

Journal of the Senate

WEDNESDAY, MARCH 30, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 42

A message was received from the House of Representatives by Mr. Jeremy Weiss, 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. 206. An act relating to regulating notaries public.

H. 519. An act relating to approval of the adoption and codification of the charter of the Town of Brandon.

H. 859. An act relating to special education.

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

Message from the Governor

A message was received from His Excellency, the Governor, by Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to deliver to the Senate a communication in writing.

Appointment Journalized

The President laid before the Senate the following communication from His Excellency, the Honorable Peter E. Shumlin, Governor of the State of Vermont, relating to the appointment of a new Senator from the District of Chittenden, which was ordered entered in the Journal, and is as follows:

“State of Vermont
Executive Department
Montpelier

March 30, 2016

The Honorable Philip B. Scott
President
Vermont State Senate
State House
Montpelier, VT 05633-5501

Dear Mr. President:

I have the honor to inform you that I have appointed

HELEN S. RIEHLE, of South Burlington

to serve the unexpired term of Diane B. Snelling, Senator from Chittenden District.

Sincerely,

/s/ Peter E. Shumlin

Peter E. Shumlin
Governor”

Oath Administered; New Senator Seated

Thereupon, the Senate-appointee, Helen S. Riehle, was escorted to the bar of the Senate by Senator Baruth of Chittenden District, Senator Benning of Caledonia District, Senator Cumming of Washington District and Senator MacDonald of Orange District, and took and subscribed the oath of office required by the Constitution from Lieutenant Governor Philip B. Scott.

The new Senator then took her seat and assumed her legislative duties.

Rules Suspended; Bill Committed

S. 184.

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and Senate bill entitled:

An act relating to establishing a State Ethics Commission.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Government Operations, Senator White moved that Senate Rule 49 be

suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Government Operations *intact*,

Which was agreed to.

Bills Referred

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

H. 206.

An act relating to regulating notaries public.

To the Committee on Government Operations.

H. 519.

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

To the Committee on Government Operations.

H. 859.

An act relating to special education.

To the Committee on Education.

Bill Passed in Concurrence with Proposal of Amendment

H. 248.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to miscellaneous revisions to the air pollution statutes.

Bill Passed in Concurrence

H. 548.

House bill of the following title was read the third time and passed in concurrence:

An act relating to extraordinary dividends for life insurers.

Proposal of Amendment; Third Reading Ordered

S. 230.

Senator Bray, for the Committee on Natural Resources & Energy, to which was referred Senate bill entitled:

An act relating to improving the siting of energy projects.

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

* * * Designation * * *

Sec. 1. DESIGNATION OF ACT

This act shall be referred to as the Energy Development Improvement Act.

* * * Integration of Energy and Land Use Planning * * *

Sec. 2. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

* * *

(c) In addition, this chapter shall be used to further the following specific goals:

(1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

(A) Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.

(B) Economic growth should be encouraged in locally designated growth areas, employed to revitalize existing village and urban centers, or both, and should be encouraged in growth centers designated under chapter 76A of this title.

(C) Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

(D) Development should be undertaken in accordance with smart growth principles as defined in subdivision 2791(13) of this title.

(2) To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.

* * *

(4) To provide for safe, convenient, economic, and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.

~~(A)~~ Highways, air, rail, and other means of transportation should be mutually supportive, balanced, and integrated.

(5) To identify, protect, and preserve important natural and historic features of the Vermont landscape, including:

(A) significant natural and fragile areas;

(B) outstanding water resources, including lakes, rivers, aquifers, shorelands, and wetlands;

(C) significant scenic roads, waterways, and views;

(D) important historic structures, sites, or districts, archaeological sites, and archaeologically sensitive areas.

(6) To maintain and improve the quality of air, water, wildlife, and land resources.

(A) Vermont's air, water, wildlife, mineral, and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

(7) To encourage the efficient use of energy and the development of renewable energy resources, consistent with the following:

(A) Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont's building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the specific recommendations identified in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b pertaining to the efficient use of energy and the siting and development of renewable energy resources; and

(E) the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005.

* * *

(9) To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and forest lands should be encouraged and should include maintaining low overall density.

(B) The manufacture and marketing of value-added agricultural and forest products should be encouraged.

(C) The use of locally-grown food products should be encouraged.

(D) Sound forest and agricultural management practices should be encouraged.

(E) Public investment should be planned so as to minimize development pressure on agricultural and forest land.

* * *

Sec. 3. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, ~~the conservation of energy and the development of renewable energy resources~~, State capital investment plans, and wetland protection.

* * *

Sec. 4. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(14) Appear before the Public Service Board to aid the Board in making determinations under 30 V.S.A. § 248 and shall have the right to appear and participate in proceedings under that statute.

* * *

(19) Undertake studies and make recommendations on the conservation of energy and the development of renewable energy resources.

Sec. 5. CLARIFICATION OF EXISTING LAW

Sec. 4 of this act, amending 24 V.S.A. § 4345a(14) (participation in Section 248 proceedings), clarifies existing law.

Sec. 6. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

(1) A statement of basic policies of the region to guide the future growth and development of land and of public services and facilities, and to protect the environment.

(2) A land use element, which shall consist of a map and statement of present and prospective land uses:

(A) indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, and areas identified by the State, regional planning commissions or municipalities, which require special consideration for aquifer protection, wetland protection, or for other conservation purposes;

(B) indicating those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title;

(C) indicating locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions;

(D) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services;

(E) indicating those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs.

(3) An energy element, which may include ~~an~~ a comprehensive analysis of energy resources, needs, scarcities, costs, and problems within the region; across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of distributed and utility-scale renewable energy

resources, ~~and~~; a statement of policy on patterns and densities of land use ~~and control devices~~ likely to result in conservation of energy; and a statement of policy on and identification of potential areas for the development and siting of renewable energy resources and areas that are inappropriate for siting those resources or particular categories or sizes of those resources.

(4) A transportation element, which may consist of a statement of present and prospective transportation and circulation facilities, and a map showing existing and proposed highways, including limited access highways, and streets by type and character of improvement, and where pertinent, anticipated points of congestion, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads and port facilities, and other similar facilities or uses, and recommendations to meet future needs for such facilities, with indications of priorities of need, costs, and method of financing.

* * *

Sec. 7. 24 V.S.A. § 4352 is added to read:

§ 4352. CERTIFICATION OF ENERGY COMPLIANCE; REGIONAL AND MUNICIPAL PLANS

(a) Regional plan certification. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a certification of energy compliance. The Commissioner shall issue such a certification on finding that the regional plan is consistent with the statutes, goals, and policies listed in subdivision 4302(c)(7) of this title.

(b) Municipal plan certification. If the Commissioner of Public Service has certified a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for a certification of energy compliance. Such a submission may be made separately from or at the same time as a request for review and approval of the municipal plan under section 4350 of this title. The regional planning commission shall issue such a certification on finding that the regional plan is consistent with the statutes, goals, and policies listed in subdivision 4302(c)(7) of this title and the portions of the regional plan that implement those statutes, goals, and policies.

(c) Standards. In determining whether to issue a certification of energy compliance under this section, the Commissioner or regional planning commission shall employ the standards for issuing such a certification developed pursuant to 30 V.S.A. §§ 202(b)(6) and 202b(a)(3).

(d) Process. Review of whether to issue a certification under this section shall include a public hearing noticed at least 15 days in advance by direct mail to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the certification is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall grant or deny certification within two months of the receipt of a request for certification. If certification is denied, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for certification that follow a denial shall receive a grant or denial of certification within 45 days.

Sec. 8. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality ~~may~~ shall be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

(1) A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services, and facilities, and to protect the environment.

(2) A land use plan:

(A) consisting of a map and statement of present and prospective land uses, indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses and open spaces reserved for flood plain, wetland protection, or other conservation purposes;

(B) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service; and

(C) identifying those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

(3) A transportation plan, consisting of a map and statement of present and prospective transportation and circulation facilities showing existing and

proposed highways and streets by type and character of improvement, and where pertinent, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads, and port facilities, and other similar facilities or uses, with indications of priority of need.

(4) A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational and other public sites, buildings and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs and method of financing.

(5) A statement of policies on the preservation of rare and irreplaceable natural areas; and scenic and historic features and resources.

* * *

(9) An energy plan, including ~~an~~ a comprehensive analysis of energy resources, needs, scarcities, costs, and problems within the municipality; across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy, including programs, such as thermal integrity standards for buildings, to implement that policy; a statement of policy on the development and siting of distributed and utility-scale renewable energy resources; a statement of policy on patterns and densities of land use likely to result in conservation of energy and a statement of policy on and identification of potential areas for the development and siting of renewable energy resources and areas that are inappropriate for siting those resources or particular categories or sizes of those resources.

* * *

Sec. 9. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

(a) The Department of Public Service, through the Director for Regulated Utility Planning, shall constitute the responsible utility planning agency of the State for the purpose of obtaining for all consumers in the State proper utility service at minimum cost under efficient and economical management consistent with other public policy of the State. The Director shall be responsible for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety, and conservation.

(b) The Department, through the Director, shall prepare an electrical energy plan for the State. The Plan shall be for a 20-year period and shall serve as a

basis for State electrical energy policy. The Electric Energy Plan shall be based on the principles of “least cost integrated planning” set out in and developed under section 218c of this title. The Plan shall include at a minimum:

(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types, and design, conservation, and other trends and factors which, as determined by the Director, will significantly affect State electrical energy policy and programs;

(2) an assessment of all energy resources available to the State for electrical generation or to supply electrical power, including, among others, fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and emission improvements, fuel shifting, and other appropriate means;

(3) estimates of the projected level of electrical energy demand;

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; ~~and~~

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate six-year period, for the next succeeding six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont; and

(6) the following for use as guidance to municipal and regional planning commissions in preparing municipal and regional plans under 24 V.S.A. chapter 117 that are consistent with the statutes listed in 24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of energy compliance under that chapter:

(A) specific recommendations on the conservation and efficient use of electric energy and the development and siting of renewable electric generation, developed in accordance with 24 V.S.A. § 4302(c)(7); and

(B) based on 24 V.S.A. § 4302(c)(7) and the recommendations developed under subdivision (A) of this subdivision (6), a list of standards for use in determining whether municipal and regional plans should receive a certificate of energy compliance under 24 V.S.A. § 4352.

(c) In developing the Plan, the Department shall take into account the protection of public health and safety; preservation of environmental quality; the goals of 24 V.S.A. § 4302; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the Director shall:

(1) Consult with:

- (A) the public;
- (B) Vermont municipal utilities and planning commissions;
- (C) Vermont cooperative utilities;
- (D) Vermont investor-owned utilities;
- (E) Vermont electric transmission companies;
- (F) environmental and residential consumer advocacy groups active in electricity issues;
- (G) industrial customer representatives;
- (H) commercial customer representatives;
- (I) the Public Service Board;
- (J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;
- (K) other interested State agencies; ~~and~~
- (L) other energy providers; and
- (M) the regional planning commissions.

* * *

(h) The Plans adopted under this section shall become the electrical energy portion of the State Energy Plan.

* * *

Sec. 10. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive

Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title and shall be consistent with the goals of 24 V.S.A. § 4302. The Plan shall include:

(1) a comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont; ~~and~~

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan; and

(3) the following for use as guidance to municipal and regional planning commissions in preparing municipal and regional plans under 24 V.S.A. chapter 117 that are consistent with the statutes listed in 24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of energy compliance under that chapter:

(A) specific recommendations on the conservation and efficient use of energy and the development and siting of energy facilities, developed in accordance with 24 V.S.A. § 4302(c)(7); and

(B) based on 24 V.S.A. § 4302(c)(7) and the policies developed under subdivision (A) of this subdivision (3), a list of standards for use in determining whether municipal and regional plans should receive a certificate of energy compliance under 24 V.S.A. § 4352.

(b) In developing or updating the Plan's recommendations, the Department of Public Service shall seek public comment by holding public hearings in at least five different geographic regions of the State on at least three different dates, and by providing notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television stations with transmitting facilities within the State, plus Vermont Public Radio and Vermont Educational Television.

(c) The Department shall adopt a State Energy Plan on or before January 1, 2016 and shall readopt the Plan by every sixth January 1 thereafter. On adoption or readoption, the Plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to such submission.

(1) Upon adoption of the Plan, analytical portions of the Plan may be updated and published biennially.

(2) Every fourth year after the adoption or readoption of a Plan under this section, the Department shall publish the manner in which the Department will engage the public in the process of readopting the Plan under this section.

(3) The publication requirements of subdivisions (1) and (2) of this subsection may be met by inclusion of the subject matter in the Department's biennial report.

(4) The Plan's implementation recommendations shall be updated by the Department no less frequently than every six years. These recommendations shall be updated prior to the expiration of six years if the General Assembly passes a joint resolution making a request to that effect. If the Department proposes or the General Assembly requests the revision of implementation recommendations, the Department shall hold public hearings on the proposed revisions.

(d) Distribution of the Plan to members of the General Assembly shall be in accordance with the provisions of 2 V.S.A. § 20(a)-(c).

Sec. 11. INITIAL IMPLEMENTATION; CERTIFICATION STANDARDS

(a) On or before October 1, 2016, the Department of Public Service shall publish specific recommendations and standards in accordance with 30 V.S.A. §§ 202(b)(6) and 202b(a)(3) as enacted by Secs. 8 and 10 of this act. Prior to issuing these recommendations and standards, the Department shall post on its website a draft set of initial recommendations and standards and provide notice and an opportunity to comment and request a public hearing to all persons listed in 30 V.S.A. § 202(d)(1). The Commissioner may elect to hold one or more public hearings on the Commissioner's own initiative.

(b) On publication under subsection (a) of this section, the specific recommendations and standards shall be considered an appendix to the currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this publication, the Department may revise these policies and procedures in accordance with the procedures for adopting and revising plans under those statutes.

Sec. 12. 30 V.S.A. § 248(b) is amended to read:

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land

conservation measures contained in the plan of any affected municipality. However:

(A) ~~with~~ With respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located; ~~and~~.

(B) ~~with~~ With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received a certificate of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy.

* * *

* * * Regulatory and Financial Incentives; Preferred Locations * * *

Sec. 13. 30 V.S.A. § 8002(30) is added to read:

(30) "Preferred location" means a site within the State on which a renewable energy plant will be located that is one of the following:

(A) A new or existing structure, including a commercial or residential building, a parking lot, or parking lot canopy, whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.

(B) A tract previously developed for a use other than siting a plant on which a structure or impervious surface was lawfully in existence and use prior to January 1 of the year in which an application for a certificate of public good

under section 248 of this title for the plant is filed or in which the plant seeks an award of a contract under the standard offer program under section 8005a of this title, whichever is earlier. To qualify under this subdivision (B), the limits of disturbance of a proposed renewable energy plant must include either the existing structure or impervious surface and shall not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forestlands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

(C) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642.

(D) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and is suitable for the development of the plant.

(E) The disturbed portion of a gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that all activities pertaining to site reclamation required by applicable law or permit condition are satisfied prior to the installation of the plant.

(F) A specific location designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant meets any siting criteria recommended in the plan for the location. On or after January 1, 2019, to qualify under this subdivision (F), the plan must be certified under 24 V.S.A. § 4352.

(G) If the plant constitutes a net metering system, then in addition to subdivisions (A) through (F) of this subdivision (30), a site designated by Board rule as a preferred location.

Sec. 14. 30 V.S.A. § 8004(g) is added to read:

(g) Preferred locations. With respect to a renewable energy plant to be located in the State whose energy or environmental attributes may be used to satisfy the requirements of the RES, the Board shall exercise its authority under this section and sections 8005 and 8006 of this title to promote siting such a plant in a preferred location.

Sec. 15. 30 V.S.A. § 8005a is amended to read:

§ 8005a. STANDARD OFFER PROGRAM

(a) Establishment. A standard offer program is established. To achieve the goals of section 8001 of this title, the Board shall issue standard offers for renewable energy plants that meet the eligibility requirements of this section. The Board shall implement these standard offers by rule, order, or contract and

shall appoint a Standard Offer Facilitator to assist in this implementation. For the purpose of this section, the Board and the Standard Offer Facilitator constitute instrumentalities of the State.

(b) Eligibility. To be eligible for a standard offer under this section, a plant must constitute a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, must not be a net metering system under section 219a of this title, and must be a new standard offer plant. In this section, “new standard offer plant” means a renewable energy plant that is located in Vermont, that has a plant capacity of 2.2 MW or less, and that is commissioned on or after September 30, 2009.

(c) Cumulative capacity. In accordance with this subsection, the Board shall issue standard offers to new standard offer plants until a cumulative plant capacity amount of 127.5 MW is reached.

(1) Pace. Annually commencing April 1, 2013, the Board shall increase the cumulative plant capacity of the standard offer program (the annual increase) until the 127.5-MW cumulative plant capacity of this subsection is reached.

(A) Annual amounts. The amount of the annual increase shall be five MW for the three years commencing April 1, 2013, 7.5 MW for the three years commencing April 1, 2016, and 10 MW commencing April 1, 2019.

(B) Blocks. Each year, a portion of the annual increase shall be reserved for new standard offer plants proposed by Vermont retail electricity providers (the provider block), and the remainder shall be reserved for new standard offer plants proposed by persons who are not providers (the independent developer block).

(i) The portion of the annual increase reserved for the provider block shall be 10 percent for the three years commencing April 1, 2013, 15 percent for the three years commencing April 1, 2016, and 20 percent commencing April 1, 2019.

(ii) If the provider block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and shall be made available to new standard offer plants proposed by persons who are not providers.

(iii) If the independent developer block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and:

(I) shall be made available to new standard offer plants proposed by persons who are not providers; and

(II) may be made available to a provider following a written request and specific proposal submitted to and approved by the Board.

(C) Adjustment; greenhouse gas reduction credits. The Board shall adjust the annual increase to account for greenhouse gas reduction credits by multiplying the annual increase by one minus the ratio of the prior year's greenhouse gas reduction credits to that year's statewide retail electric sales.

(i) The amount of the prior year's greenhouse gas reduction credits shall be determined in accordance with subdivision 8006a(a) of this title.

(ii) The adjustment in the annual increase shall be applied proportionally to the independent developer block and the provider block.

(iii) Greenhouse gas reduction credits used to diminish a provider's obligation under section 8004 of this title may be used to adjust the annual increase under this subsection (c).

(D) Pilot project; preferred locations. For a period of three years commencing on January 1, 2017:

(i) The Board shall allocate the following portions of the annual increase to new standard offer plants that will be wholly located in one or more preferred locations other than parking lots or parking lot canopies:

(I) one-sixth of the annual increase, during the first year;

(II) one-quarter of the annual increase, during the second year; and

(III) one-third of the annual increase, during the third year.

(ii) The Board separately shall allocate the following portions of the annual increase to new standard offer plants that will be wholly located on parking lots or parking lot canopies:

(I) one-sixth of the annual increase, during the first year;

(II) one-quarter of the annual increase, during the second year; and

(III) one-third of the annual increase, during the third year.

(iii) To qualify for these allocations, the plant shall not require the construction of a new substation by the interconnecting retail electricity provider or by increasing the capacity of one or more of the provider's existing facilities.

(iv) These allocations shall apply proportionally to the independent developer block and provider block.

(v) If in a given year an allocation under this pilot project is not fully subscribed, the Board in the same year shall allocate the unsubscribed capacity to new standard offer plants outside the pilot project.

(2) Technology allocations. The Board shall allocate the 127.5-MW cumulative plant capacity of this subsection among different categories of renewable energy technologies. These categories shall include at least each of the following: methane derived from a landfill; solar power; wind power with a plant capacity of 100 kW or less; wind power with a plant capacity greater than 100 kW; hydroelectric power; and biomass power using a fuel other than methane derived from an agricultural operation or landfill.

* * *

(f) Price. The categories of renewable energy for which the Board shall set standard offer prices shall include at least each of the categories established pursuant to subdivision (c)(2) of this section. The Board by order shall determine and set the price paid to a plant owner for each kWh generated under a standard offer required by this section, with a goal of ensuring timely development at the lowest feasible cost. The Board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25.

(1) Market-based mechanisms. For new standard offer projects, the Board shall use a market-based mechanism, such as a reverse auction or other procurement tool, to obtain up to the authorized amount of a category of renewable energy, if it first finds that use of the mechanism is consistent with:

- (A) applicable federal law; and
- (B) the goal of timely development at the lowest feasible cost.

(2) Avoided cost.

(A) The price paid for each category of renewable energy shall be the avoided cost of the Vermont composite electric utility system if the Board finds either of the following:

(i) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is inconsistent with applicable federal law.

(ii) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is reasonably likely to result in prices higher than the prices that would apply under this subdivision (2).

(B) ~~For the purpose of~~ As used in this subsection (f), the term “avoided cost” means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase through the standard offer, such providers would obtain from distributed renewable generation that uses the same generation technology as the category of renewable energy for which the Board is setting the price. ~~For the purpose of~~ As used in this subsection (f), the term “avoided cost” also includes the Board’s consideration of each of the following:

(i) The relevant cost data of the Vermont composite electric utility system.

(ii) The terms of the contract, including the duration of the obligation.

(iii) The availability, during the system’s daily and seasonal peak periods, of capacity or energy purchased through the standard offer, and the estimated savings from mitigating peak load.

(iv) The relationship of the availability of energy or capacity purchased through the standard offer to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(v) The costs or savings resulting from variations in line losses and other impacts to the transmission or distribution system from those that would have existed in the absence of purchases through the standard offer.

(vi) The supply and cost characteristics of plants eligible to receive the standard offer.

* * *

(5) Price; preferred location pilots. For the period during which the Board allocates capacity to new standard offer plants that will be wholly located in one or more preferred locations as set forth in subdivision (c)(1)(D) of this section, the following shall apply to the price paid to such a plant:

(A) In using a market-based mechanism such as a reverse auction to determine this price for each of the two allocations of capacity, the Board shall compare only the proposals of plants that qualify for the allocation.

(B) In using avoided costs to determine this price for each of the two allocations of capacity, the Board shall derive the incremental cost from distributed renewable generation that is sited on a location that qualifies for the allocation and uses the same generation technology as the category of renewable energy for which the Board is setting the price.

Sec. 16. STANDARD OFFER PILOT; REPORT

On or before January 15, 2018, the Public Service Board shall file a report with the House Committee on Commerce and Economic Development, the Senate Committee on Finance, and the House and Senate Committees on Natural Resources and Energy on the progress of the standard offer pilot project on preferred locations authorized in Sec. 15 of this act. This report shall itemize the size, type of preferred location, generation technology, and cost per kilowatt hour of each application received under the pilot project and shall identify each generation facility approved under the pilot and the bill credit per kilowatt hour awarded to each such facility.

Sec. 17. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(c) In accordance with this section, the Board shall adopt and implement rules that govern the installation and operation of net metering systems.

(1) The rules shall establish and maintain a net metering program that:

* * *

(G) accounts for changes over time in the cost of technology; ~~and~~

(H) allows a customer to retain ownership of the environmental attributes of energy generated by the customer's net metering system and of any associated tradeable renewable energy credits or to transfer those attributes and credits to the interconnecting retail provider, and:

(i) if the customer retains the attributes, reduces the value of the credit provided under this section for electricity generated by the customer's net metering system by an appropriate amount; and

(ii) if the customer transfers the attributes to the interconnecting provider, requires the provider to retain them for application toward compliance with sections 8004 and 8005 of this title; and

(I) promotes the siting of net metering systems in preferred locations.

* * *

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures, ~~the rules:~~

(A) The rules may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title;

(B) The rules may modify notice and hearing requirements of this title as the Board considers appropriate;

(C) The rules shall seek to simplify the application and review process as appropriate; ~~and~~.

(D) ~~with~~ With respect to net metering systems that exceed 150 kW in plant capacity, shall apply the so-called "Quechee" test for aesthetic impact as described by the Vermont Supreme Court in the case of *In re Halnon*, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

(E) With respect to a net metering system exceeding 15 kW in plant capacity, the rules shall not waive or include provisions that are less stringent than the following, notwithstanding any contrary provision of law:

(i) the requirement of subdivision 248(a)(4)(C) of this title to provide a copy of the application to the Agencies of Agriculture, Food and Markets and of Natural Resources; the Department of Public Service; the Division for Historic Preservation; the municipal legislative body; and the municipality and regional planning commissions; and

(ii) the requirements of subdivision 248(a)(4)(J) (required information) and subsections 248(f) (preapplication submittal) and (t) (aesthetic mitigation) and, with respect to a net metering system exceeding 150 kW in plant capacity, of subsection (u) (decommissioning) of this title.

* * *

* * * Regulatory Process; Public Assistance Officer * * *

Sec. 18. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC SERVICE BOARD

(a) ~~The public service board~~ Public Service Board shall consist of a ~~chairperson~~ chair and two members. The ~~chairperson~~ Chair and each member shall not be required to be admitted to the practice of law in this ~~state~~ State.

* * *

(g) The ~~chairperson~~ Chair shall have general charge of the offices and employees of the ~~board~~ Board.

(h) The Board shall employ a Public Assistance Officer (PAO) in accordance with this subsection.

(1) The PAO shall provide guidance to and answer questions from parties and members of the public on all matters under this title concerning the siting and construction of facilities in the State that generate or transmit electricity, constitute a meteorological station as defined in section 246 of this title, or constitute a natural gas facility as defined in subdivision 248(a)(3) of this title. As used in this section:

(A) “Contested case” has the same meaning as in 3 V.S.A. § 801.

(B) “Matter” means any proceeding before or by the Board, including an application for a certificate of public good, a petition for condemnation, rulemaking, and the issuance of guidance or procedures.

(2) Guidance and information to be provided by the PAO shall include the following:

(A) An explanation of the proceeding, including its purpose; its type, such as rulemaking or contested case; and the restrictions or lack of restrictions applicable to the type of proceeding, such as whether ex parte communications are prohibited.

(B) Answers to procedural questions and direction to the statutes and rules applicable to the proceeding.

(C) How to participate in the proceeding including, if necessary for participation, how to file to a motion to intervene and how to submit prefiled testimony. The Board shall create forms and templates for motions to intervene, prefiled testimony, and other types of documents commonly filed with the Board, which the PAO shall provide to a person on request. The Board shall post these forms and templates on the Board’s website.

(D) The responsibilities of intervenors and other parties.

(E) The status of the proceeding. Examples of a proceeding’s status include: a petition has been filed; the proceeding awaits scheduling a prehearing conference or hearing; parties are conducting discovery or submitting prefiled testimony; hearings are concluded and parties are preparing briefs; and the proceeding is under submission to the Board and awaits a decision. For each proceeding in which the next action constitutes the issuance of an order, decision, or proposal for decision by the Board or a hearing officer, the Chair or assigned hearing officer shall provide the PAO with an expected date of issuance and the PAO shall provide this expected date to requesting parties or members of the public.

(3) For each proceeding within the scope of subdivision (1) of this subsection, the Board shall post, on its website, electronic copies of all filings and submissions to the Board and all orders of the Board.

(4) The Board shall adopt rules or procedures to ensure that the communications of the PAO with the Board's members and other employees concerning contested cases do not contravene the requirements of the Administrative Procedure Act applicable to such cases.

(5) The PAO shall have a duty to provide requesting parties and members of the public with information that is accurate to the best of the PAO's ability. The Board and its other employees shall have a duty to transmit accurate information to the PAO. However, the Board and any assigned hearing officer shall not be bound by statements of the PAO.

(6) The PAO shall not be an advocate for any person and shall not have a duty to assist a person in the actual formation of the person's position or arguments before the Board or the actions necessary to advance the person's position or arguments such as the actual preparation of motions, memoranda, or prefiled testimony.

(7) The Board may assign secondary duties to the PAO that do not conflict with the PAO's execution of his or her duties under this subsection.

Sec. 19. POSITION; APPROPRIATION

The following classified position is created in the Public Service Board—~~one permanent, full-time Public Assistance Officer~~—for the purpose of Sec. 2 of this act. There is appropriated to the Public Service Board for fiscal year 2017 from the special fund described in 30 V.S.A. § 22 the amount of \$100,000.00 for the purpose of this position.

Sec. 20. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(F) The Agency of Agriculture, Food and Markets shall have the right to appear as a party in any proceedings held under this subsection.

(G) The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection. The regional planning commission of an adjacent region shall have the same right if the facility is located within 500 feet of the boundary of that planning commission.

(H) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection. The legislative body and planning commission of an adjacent municipality shall have the same right if the facility is located within 500 feet of the boundary of that adjacent municipality.

(I) When a person has the right to appear and participate in a proceeding before the Board under this chapter, the person may activate this right by filing a letter with the Board stating that the person appears through the person's duly authorized representative, signed by that representative.

(J) With respect to an application for an electric generation facility with a capacity that is greater than 15 kilowatts, and in addition to any other information required by the Board, the application shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility and the amount of those soils to be disturbed;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

Sec. 21. 30 V.S.A. § 248(f) is amended to read:

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions shall make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * * CPG Conditions: Aesthetics Mitigation and Decommissioning * * *

Sec. 22. 30 V.S.A. § 248(t) and (u) are added to read:

(t) A certificate under this section for an in-state facility shall require the following with respect to all measures to be undertaken to mitigate the impacts of the facility on aesthetics and scenic beauty:

(1) The certificate holder shall obtain a certification from a qualified expert that all required mitigation measures have been undertaken and all required plantings have been installed.

(2) The certificate holder shall have control over all vegetation used to demonstrate that the facility will not have an undue adverse effect on aesthetics and all locations on which mitigation plantings are required to be installed. As used in this subdivision, "control" means that the certificate holder has an enforceable right to install and maintain plantings and to manage vegetation.

(3) For three years after installation of all required plantings, the certificate holder annually shall submit documentation by a qualified expert that the plantings have been maintained in accordance with the approved plans.

(4) The certificate holder shall have an ongoing duty to maintain the plantings in accordance with the approved plans and replace dead or diseased plantings as soon as seasonably possible.

(5) The Board shall approve each qualified expert employed to issue a certification under this subsection. However, a qualified expert retained by the Department of Public Service shall be the one to make the certification if the Department has retained such an expert during the course of the proceeding leading to issuance of the certificate.

(u) A certificate under this section for an in-state electric generation facility with a capacity that is greater than 150 kilowatts shall require the decommissioning or dismantling of the facility and ancillary improvements at the end of the facility's useful life and the posting of a bond or other security acceptable to the Board that is sufficient to finance the decommissioning or dismantling activities in full.

* * * Greenhouse Gases; Life Cycle Analysis * * *

Sec. 23. 30 V.S.A. § 248(v) is added to read:

(v) A petition under this section for an in-state facility that is not a net metering system as defined in this title shall include a life cycle analysis of the greenhouse gas impacts of the facility that the Board shall consider in issuing findings under subdivisions (b)(2) and (5) of this section. In this subsection, "facility" includes all generating equipment, poles, wires, substations, structures, roads, and infrastructure, and all other associated land development. This analysis shall include:

(1) emissions embodied in all facility components;

(2) emissions associated with the transportation of all such components to the site or sites at which they will be installed;

(3) emissions associated with site preparation, including the clearing of forested areas and reductions in future carbon sequestration potential from the facility site or sites;

(4) emissions associated with the construction of all facility components;

(5) emissions associated with the operation of the facility;

(6) emissions associated with the decommissioning of the facility; and

(7) for facilities that employ renewable energy as defined under section 8002 of this title, the reduction in greenhouse gas emissions achieved by the facility as compared to alternative generation facilities that do not employ renewable energy.

* * * Sound Standards Docket; Energy Facilities * * *

Sec. 24. SOUND STANDARDS DOCKET; COMPLETION DATE

On or before September 1, 2016, the Public Service Board shall issue a final order in its pending Docket 8167, Investigation into the potential establishment of standards related to sound levels from the operation of generation, transmission, and distribution equipment by entities subject to Public Service Board jurisdiction.

* * * Agency of Agriculture, Food and Markets; Fees; Billback * * *

Sec. 25. 30 V.S.A. § 248c is added to read:

§ 248c. FEES; AGENCY OF AGRICULTURE, FOOD AND MARKETS; PARTICIPATION IN ENERGY SITING PROCEEDINGS

(a) Establishment. This section establishes fees for the purpose of supporting the role of the Agency of Agriculture, Food and Markets (the Agency) in reviewing applications for in-state facilities under section 248 of this title. These fees are in addition to the fees under section 248b of this title.

(b) Payment. The applicant shall pay the fee into the State Treasury at the time the application for a certificate of public good under section 248 of this title is filed with the Public Service Board in an amount determined in accordance with this section. The fee shall be credited to a special fund that shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and which shall be available to the Agency to offset the cost of participation in proceedings under section 248 of this title.

(c) Application. The fee established under this section shall apply only if any generation equipment, utility lines, roads, or other improvements associated with an in-state facility seeking a certificate of public good under section 248 of this title will be located on a tract of land that contains primary agricultural soils as defined in 10 V.S.A. § 6001.

(c) Amount. The fee shall be 10 percent of the amount calculated in accordance with subsection 248b(d) of this title.

* * * Allocation of AAFM Costs * * *

Sec. 26. 30 V.S.A. §§ 20 and 21 are amended to read:

§ 20. PARTICULAR PROCEEDINGS; PERSONNEL

(a)(1) The Board or Department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

* * *

(2) The Agency of Natural Resources may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific, or engineering services to:

(A) Assist the Agency of Natural Resources in any proceeding under section 248 of this title.

(B) Monitor compliance with an order issued under section 248 of this title.

(C) Assist the Board or Department in any proceedings described in subdivisions (b)(9) (Federal Energy Regulatory Commission) and (11) (Nuclear Regulatory Commission) of this section. Allocation of Agency of Natural Resources costs under this subdivision (C) shall be in the same manner as provided under subdivisions (b)(9) and (11) of this section. The Agency of Natural Resources shall report annually to the Joint Fiscal Committee all costs incurred and expenditures charged under the authority of this subsection with respect to proceedings under subdivision (b)(9) of this section and the purpose for which such costs were incurred and expenditures made.

(3) The Agency of Agriculture, Food and Markets may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific, or engineering services to:

(A) assist the Agency of Agriculture, Food and Markets in any proceeding under section 248 of this title; or

(B) monitor compliance with an order issued under section 248 of this title.

(4) The personnel authorized by this section shall be in addition to the regular personnel of the Board or Department or other State agencies; and in the case of the Department or other State agencies may be retained only with the approval of the Governor and after notice to the applicant or the public service company or companies. The Board or Department shall fix the amount of compensation and expenses to be paid such additional personnel, except that the Agency of Natural Resources or of Agriculture, Food and Markets,

respectively, shall fix the amount of compensation and expenses to be paid to additional personnel that it retains under subdivision (2) of this subsection.

* * *

§ 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

(a) ~~The Board, the Department, or the Agency of Natural Resources~~ An agency may allocate the portion of the expense incurred or authorized by it in retaining additional personnel ~~for the particular proceedings authorized in pursuant to section 20 of this title to the applicant or the public service company or companies involved in those proceedings.~~ As used in this section, "agency" means an agency, board, or department of the State enabled to authorize or retain personnel under section 20 of this title.

(1) The Board shall upon petition of an applicant or public service company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and complexity of the project, the necessity and reasonableness of such costs, and may amend or revise such allocations. Nothing in this section shall confer authority on the Board to select or decide the personnel, the expenses of whom are being allocated, unless such personnel are retained by the Board. Prior to allocating costs, the Board shall make a determination of the purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of the proceedings, and estimate the total costs to be imposed. With the approval of the Board, such estimates may be revised as necessary. From time to time during the progress of the work of such additional personnel, ~~the Board, the Department, or the Agency of Natural Resources~~ agency retaining the personnel shall render to the company detailed statements showing the amount of money expended or contracted for in the work of such personnel, which statements shall be paid by the applicant or the public service company into the State Treasury at such time and in such manner as the ~~Board, the Department, or the Agency of Natural Resources~~ agency may reasonably direct.

(2) In any proceeding under section 248 of this title, the Agency of Natural Resources may allocate the portion of the expense incurred in retaining additional staff authorized in subsection 21(a) of this title only if the following apply:

(A) the Agency does not have the expertise and the retention of such expertise is required to fulfill the Agency's statutory obligations in the proceeding; and

(B) the Agency allocates only that portion of the cost for such expertise that exceeds the fee paid by the applicant under section 248b of this title.

(b) When regular employees of ~~the Board, the Department, or the Agency of Natural Resources~~ an agency are employed in the particular proceedings described in section 20 of this title, the ~~Board, the Department, or the Agency of Natural Resources~~ agency may also allocate the portion of their costs and expenses to the applicant or the public service company or companies involved in the proceedings. The costs of regular employees shall be computed on the basis of working days within the salary period. The manner of assessment and of making payments shall otherwise be as provided for additional personnel in subsection (a) of this section. However, with respect to proceedings under section 248 of this title, the Agency of Natural Resources shall not allocate the costs of regular employees.

* * *

(d) The Agency of Natural Resources may allocate expenses under this section only for costs in excess of the amount specified in 3 V.S.A. § 2809(d)(1)(A).

(e) ~~On Annually on~~ or before January 15, ~~2011, and annually thereafter,~~ the Agency of Natural Resources and of Agriculture, Food and Markets ~~each~~ shall report to the Senate and House Committees on Natural Resources and Energy, the Senate Committee on Agriculture, and the House Committee on Agriculture and Forests Products the total amount of expenses allocated under this section during the previous fiscal year. The report shall include the name of each applicant or public service company to whom expenses were allocated and the amount allocated to each applicant or company.

* * *

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that:

(1) This section and Sec. 11 (initial implementation; certification standards) shall take effect on passage. The following in Secs. 2, 9, and 10 shall apply on passage to the activities of the Department of Public Service under Sec. 11: 24 V.S.A. § 4302(c) and 30 V.S.A. §§ 202(b)(6) and 202b(a)(3).

(2) Sec. 17 (net metering systems) shall take effect on January 2, 2017, and shall amend 30 V.S.A. § 8010 as amended by 2015 Acts and Resolves No. 56, Sec. 12.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Natural Resources & Energy with the following amendments thereto:

First: In Sec. 4, 24 V.S.A. § 4345a, by striking out subdivision (14) in its entirety and inserting in lieu thereof a new subdivision (14) to read as follows:

(14) With respect to proceedings under 30 V.S.A. § 248:

(A) have the right to appear and participate; and

(B) Appear appear before the Public Service Board to aid ~~the Board~~ in making determinations under ~~30 V.S.A. § 248~~ that statute when requested by the Board.

Second: By striking out Sec. 5 (clarification of existing law) in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. [Deleted.]

Third: In Sec. 7, 24 V.S.A. § 4352, in subsection (b) (municipal plan certification), in the third sentence, by striking out the second occurrence of “regional” and inserting in lieu thereof the word municipal

Fourth: In Sec. 9, 30 V.S.A. § 202, after the last ellipsis, by inserting a subsection (j) to read as follows:

(j) For the purpose of assisting in the development of land use plans under 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and regional planning commissions with publically available information detailing the location of electric transmission and distribution infrastructure in the relevant municipality or region and the capacity of that infrastructure to accept additional electric generation facilities without modification. In providing this information, the Director shall be entitled to the assistance of the electric utilities that own electric transmission or distribution systems, or both, located in Vermont, including the ability to obtain from those utilities such data as the Director considers necessary to discharge his or her duties under this subsection.

Fifth: In Sec. 11, initial implementation; certification standards, in subsection (b), in the second sentence, after the word “these” by striking out the words “policies and procedures” and inserting in lieu thereof the words recommendations and standards

Sixth: After Sec. 11, by inserting a section to be numbered Sec. 11a to read as follows:

Sec. 11a. TRAINING

Following publication of the recommendations and standards under Sec. 11(a) of this act, the Department of Public Service shall conduct a series of training sessions in locations across the State for municipal and regional planning commissions to assist them in the development of land use plans that are eligible for certification under Sec. 7 of this act, 24 V.S.A. § 4352. The Department shall develop and present these workshops in collaboration with the Vermont League of Cities and Towns and the Vermont Association of Planning and Development Agencies. The Department shall ensure that all municipal and regional planning commissions receive prior notice of the workshops.

Seventh: After Sec. 11a, by inserting a new section to be numbered Sec. 11b to read as follows:

Sec. 11b. PLANNING SUPPORT; ALLOCATION OF COSTS

(a) For three fiscal years commencing on July 1, 2016, the Commissioner of Public Service, in consultation with the Commissioner of Housing and Community Development, annually shall disburse an amount not to exceed \$300,000.00 to regional planning commissions established under 24 V.S.A. chapter 117 and to municipalities for one or more of the following purposes:

(1) implementation of Secs. 2 (purpose; goals); 6 (elements of a regional plan), 7 (certification of energy compliance), and 8 (the plan for a municipality) of this act;

(2) the implementation by a regional planning commission of 24 V.S.A. § 4345a (studies and recommendations on energy);

(3) participation in the development of recommendations and standards pursuant to Secs. 9 (electrical energy plan), 10 (comprehensive energy plan), and 11 (initial implementation; certification standards) of this act; and

(4) assistance by a regional planning commission to the Department of Public Service (the Department) in providing training under Sec. 11a (training) of this act or to municipalities in the implementation of this act.

(b) In disbursing funds under this section, the Commissioners shall consider the need and size of a municipality or region and the availability, if any, of other assistance, expertise, or funds to a municipality or region to implement this act.

(c) The Commissioner of Public Service shall allocate costs under subsection (a) of this section to the electric distribution utilities subject to its supervision under Title 30 of the Vermont Statutes Annotated based on their pro rata share of total Vermont retail kilowatt-hour sales for the previous fiscal

year. Each of these utilities shall pay its allocation into the State Treasury at such time and in such manner as the Commissioner may direct.

Eighth: In Sec. 12, 30 V.S.A. § 248(b), after the ellipsis, by inserting subdivision (5) to read as follows:

(5) With respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(B), (9)(C), and (9)(K), impacts to forest health and integrity, and greenhouse gas impacts.

* * *

Ninth: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. [Deleted.]

Tenth: In Sec. 15, 30 V.S.A. § 8005a, in subsection (c) (cumulative capacity), in subdivision (1) (pace), in subparagraph (D) (pilot project; preferred locations), by striking out subdivision (iii) and inserting in lieu thereof a new subdivision (iii) to read as follows:

(iii) To qualify for these allocations, the plant shall not require the construction of a new substation by the interconnecting retail electricity provider or by increasing the capacity of one or more of the provider's existing facilities. To qualify for the allocation to plants wholly located on parking lots or parking lot canopies, the location shall remain in use as a parking lot.

Eleventh: In Sec. 15, 30 V.S.A. § 8005a, in subsection (f) (price), in subdivision (5) (price; preferred location pilots), after subparagraph (B), by inserting a new subparagraph (C) to read as follows:

(C) With respect to the allocation to the new standard offer plants that will be wholly located on parking lots or parking lot canopies, if in a given year the Board receives only one application or multiple applications for plants owned or controlled by the same person as defined in 10 V.S.A. § 6001, the Board shall investigate each application and shall have discretion to reduce the price to be consistent with the standard offer price for plants outside the pilot project using the same generation technology.

Twelfth: In Sec. 20, 30 V.S.A. § 248(a)(4), by striking out subparagraph (F) in its entirety and inserting in lieu thereof a new subparagraph (F) to read:

(F) The following shall apply to the participation of the Agency of Agriculture, Food and Markets in proceedings held under this subsection:

(i) In any proceeding regarding an electric generation facility that will have a capacity greater than 150 kilowatts and will be sited on a tract containing primary agricultural soils as defined in 10 V.S.A. § 6001, the Agency shall appear as a party and provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section on those soils, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(ii) In a proceeding other than one described in subdivision (i) of this subsection (4)(F), the Agency shall have the right to appear and participate.

Thirteenth: By striking out Sec. 22 in its entirety and inserting in lieu thereof two new Secs. to be Secs. 22 and 22a to read as follows:

Sec. 22. 30 V.S.A. § 248(t) is added to read:

(t) The Board shall adopt rules applicable to in-state facilities approved under this section.

(1) With respect to all measures required to be undertaken to mitigate the impacts of such a facility on aesthetics and scenic beauty, the rules shall:

(A) ensure that there is postconstruction inspection to determine whether all required mitigation measures have been undertaken and required plantings have been installed, including such inspection of facilities approved prior to the effective date of this subsection;

(B) ensure that the holder of a certificate for such a facility has an enforceable right to install and maintain all required plantings and manage all vegetation used to demonstrate the facility will not have an undue adverse effect on aesthetics;

(C) after installation of all required plantings, require annual submission for a period to be determined by the Board of documentation that the plantings have been maintained in accordance with the approved plans; and

(D) ensure that the holder of a certificate for such a facility has an ongoing duty to maintain the plantings in accordance with the approved plans and replace dead or diseased plantings as soon as seasonably possible.

(2) With respect to decommissioning of electric generation facilities, the rules:

(A) shall ensure that all such facilities with a plant capacity as defined in section 8002 of this title greater than 150 kilowatts are subject to a decommissioning plan approved by the Board;

(B) shall ensure that all such facilities above a plant capacity to be determined by the Board post a bond or offer other security or financial assurance acceptable to the Board that is sufficient to finance the decommissioning activities in full; and

(C) may allow net metering systems as defined in this title to pool or otherwise aggregate the provision of security or other financial assurance to finance those decommissioning activities.

Sec. 22a. RULES; PETITION

(a) On or before August 1, 2016, the Department of Public Service shall file a petition for rulemaking with the Public Service Board containing proposed rules to implement Sec. 22 of this act, 30 V.S.A. § 248(t).

(b) On or before October 15, 2016, the Public Service Board shall file proposed rules to implement Sec. 22 of this act with the Secretary of State under 3 V.S.A. § 838. The Board shall finally adopt such rules on or before June 15, 2017, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Fourteenth: In Sec. 23, in the catchline, by striking out the following: “248(v)” and inserting in lieu thereof the following: 248(u), and in subsection (v), by redesignating the subsection to be subsection (u).

Fifteenth: After Sec. 23, by inserting a new section to be Sec. 23a to read as follows:

Sec. 23a. 30 V.S.A. § 248(v) is added to read:

(v) Notwithstanding any contrary provision of the law, primary agricultural soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric generation facility approved under this section shall remain classified as such soils, and the review of any change in use of the site subsequent to the construction of the facility shall treat the soils as if the facility had never been constructed. Each certificate of public good issued by the Board for a ground-mounted solar generation facility shall state the contents of this subsection.

Sixteenth: After Sec. 23a, by inserting two new sections to be numbered Secs. 23b and 23c to read as follows:

Sec. 23b. 30 V.S.A. § 248(w) is added to read:

(w)(1) The Board shall require any in-state wind electric generation facility receiving a certificate of public good to install radar-controlled obstruction lights on all wind turbines for which the Federal Aviation Administration (FAA) requires obstruction lights, provided the FAA allows the use of

radar-controlled lighting technology. Nothing in this subdivision shall allow the Board to approve obstruction lights that do not meet FAA standards.

(2) The purpose of this subsection is to reduce the visual impact of wind turbine obstruction lights on the environment and nearby properties. The General Assembly finds that wind turbine obstruction lights that remain illuminated through the night create light pollution, and may attract birds and bats. Radar-controlled obstruction lights are only illuminated when aircraft are detected in the area, and therefore the use of these lights will reduce the negative environmental impacts of obstruction lights.

Sec. 23c. EXISTING WIND FACILITIES; RADAR-CONTROLLED LIGHTING

The Department of Public Service shall actively encourage the installation of radar-controlled obstruction lights that meet the standards of the Federal Aviation Administration (FAA) at each wind generation facility in existence as of the effective date of this section for which the FAA requires obstruction lighting. The Department shall work directly with the owner and operator of each such facility to encourage this installation.

Seventeenth: After Sec. 23c, by inserting a new section Sec. 23d to read as follows:

Sec. 23d. 30 V.S.A. § 248(x) is added to read:

(x) When a certificate of public good under this section or amendment to such a certificate is issued for an in-state electric generation facility, the certificate holder within 45 days shall record a notice of the certificate or amended certificate, on a form prescribed by the Board, in the land records of each municipality in which a facility subject to the certificate is located and shall submit proof of this recording to the Board. The recording under this subsection shall be indexed as though the certificate holder were the grantor of a deed. The prescribed form shall not exceed one page and shall require identification of the land on which the facility is to be located by reference to the conveyance to the current landowner, the number of the certificate, and the name of each person to which the certificate was issued, and shall include information on how to contact the Board to view the certificate and supporting documents.

Eighteenth: After Sec. 24, by striking out the reader guide preceding Sec. 25 (fees) and by striking out Sec. 25 (fees) in its entirety and by renumbering Sec. 26 to be Sec. 25

Nineteenth: After Sec. 25, by inserting a reader guide and a new section to be numbered Sec. 26 to read:

* * * Regulated Energy Utility Expansion Funds * * *

Sec. 26. 30 V.S.A. § 218d(d) is amended to read:

(d) Alternative regulation may include such changes or additions to, waivers of, or alternatives to, traditional rate-making procedures, standards, and mechanisms, including substantive changes to rate base-rate of return rate setting, as the ~~board~~ Board finds will promote the public good and will support the required findings in subsection (a) of this section. In addition, the Board shall not allow a company to set aside funds collected from ratepayers for the purpose of supporting a future expansion or upgrade of its transmission or distribution network except after notice and opportunity for hearing and only if all of the following apply:

(1) There is a cost estimate for the expansion or upgrade that the company demonstrates is consistent with the principles of least cost integrated planning as defined in section 218c of this title.

(2) The amount of such funds does not exceed 10 percent of the estimated cost of the expansion or upgrade.

(3) Interest earned on the funds is credited to the ratepayers.

(4) The funds are not disbursed to the company until after expansion or upgrade is in service.

(5) The funds are not used to defray any portion of the costs of expansion or upgrade in excess of the cost estimate described in subdivision (1) of this subsection.

Twentieth: After Sec. 26, by inserting a reader guide and a new section to be numbered Sec. 26a to read as follows:

* * * Municipal Electric Utilities; Hydro Facilities;
Renewable Energy Standard * * *

Sec. 26a. 30 V.S.A. § 8005(a)(1) is amended to read:

(1) Total renewable energy.

(A) Purpose; establishment. To encourage the economic and environmental benefits of renewable energy, this subdivision establishes, for the RES, minimum total amounts of renewable energy within the supply portfolio of each retail electricity provider. To satisfy this requirement, a provider may use renewable energy with environmental attributes attached or any class of tradeable renewable energy credits generated by any renewable energy plant whose energy is capable of delivery in New England.

(B) Required amounts. The amounts of total renewable energy required by this subsection shall be 55 percent of each retail electricity

provider's annual retail electric sales during the year beginning on January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

* * *

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than 6,000 customers, the Board may reduce the provider's required amount under this subdivision (1) for a period of up to three years. The Board may approve one such period only for a municipal provider. The Board may reduce this required amount if it finds that:

(i) the terms or conditions of an environmental permit or certification necessitate a reduction in the electrical energy generated by an in-state hydroelectric facility that the provider owns and that this reduction will require the provider to purchase other renewable energy with environmental attributes attached or tradeable renewable energy credits in order to meet this required amount; and

(ii) this purchase will:

(I) cause the provider to increase significantly its retail rates; or

(II) materially impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, in the manner set forth in subdivision 218c(a)(1)(least-cost integrated planning) of this title;

Twenty-first: After Sec. 26a, by inserting a reader guide and a new section to be numbered Sec. 26b to read as follows:

* * * Access to Public Service Board Process * * *

Sec. 26b. ACCESS TO PUBLIC SERVICE BOARD WORKING GROUP:
REPORT

(a) Creation. There is created an Access to Public Service Board Working Group (the Working Group) to be composed of the following five members:

(1) One member of the Public Service Board (PSB), appointed by the Chair of the PSB.

(2) The Commissioner of Public Service or designee.

(3) A judicial officer of the State, appointed by the Chief Justice of the Supreme Court.

(4) A House member of the Joint Energy Committee established under 2 V.S.A. 17, appointed by the Speaker of the House; and

(5) A Senate member of the Joint Energy Committee established under 2 V.S.A. 17, appointed by the Committee on Committees.

(c) Powers and duties; term.

(1) The Working Group shall review the current processes for citizen participation in PSB proceedings and shall make recommendations to promote increased ease of citizen participation in those proceedings.

(2) On or before December 15, 2016, the Working Group shall submit its written recommendations to the House and Senate Committees on Energy and Natural Resources, the Senate Committee on Finance, and the Joint Energy Committee.

(3) The Working Group shall have the administrative, technical, and legal assistance of the staff of the PSB.

(4) The appointed member of the PSB shall call the first meeting of the Working Group to occur on or before July 1, 2016. At the first meeting, the Working Group shall elect a chair from among its members.

(5) The Working Group shall cease to exist on February 1, 2017.

Twenty-second: In Sec. 27 (effective dates), by inserting three new subdivisions to be numbered (3), (4), and (5) to read as follows:

(3) Sec. 22a (rules; petition) shall take effect on passage and Sec. 22 (rules) shall apply to the implementation of Sec. 22a.

(4) Secs. 23b (wind generation; obstruction lighting), 23c (existing facilities; obstruction lighting), and 26b (Access to Public Service Board Working Group) shall take effect on passage.

(5) In Sec. 18, 30 V.S.A. § 3(h)(3) (posting online; filings and orders) shall take effect on July 1, 2017.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Natural Resources & Energy and the Committee on Finance with the following amendment thereto:

In the Committee on Finance report in the *seventh* proposal of amendment in Sec. 11b, planning support; allocation of costs, in subsection (a), in the first sentence, by striking out the following: “For three fiscal years commencing on July 1, 2016” and inserting in lieu thereof the following: During fiscal year 2017 and after the following: “Community Development,” by striking out the following: “annually”

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the report of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the report of the Committee on Natural Resources be amended as recommended by the Committee on Finance?, Senator Degree demanded pursuant to Rule 67 the *nineteenth* proposal of amendment of the Committee of Finance be divided.

Thereupon, the pending question, Shall the report of the Committee on Natural Resources be amended as recommended by the Committee on Finance in the *nineteenth* proposal, was agreed to.

Thereupon, the pending question, Shall the report of the Committee on Natural Resources be amended as recommended by the Committee on Finance?, in the *first* through *eighteenth* and *twentieth* through the *twenty-second* was decided in the affirmative.

Thereupon, the proposal of amendment recommended by the Committee on Natural Resources & Energy, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 25, Nays 3.

Senator Lyons having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Cummings, Doyle, Kitchel, Lyons, MacDonald, Mazza, Mullin, Nitka, Pollina, Riehle, Rodgers, Sears, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Collamore, Degree, Flory.

Those Senators absent and not voting were: McAllister (Suspended), McCormack.

Proposal of Amendment; Third Reading Ordered

S. 243.

Senator Lyons, for the Committee on Health & Welfare, to which was referred Senate bill entitled:

An act relating to combating opioid abuse in Vermont.

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

* * * Vermont Prescription Monitoring System * * *

Sec. 1. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(g) Following consultation with the ~~Unified Pain Management System Controlled Substances and Pain Management~~ Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Unified Pain Management System Controlled Substances and Pain Management~~ Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

* * *

Sec. 2. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of acute pain, chronic pain and for other medical conditions to be determined by the licensing authority. The standards developed by the licensing authorities shall be consistent with rules adopted by the Department of Health. The licensing authorities shall submit their standards to the Commissioner of Health, who shall review for consistency across health care providers and notify the applicable licensing authority of any inconsistencies identified.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS by November 15, 2013.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the Commissioner of Health shall notify the applicable licensing authority and the provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The Commissioner of Health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS and shall query the VPMS in accordance with rules adopted by the Commissioner of Health.

(d) ~~Health~~ Except in the event of electronic or technological failure, health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative long-term pain therapy of 90 days or more;

(3) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; and

(4) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

(e) The Commissioner of Health shall, after consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

(f) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

(1) query the VPMS; and

(2) report to the VPMS, which shall be no less than once ~~every seven days~~ daily.

(g) Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

* * * Expanding Access to Substance Abuse Treatment
with Buprenorphine * * *

Sec. 3. 18 V.S.A. chapter 93 is amended to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

Subchapter 1. Regional Opioid Addiction Treatment System

§ 4751. PURPOSE

It is the purpose of this ~~chapter~~ subchapter to authorize the ~~department of health~~ Department of Health to establish a regional system of opioid addiction treatment.

* * *

Subchapter 2. Opioid Addiction Treatment Care Coordination

§ 4771. CARE COORDINATION

(a) In addition to participation in the regional system of opioid addiction treatment established pursuant to subchapter 1 of this chapter, health care providers may coordinate patient care in order to provide to the maximum number of patients high quality opioid addiction treatment with buprenorphine or a drug containing buprenorphine.

(b) Care for patients with opioid addiction may be provided by a care coordination team comprising the patient's primary care provider, a qualified addiction medicine physician or nurse practitioner as described in subsection (c) of this section, and members of a medication-assisted treatment team affiliated with the Blueprint for Health.

(c)(1) A primary care provider participating in the care coordination team and prescribing buprenorphine or a drug containing buprenorphine pursuant to this section shall meet federal requirements for prescribing buprenorphine or a drug containing buprenorphine to treat opioid addiction and shall see the patient he or she is treating for opioid addiction for an office visit at least once every three months.

(2)(A) A qualified addiction medicine physician participating in a care coordination team pursuant to this section shall be a physician who is board-certified in addiction medicine or satisfies one or more of the following conditions:

(i) has completed not fewer than 24 hours of classroom or interactive training in the treatment and management of opioid-dependent patients for substance use disorders provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the

American Psychiatric Association, or any other organization that the Commissioner of Health deems appropriate; or

(ii) has such other training and experience as the Commissioner of Health determines will demonstrate the ability of the physician to treat and manage opioid dependent patients.

(B) The qualified physician shall see the patient for addiction-related treatment other than the prescription of buprenorphine or a drug containing buprenorphine and shall advise the patient's primary care physician.

(3)(A) A qualified addiction medicine nurse practitioner participating in a care coordination team pursuant to this section shall be an advanced practice registered nurse who is certified as a nurse practitioner and who satisfies one or more of the following conditions:

(i) has completed not fewer than 24 hours of classroom or interactive training in the treatment and management of opioid-dependent patients for substance use disorders provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Commissioner of Health deems appropriate; or

(ii) has such other training and experience as the Commissioner of Health determines will demonstrate the ability of the nurse practitioner to treat and manage opioid dependent patients.

(B) The qualified nurse practitioner shall see the patient for addiction-related treatment other than the prescription of buprenorphine or a drug containing buprenorphine and shall advise the patient's primary care physician.

(d) The primary care provider, qualified addiction medicine physician or nurse practitioner, and medication-assisted treatment team members shall coordinate the patient's care and shall communicate with one another as often as needed to ensure that the patient receives the highest quality of care.

(e) The Director of the Blueprint for Health shall recommend to the Commissioner of Vermont Health Access whether to increase payments to primary care providers participating in the Blueprint who choose to engage in care coordination by prescribing buprenorphine or a drug containing buprenorphine for patients with opioid addiction pursuant to this section.

Sec. 4. TELEMEDICINE FOR TREATMENT OF SUBSTANCE USE DISORDER; PILOT

(a) The Green Mountain Care Board and Department of Vermont Health Access shall develop a pilot program to enable a patient taking buprenorphine or a drug containing buprenorphine for a substance use disorder to receive treatment from an addiction medicine specialist delivered through telemedicine at a health care facility that is capable of providing a secure telemedicine connection and whose location is convenient to the patient. The Board and the Department shall ensure that both the specialist and the hosting facility are reimbursed for services rendered.

(b)(1) Patients beginning treatment for a substance use disorder with buprenorphine or a drug containing buprenorphine shall not receive treatment through telemedicine. A patient may receive treatment through telemedicine only after a period of stabilization on the buprenorphine or drug containing buprenorphine, as measured by an addiction medicine specialist using an assessment tool approved by the Department of Health.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, patients whose care has been transferred from a regional specialty addictions treatment center may begin receiving treatment through telemedicine immediately upon the transfer of care to an office-based opioid treatment provider.

(c) On or before January 15, 2017 and annually thereafter, the Board and the Department shall provide a progress report on the pilot program to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

* * * Expanding Role of Pharmacies and Pharmacists * * *

Sec. 5. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(14)(A) “Practice of pharmacy” means:

(i) the interpretation and evaluation of prescription orders;

(ii) the compounding, dispensing, and labeling of drugs and legend devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and legend devices);

(iii) the participation in drug selection and drug utilization reviews;

(iv) the proper and safe storage of drugs and legend devices and the maintenance of proper records therefor;

(v) the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and legend devices; ~~and~~

(vi) the providing of patient care services within the pharmacist's authorized scope of practice;

(vii) the optimizing of drug therapy through the practice of clinical pharmacy; and

(viii) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

(B) "Practice of clinical pharmacy" means:

(i) the health science discipline in which, in conjunction with the patient's other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient's health and wellness;

(ii) the provision of patient care services within the pharmacist's authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; or

(iii) the practice of pharmacy by a pharmacist pursuant to a collaborative practice agreement.

(C) A rule shall not be adopted by the Board under this chapter that shall require the sale and distribution of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise interfere with the sale and distribution of such medicines.

* * *

(19) "Collaborative practice agreement" means a written agreement between a pharmacist and a health care facility or prescribing practitioner that permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the facility's or practitioner's patients.

Sec. 6. 26 V.S.A. § 2023 is added to read:

§ 2023. CLINICAL PHARMACY

In accordance with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy.

Sec. 7. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

~~(a) A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.~~

~~(b)~~ As used in this section:

(1) ~~“Health insurer” is defined by~~ shall have the same meaning as in 18 V.S.A. § 9402 and shall also include Medicaid and any other public health care assistance program.

(2) “Pharmacy benefit manager” means an entity that performs pharmacy benefit management. “Pharmacy benefit management” means an arrangement for the procurement of prescription drugs at negotiated dispensing rates, the administration or management of prescription drug benefits provided by a health insurance plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

- (A) mail service pharmacy;
- (B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;
- (C) clinical formulary development and management services;
- (D) rebate contracting and administration;
- (E) certain patient compliance, therapeutic intervention, and generic substitution programs; and
- (F) disease management programs.

(3) “Health care provider” means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care service in this State to an individual during that individual’s medical care, treatment, or confinement.

(b) A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.

(c) This section shall apply to Medicaid and any other public health care assistance program. Notwithstanding any provision of a health insurance plan to the contrary, if a health insurance plan provides for payment or reimbursement that is within the lawful scope of practice of a pharmacist, the insurer may provide payment or reimbursement for the service when the service is provided by a pharmacist.

Sec. 8. ROLE OF PHARMACIES IN PREVENTING OPIOID ABUSE; REPORT

(a) The Department of Health, in consultation with the Board of Pharmacy, pharmacists, prescribing health care practitioners, health insurers, pharmacy benefit managers, and other interested stakeholders shall consider the role of pharmacies in preventing opioid misuse, abuse, and diversion. The Department's evaluation shall include a consideration of whether, under what circumstances, and in what amount pharmacists should be reimbursed for counting or otherwise evaluating the quantity of pills, films, patches, and solutions of opioid controlled substances prescribed by a health care provider to his or her patients.

(b) On or before January 15, 2017, the Department shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its findings and recommendations with respect to the appropriate role of pharmacies in preventing opioid misuse, abuse, and diversion.

* * * Continuing Medical Education * * *

Sec. 9. CONTINUING EDUCATION; PROFESSIONAL LICENSING BOARDS

(a) On or before December 15, 2016, the professional boards that license physicians, osteopathic physicians, dentists, pharmacists, advanced practice registered nurses, optometrists, and naturopathic physicians shall amend their continuing education rules to require a total of at least two hours of continuing education for each licensing period for all licensees with a registration number from the U.S. Drug Enforcement Administration (DEA), who have a pending application for a DEA number, or who dispense controlled substances on the topics of the abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont

Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances.

(b) The Department of Health shall consult with the Board of Veterinary Medicine and the Agency of Agriculture, Food and Markets to develop recommendations regarding appropriate safe prescribing and disposal of controlled substances prescribed by veterinarians for animals and dispensed to their owners, as well as appropriate continuing education for veterinarians on the topics described in subsection (a) of this section. On or before January 15, 2017, the Department shall report its findings and recommendations to the House Committees on Agriculture and Forest Products and on Human Services and the Senate Committees on Agriculture and on Health and Welfare.

* * * Medical Education Core Competencies * * *

Sec. 10. MEDICAL EDUCATION CORE COMPETENCIES;
PREVENTION AND MANAGEMENT OF PRESCRIPTION DRUG
MISUSE

The Commissioner of Health shall convene medical educators and other stakeholders to develop appropriate curricular interventions and innovations to ensure that students in medical education programs have access to certain core competencies related to safe prescribing practices and to screening, prevention, and intervention for cases of prescription drug misuse and abuse. The goal of the core competencies shall be to support future health care professionals over the course of their medical education to develop skills and a foundational knowledge in the prevention of prescription drug misuse. These competencies should be clear baseline standards for preventing prescription drug misuse, treating patients at risk for substance use disorders, and managing substance use disorders as a chronic disease, as well as developing knowledge in the areas of screening, evaluation, treatment planning, and supportive recovery.

* * * Community Grant Program for Opioid Prevention * * *

Sec. 11. REGIONAL PREVENTION PARTNERSHIPS

To the extent funds are available, the Department of Health shall establish a community grant program for the purpose of supporting local opioid prevention strategies. This program shall support evidence-based approaches and shall be based on a comprehensive community plan, including community education and initiatives designed to increase awareness or implement local programs, or both. Partnerships involving schools, local government, and hospitals shall receive priority.

* * * Pharmaceutical Manufacturer Fee * * *

Sec. 12. 33 V.S.A. § 2004 is amended to read:

§ 2004. MANUFACTURER FEE

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~0.5~~ 1.235 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633, analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities, the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A, the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, statewide unused prescription drug disposal initiatives, nonpharmacological approaches to pain management, a hospital antimicrobial program for the purpose of reducing hospital-acquired infections, the purchase and distribution of naloxone to emergency medical services personnel, and any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

(c) The Secretary of Human Services or designee shall make rules for the implementation of this section.

Sec. 13. 33 V.S.A. § 2004a(a) is amended to read:

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633, for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities, for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A, for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, for statewide unused prescription drug disposal initiatives, for nonpharmacological approaches to pain management, for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections, for the purchase and distribution of naloxone to emergency medical services personnel, and for the support of any opioid-antagonist education, training, and distribution program

operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

* * * Controlled Substances and Pain Management Advisory Council * * *

Sec. 14. 18 V.S.A. § 4255 is added to read:

§ 4255. CONTROLLED SUBSTANCES AND PAIN MANAGEMENT ADVISORY COUNCIL

(a) There is hereby created a Controlled Substances and Pain Management Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The Controlled Substances and Pain Management Advisory Council shall consist of the following members:

(A) the Commissioner of Health or designee, who shall serve as chair;

(B) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs or designee;

(C) the Commissioner of Mental Health or designee;

(D) the Commissioner of Public Safety or designee;

(E) the Vermont Attorney General or designee;

(F) the Director of the Blueprint for Health or designee;

(G) the Medical Director of the Department of Vermont Health Access;

(H) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

(I) a representative of the Vermont State Dental Society, who shall be a dentist;

(J) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

(K) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

(L) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(M) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(N) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(O) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

(P) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

(Q) a representative of the Vermont Ethics Network;

(R) a representative of the Hospice and Palliative Care Council of Vermont;

(S) a representative of the Office of the Health Care Advocate;

(T) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(U) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;

(V) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(W) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

(X) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(Y) a retail pharmacist, to be selected by the Vermont Pharmacists Association;

(Z) an advanced practice registered nurse full-time faculty member from the University of Vermont's College of Nursing and Health Sciences;

(AA) a licensed acupuncturist with experience in pain management, to be selected by the Vermont Acupuncture Association;

(BB) a representative of the Vermont Substance Abuse Treatment Providers Association;

(CC) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain; and

(DD) up to three adjunct members appointed by the Commissioner in consultation with the Opioid Prescribing Task Force.

(2) In addition to the members appointed pursuant to subdivision (1) of this subsection (b), the Council shall consult with specialists and other individuals as appropriate to the topic under consideration.

(c) Advisory Council members who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to a per diem and expenses as provided by 32 V.S.A. § 1010.

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion.

(2) The Advisory Council shall evaluate the use of nonpharmacological approaches to treatment for pain, including the appropriateness, efficacy, and cost-effectiveness of using complementary and alternative therapies such as chiropractic, acupuncture, and massage.

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion, after seeking the advice of the Council.

* * * Acupuncture * * *

Sec. 15. ACUPUNCTURE AS ALTERNATIVE TREATMENT FOR PAIN MANAGEMENT AND SUBSTANCE USE DISORDER; REPORTS

(a) The Director of Health Care Reform in the Agency of Administration, in consultation with the Departments of Health and of Human Resources, shall review Vermont State employees' experience with acupuncture for treatment of pain. On or before December 1, 2016, the Director shall report his or her findings to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

(b) Each nonprofit hospital and medical service corporation licensed to do business in this State and providing coverage for pain management shall evaluate the evidence supporting the use of acupuncture as a modality for treating and managing pain in its enrollees, including the experience of other

states in which acupuncture is covered by health insurance plans. On or before January 15, 2017, each such corporation shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its assessment of whether its insurance plans should provide coverage for acupuncture when used to treat or manage pain.

(c) On or before January 15, 2017, the Department of Health, Division of Alcohol and Drug Abuse Programs shall make available to its preferred provider network evidence-based best practices related to the use of acupuncture to treat substance use disorder.

Sec. 15a. ACUPUNCTURE; MEDICAID PILOT PROJECT

(a) The Department of Vermont Health Access shall develop a pilot project to offer acupuncture services to Medicaid-eligible Vermonters with a diagnosis of chronic pain. The project would provide acupuncture services for a defined period of time to determine if acupuncture treatment as an alternative or adjunctive to prescribing opioids is as effective or more effective than opioids alone for returning individuals to social, occupational, and psychological function. The project shall include:

(1) an advisory group of pain management specialists and acupuncture providers familiar with the current science on evidence-based use of acupuncture to treat or manage chronic pain;

(2) specific patient eligibility requirements regarding the specific cause or site of chronic pain for which the evidence indicates acupuncture may be an appropriate treatment; and

(3) input and involvement from the Department of Health to promote consistency with other State policy initiatives designed to reduce the reliance on opioid medications in treating or managing chronic pain.

(b) On or before January 15, 2017, the Department of Vermont Health Access shall provide a progress report on the pilot project to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare that includes an implementation plan for the pilot project described in this section. In addition, the Department shall consider any appropriate role for acupuncture in treating substance use disorder, including consulting with health care providers using acupuncture in this manner, and shall make recommendations in its progress report regarding the use of acupuncture in treating Medicaid beneficiaries with substance use disorder.

* * * Rulemaking * * *

Sec. 16. PRESCRIBING OPIOIDS FOR ACUTE AND CHRONIC PAIN;
RULEMAKING

(a) The Commissioner of Health, after consultation with the Controlled Substances and Pain Management Advisory Council, shall adopt rules governing the prescription of opioids. The rules may include numeric and temporal limitations on the number of pills prescribed, including a maximum number of pills to be prescribed following minor medical procedures, consistent with evidence-informed best practices for effective pain management. The rules may require the contemporaneous prescription of naloxone in certain circumstances, and shall require informed consent for patients that explains the risks associated with taking opioids, including addiction, physical dependence, side effects, tolerance, overdose, and death. The rules shall also require prescribers prescribing opioids to patients to provide information concerning the safe storage and disposal of controlled substances.

* * * Appropriations * * *

Sec. 17. APPROPRIATIONS

(a) The sum of \$250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, including evidence-based information about safe prescribing of controlled substances and alternatives to opioids for treating pain.

(b) The sum of \$625,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding statewide unused prescription drug disposal initiatives, of which \$100,000.00 shall be used for a MedSafe collection and disposal program and program coordinator, \$50,000.00 shall be used for unused medication envelopes for a mail-back program, \$225,000.00 shall be used for a public information campaign on the safe disposal of controlled substances, and \$250,000.00 shall be used for a public information campaign on the responsible use of prescription drugs.

(c) The sum of \$150,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing opioid antagonist rescue kits.

(d) The sum of \$250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year

2017 for the purpose of establishing a hospital antimicrobial program to reduce hospital-acquired infections.

(e) The sum of \$32,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing naloxone to emergency medical services personnel throughout the State.

(f) The sum of \$200,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Vermont Health Access in fiscal year 2017 for the purpose of implementing the pilot project established in Sec. 15a to evaluate the use of acupuncture in treating chronic pain in Medicaid beneficiaries.

Sec. 18. REPEAL

2013 Acts and Resolves No. 75, Sec. 14, as amended by 2014 Acts and Resolves No. 199, Sec. 60 (Unified Pain Management System Advisory Council) is repealed.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) Secs. 1–2 (VPMS), 3 (opioid addiction treatment care coordination), 13 (use of Evidence-Based Education and Advertising Fund), 14 (Controlled Substances and Pain Management Advisory Council), 17 (appropriations), and 18 (repeal) shall take effect on July 1, 2016, except that in Sec. 2, 18 V.S.A. § 4289(f)(2) (dispenser reporting to VPMS) shall take effect 30 days following notice and a determination by the Commissioner of Health that daily reporting is practicable.

(b) Secs. 4 (telemedicine pilot), 5–7 (clinical pharmacy), 8 (role of pharmacies; report), 10 (medical education), 11 (regional partnerships), 15–15a (acupuncture studies), 16 (rulemaking), and this section shall take effect on passage.

(c) Sec. 9 (continuing education) shall take effect on July 1, 2016 and shall apply beginning with licensing periods beginning on or after that date.

(d) Notwithstanding 1 V.S.A. § 214, Sec. 12 (manufacturer fee) shall take effect on passage and shall apply retroactive to January 1, 2016.

Senator Ayer, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Health & Welfare with the following amendment thereto:

In Sec. 12, 33 V.S.A. § 2004, by adding a new subsection to be subsection (d) to read as follows:

(d) A pharmaceutical manufacturer that fails to pay a fee as required under this section shall be assessed penalties and interest in the same amounts and under the same terms as apply to late payment of income taxes pursuant to 32 V.S.A. chapter 151. The Department shall maintain on its website a list of the manufacturers who have failed to provide timely payment as required under this section.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass when amended as recommended by the Committees on Health & Welfare and Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation the Committee on Health & Welfare was amended as recommended by the Committee on Finance.

Thereupon, Senators Ayer, Collamore, Lyons, McCormack, and Pollina moved to amend the recommendation of amendment of the Committee on Health & Welfare, as amended, as follows:

First: In Sec. 2, 18 V.S.A. § 4289, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f)(1) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

~~(1) query the VPMS; and,~~

~~(2) report to the VPMS, which shall be no less than once every seven days~~ Pharmacies and other dispensers shall report each dispensed prescription for a Schedule II, III, or IV controlled substance to the VPMS within 24 hours or one business day after dispensing.

Second: In Sec. 12, 33 V.S.A. § 2004, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof new subsections (a) and (b) to read as follows:

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~0.5~~ 1.5 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632

and 4633; analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; statewide unused prescription drug disposal initiatives; prevention of prescription drug misuse, abuse, and diversion; treatment of substance use disorder; exploration of nonpharmacological approaches to pain management; a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; the purchase and distribution of naloxone to emergency medical services personnel; and any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

Third: By striking out Sec. 13, 33 V.S.A. § 2004a(a), in its entirety and inserting in lieu thereof a new Sec. 13, 33 V.S.A. § 2004a(a) to read as follows:

Sec. 13. 33 V.S.A. § 2004a(a) is amended to read:

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of naloxone to emergency medical services personnel; and for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

Fourth: In Sec. 17, appropriations, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) The sum of \$200,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Vermont Health Access in fiscal year 2017 for the purpose of exploring nonpharmacological approaches to pain management by implementing the pilot project established

in Sec. 15a of this act to evaluate the use of acupuncture in treating chronic pain in Medicaid beneficiaries.

Which was agreed to.

Thereupon, the recommendation of amendment of Committee on Health & Welfare, as amended, was agreed to and third reading of the bill was ordered.

Senate Resolution Amended; Third Reading Ordered

S.R. 9.

Senator Mullin, for the Committee on Economic Development, Housing & General Affairs, to which was referred Senate Resolution entitled:

Senate resolution relating to the proposed Trans-Pacific Partnership Agreement.

Reported recommending that the resolution be amended by striking out the first Whereas clause in its entirety and inserting in lieu thereof the following:

Whereas, many U.S. trade deals have incorporated rules that skew benefits, requiring working families to bear the brunt of such policies, and

And that when so amended the resolution ought to adopted.

Thereupon, the resolution was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the resolution was ordered.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, March 31, 2016.