

Senate Calendar

THURSDAY, MAY 04, 2017

SENATE CONVENES AT: 10:00 A.M.

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ACTION CALENDAR
UNFINISHED BUSINESS OF FRIDAY, APRIL 28, 2017
House Proposal of Amendment

S. 52

An act relating to the Public Service Board and its proceedings.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Preapplication Submittals; Energy Facilities * * *

Sec. 1. 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~~ The municipal or regional planning commission may take one or more of the following actions:

(A) ~~hold~~ Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Board on the application and in determining whether to retain additional personnel under subdivision (1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

(C) ~~Such commissions shall make~~ 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 within 40 days of the petitioner's submittal to the planning commission under this subsection.~~

(D) Once the petition is filed with the Public Service Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the 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.

* * * Facility Siting; Service of Application When Determined Complete;
Extension of Telecommunications Siting Authority * * *

Sec. 2. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the Board:

(1) ~~Shall develop a simple application form and shall require that completed applications be filed~~ the applicant first file the application with the Board, and that, within two business days of notification from the Board that the application is complete, the applicant serve copies of the complete application on the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) ~~Shall require that if no objections are filed within 30 days of the Board's receipt of a complete application~~ date of service of the complete application under subdivision (1) of this subsection, and the Board determines

that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

* * *

Sec. 3. 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. From the comments made at the public hearing, the Board shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Board shall direct the parties to provide evidence on the area. This subdivision does not require the Board to respond to each individual comment.

(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~~ Within two business days of notification from the Board that the petition is complete, the petitioner shall serve copies of the complete petition on 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.

* * *

Sec. 4. 30 V.S.A. § 248(j)(2) is amended to read:

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. The Within two business days of notification by the Board that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the Board shall give written notice of the proposed certificate and its determination that the filing is complete to the those parties specified in subdivision (a)(4)(C) of this section, to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Board to have a substantial interest in the matter. Such notice also shall be published on the Board's website within two days of issuing the determination that the filing is complete and shall request comment within ~~28~~ 30 days of the ~~initial publication date of service of the complete filing~~ on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been

issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. The notices to the legislative body and planning commission of the municipality shall attach a statement that itemizes the rights and opportunities available to those bodies under subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n), and (o) of this section and informs them of the guide published under subsection (p) of this section and how to obtain a copy of that guide.

* * *

(i) Sunset of Board authority. Effective on July 1, ~~2017~~ 2020, no new applications for certificates of public good under this section may be considered by the Board.

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application, ~~and provide~~. Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact ~~to~~ on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. ~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall give ~~give~~ serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board within ~~21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application filed pursuant to this subsection ~~within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 90 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis modification is filed with the Board within ~~24~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting

such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

* * *

* * * Notice of Petitions for a CPG to Do Business * * *

Sec. 6. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association, ~~which~~ that desires to own or operate a business over which the Public Service Board has jurisdiction under the provisions of this chapter shall first petition the Board to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, ~~and shall make an order for the publication of the substance thereof and the time and place of hearing two weeks successively in a newspaper of general circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing.~~ At least 12 days before this hearing, notice of the hearing shall be published on the Board's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed. The Director for Public Advocacy shall represent the public at ~~such~~ the hearing. If the Board finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Board whether or not regulation thereunder has been reduced or suspended,

under section 226a or 227a of this title.

* * *

* * * Enforcement * * *

Sec. 7. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT POWERS

* * *

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c.

Sec. 8. 30 V.S.A. § 30 is amended to read:

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

* * *

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes after investigation violated section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections.

(1) An administrative citation, whether draft or final, shall:

(A) state each provision of statute and rule and each condition of a certificate of public good alleged to have been violated;

(B) include a concise statement of the facts giving rise to the alleged violation and the evidence supporting the existence of those facts;

(C) request that the person take the remedial action specified in the notice or pay a civil penalty of not more than \$5,000.00 for the violation, or both; and

(D) if remedial action is requested, state the reasons for seeking the action.

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

(A) At the time the draft citation is issued, the Department shall file a copy with the Board and post the draft citation on its website.

(B) Commencing with the date of issuance, the Department shall provide an opportunity of 30 days for public comment on the draft citation. The Department shall include information on this opportunity in the draft citation.

(C) Once the public comment period closes, the Department:

(i) Shall provide the person and the Board with a copy of each comment received.

(ii) Within 15 days of the close of the comment period, may file a revised draft citation with the Board. The revised draft citation may be accompanied by a stipulation or agreed settlement between the person and the Department with a request for Board approval.

(D) The Board may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Board shall take any such action within 25 days of the close of the public comment period, or the filing of a revised draft citation, whichever is later. Such a Board proceeding shall supersede the draft citation.

(3) If the Board has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative citation to the person. Within 30 days of receipt of a final administrative citation, the person shall respond in one of the following ways:

(A) Request a hearing before the Board on the existence of the alleged violation, the proposed penalty, and the proposed remedial action.

(B) Pay any civil penalty set forth in the notice and agree to undertake such remedial action as is set forth in the notice and submit to the Department for its approval a plan for compliance. In such a case, the final administrative citation shall be enforceable in the same manner as an order of the Board.

(C) Decline to contest the existence of the alleged violation and request a hearing on either the proposed penalty or remedial action, or both. When exercising this option, a person may agree to either the proposed penalty or remedial action and seek a hearing only on the penalty or action with which the person disagrees.

(4) When a person requests a hearing under subdivision (3) of this subsection, the Board shall open a proceeding and conduct a hearing in accordance with the provisions of this section on the alleged violation and such remedial action and penalty as are set forth in the notice. Notwithstanding any

contrary provision of this section, a penalty under this subdivision (4) shall not exceed \$5,000.00.

(5) If a person pays the civil penalty set forth in a final administrative citation, then the Department shall be precluded from seeking and the Board from imposing additional civil penalties for the same alleged violation unless the violation is continuing or is repeated.

(6) If a person agrees to undertake the remedial action set forth in a final administrative citation, failure to undertake the action or comply with a compliance plan approved by the Department shall constitute a separate violation.

(7) The Board may approve disposition of a final administrative citation by stipulation or agreed settlement submitted before entry of a final order.

(8) Penalties assessed under this subsection shall be deposited in the General Fund.

* * * Name Change to Public Utility Commission * * *

Sec. 9. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC SERVICE BOARD UTILITY COMMISSION

(a) The Vermont Public Service Board Utility Commission shall consist of a Chair and two members. The Chair and each member shall not be required to be admitted to the practice of law in this State.

(b) The Chair shall be nominated, appointed, and confirmed in the manner of a Superior judge.

(c) Members of the Board Commission other than the Chair shall be appointed in accordance with this subsection. Whenever a vacancy occurs, public announcement of the vacancy shall be made. The Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall review the candidates in respect to judicial criteria and standards only and shall recommend to the Governor those candidates the Board considers qualified. The Governor shall make the appointment from the list of qualified candidates. The appointment shall be subject to the consent of the Senate.

(d) The term of each member shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member wishing to succeed himself or herself in office may seek reappointment under the terms of this section.

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the Board Commission may be removed only for cause. When a

Board Commission member who hears all or a substantial part of a case retires from office before such case is completed, he or she shall remain a member of the Board Commission for the purpose of concluding and deciding such case, and signing the findings, orders, decrees, and judgments therein. A retiring Chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive a reasonable compensation to be fixed by the remaining members of the Board Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the Board Commission enters a final order therein even though such order is appealed to the Supreme Court and the case remanded by that court to the Board Commission. Upon remand the Board Commission then in office may in its discretion consider relevant evidence including any part of the transcript of testimony in the proceedings prior to appeal.

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

Sec. 10. 30 V.S.A. § 7001(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the ~~Public Service Board~~ Public Utility Commission under section 3 of this title.

Sec. 11. 30 V.S.A. § 8002(1) is amended to read:

(1) ~~“Board”~~ “Commission” means the ~~Public Service Board~~ Public Utility Commission under section 3 of this title, ~~except when used to refer to the Clean Energy Development Board.~~

Sec. 12. REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the statutes as needed for consistency with Secs. 9–11 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Public Service Board” with “Public Utility Commission”; and

(2) replace “Board” with “Commission” when the existing term “Board” refers to the Public Service Board.

Sec. 13. RULES; NAME CHANGE

(a) The rules of the Public Service Board in effect on July 1, 2017 shall become rules of the Vermont Public Utility Commission (the Commission).

(b) In those rules, the Commission is authorized to change all references to the Public Service Board so that they refer to the Commission. Unless

accompanied by one or more other revisions to the rules, such a change need not be made through the rulemaking process under the Administrative Procedure Act.

* * * In-person Citizens' Access to Public Service Board Hearings * * *

Sec. 13a. 30 V.S.A. § 11 is amended to read:

§ 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF FACT

* * *

(b) The Board shall allow all members of the public to attend each of its hearings unless the hearing is for the sole purpose of considering information to be treated as confidential pursuant to a protective order duly adopted by the Board.

(1) The Board shall make all reasonable efforts to ensure that the location of each hearing is sufficient to accommodate all members of the public seeking to attend.

(2) The Board shall ensure that the public may safely attend the hearing, including obtaining such resources as may be necessary to fulfill this obligation.

(c) The Board shall hear all matters within its jurisdiction, and make its findings of fact. It shall state its rulings of law when they are excepted to. Upon appeal to the Supreme Court, its findings of fact shall be accepted unless clearly erroneous.

* * * Remote Location Access by Citizens to PSB Hearings * * *

Sec. 14. PLAN; CITIZENS' ACCESS TO PSB HEARINGS FROM REMOTE LOCATIONS

(a) On or before December 15, 2017, the Division for Telecommunications and Connectivity within the Department of Public Service, in consultation with relevant organizations such as the Vermont Access Network and Vermont access management organizations, shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a plan to achieve citizen access to hearings and workshops of the Public Service Board from remote locations across the State. The access shall include interactive capability and the ability to use multiple remote locations simultaneously. The plan may build on the Department's Vermont Video Connect proposal described in the Report to the General Assembly by the Vermont Interactive Technologies Working Group dated Dec. 9, 2015, submitted pursuant to 2015 Acts and Resolves No. 58, Sec. E.602.1.

(b) The plan shall include each of the following:

- (1) assessment of cost-effective interactive video technologies;
- (2) identification of at least five locations across Vermont that are willing and able to host the access described in subsection (a) of this section;
- (3) the estimated capital costs of providing such access; and
- (4) the estimated operating costs for hosting and connecting.

* * * Citizen Access to Public Service Board; Implementation Report * * *

Sec. 15. REPORT; IMPLEMENTATION OF WORKING GROUP
RECOMMENDATIONS

On or before December 15, 2017, the Public Service Board shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including those recommendations that the Group identified as not requiring statutory change.

* * * Appliance Efficiency * * *

Sec. 16. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 17 through 21 of this act adopt federal appliance and lighting efficiency standards in effect on January 19, 2017 so that the same standards will be in place in Vermont should the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 17. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(15) “General service lamp” has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 18. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

- (1) Medium voltage dry-type distribution transformers.
- (2) Metal halide lamp fixtures.
- (3) Residential furnaces and residential boilers.
- (4) Single-voltage external AC to DC power supplies.
- (5) State-regulated incandescent reflector lamps.
- (6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 19. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19,

2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 20. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 21. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 19 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

* * * Energy Storage * * *

Sec. 22. ENERGY STORAGE; REPORT

(a) Definitions. As used in this section, “energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

(b) Report. On or before November 15, 2017, the Commissioner of Public Service shall submit a report on the issue of deploying energy storage on the Vermont electric transmission and distribution system.

(1) The Commissioner shall submit the report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(2) The Commissioner shall provide an opportunity for the public and Vermont electric transmission and distribution companies to submit information relevant to the preparation of the report.

(3) The report shall:

(A) summarize existing state, regional, and national actions or initiatives affecting deployment of energy storage;

(B) identify and summarize federal and state jurisdictional issues regarding deployment of energy storage;

(C) identify the opportunities for, the benefits of, and the barriers to deploying energy storage;

(D) identify and evaluate regulatory options and structures available to foster energy storage, including potential cost impacts to ratepayers; and

(E) assess the potential methods for fostering the development of cost-effective solutions for energy storage in Vermont and the potential benefits and cost impacts of each method for ratepayers.

(4) The report shall identify the challenges and opportunities for fostering energy storage in Vermont.

Sec. 23. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(b) Definitions. ~~For purposes of~~ As used in this section, the following definitions shall apply:

* * *

(6) “Energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

* * *

(d) Expenditures authorized.

(1) Projects for funding may include the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) ~~small-scale~~ small-scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program;

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than those of commercially available

vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations;

(M) energy storage projects that facilitate utilization of renewable energy resources.

* * *

* * * Telecommunications Plan * * *

Sec. 24. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of

Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure;

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; ~~and.~~

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an

interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

* * * Standard Offer Program; Exemption * * *

Sec. 25. STANDARD OFFER PROGRAM; EXEMPTION; REPORT

(a) On or before December 15, 2018, the Public Service Board (Board) shall submit a written report providing its recommendations related to the exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption, including the effect of the exemption on the State's achievement of the renewable energy goals set forth in 30 V.S.A. § 8001. In developing its recommendations under this section, the Board shall conduct a proceeding to solicit input from potentially affected parties and the public.

(b) Notwithstanding any contrary provision of the exemption at 30 V.S.A. § 8005a(k)(2)(B), a retail electricity provider shall not qualify to be exempt under subdivision 8005a(k)(2)(B) during calendar year 2018 or calendar year 2019 unless that provider previously qualified for an exemption under that subdivision.

(c) In this section, "retail electricity provider" has the same meaning as in 30 V.S.A. § 8002.

* * * Open Meeting Law; Public Service Board * * *

Sec. 25a. REPORT; OPEN MEETING LAW; PUBLIC SERVICE BOARD

(a) On or before December 15, 2017, the Attorney General shall submit a report on the exemption of the Public Service Board from the Vermont Open Meeting Law, 1 V.S.A. § 312(e). The report shall evaluate whether the Board should continue to have a complete exemption from the Open Meeting Law or whether its exemption should be limited, as with other administrative boards, to the Board's deliberations in connection with quasi-judicial proceedings. The report shall set out the reasons favoring and disfavoring each of these outcomes and provide the Attorney's General recommendation.

(b) The report described in subsection (a) shall be submitted to the House and Senate Committees on Government Operations, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

This section and Secs. 14 through 25a shall take effect on passage. The remainder of this act shall take effect on July 1, 2017.

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

An act relating to the Public Service Board, energy, and telecommunications.

UNFINISHED BUSINESS OF TUESDAY, MAY 2, 2017

House Proposal of Amendment

S. 3

An act relating to mental health professionals' duty to warn.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The overwhelming majority of people diagnosed with mental illness are not more likely to be violent than any other person; the majority of interpersonal violence in the United States is committed by people with no diagnosable mental illness.

(2) Generally, there is no legal duty to control the conduct of another to protect a third person from harm. However, in 1985, the Vermont Supreme Court recognized an exception to this common law rule where a special relationship exists between two persons, such as between a mental health professional and a client or patient. In *Peck v. Counseling Service of Addison County, Inc.*, the Vermont Supreme Court ruled that “a mental health professional who knows or, based upon the standards of the mental health profession, should know that his or her patient poses a serious risk of danger to an identifiable victim has a duty to exercise reasonable care to protect him or her from that danger.”

(3) The *Peck* standard has been understood and applied by mental health professionals in their practices for more than 30 years.

(4) In 2016, the Vermont Supreme Court decided the case *Kuligoski v. Brattleboro Retreat and Northeast Kingdom Human Services* and created for mental health professionals a new and additional legal “duty to provide information” to caregivers to “enable [the caregivers] to fulfill their role in keeping [the patient] safe” if that patient has violent propensities and “the

caregiver is himself or herself within the zone of danger of the patient's violent propensities."

(5) The *Kuligoski* decision has been seen by many mental health professionals as unworkable. First, unlike the *Peck* duty, the *Kuligoski* decision does not require the risk be serious or imminent. This puts providers in a position of violating the Health Insurance Portability and Accountability Act, Pub. L. 104-191, the federal law regarding the confidentiality of patient records. Second, unlike the *Peck* duty, the *Kuligoski* decision does not require that the prospective victim be identifiable. Third, the *Kuligoski* decision singles out caregivers and potentially creates a situation in which they could be held liable for the actions of the person for whom they are caring. Fourth, the *Kuligoski* decision imposes a duty on mental health facilities and professionals to protect the public from patients and clients who are no longer in their care or under their control.

Sec. 2. 18 V.S.A. § 1882 is added to read:

§ 1882. DISCLOSURES OF PROTECTED HEALTH INFORMATION TO
AVERT A SERIOUS RISK OF DANGER

(a) It is the intent of the General Assembly in this section to negate the Vermont Supreme Court's decision in *Kuligoski v. Brattleboro Retreat and Northeast Kingdom Human Services*, 2016 VT 54A, and limit mental health professionals' duty to that as established in common law by *Peck v. Counseling Service of Addison County, Inc.*, 146 Vt. 61 (1985).

(b) A mental health professional's duty is established in common law by *Peck v. Counseling Service of Addison County, Inc.* and requires that "a mental health professional who knows or, based upon the standards of the mental health profession, should know that his or her patient poses a serious risk of danger to an identifiable victim has a duty to exercise reasonable care to protect him or her from that danger." This duty shall be applied in accordance with State and federal privacy and confidentiality laws.

(c) This section does not limit or restrict claims under State or federal law related to safe patient care, including federal discharge planning regulations within the Conditions of Participation for hospitals, patient care regulations for other federally certified facilities, the Emergency Medical Treatment and Active Labor Act of 1986, Pub. Law 99-272, professional licensing standards, or facility licensing standards.

(d) To the extent permitted under federal law, this section does not affect the requirements for mental health professionals to communicate with individuals involved in a patient's care in a manner that is consistent with legal and professional standards, including section 7103 of this title.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

House Proposal of Amendment

S. 133

An act relating to examining mental health care and care coordination.

The House proposes to the Senate to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Findings and Legislative Intent * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The State's mental health system has changed during the past ten years, with regard to both policy and the structural components of the system.

(2) The State's adult mental health inpatient system was disrupted after Tropical Storm Irene flooded the Vermont State Hospital in 2011. The General Assembly, in 2012 Acts and Resolves No. 79, responded by designing a system "to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served."

(3) Elements of Act 79 included the addition of over 50 long- and short-term residential beds to the State's mental health system, all of which are operated by the designated and specialized service agencies, increased peer support services, and replacement inpatient beds. It also was intended to strengthen existing care coordination within the Department of Mental Health to assist community providers and hospitals in the development of a system that provided rapid access to each level of support within the continuum of care as needed to ensure appropriate, high-quality, and recovery- and resiliency-oriented services in the least restrictive and most integrated settings for each stage of an individual's recovery.

(4) Two key elements of Act 79 were never realized: a 24-hour peer-run warm line and eight residential recovery beds. Other elements of Act 79 were fully implemented.

(5) Since Tropical Storm Irene flooded the Vermont State Hospital, Vermont has experienced a dramatic increase in the number of individuals in mental health distress experiencing long waits in emergency departments for inpatient hospital beds. Currently, hospitals average 90 percent occupancy, while crisis beds average just under 70 percent occupancy, the latter largely due to understaffing. Issues related to hospital discharge include an inadequate staffing in community programs, insufficient community programs, and inadequate supply of housing.

(6) Individuals presenting in emergency departments reporting acute psychiatric distress often remain in that setting for many hours or days under the supervision of hospital staff, peers, crisis workers, or law enforcement officers, until a bed in a psychiatric inpatient unit becomes available. Many of these individuals do not have access to a psychiatric care provider, and the emergency department does not provide a therapeutic environment. Due to these conditions, some individuals experience trauma and worsening symptoms while waiting for an appropriate level of care. Hospitals are also strained and report that their staff is demoralized that they cannot care adequately for psychiatric patients and consequently there is a rise in turnover rates. Many hospitals are investing in special rooms for psychiatric emergencies and hiring mental health technicians to work in the emergency departments.

(7) Traumatic waits in emergency departments for children and adolescents in crisis are increasing, and there are limited resources for crisis support, hospital diversion, and inpatient care for children and adolescents in Vermont.

(8) Addressing mental health care needs within the health care system in Vermont requires appropriate data and analysis, but simultaneously the urgency created by those individuals suffering under existing circumstances must be recognized.

(9) Research has shown that there are specific factors associated with long waits, including homelessness, interhospital transfer, public insurance, use of sitters or restraint, age, comorbid medical conditions, alcohol and substance use, diagnoses of autism, intellectual disability, developmental delay, and suicidal ideation. Data have not been captured in Vermont to identify factors that may be associated with longer wait times and that could help pinpoint solutions.

(10) Vermonters in the custody of the Commissioner of Corrections often do not have access to appropriate crisis or routine mental health supports or to inpatient care when needed, and are often held in correctional facilities after being referred for inpatient care due to the lack of access to inpatient beds. The General Assembly is working to address this aspect of the crisis through parallel legislation during the 2017–2018 biennium.

(11) Care provided by the designated agencies is the cornerstone upon which the public mental health system balances. However, many Vermonters seeking help for psychiatric symptoms at emergency departments are not clients of the designated or specialized service agencies and are meeting with the crisis response team for the first time. Some of the individuals presenting in emergency departments are able to be assessed, stabilized, and discharged to

return home or to supportive programming provided by the designated and specialized service agencies.

(12) Act 79 specified that it was the intent of the General Assembly that “the [A]gency of [H]uman [S]ervices fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity.” However, reimbursement rates for crisis, outpatient, and inpatient care are often segregated from health care payment structures and payment reform.

(13) There is a shortage of psychiatric care professionals, both nationally and statewide. Psychiatrists working in Vermont have testified that they are distressed that individuals with psychiatric conditions remain for lengthy periods of time in emergency departments and that there is an overall lack of health care parity between mental conditions and other health conditions.

(14) In 2007, a study commissioned by the Agency of Human Services substantiated that designated and specialized service agencies face challenges in meeting the demand for services at current funding levels. It further found that keeping pace with current inflation trends, while maintaining existing caseload levels, required annual funding increases of eight percent across all payers to address unmet demand. Since that time, cost of living adjustments appropriated to designated and specialized service agencies have been raised by less than one percent annually.

(15) Designated and specialized service agencies are required by statute to provide a broad array of services, including many mandated services that are not fully funded.

(16) Evidence regarding the link between social determinants and healthy families has become increasingly clear in recent years. Improving an individual’s trajectory requires addressing the needs of children and adolescents in the context of their family and support networks. This means Vermont must work within a multi-generational framework. While these findings primarily focus on the highest acuity individuals within the adult system, it is important also to focus on children’s and adolescents’ mental health. Social determinants, when addressed, can improve an individual’s health; therefore housing, employment, food security, and natural support must be considered as part of this work as well.

(17) Before moving ahead with changes to improve mental health care and to achieve its integration with comprehensive health care reform, an analysis is necessary to take stock of how it is functioning and what resources are necessary for evidence-based or best practice and cost-efficient improvements that best meet the mental health needs of Vermont children, adolescents, and adults in their recovery.

(18) It is essential to the development of both short- and long-term improvements to mental health care for Vermonters that a common vision be established regarding how integrated, recovery- and resiliency-oriented services will emerge as part of a comprehensive and holistic health care system.

Sec. 2. LEGISLATIVE INTENT

It is the intent of the General Assembly to continue to work toward a system of health care that is fully inclusive of access to mental health care and meets the principles adopted in 18 V.S.A. § 7251, including:

(1) The State of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the Commissioner of Corrections, and the State's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the Departments of Mental Health and of Corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The State's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

(9) Individuals with a psychiatric disability or mental condition who are in the custody or temporary custody of the Commissioner of Mental Health

and who receive treatment in an acute inpatient hospital unit, intensive residential recovery facility, or a secure residential recovery facility shall be afforded rights and protections that reflect evidence-based best practices aimed at reducing the use of emergency involuntary procedures.

* * * Analysis, Action Plan, and Long-Term Vision Evaluation * * *

Sec. 3. ANALYSIS, ACTION PLAN, AND LONG-TERM VISION FOR
THE PROVISION OF MENTAL HEALTH CARE WITHIN THE
HEALTH CARE SYSTEM

(a) In order to address the present crisis that emergency departments are experiencing in treating an individual who presents with symptoms of a mental health crisis, and in recognition that this crisis is a symptom of larger systematic shortcomings in the provision of mental health services statewide, the General Assembly seeks an analysis and action plan from the Secretary of Human Services in accordance with the following specifications:

(1) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health, the Green Mountain Care Board, providers, and persons who are affected by current services, shall submit an action plan with recommendations and legislative proposals to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services that shall be informed by an analysis of specific issues described in this section and Sec. 4 of this act. The analysis shall be conducted in conjunction with the planned updates to the Health Resource Allocation Plan (HRAP) described in 18 V.S.A. § 9405, of which the mental health and health care integration components shall be prioritized. With regard to children, adolescents, and adults, the analysis and action plan shall:

(A) specify steps to develop a common, long-term, statewide vision of how integrated, recovery- and resiliency-oriented services shall emerge as part of a comprehensive and holistic health care system;

(B) identify data that are not currently gathered, and that are necessary for current and future planning, long-term evaluation of the system, and for quality measurements, including identification of any data requiring legislation to ensure their availability;

(C) identify the causes underlying increased referrals and self-referrals to emergency departments;

(D) determine the availability, regional accessibility, and gaps in services that are barriers to efficient, medically necessary, recovery- and resiliency-oriented patient care at levels of support that are least restrictive and most integrated with regard to voluntary and involuntary hospital admissions,

emergency departments, intensive residential recovery facilities, secure residential recovery facilities, crisis beds, and other diversion capacities; crisis intervention services; peer respite and support services; intensive and other outpatient services; services for transition age youths; and stable housing;

(E) incorporate existing information from research and from established quality metrics regarding emergency department wait times;

(F) incorporate anticipated demographic trends, the impact of the opiate crisis, and data that indicate short- and long-term trends; and

(G) identify the levels of resources necessary to attract and retain qualified staff to meet identified outcomes required of designated and specialized service agencies and specify a timeline for achieving those levels of support.

(2) On or before September 1, 2017, the Secretary shall submit a status report to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services describing the progress made in completing the analysis required pursuant to this subsection and producing a corresponding action plan. The status report shall include any immediate action steps that the Agency was able to take to address the emergency department crisis that did not require additional resources or legislation.

(b)(1) The Commissioner shall collect data to inform the analysis and action plan described in subsection (a) of this section regarding emergency services for persons with psychiatric symptoms or complaints in the emergency department. The data collected regarding persons presenting in emergency departments with psychiatric symptoms shall include:

(A) the circumstances under which and reasons why a person is being referred or self-referred to an emergency department;

(B) measurements shown by research to affect length of waits; and

(C) rates at which persons brought to emergency departments for emergency examinations pursuant to 18 V.S.A. §§ 7504 and 7505 are found not to be in need of inpatient hospitalization.

(2) Data to otherwise inform the analysis and action plan shall include short- and long-term trends in inpatient length of stay and readmission rates.

(3) Data for persons under 18 years of age shall be collected and analyzed separately.

(c) On or before January 15, 2019, the Secretary shall submit a comprehensive evaluation of the overarching structure for the delivery of mental health services within a sustainable, holistic health care system in

Vermont to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services, including:

(1) whether the current structure is succeeding in serving Vermonters with mental health needs and meeting the goals of access, quality, and integration of services;

(2) whether quality and access to mental health services are equitable throughout Vermont;

(3) whether the current structure advances the long-term vision of an integrated, holistic health care system;

(4) how the designated and specialized service agency structure contributes to the realization of that long-term vision;

(5) how mental health care is being fully integrated into health care payment reform; and

(6) any recommendations for structural changes to the mental health system that would assist in achieving the vision of an integrated, holistic health care system.

Sec. 4. COMPONENTS OF ANALYSIS, ACTION PLAN, AND LONG-TERM VISION EVALUATION

The analysis, action plan, and long-term vision evaluation required by Sec. 3 of this act shall address the following:

(1) Care coordination. The analysis, action plan, and long-term vision evaluation shall address the potential benefits and costs of developing regional navigation and resource centers for referrals from primary care, hospital emergency departments, inpatient psychiatric units, correctional facilities, and community providers, including the designated and specialized service agencies, private counseling services, and peer-run services. The goal of regional navigation and resource centers is to foster improved access to efficient, medically necessary, and recovery- and resiliency-oriented patient care at levels of support that are least restrictive and most integrated for individuals with mental health conditions, substance use disorders, or co-occurring conditions. Consideration of regional navigation and resource centers shall include consideration of other coordination models identified during the recovery- and resiliency-oriented analysis, including models that address the goal of an integrated health system.

(2) Accountability. The analysis, action plan, and long-term vision evaluation shall address the effectiveness of the Department's care coordination team in providing access to and adequate accountability for coordination and collaboration among hospitals and community partners for

transition and ongoing care, including the judicial and corrections systems. An assessment of accountability shall include an evaluation of potential discrimination in hospital admissions at different levels of care and the extent to which individuals are served by their medical homes.

(3)(A) Crisis diversion evaluation. The analysis, action plan, and long-term vision evaluation shall evaluate:

(i) existing and potential new models, including the 23-hour bed model, that prevent or divert individuals from the need to access an emergency department;

(ii) models for children, adolescents, and adults; and

(iii) whether existing programs need to be expanded, enhanced, or reconfigured, and whether additional capacity is needed.

(B) Diversion models used for patient assessment and stabilization, involuntary holds, diversion from emergency departments, and holds while appropriate discharge plans are determined shall be considered, including the extent to which they address psychiatric oversight, nursing oversight and coordination, peer support, security, and geographic access. If the preliminary analysis identifies a need for or the benefits of additional, enhanced, expanded, or reconfigured models, the action plan shall include preliminary steps necessary to identify licensing needs, implementation, and ongoing costs.

(4) Implementation of Act 79. The analysis, action plan, and long-term vision evaluation, in coordination with the work completed by the Department of Mental Health for its annual report pursuant to 18 V.S.A. § 7504, shall address whether those components of the system envisioned in 2012 Acts and Resolves No. 79 that have not been fully implemented remain necessary and whether those components that have been implemented are adequate to meet the needs identified in the preliminary analysis. Priority shall be given to determining whether there is a need to fund fully the 24-hour warm line and eight unutilized intensive residential recovery facility beds and whether other models of supported housing are necessary. If implementation or expansion of these components is deemed necessary in the analysis, the action plan shall identify the initial steps needed to plan, design, and fund the recommended implementation or expansion.

(5) Mental health access parity. The analysis, action plan, and long-term vision evaluation shall evaluate opportunities for and remove barriers to implementing parity in the manner that individuals presenting at hospitals are received, regardless of whether for a psychiatric or other health care condition. The evaluation shall examine: existing processes to screen and triage health emergencies; transfer and disposition planning; stabilization and admission;

and criteria for transfer to specialized or long-term care services.

(6) Geriatric psychiatric support services, residential care, or skilled nursing unit or facility. The analysis, action plan, and long-term vision evaluation shall evaluate the extent to which additional support services are needed for geriatric patients in order to prevent hospital admissions or to facilitate discharges from inpatient settings, including community-based services, enhanced residential care services, enhanced supports within skilled nursing units or facilities, or new units or facilities. If the analysis concludes that the situation warrants more home- and community-based services, a geriatric nursing home unit or facility, or any combination thereof, the action plan shall include a proposal for the initial funding phases and, if appropriate, siting and design, for one or more units or facilities with a focus on the clinical best practices for these patient populations. The action plan and preliminary analysis shall also include means for improving coordination and shared care management between Choices for Care and the designated and specialized service agencies.

(7) Forensic psychiatric support services or residential care. The analysis, action plan, and long-term vision evaluation shall evaluate the extent to which additional services or facilities are needed for forensic patients in order to enable appropriate access to inpatient care, prevent hospital admissions, or facilitate discharges from inpatient settings. These services may include community-based services or enhanced residential care services. The analysis and action plan shall be completed in coordination with other relevant assessments regarding access to mental health care for persons in the custody of the Commissioner of Corrections as required by the General Assembly during the first year of the 2017–2018 biennium.

(8) Units or facilities for use as nursing or residential homes or supportive housing. To the extent that the analysis indicates a need for additional units or facilities, it shall require consultation with the Commissioner of Buildings and General Services to determine whether there are any units or facilities that the State could be utilized for a geriatric skilled nursing or forensic psychiatric facility, an additional intensive residential recovery facility, an expanded secure residential recovery facility, or supportive housing.

(9) Designated and specialized service agencies. The analysis, action plan, and long-term vision evaluation shall estimate the levels of funding necessary to sustain the designated and specialized service agencies' workforce; enable the designated and specialized service agencies to meet their statutorily mandated responsibilities and required outcomes; identify the required outcomes; and establish recommended levels of increased funding for inclusion in the fiscal year 2019 budget.

Sec. 5. INVOLUNTARY TREATMENT AND MEDICATION REVIEW

(a) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health and the Chief Superior Judge, shall analyze and submit a report to the Senate Committee on Health and Welfare to the House Committee on Health Care regarding the role that involuntary treatment and psychiatric medication play in inpatient emergency department wait times, including any concerns arising from judicial timelines and processes. The analysis shall examine gaps and shortcomings in the mental health system, including the adequacy of housing and community resources available to divert patients from involuntary hospitalization; treatment modalities, including involuntary medication and non-medication alternatives available to address the needs of patients in psychiatric crises; and other characteristics of the mental health system that contribute to prolonged stays in hospital emergency departments and inpatient psychiatric units. The analysis shall also examine the interplay between the rights of staff and patients' rights and the use of involuntary treatment and medication. Additionally, to provide the General Assembly with a wide variety of options, the analysis shall examine the following, including the legal implications, the rationale or disincentives, and a cost-benefit analysis for each:

(1) a statutory directive to the Department of Mental Health to prioritize the restoration of competency where possible for all forensic patients committed to the care of the Commissioner; and

(2) enabling applications for involuntary treatment and applications for involuntary medication to be filed simultaneously or at any point that a psychiatrist believes joint filing is necessary for the restoration of the individual's competency.

(b) On or before January 15, 2018, Vermont Legal Aid, Disability Rights Vermont, and Vermont Psychiatric Survivors shall have the opportunity to submit an addendum addressing the Secretary's report completed pursuant to subsection (a) of this section.

(c)(1) On or before November 15, 2017, the Department shall issue a request for information for a longitudinal study comparing the outcomes of patients who received court-ordered medications while hospitalized with those of patients who did not receive court-order medication while hospitalized, including both patients who voluntarily received medication and those who received no medication, for a period from 1998 to the present. The request for information shall specify that the study examine the following measures:

(A) the length of an individual's involuntary hospitalization

(B) the time spent by an individual in inpatient and outpatient

settings;

(C) the number of an individual's hospital admissions, including both voluntary and involuntary admissions;

(D) the number of and length of time of an individual's residential placements;

(E) an individual's success in different types of residential settings;

(F) any employment or other vocational and educational activities after hospital discharge;

(G) any criminal charges after hospital discharge; and

(H) other parameters determined in consultation with representatives of inpatient and community treatment providers and advocates for the rights of psychiatric patients.

(2) Request for information proposals shall include estimated costs, time frames for conducting the work, and any other necessary information.

* * * Payment Structures * * *

Sec. 6. INTEGRATION OF PAYMENTS; ACCOUNTABLE CARE ORGANIZATIONS

(a) Pursuant to 18 V.S.A. § 9382, the Green Mountain Care Board shall review an accountable care organization's (ACO) model of care and integration with community providers, including designated and specialized service agencies, regarding how the model of care promotes seamless coordination across the care continuum, business or operational relationships between the entities, and any proposed investments or expansions to community-based providers. The purpose of this review is to ensure progress toward and accountability to the population health measures related to mental health and substance use disorder contained in the All Payer ACO Model Agreement.

(b) In the Board's annual report due on January 15, 2018, the Green Mountain Care Board shall include a summary of information relating to integration with community providers, as described in subsection (a) of this section, received in the first ACO budget review under 18 V.S.A. § 9382.

(c) On or before December 31, 2020, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall provide a copy of the report required by Section 11 of the All-Payer Model Accountable Care Organization Model Agreement, which outlines a plan for including the financing and delivery of community-based providers in delivery system reform, to the Senate Committee on Health and Welfare and the House

Committee on Health Care.

Sec. 7. PAYMENTS TO THE DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The Secretary of Human Services, in collaboration with the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living; providers; and persons who are affected by current services, shall develop a plan to integrate multiple sources of payments for mental and substance abuse services to the designated and specialized service agencies. In a manner consistent with Sec. 11 of this act, the plan shall implement a Global Funding model as a successor to the analysis and work conducted under the Medicaid Pathways and other work undertaken regarding mental health in health care reform. It shall increase efficiency and reduce the administrative burden. On or before January 1, 2018, the Secretary shall submit the plan and any related legislative proposals to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services.

Sec. 8. ALIGNMENT OF FUNDING WITHIN THE AGENCY OF HUMAN SERVICES

For the purpose of creating a more transparent system of public funding for mental health services, the Agency of Human Services shall continue with budget development processes enacted in legislation during the first year of the 2015–2016 biennium that unify payment for services, policies, and utilization review of services within an appropriate department consistent with Secs. 6 and 7 of this act.

* * * Workforce Development * * *

Sec. 9. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Mental Health, Developmental Disabilities, and Substance Use Disorder Workforce Study Committee to examine best practices for training, recruiting, and retaining health care providers and other service providers in Vermont, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders. It is the goal of the General Assembly to enhance program capacity in the State to address ongoing workforce shortages.

(b) Membership. The Committee shall be composed of the following members:

(1) the Secretary of Human Services or designee, who shall serve as the Chair;

(2) the Commissioner of Labor or designee;

- (3) the Commissioner of Mental Health or designee;
- (4) the Commissioner of Disabilities, Aging, and Independent Living or designee;
- (5) the Commissioner of Health or designee;
- (6) a representative of the Vermont State Colleges;
- (7) a representative of the Governor's Health Care Workforce Work Group created by Executive Order 07-13;
- (8) a representative of persons affected by current services;
- (9) a representative of the families of persons affected by current services;
- (10) a representative of the designated and specialized service agencies appointed by Vermont Care Partners;
- (11) the Director of Substance Abuse Prevention;
- (12) a representative appointed by the Area Health Education Centers; and
- (13) any other appropriate individuals by invitation of the Chair.

(c) Powers and duties. The Committee shall consider and weigh the effectiveness of loan repayment, tax abatement, long-term employment agreements, funded training models, internships, rotations, and any other evidence-based training, recruitment, and retention tools available for the purpose of attracting and retaining qualified health care providers in the State, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before December 15, 2017, the Committee shall submit a report to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services regarding the results of its examination, including any legislative proposals for both long-term and immediate steps the State may take to attract and retain more health care providers in Vermont.

(f) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Committee to occur on or before July 1, 2017.

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

(3) The Committee shall cease to exist on December 31, 2017.

Sec. 10. OFFICE OF PROFESSIONAL REGULATION; INTERSTATE
COMPACTS

The Director of Professional Regulation shall engage other states in a discussion of the creation of national standards for coordinating the regulation and licensing of mental health professionals, as defined in 18 V.S.A. § 7101, for the purposes of licensure reciprocity and greater interstate mobility of that workforce. On or before September 1, 2017, the Director shall report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding the results of his or her efforts and recommendations for legislative action.

* * * Designated and Specialized Service Agencies * * *

Sec. 11. 18 V.S.A. § 8914 is added to read:

§ 8914. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED
SERVICE AGENCIES

(a) The Secretary of Human Services shall have sole responsibility for establishing the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living's rates of payments for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers that are reasonable and adequate to achieve the required outcomes for designated populations. When establishing rates of payment for designated and specialized service agencies, the Secretary shall adjust rates to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable cost of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.

(b) When establishing rates of payment for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

Sec. 12. HEALTH INSURANCE; DESIGNATED AND SPECIALIZED
SERVICE AGENCY EMPLOYEES

On or before September 1, 2017, the Commissioner of Human Resources shall consult with Blue Cross and Blue Shield of Vermont and Vermont Care Partners regarding the operational feasibility of including the designated and specialized service agencies in the State employees' health benefit plan and submit any findings and relevant recommendations for legislative action to the Senate Committees on Health and Welfare, on Government Operations, and on Finance and the House Committees on Health Care and on Government Operations.

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

NEW BUSINESS

Third Reading

H. 58.

An act relating to awarding hunting and fishing licenses at no cost to persons 65 years of age or older.

H. 154.

An act relating to approval of amendments to the charter of the City of Burlington.

H. 312.

An act relating to retirement and pensions.

H. 495.

An act relating to miscellaneous agriculture subjects.

H. 522.

An act relating to approval of amendments to the charter of the City of Burlington.

Report of Committee of Conference

H. 171.

An act relating to expungement.

To the Senate and House of Representatives:

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

H. 171. An act relating to expungement.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 8005 is amended to read:

§ 8005. NOTICE OF COLLATERAL CONSEQUENCES AND
ELIGIBILITY FOR EXPUNGEMENT IN PRETRIAL
PROCEEDING

* * *

(b) Before the ~~Court~~ court accepts a plea of guilty or nolo contendere from an individual, the ~~Court~~ court shall:

(1) confirm that the individual received the notice required by subsection (a) of this section and had an opportunity to discuss the notice with counsel, if represented, and understands that there may be collateral consequences to a conviction; and

(2) provide written notice, as part of a written plea agreement or through another form, of the following:

(A) that collateral consequences may apply because of the conviction;

(B) the Internet address of the collection of laws published under this chapter;

(C) that there may be ways to obtain relief from collateral consequences;

(D) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;

(E) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(E)~~(F) that conviction of a crime in this State does not prohibit an

individual from voting in this State.

Sec. 2. 13 V.S.A. § 8006 is amended to read:

§ 8006. NOTICE OF COLLATERAL CONSEQUENCES AND
ELIGIBILITY FOR EXPUNGEMENT UPON RELEASE

(a) Prior to the completion of a sentence, an individual in the custody of the Commissioner of Corrections shall be given written notice of the following:

- (1) that collateral consequences may apply because of the conviction;
- (2) the Internet address of the collection of laws published under this chapter;
- (3) that there may be ways to obtain relief from collateral consequences;
- (4) that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title;
- (5) contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral consequences; and

~~(5)~~(6) that conviction of a crime in this State does not prohibit an individual from voting in this State.

(b) For persons sentenced to incarceration, the notice shall be provided not more than 30 days and at least 10 days before completion of the sentence. If the sentence is for a term of less than 30 days then notice shall be provided when the sentence is completed.

(c) For persons receiving a sentence involving community supervision, such as probation, furlough, home confinement, conditional reentry, or parole, the notice shall be provided by the Department of Corrections in keeping with its mission of ensuring rehabilitation and public safety.

(d) For persons receiving a penalty involving a fine only, the court shall, at the time of the judgment, provide either oral or written notice that the conviction may be eligible for expungement or sealing pursuant to section 7602 of this title.

Sec. 3. 13 V.S.A. § 7601(4) is amended to read:

(4) “Qualifying crime” means:

(A) a misdemeanor offense ~~which~~ that is not:

- (i) a listed crime as defined in subdivision 5301(7) of this title;²
- (ii) an offense involving sexual exploitation of children in

violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) ~~a prohibited act~~ prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;
or

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; or

(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit.

Sec. 4. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

* * *

(b)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least ~~10~~ five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least ~~10~~ five years previously.

(B) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.

(C) Any restitution ordered by the ~~Court~~ court has been paid in full.

(D) The ~~Court~~ court finds that expungement of the criminal history record serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), and (C) of this subsection are met and the ~~Court~~ court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(c)(1) The ~~Court~~ court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least ~~20~~ 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence since the person was convicted of the qualifying crime.

(C) The person has not been convicted of a misdemeanor during the past ~~15~~ five years.

(D) Any restitution ordered by the ~~Court~~ court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the ~~Court~~ court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

(2) The ~~Court~~ court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the ~~Court~~ court finds that:

(A) sealing the criminal history record better serves the interest of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

~~(d) The Court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) The petitioner committed the qualifying crime or crimes prior to reaching 25 years of age.~~

~~(2) At least five years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five~~

years previously.

~~(3) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of the qualifying crime.~~

~~(4) The person successfully completed a term of regular employment or public service, independent of any service ordered as a part of the petitioner's sentence for the conviction, and as approved by the Community Justice Network of Vermont, which may include:~~

~~(A) community service hours completed without compensation, reparation of harm to the victim, or education regarding ways not to reoffend, or a combination of the three;~~

~~(B) at least one year of service in the U.S. Armed Forces, followed by an honorable discharge or continued service in good standing;~~

~~(C) at least one year of service in AmeriCorps or another local, state, national, or international service program, followed by successful completion of the program or continued service in good standing; or~~

~~(D) at least one year of regular employment.~~

~~(5) Any restitution ordered by the Court for any crime of which the person has been convicted has been paid in full.~~

~~(6) The Court finds that expungement of the criminal history record serves the interest of justice.~~

~~(e) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interest of justice, the Court court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:~~

~~(1) At least one year has elapsed since the completion of The petitioner has completed any sentence or supervision for the offense, whichever is later.~~

~~(2) Any restitution ordered by the Court court has been paid in full.~~

~~(3) The Court finds that expungement of the criminal history record serves the interest of justice.~~

* * *

Sec. 5. 13 V.S.A. § 7605 is amended to read:

§ 7605. DENIAL OF PETITION

If a petition for expungement is denied by the Court court pursuant to this chapter, no further petition shall be brought for at least five two years, unless a shorter duration is authorized by the court.

Sec. 6. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The ~~Court~~ court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The ~~Court~~ court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 7. SECRETARY OF STATE; ATTORNEY GENERAL; REPORT

The Secretary of State, in consultation with the Attorney General, shall evaluate how to comply with the requirements of 13 V.S.A. chapter 230 and, on or before January 15, 2018, report to the House and Senate Committees on Judiciary to confirm such compliance.

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Sec. 3 (13 V.S.A. § 7601(4)), subdivision (E), which shall take effect on January 1, 2018.

*ALICE W. NITKA
RICHARD W. SEARS
JOSEPH C. BENNING*

*Committee on the part of the
Senate*

*MARTIN J. LALONDE
CHARLES W. CONQUEST
JANSSEN D. WILLHOIT*

Committee on the part of the House

NOTICE CALENDAR

Second Reading

Favorable

H. 241.

An act relating to the charter of the Central Vermont Solid Waste Management District.

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 28, 2017, page 1067.)

H. 529.

An act relating to approval of amendments to the charter of the City of Barre.

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 27, 2017, page 952.)

H. 534.

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

Reported favorably by Senator Collamore for the Committee on Government Operations.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 27, 2017, page 952.)

Favorable with Proposal of Amendment

H. 29.

An act relating to permitting Medicare supplemental plans to offer expense discounts.

Reported favorably with recommendation of proposal of amendment by Senator Sirotkin for the Committee on Finance.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Medicare Supplemental Plans * * *

Sec. 1. 8 V.S.A. § 4080e is amended to read:

§ 4080e. MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES; COMMUNITY RATING; DISABILITY

(a) A health insurance company, hospital or medical service corporation, or health maintenance organization shall use a community rating method acceptable to the Commissioner for determining premiums for Medicare supplemental insurance policies.

(b)(1) The Commissioner shall adopt rules for standards and procedure for permitting health insurance companies, hospital or medical service organizations, or health maintenance organizations that issue Medicare supplemental insurance policies to use one or more risk classifications in their community rating method. The premium charged shall not deviate from the community rate and the rules shall not permit medical underwriting and screening, except that a health insurance company, hospital or medical service corporation, or health maintenance organization may set different community rates for persons eligible for Medicare by reason of age and persons eligible for Medicare by reason of disability.

(2)(A) A health insurance company, hospital or medical service corporation, or health maintenance organization that issues Medicare supplemental insurance policies may offer expense discounts to encourage timely, full payment of premiums. Expense discounts may include premium reductions for advance payment of a full year's premiums, for paperless billing, for electronic funds transfer, and for other activities directly related to premium payment. The availability of one or more expense discounts shall not be considered a deviation from community rating.

(B) A health insurance company, hospital or medical service corporation, or health maintenance organization that issues Medicare supplemental insurance policies shall not offer reduced premiums or other

discounts related to a person's age, gender, marital status, or other demographic criteria.

* * *

* * * Health Care Professional Payment Parity * * *

Sec. 2. FINDINGS

The General Assembly finds:

(1) Serious disparities exist between the amounts commercial health insurers in Vermont reimburse health care professionals for the same services in different settings. The differences are particularly significant for the amounts paid for the services of a health care professional practicing at an academic medical center and those of a health care professional in an independent medical practice or community hospital setting. For example, in January 2015, one Vermont insurer provided the following reimbursement amounts for physician services:

(A) for an office consultation visit for an established patient, CPT code 99213, \$78.00 for a physician in an independent practice and \$177.00, or 2.3 times that amount, for a physician employed by an academic medical center;

(B) for a diagnostic, screening colonoscopy, CPT code 45378, \$584.00 for a physician in an independent practice and \$1,356.00, or 2.3 times that amount, for a physician employed by an academic medical center; and

(C) for removal of a single skin lesion for biopsy, CPT code 11000, \$109.00 for a physician in an independent practice and \$349.00, or 3.2 times that amount, for a physician employed by an academic medical center.

(2) Community hospitals in Vermont face disparities in their physician reimbursement rates that are similar to those of independent practices.

(3) Low reimbursement rates from commercial health insurers and Medicaid have placed burdens on health care professionals in independent practices, causing many of them to close their practices or affiliate with academic medical centers or other hospitals.

(4) The General Assembly asked the Green Mountain Care Board, the commercial insurers, and others to address the issue of the disparity in reimbursement amounts to health care professionals in 2014 Acts and Resolves No. 144, Sec. 19; 2015 Acts and Resolves No. 54, Sec 23; and 2016 Acts and Resolves No. 143, Sec. 5, but little progress has been made to date.

Sec. 3. GREEN MOUNTAIN CARE BOARD; HEALTH CARE
PROFESSIONAL PAYMENT PARITY WORK GROUP

(a) The Green Mountain Care Board shall convene the Health Care Professional Payment Parity Work Group to determine how best to ensure fair and equitable reimbursement amounts to health care professionals for providing the same services in different settings.

(b) The Work Group shall be composed of the following members:

(1) the Chair of the Green Mountain Care Board or designee;

(2) the Commissioner of Vermont Health Access or designee;

(3) a representative of each commercial health insurer with 5,000 or more covered lives in Vermont;

(4) a representative of independent physician practices, appointed by Health First;

(5) a representative of the University of Vermont Medical Center;

(6) a representative of Vermont's community hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(7) a representative of Vermont's critical access hospitals, appointed by the Vermont Association of Hospitals and Health Systems;

(8) a representative of each accountable care organization in this State;

(9) a representative of Vermont's federally qualified health centers and rural health clinics, appointed by the Bi-State Primary Care Association;

(10) a representative of naturopathic physicians, appointed by the Vermont Association of Naturopathic Physicians;

(11) a representative of chiropractors, appointed by the Vermont Chiropractic Association; and

(12) the Chief Health Care Advocate or designee from the Office of the Health Care Advocate.

(c) The Green Mountain Care Board, in consultation with the other members of the Work Group, shall develop a plan for reimbursing health care professionals in a fair and equitable manner, including the following:

(1) proposing a process for reducing existing disparities in reimbursement amounts for health care professionals across all settings by the maximum achievable amount over three years, beginning on or before January 1, 2018, which shall include:

(A) establishing a process for and evaluating the potential impacts of

increasing the reimbursement amounts for lower paid providers and reducing the reimbursement amounts for the highest paid providers;

(B) evaluating the potential impact of requiring health insurers to modify their reimbursement amounts to health care professionals across all settings for nonemergency evaluation and management office visits codes to the amount of the insurer's average payment for that code across all settings in Vermont on January 1, 2017 or on another specified date;

(C) ensuring that there will be no negative net impact on reimbursement amounts for providers in independent practices and community hospitals;

(D) ensuring that there will be no increase in medical costs or health insurance premiums as a result of the adjusted reimbursement amounts;

(E) considering the impact of the adjusted reimbursement amounts on the implementation of value-based reimbursement models, including the all-payer model; and

(F) developing an oversight and enforcement mechanism through which the Green Mountain Care Board shall evaluate the alignment between reimbursement amounts to providers, hospital budget revenues, and health insurance premiums;

(2) identifying the time frame for adjusting the reimbursement amounts for each category of health care services; and

(3) enforcement and accountability provisions to ensure measurable results.

(d)(1) The Green Mountain Care Board shall provide an update on its progress toward achieving provider payment parity at each meeting of the Health Reform Oversight Committee between May 2017 and January 2018.

(2) On or before November 1, 2017, the Green Mountain Care Board shall submit a final timeline and implementation plan, and propose any necessary legislative changes, to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance.

Sec. 4. REIMBURSEMENT AMOUNTS FOR NEWLY ACQUIRED OR NEWLY AFFILIATED PRACTICES

(a) Health care professionals employed by practices newly acquired by or newly affiliated with hospitals on or after November 1, 2017 shall continue to be reimbursed the same professional fees as they were prior to the date of the acquisition or affiliation, subject to any modifications resulting from implementation of the provider payment parity plan required by Sec. 3 of this act.

(b) The Green Mountain Care Board shall ensure compliance with subsection (a) of this section through its review of hospital budgets pursuant to 18 V.S.A. chapter 221, subchapter 7.

* * * Health Insurer Bill Back * * *

Sec. 5. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) Except as otherwise provided in subdivision (2) of this subsection, expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by the Board shall be borne as follows:

(A) 40 percent by the State from State monies;

(B) 15 percent by the hospitals; and

(C) ~~15~~ 45 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

~~(D) 15 percent by~~ health insurance companies licensed under 8 V.S.A. chapter 101^{1/2}; and

~~(E) 15 percent by~~ health maintenance organizations licensed under 8 V.S.A. chapter 139.

(2) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision (1) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

(3) Expenses under subdivision (1)(C) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

(a) Secs. 1 (Medicare supplemental plans) and 5 (health insurer bill back) shall take effect on July 1, 2017.

(b) Secs. 3-5 (payment parity) and this section shall take effect on passage.

(Committee vote: 7-0-0)

(For House amendments, see House Journal for March 21, 2017, page 457.)

H. 143.

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

Reported favorably with recommendation of proposal of amendment by Senator Benning for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) “Prearranged ride” or “ride” means the transportation provided by a driver to a transportation network rider, beginning when a driver accepts the rider’s request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last requesting rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) “Transportation network company” or “company” means a person that uses a digital network to connect riders to drivers who provide

prearranged rides.

(5) “Transportation network company driver” or “driver” means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) “Transportation network company rider” or “rider” means an individual who uses a company’s digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the rider.

(b) Company’s financial responsibility.

(1) Beginning on July 1, 2017, a driver, or company on the driver’s behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company’s digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company’s digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least \$100,000.00 for death and bodily injury per person, \$300,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(iii) \$10,000.00 in medical payments coverage (Med Pay).

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by a company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a

personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

(A) liability coverage for bodily injury and property damage;

(B) personal injury protection coverage;

(C) uninsured and underinsured motorist coverage;

(D) medical payments coverage;

(E) comprehensive physical damage coverage; and

(F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for

vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 751. COMPANY LICENSE

(a) A company shall not operate without a license issued by the Commissioner of Motor Vehicles. Applications for a license shall be filed with the Commissioner and shall contain such information and shall be on such forms as the Commissioner may prescribe.

(b) Each application shall be accompanied by an application fee of \$250.00, which shall not be refunded. If an application is approved by the Commissioner, upon payment of an additional fee of \$250.00, the applicant shall be granted a license, which shall be valid for one year after the date of issuance. The renewal fee is \$500.00.

(c) The Commissioner shall not issue a license to a company unless he or she finds that the company:

(1) has a zero-tolerance policy for drug and alcohol use, as described in subsection 752(c) of this chapter;

(2) requires compliance with applicable vehicle requirements;

(3) adopts nondiscrimination and accessibility policies; and

(4) establishes record maintenance guidelines.

§ 752. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the

company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) obtains a Vermont criminal record from the Vermont Crime Information Center; and

(B) contracts with an entity accredited by the National Association of Professional Background Screeners to conduct a national criminal record check, a motor vehicle check, and a search of the Vermont Sex Offender Registry and the National Sex Offender Public Registry.

(2) The background checks required by this subsection shall be conducted annually by the company.

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64;

(C) a violation of 18 V.S.A. § 4231(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking cocaine); 4232(b)(2) or (b)(3)(selling or dispensing LSD); 4233(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking heroin); 4234(b)(2) or (b)(3)(selling or dispensing depressants, stimulants, and narcotics); 4234a(b)(2), (b)(3), or (c)(selling, dispensing, or trafficking methamphetamine); 4235(c)(2) or (c)(3)(selling or dispensing hallucinogenic drugs); or 4235a(b)(2) or (b)(3)(selling or dispensing Ecstasy);

(D) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(E) a felony violation of 13 V.S.A. chapter 47 (frauds) or chapter 57 (larceny and embezzlement); or

(F) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1071 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction; or

(3) is or has been required to register as a sex offender in any jurisdiction.

(c) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(d) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 753. RECORDS; INSPECTION

The Commissioner of Motor Vehicles or designee, at all reasonable times, has the right to inspect driver and company records demonstrating compliance with the requirements of this chapter, including the results of background checks, proof that vehicles meet the standards of this chapter, and proof of adequate insurance.

§ 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner may impose an administrative penalty, suspend or revoke a company's license, or both, if a company violates the provisions of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the address stated on the company's license. The notice shall include the following:

- (1) a factual description of the alleged violation;
- (2) a reference to the particular statute allegedly violated;
- (3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing, that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice, and that failure to pay a penalty may result in suspension of its license.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court, or through any other means available to State agencies.

(g) If a penalty is not paid within 60 days after it is imposed, the Commissioner may suspend any license issued under this chapter.

(h) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 755. PREEMPTION; SAVINGS CLAUSE

(a) A municipality shall not adopt an ordinance, resolution, or bylaw regulating transportation network companies that is inconsistent with the requirements of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2022.

Sec. 2. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY

The Commissioner of Financial Regulation shall review the minimum automobile insurance requirements in each of the states located in the northeastern region of the United States and shall report his or her findings and recommendations with respect to Vermont's minimum automobile insurance requirements to the General Assembly on or before November 1, 2017.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

An act relating to transportation network companies.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 9, 2017, page 190.)

Reported favorably with recommendation of proposal of amendment by Senator Degree for the Committee on Finance.

The Committee recommends that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendments thereto:

First: In Sec. 1, 23 V.S.A. § 750(b)(2)(A), by striking out subdivision (i) in its entirety and inserting in lieu thereof a new subdivision (i) to read as follows:

(i) primary automobile liability insurance in the amount of at least \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

Second: In Sec. 1, 23 V.S.A. § 750(b) (company's financial responsibility), by adding subdivision (9) to read as follows:

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty of not more than \$500.00, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a fine of not more than \$100.00. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

Third: In Sec. 1, by striking out section 751 (company license) in its entirety

Fourth: In Sec. 1, by striking out section 754 (enforcement) in its entirety and by inserting in lieu thereof a new section 754 to read as follows:

§ 754. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

- (1) a factual description of the alleged violation;
- (2) a reference to the particular statute allegedly violated;
- (3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

Fifth: By adding Sec. 3 to read as follows:

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Motor Vehicles, in consultation with the Director of the Office of Professional Regulation, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State. Among other things, the Commissioner shall consider:

(1) issues related to public safety, necessity, and convenience;

(2) regulatory models adopted in other states, as well as in Vermont municipalities, applicable to transportation network companies and other

vehicle for hire companies;

(3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;

(4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures;

(5) matters related to fares, including the provision of fare estimates to riders, restrictions on “surge pricing,” and payment methods;

(6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees; the employment status of drivers; increased access for people with disabilities;

(7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and

(8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a “vehicle for hire” is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) Those which an employer uses to transport employees.

(2) Those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15).

(3) Buses, trolleys, trains, or similar mass transit vehicles.

(4) Courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 6-0-1)

Proposal of amendment to H. 143 to be offered by Senators Cummings, Campion, Degree, Lyons, MacDonald, Pollina and Sirotkin

Senators Cummings, Campion, Degree, Lyons, MacDonald, Pollina and Sirotkin move that the Senate propose to the House to amend the bill in Sec. 1, 23 V.S.A. § 752(b), by adding a new subdivision (3) to read as follows:

(3) With respect to a person who is a driver as of the effective date of this act, the requirements of subdivision (1)(A) of this subsection (b) shall be deemed satisfied during the period when a request for a Vermont criminal record is pending with the Vermont Crime Information Center.

ORDERED TO LIE

S. 22.

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

PENDING QUESTION: Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

S.C.R. 14-15 (For text of Resolutions, see Addendum to Senate Calendar for May 4, 2017)

H.C.R. 158-190 (For text of Resolutions, see Addendum to House Calendar for May 4, 2017)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 1/5/17 – 2/28/17) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 3/1/17 – 2/28/19) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 1/5/17 – 2/28/17) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 3/1/17 – 2/28/19) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 1/5/17 - 2/28/17) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 3/1/17 - 2/28/19) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health (term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/17) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/19) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

David Fenster of Middlebury – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Elizabeth Mann of Norwich – Superior Court Judge – By Sen. Nitka for the Committee on Judiciary. (4/18/17)

Matthew Valerio of Proctor – Defender General – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Sabina Haskell of Burlington – Chair, Vermont State Lottery Commission – By Sen. Baruth for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Wendy Knight of Panton – Commissioner, Department of Tourism and Marketing – By Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 1/5/17 – 2/28/17) – By Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 3/1/17 – 2/28/19) – By Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Michael Snyder of Stowe - Commissioner, Department of Forest, Parks and Recreation – By Sen. Rodgers for the Committee on Natural Resources and Energy. (4/19/17)

Lisa Menard of Waterbury – Commissioner, Department of Corrections – By Sen. Branagan for the Committee on Institutions. (4/21/17)

Joan Goldstein of Royalton – Commissioner, Department of Economic Development – By Sen. Balint for the Committee on Economic Development, Housing and General Affairs. (4/25/17)

John Quinn of Northfield – Secretary, Agency of Digital Services – By Sen. Pearson for the Committee on Government Operations. (4/28/17)

Emily Boedecker of Montpelier – Commissioner, Department of Environmental Conservation – By Sen. Pearson for the Committee on Natural Resources and Energy. (5/2/17)

Beth Fastiggi of Burlington – Commissioner, Department of Human Resources – By Sen. Clarkson for the Committee on Government Operations. (5/2/17)

Joe Flynn of South Hero – Secretary, Agency of Transportation (term 1/5/17 – 2/28/17) – By Sen. Mazza for the Committee on Transportation. (5/4/17)

Joe Flynn of South Hero – Secretary, Agency of Transportation (term 3/1/17- 2/28/19) – By Sen. Mazza for the Committee on Transportation. (5/4/17)

Rob Ide of Peacham – Commissioner, Department of Motor Vehicles (term 1/5/17 – 2/28/17) – By Sen. Kitchel for the Committee on Transportation. (5/4/17)

Rob Ide of Peacham – Commissioner, Department of Motor Vehicles (term 3/1/17 – 2/28/19) – By Sen. Kitchel for the Committee on Transportation. (5/4/17)

Rebecca Holcombe of Norwich – Secretary, Agency of Education – By Sen. Baruth for the Committee on Education. (5/5/17)

Michael Pieciak of Winooski – Commissioner, Department of Financial Regulation (term 1/5/17 – 2/28/17) – By Sen. Cummings for the Committee on Finance. (5/5/17)

Michael Pieciak of Winooski – Commissioner, Department of Financial Regulation (term 3/1/17 – 2/28/19) – By Sen. Cummings for the Committee on Finance. (5/5/17)

Kaj Samson of Montpelier – Commissioner, Department of Taxes (term 1/5/17 – 2/28/17) – By Sen. Cummings for the Committee on Finance. (5/5/17)

Kaj Samson of Montpelier – Commissioner, Department of Taxes (term 3/1/17 – 2/28/19) – By Sen. Cummings for the Committee on Finance. (5/5/17)

Wendy Harrison of Brattleboro – Member, Transportation Board – By Sen. Degree for the Committee on Transportation. (5/4/17)

Francis Heald of Island Pond – Member, Travel Information Council – By Sen. Kitchel for the Committee on Transportation. (5/4/17)

Elizabeth Kennett of Rochester – Member, Travel Information Council – By Sen. Mazza for the Committee on Transportation. (5/4/17)

Vanessa Kittell of East Fairfield – Chair, Transportation Board – By Sen. Degree for the Committee on Transportation. (5/4/17)

Thomas Lauzon of Barre – Member, Travel Information Council – By Sen. Degree for the Committee on Transportation. (5/4/17)

Thomas Gallagher of St. Albans – Member, Vermont Economic Development Authority - By Sen. Cummings for the Committee on Finance. (5/5/17)

Kenneth Gibbons of Hyde Park – Member, Vermont Educational and Health Buildings Financing Agency – By Sen. Cummings for the Committee on Finance. (5/5/17)

Leon Graves of Fairfield – Member, Vermont Economic Development Authority – By Sen. Cummings for the Committee on Finance. (5/5/17)

Daniel Kurtzman of Canaan – Member, Vermont Economic Development Authority – By Sen. Cummings for the Committee on Finance. (5/5/17)

Michael Tuttle of South Burlington – Member, Vermont Economic Authority – By Sen. Cummings for the Committee on Finance. (5/5/17)

Stephen Wisloski of South Burlington – Member, Educational and Health Buildings Financing Agency – By Sen. Cummings for the Committee on Finance. (5/5/17)