~~subsection 1264a(e)~~ the rule adopted pursuant to subsection 1264(f) of this title. A municipality or governmental subdivision, agency, or instrumentality reserving offset capacity shall inform the ~~secretary of natural resources~~ Secretary of the offset capacity for which the offset will not receive disbursements from the ~~stormwater-impaired waters restoration fund~~ Fund for nonmunicipal discharges. ~~A municipality that reserves capacity as an offset may receive disbursements from the fund to mitigate the uncontrolled sediment load or hydrologic impact in discharges for which the municipality is issued a permit for the discharge of regulated~~

~~stormwater runoff under subdivision 1264a(b)(1) of this title.~~

(e) Eligible persons may apply for a grant from the ~~fund~~ Fund to design and implement an offset. The ~~fund~~ Fund may be used to match other public and private sources of funding for such projects. ~~The funds may also be used to match federal funds otherwise available to capitalize the fund created by 24 V.S.A. § 4753(a)(8).~~

(f) A discharger that pays a stormwater impact fee to the ~~stormwater-impaired waters restoration fund under section 1264a of this title~~ Fund in order to receive a permit for the discharge of regulated stormwater runoff may receive reimbursement of that fee if the discharger fails to discharge under the stormwater discharge permit, if the discharger notifies the ~~secretary~~ Secretary of the abandonment of the discharge permit, and if the ~~secretary~~ Secretary determines that unobligated monies for reimbursement remain in the ~~stormwater-impaired restoration fund~~ Fund.

Sec. 13. REPEAL; INTERIM STORMWATER PERMITTING

10 V.S.A. § 1264a(e) (interim stormwater permitting authority) is repealed.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1–11 (aquatic nuisance species control) shall take effect on passage.

(b) Secs. 12 and 13 (stormwater management) shall take effect on July 1, 2017.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the Committee on Natural Resources, Fish and Wildlife? **Rep. Terenzini of Rutland Town** 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 propose to the Senate to amend the bill as recommended by the Committee on Natural Resources, Fish and Wildlife? was decided in the affirmative. Yeas, 137. Nays, 2.

Those who voted in the affirmative are:

- | | | |
|-------------------------|----------------------|--------------------------|
| Ainsworth of Royalton | Gage of Rutland City | Myers of Essex |
| Ancel of Calais | Gamache of Swanton | Nolan of Morristown |
| Bancroft of Westford | Gannon of Wilmington | Norris of Shoreham |
| Bartholomew of Hartland | Gardner of Richmond | Noyes of Wolcott |
| Baser of Bristol | Giambatista of Essex | Ode of Burlington |
| Batchelor of Derby | Grad of Moretown | Olsen of Londonderry |
| Beck of St. Johnsbury | Greshin of Warren | O'Sullivan of Burlington |

Belaski of Windsor	Haas of Rochester	Parent of St. Albans Town
Beyor of Highgate	Harrison of Chittenden	Partridge of Windham
Bissonnette of Winooski	Head of South Burlington	Pearce of Richford
Bock of Chester	Hebert of Vernon	Poirier of Barre City
Botzow of Pownal	Helm of Fair Haven	Potter of Clarendon
Brennan of Colchester	Higley of Lowell	Pugh of South Burlington
Briglin of Thetford	Hill of Wolcott	Quimby of Concord
Browning of Arlington	Hooper of Montpelier	Rachelson of Burlington
Brumsted of Shelburne	Hooper of Brookfield	Rosenquist of Georgia
Burke of Brattleboro	Houghton of Essex	Savage of Swanton
Canfield of Fair Haven	Howard of Rutland City	Scheu of Middlebury
Carr of Brandon	Hubert of Milton	Scheuermann of Stowe
Chesnut-Tangerman of Middletown Springs	Jessup of Middlesex	Sharpe of Bristol
Christensen of Weathersfield	Jickling of Brookfield	Shaw of Pittsford
Christie of Hartford	Joseph of North Hero	Sheldon of Middlebury
Cina of Burlington	Juskiewicz of Cambridge	Sibilia of Dover
Colburn of Burlington	Keenan of St. Albans City	Smith of New Haven
Condon of Colchester	Kimbell of Woodstock	Squirrell of Underhill
Conlon of Cornwall	Kitzmiller of Montpelier	Stevens of Waterbury
Connor of Fairfield	Krowinski of Burlington	Strong of Albany
Conquest of Newbury	LaClair of Barre Town	Stuart of Brattleboro
Copeland-Hanzas of Bradford	Lalonde of South Burlington	Sullivan of Dorset
Corcoran of Bennington	Lanpher of Vergennes	Sullivan of Burlington
Cupoli of Rutland City	Lawrence of Lyndon	Taylor of Colchester
Dakin of Colchester	Lefebvre of Newark	Till of Jericho
Deen of Westminster	Lewis of Berlin	Toleno of Brattleboro
Devereux of Mount Holly	Lippert of Hinesburg	Townsend of South Burlington
Dickinson of St. Albans Town	Long of Newfane	Trieber of Rockingham
Donahue of Northfield	Marcotte of Coventry	Troiano of Stannard
Donovan of Burlington	Martel of Waterford	Turner of Milton
Dunn of Essex	Masland of Thetford	Van Wyck of Ferrisburgh
Emmons of Springfield	McCormack of Burlington	Walz of Barre City
Fagan of Rutland City	McCoy of Poultney	Webb of Shelburne
Feltus of Lyndon	McCullough of Williston	Weed of Enosburgh
Fields of Bennington	McFaun of Barre Town	Willhoit of St. Johnsbury
Fields of Bennington	Miller of Shaftsbury	Wood of Waterbury
Forguites of Springfield	Morris of Bennington	Wright of Burlington
Frenier of Chelsea	Morrissey of Bennington	Yantachka of Charlotte
Graham of Williamstown	Mrowicki of Putney	Young of Glover
	Murphy of Fairfax	

Those who voted in the negative are:

Terenzini of Rutland Town

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

Buckholz of Hartford
Burditt of West Rutland
Gonzalez of Winooski

Lucke of Hartford
Macaig of Williston
Smith of Derby

Viens of Newport City
Yacovone of Morristown

Keefe of Manchester

Toll of Danville

Thereupon, third reading was ordered.

Rep. Krowinski of Burlington in chair.

Second Reading; Third Reading Ordered

S. 96

Rep. Lalonde of South Burlington, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to a news media privilege

Reported in favor of its passage in concurrence

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, and third reading ordered.

Senate Proposal of Amendment Concurred in

H. 182

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

An act relating to certain businesses regulated by the Department of Financial Regulation

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

First: By striking out Sec. 14 (segregated accounts of money transmitters) in its entirety and by inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. [DELETED.]

Second: By striking out Sec. 15 (segregated accounts of money transmitters) in its entirety and by inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. [DELETED.]

Third: In Sec. 18, 8 V.S.A. § 2200, by striking out the newly renumbered subdivision 17 (loan solicitation) in its entirety and by inserting in lieu thereof a new subdivision 17 to read as follows:

(15)(17)(A) "Loan solicitation" means, for compensation or gain or with the expectation of compensation or gain, to:

(i) offer, solicit, broker, directly or indirectly arrange, place, or find a loan for a prospective Vermont borrower;

(ii) engage in any activity intended to assist a prospective Vermont borrower in obtaining a loan, including lead generation;

(iii) arrange, in whole or in part, a loan through a third party, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, through any method, including mail, telephone, Internet, or any electronic means; or

(iv) advertise or cause to be advertised in this State a loan or any of the services described in subdivisions (i)–(iii) of this subdivision (17)(A).

(B) As used in this subdivision (17), “loan solicitation” does not:

(i) apply to residential mortgage loans;

(ii) include a broker-dealer registered or exempt from registration under 9 V.S.A. § 5401 when the broker-dealer provides the services described in subdivision (A) of this subdivision (17) and the broker-dealer is not compensated by the consumer for those services;

(iii) include an agent registered or exempt from registration under 9 V.S.A. § 5402 when the agent provides the services described in subdivision (A) of this subdivision (17) and the individual agent is not compensated by the consumer for those services;

(iv) include an insurance producer licensed under 8 V.S.A. § 4800 when the insurance producer provides the services described in subdivision (A) of this subdivision (17) and the individual insurance producer is not compensated by the consumer for those services;

(v) include a seller of goods or services that provides the services described in subdivision (A) of this subdivision (17) in connection with financing the sale or proposed sale of the seller’s goods or services and the seller is not compensated by the consumer for the services described in subdivision (A) of this subdivision (17); or

(vi) include other categories of loans or service providers as determined by the Commissioner by rule or order.

Fourth: In Sec. 19, 8 V.S.A. § 2201, in subdivision (a)(5) (loan solicitation), after “A person licensed as a lender” by inserting the following: , sales finance company,

Fifth: In Sec. 32 (effective dates), by striking out “14 (money transmitter segregated accounts),”

Which proposal of amendment was considered and concurred in.

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

H. 494

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

An act relating to the Transportation Program and miscellaneous changes to transportation-related law

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:

* * * Transportation Program Adopted as Amended; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2018 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2018 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the Transportation Program referenced in subsection (a) of this section; the table heading "As Amended" means the amendments as made by this act; the table heading "Change" means the difference obtained by subtracting the "As Proposed" figure from the "As Amended" figure; and the term "change" or "changes" in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net "Change" in the applicable table heading.

(4) "TIB funds" means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

* * * Department of Motor Vehicles * * *

Sec. 2. DEPARTMENT OF MOTOR VEHICLES

For fiscal year 2018, spending authority for the Department of Motor Vehicles is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	18,395,579	18,395,579	0
Operating Expense	11,106,337	10,906,337	-200,000
Total	29,501,916	29,301,916	-200,000

Sources of Funds

State	27,973,478	27,773,478	-200,000
Federal	1,423,438	1,423,438	0
Interdept. Transfer	105,000	105,000	0
Total	29,501,916	29,301,916	-200,000

* * * State Highway Bridge Program * * *

Sec. 2a. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE PROGRAM

The following project is added to the development and evaluation (D&E) list of the Program Development – State Highway Bridge Program within the fiscal year 2018 Transportation Program: NH 020-2 () – Quechee – Rehab of Bridge 61 on U.S. Route 4 in the town of Hartford over the Ottauquechee River. To the extent funds become available as a result of the unanticipated delay of or cost savings on projects in the fiscal year 2018 Transportation Program, the funds may be spent as necessary for D&E of this project.

* * * Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail * * *

Sec. 3. REPEAL

(a) 2016 Acts and Resolves No. 158, Sec. 9a (Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail) is repealed.

(b) In the Program Development – Bike and Pedestrian Facilities Program section of the Agency’s fiscal year 2018 proposed Transportation Program, within the project information description for the Swanton–St. Johnsbury LVRT() project, the projected cash requirement fields are amended as follows:

(1) under “Projected FY 2019,” the estimated amount of construction expenditures and the total expenditures is amended from “980,000” to “1,000,000”;

(2) under “Projected FY 2020,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000”; and

(3) under “Projected FY 2021,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000.”

* * * Maintenance Program * * *

Sec. 4. MAINTENANCE

For fiscal year 2018, spending authority for the Maintenance Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
-------------	--------------------	-------------------	---------------

Personal Services	45,558,652	43,638,652	-1,920,000
Operating Expense	45,265,393	45,265,393	0
Grants	421,780	421,780	0
Total	91,245,825	89,325,825	-1,920,000
<u>Sources of Funds</u>			
State	87,376,083	87,376,083	0
Federal	3,769,742	1,849,742	-1,920,000
Interdept. Transfer	100,000	100,000	0
Total	91,245,825	89,325,825	-1,920,000

*** License Plate Savings ***

Sec. 4a. SAVINGS RELATED TO SINGLE LICENSE PLATES;
ANALYSIS; SPENDING AUTHORITY

(a) Secs. 2 and 5 of this act reallocate \$200,000.00 in spending authority from the Department of Motor Vehicles (DMV) to the Town Highway Class 2 Roadway Program as result of cost savings projected to result from the requirement that DMV issue one license plate instead of two license plates for most motor vehicles registered in Vermont.

(b) On or before December 1, 2017, the Commissioner of Motor Vehicles shall provide the House and Senate Committees on Appropriations and on Transportation an updated analysis of cost savings projected to result in fiscal year 2018 from requiring one license plate. If the cost savings are projected to exceed \$200,000.00, the Administration shall propose in its fiscal year 2018 Budget Adjustment Act submission an increase in spending authority for the Town Highway Class 2 Roadway Program for fiscal year 2018, and a decrease in spending authority for the Department of Motor Vehicles for fiscal year 2018, to the extent the savings are projected to exceed \$200,000.00.

*** Town Highway Bridge Program ***

Sec. 4b. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the Town Highway Bridge Program within the fiscal year 2018 Transportation Program: FLAP (1) – Derby – culvert replacement on the access road to the Eagle Point Wildlife Management Area in Derby. To the extent funds become available for the project from the Federal Lands Access Program in fiscal year 2018, the funds may be expended as necessary for advancement of this project.

*** Town Aid Programs ***

Sec. 5. TOWN HIGHWAY CLASS 2 ROADWAY PROGRAM

For fiscal year 2018, spending authority for the Town Highway Class 2 Roadway Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	7,248,750	7,848,750	600,000
Total	7,248,750	7,848,750	600,000
<u>Sources of funds</u>			
State	7,248,750	7,848,750	600,000
Federal	0	0	0
Total	7,248,750	7,848,750	600,000

Sec. 6. TOWN HIGHWAY FEDERAL DISASTERS PROGRAM

Spending authority for the fiscal year 2018 Town Highway Federal Disasters Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	200,000	180,000	-20,000
Total	200,000	180,000	-20,000
<u>Sources of funds</u>			
State	20,000	20,000	0
Federal	180,000	160,000	-20,000
Total	200,000	180,000	-20,000

* * * Transportation Alternatives Program * * *

Sec. 7. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATIONALTERNATIVESGRANT PROGRAM

* * *

(c) The Transportation Alternatives Grant Program is created. The Grant Program shall be administered by the Agency, and shall be funded in the amount provided for in 23 U.S.C. § 213(a) 133(h), less the funds set aside for the Recreational Trails Program as ~~specified in 23 U.S.C. § 213(f)~~. Awards shall be made to eligible entities as defined under 23 U.S.C. § 213(e)(4) 133(h), and awards under the Grant Program shall be limited to the activities ~~described at 23 U.S.C. § 213(b) other than Recreational Trails Program grants authorized under federal law.~~

(d) Eligible entities awarded a grant must provide all funds required to match federal funds awarded for a Transportation Alternatives project. All grant awards shall be decided and awarded by the Transportation Alternatives Grant Committee.

(e) Transportation Alternatives grant awards shall be announced annually by the Transportation Alternatives Grant Committee not earlier than December and not later than the following March.

(f)(1) In fiscal years 2018 and 2019, all Grant Program funds shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects.

(2) Each In fiscal year 2020 and thereafter, \$1,100,000.00 of Grant Program funds, or such lesser sum if all eligible applications amount to less than \$1,100,000.00, shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects. Regarding the balance of Grant Program funds, in evaluating applications for Transportation Alternatives grants, the Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the Transportation Alternatives Grant Committee.

* * *

Sec. 8. MUNICIPAL MITIGATION ASSISTANCE PROGRAM

Authorized spending in the Municipal Mitigation Assistance Program for fiscal year 2018 is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Operating Expenses	150,000	150,000	0
Grants	8,032,342	9,032,342	1,000,000
Total	8,182,342	9,182,342	1,000,000
<u>Sources of Funds</u>			
State	1,640,000	1,240,000	-400,000
Federal	5,442,342	5,442,342	0
Clean Water Fund	1,100,000	1,100,000	0
Other	0	1,400,000	1,400,000
Total	8,182,342	9,182,342	1,000,000

Sec. 9. FUTURE APPROPRIATIONS; REPEAL

2016 Acts and Resolves No. 158, Sec. 5 (future appropriations) is repealed.

Sec. 10. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(c) State aid for town highway bridges. There shall be an annual appropriation for town bridge engineering services and for aid in maintaining or constructing bridges having a span of six feet or more on class 1, 2, and 3 town highways. Annually the Agency shall ~~distribute~~ expend these funds

according to a the Transportation Program plan based upon applications submitted by the towns approved by the General Assembly. With the approval of the Agency, funds may be used for alternatives which eliminate the need for a bridge or bridges, including construction or reconstruction of highways, purchase of parcels of land that would be landlocked by closure of a bridge or bridges, payment of damages for loss of highway access, and substitution of other means of access.

* * *

(i) Monies disbursed from the Clean Water Fund established in 10 V.S.A. § 1388 for The Agency shall administer the Municipal Mitigation Assistance Program. Through the Program, the Agency shall provide assistance and grants to municipalities for environmental mitigation projects related to stormwater and highways shall be administered by the Agency through the Municipal Mitigation Grant Program and for the establishment and operation of stormwater utilities. Grants provided to municipalities under the Program shall be matched by Municipalities shall match grants with local funds sufficient to cover 20 percent of the project costs, except that the Agency may issue grants for the establishment or operation of stormwater utilities without requiring a local match. From the operating expenses appropriated for the Program, the Agency is authorized to pay costs billed to the Agency by municipal stormwater utilities.

* * *

* * * Central Garage * * *

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2018, the amount of \$1,296,047.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * Transportation Program Terminology * * *

Sec. 12. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The Agency shall, except where otherwise specifically provided by law:

* * *

(16) Inform the Joint Transportation Oversight Committee of any anticipated loss or reduction of federal funding for transportation purposes due to either a lack of State funds for matching, or a decrease in federal funds for the one-year capital program Transportation Program.

* * *

Sec. 13. 19 V.S.A. § 10g is amended to read:

§ 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM;
ADVANCEMENTS, CANCELLATIONS, AND DELAYS

(a) The Agency of Transportation shall annually present to the General Assembly a multiyear Transportation Program covering the same number of years as the Statewide Transportation Improvement ~~Plan~~ Program (STIP), consisting of the recommended budget for all Agency activities for the ensuing fiscal year and projected spending levels for all Agency activities for the following fiscal years. The Program shall include a description and year-by-year breakdown of recommended and projected funding of all projects proposed to be funded within the time period of the STIP and, in addition, a description of all projects that are not recommended for funding in the first fiscal year of the proposed Program but which are scheduled for construction during the time period covered by the STIP. The Program shall be consistent with the planning process established by 1988 Acts and Resolves No. 200, as codified in 3 V.S.A. chapter 67 and 24 V.S.A. chapter 117, the statements of policy set forth in sections 10b–10f of this title, and the long-range systems plan, corridor studies, and project priorities developed through the capital planning process under section 10i of this title.

* * *

Sec. 14. 19 V.S.A. § 1512 is amended to read:

§ 1512. UTILITY RELOCATIONS

(a) When relocation of a utility is required by a project for the improvement, construction, or reconstruction of a highway under the provisions of this chapter, the ~~agency~~ Agency or a municipality, or both, may pay for some or all of the cost of the relocation.

(b) The ~~agency~~ Agency, following the procedures set forth in 3 V.S.A. chapter 25, shall adopt rules setting standards for determining when and to what extent the authority granted by subsection (a) of this section may be exercised. These standards shall take into account the following:

* * *

(4) the overall effect on the ~~state's transportation capital program~~ State's Transportation Program of using available highway construction funds for utility relocation purposes.

* * * Automated Vehicles * * *

Sec. 15. AUTOMATED VEHICLES

(a) On or before December 15, 2017, the Secretary shall convene a meeting of public and private stakeholders with expertise related to:

(1) the licensing of automated vehicle (AV) operators and the registration of AVs;

(2) AV operator education and training;

(3) insurance and liability issues related to AVs;

(4) enforcement of laws governing AV operation;

(5) inspections of AVs;

(6) testing of AVs in Vermont;

(7) emergency response practices in relation to AVs;

(8) infrastructure needs associated with the rollout of AVs; and

(9) social, economic, and environmental consequences of the rollout of AVs.

(b) The purpose of the meeting required under subsection (a) of this section is to gather information related to and raise awareness of opportunities and challenges related to AVs, and identify policy areas requiring further research or possible legislation. On or before January 15, 2018, the Secretary shall report back to the House and Senate Committees on Transportation on its activities and any recommendations related to AVs, including any proposed legislation.

(c) The Secretary shall monitor guidance from the federal government, activities in other states, and industry trends related to the development and rollout of AVs.

* * * Park and Rides * * *

Sec. 16. 19 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CONDEMNATION FOR STATE HIGHWAYPROJECTS

§ 500. INTENT

The purpose of this chapter is to ensure that a property owner receives fair treatment and just compensation when the owner's property is taken for State highway projects, and that condemnation proceedings are conducted expeditiously so that highway projects in the public interest are not unnecessarily delayed.

§ 501. DEFINITIONS

The following words and phrases as used in this chapter shall have the following meanings:

* * *

(4) “Highway” shall include park and rides.

* * *

* * * Distribution of Public Transit Program Funds * * *

Sec. 17. 24 V.S.A. § 5091 is amended to read:

§ 5091. FUNDING

(a) The Secretary of Transportation, within the annual budget setting process, shall meet with the Public Transit Advisory Council and representatives of public transit systems to establish the level of State funds needed by public transit systems in Vermont, and shall consider this level in formulating the Agency of Transportation’s State Budget request proposed Transportation Program.

(b) State funds authorized by the ~~Legislature~~ General Assembly as grant assistance for the operation of public transit services shall be eligible for use as a matching source for federal funds.

(c) The same fiscal accountability requirements and regulatory standards shall apply to all grantees of funds as provided by rule of the Secretary of Transportation.

(d) Rideshare, capital, contracted services, and transportation brokerage services are not to be considered as operating funds under this section.

(e) State funds shall be paid ~~on a semi-annual payment basis to eligible grantees with the first payment paid immediately upon approval of the contract and the second payment to occur at the start of the third quarter of the State fiscal year as follows:~~

(1) the first payment of 50 percent of the estimated annual fiscal year total shall be paid immediately upon execution of the grant;

(2) subsequent payments shall be paid quarterly based on projected need determined by current fiscal year spending and availability of funds;

(3) additional payments, if necessary, shall occur only if actual costs exceed the previous payments and if funds are available.

* * *

* * * Highways; Utility Facilities * * *

Sec. 18. 19 V.S.A. § 1111 is amended to read:

§ 1111. PERMITTED USE OF THE RIGHT-OF-WAY, RELOCATION OR ADJUSTMENT ORDERS

(a) Permits; relocation or adjustment orders.

(1) Permits must be obtained by anyone or any corporation wishing to use as described in this section any part of the highway right-of-way on either the State or town system. Notwithstanding any other statutory requirement, a permit shall be required for any use of any highway right-of-way, consistent with the provisions of this section. In issuing a permit under this section for a use of a State highway right-of-way, the Secretary may require a transportation impact fee in accordance with 10 V.S.A. chapter 151, subchapter 5. Except for this transportation impact fee authority of the Secretary, the authority given to the Board, the Secretary, and the Attorney General under this section shall also apply to the legislative bodies of towns, or their designees.

(2) Except in emergencies, the Agency or the municipality shall seek input and consider input received from affected utilities before issuing a utility relocation or adjustment order. In specifying the times for utility relocation or adjustment work, the Agency or the municipality shall allocate to each a reasonable time for its role in the relocation or adjustment work after taking into account:

(A) the season of the year; and

(B) the respective duties and responsibilities of the pole or conduit owner and the involved utilities, including the need to install, transfer, or retire individual components in a specific sequence.

(3) When the Agency or a municipality issues a utility relocation or adjustment order in accordance with law in connection with highway maintenance or construction activities, and a utility fails to move or adjust its line or other facility within the time specified in the order, that utility shall be liable to the State or to the municipality for damages that the State or the municipality is required to pay a contractor for delay caused by the failure. However, a utility shall not be liable for such damages if its failure to move or adjust the line or facility is for reasons beyond its control, including: emergency restoration activities; inclement weather; timing restrictions imposed by law or permits; terms of collective bargaining agreements; or the failure of another utility to complete its assigned responsibilities for the installation, transfer, or retirement of its facilities. If the Agency or the selectboard cannot agree with a utility as to whether the utility is liable or as to the amount of damages under this subdivision (a)(3), the Agency or selectboard may bring an action in accordance with subsection (h) of this section.

* * *

(h) Restraining prohibited acts; damages. Whenever the Secretary believes that any person is in violation of the provisions of this chapter, he or she may also bring an action in the name of the Agency in a court of competent jurisdiction against the person to collect civil penalties as provided for in subsection (j) of this section and, for damages, and to restrain by temporary or permanent injunction the continuation or repetition of the violation. The selectboard shall have the same authority for town highways. The Court may issue temporary or permanent injunctions without bond, and any other relief as may be necessary and appropriate for abatement of any violation. An action, injunction, or other enforcement proceeding by a municipality relating to the failure to obtain or comply with the terms and conditions of any permit issued by a municipality pursuant to this section shall be instituted within 15 years from the date the alleged violation first occurred and not thereafter. The burden of proving the date on which the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

* * *

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES AND RETROACTIVITY

(a) This section, Sec. 9 (future appropriations; repeal), and Sec. 15 (automated vehicles) shall take effect on passage. Notwithstanding 1 V.S.A. § 214, Sec. 9 shall apply retroactively to July 1, 2016.

(b) All other sections shall take effect on July 1, 2017.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Brennan of Colchester** 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. Brennan of Colchester

Rep. Potter of Clarendon

Rep. Bissonette of Winooski

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

Adjournment

At three o'clock and twenty-three minutes in the afternoon, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.