

Senate Calendar

TUESDAY, APRIL 17, 2018

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ACTION CALENDAR

NEW BUSINESS

Third Reading

H. 27.

An act relating to eliminating the statute of limitations on prosecutions for sexual assault.

H. 199.

An act relating to reinstating legislative members to the Commission on Alzheimer's Disease and Related Disorders.

Second Reading

Favorable

H. 690.

An act relating to explanation of advance directives and treating clinicians who may sign a DNR/COLST.

Reported favorably by Senator Ayer for the Committee on Health and Welfare.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of February 8, 2018, pages 336 - 339 and February 9, 2018, pages 343-345)

Favorable with Proposal of Amendment

H. 294.

An act relating to inquiries about an applicant's salary history.

Reported favorably with recommendation of proposal of amendment by Senator Balint for the Committee on Economic Development, Housing and General Affairs.

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. 21 V.S.A. § 495m is added to read:

§ 495m. SALARY HISTORY; EMPLOYMENT APPLICATIONS

(a) An employer shall not:

(1) inquire about or seek information regarding a prospective employee's current or past compensation from either the prospective employee or a current or former employer of the prospective employee;

(2) require that a prospective employee's current or past compensation satisfy minimum or maximum criteria; or

(3) determine whether to interview a prospective employee based on the prospective employee's current or past compensation.

(b) Notwithstanding subdivision (a)(1) of this section, if a prospective employee voluntarily discloses information about his or her current or past compensation, an employer may, after making an offer of employment with compensation to the prospective employee, seek to confirm or request that the prospective employee confirm that information.

(c) Nothing in this section shall be construed to prevent an employer from:

(1) inquiring about a prospective employee's salary expectations or requirements; or

(2) providing information about the wages, benefits, compensation, or salary offered in relation to a position.

(d) As used in this section, "compensation" includes wages, salary, bonuses, benefits, fringe benefits, and equity-based compensation.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 15, 2018, page 361)

H. 333.

An act relating to identification of gender-free restrooms in public buildings and places of public accommodation.

Reported favorably with recommendation of proposal of amendment by Senator Balint for the Committee on Economic Development, Housing and General Affairs.

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:

* * * Gender-Free Single Occupancy Restrooms * * *

Sec. 1. 18 V.S.A. chapter 40 is added to read:

CHAPTER 40. RESTROOMS

§ 1791. DEFINITIONS

As used in this chapter:

(1) “Place of public accommodation” has the same meaning as in 9 V.S.A. § 4501.

(2) “Public building” has the same meaning as in 20 V.S.A. § 2730.

(3) “Single-user toilet facility” means a single-occupancy restroom with at least one water closet and with an outer door that can be locked by the occupant.

§ 1792. SINGLE-USER RESTROOMS

(a) Notwithstanding any other provision of law, any single-user toilet facility in a public building or place of public accommodation shall be made available for use by persons of any gender, and designated for use by not more than one occupant at a time or for family or assisted use. A single-user toilet facility may be identified by a sign, provided that the sign marks the facility as a restroom and does not indicate any specific gender.

(b) The Commissioner of Public Safety may inspect for compliance under subsection (a) of this section during any inspection conducted pursuant to 20 V.S.A. § 2731(b) or 26 V.S.A. § 2173 or 2174.

§ 1793. APPLICATION OF PLUMBING RULES

(a) Notwithstanding the requirements of any plumbing code adopted by the Plumber’s Examining Board under 26 V.S.A. § 2173(a), a toilet facility may be designated for use by persons of any gender. No separate male or female facility is required if the total number of required plumbing fixtures is provided by toilet facilities designated for use by persons of any gender.

(b) When the total number of required plumbing fixtures in a plumbing code adopted by the Plumber’s Examining Board under 26 V.S.A. § 2173(a) is fixed separately for women and men, the Plumber’s Examining Board shall make rules consistent with this chapter to govern how plumbing fixtures in toilet facilities designated for use by persons of any gender shall contribute to the total number of plumbing fixtures required by the plumbing code.

* * * Conforming Changes * * *

Sec. 2. 26 V.S.A. § 2173 is amended to read:

§ 2173. RULES ADOPTED BY THE BOARD

(a) The ~~plumber's examining board~~ Plumber's Examining Board may, pursuant to the provisions of 3 V.S.A. chapter 25 (Administrative Procedure Act), make and revise such plumbing rules as necessary for protection of the public health, except that no rule of the ~~board~~ Board may require the installation or maintenance of a water heater at a minimum temperature. To the extent that a rule of the ~~board~~ Board conflicts with this subsection or with 18 V.S.A. chapter 40, that rule shall be invalid and unenforceable. The rules shall be in effect in every city, village, and town having a public water system or public sewerage system and apply to all premises connected to the systems and all public buildings containing plumbing or water treatment and heating specialties whether they are connected to a public water or sewerage system. The local board of health and the ~~commissioner of public safety~~ Commissioner of Public Safety shall each have authority to enforce these rules. The rules shall be limited to minimum performance standards reasonably necessary for the protection of the public against accepted health hazards. The ~~board~~ Board may, if it finds it practicable to do so, adopt the provisions of a nationally recognized plumbing code.

* * *

Sec. 3. 26 V.S.A. § 2174 is amended to read:

§ 2174. MUNICIPAL RULES AND REGULATIONS; MUNICIPAL INSPECTIONS

(a) The legislative body may establish inspection procedures and appoint trained, qualified master plumbers to conduct municipal inspections. If the ~~board~~ Board determines that the inspection procedures, training, and qualifications of the municipal plumbing inspectors are sufficient, the ~~commissioner~~ Commissioner may assign the responsibility to inspect plumbing installations within the municipality to the municipality. Municipal inspection standards shall be, at a minimum, equal to ~~state~~ State standards. Municipal standards may exceed ~~state~~ State standards with approval of the ~~board~~ Board. Municipal standards shall not prohibit implementation of 18 V.S.A. chapter 40. An assignment of responsibility under this subsection shall not affect the authority of the ~~board~~ Board or the ~~commissioner~~ Commissioner under this subchapter.

* * *

* * * Effective Date * * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 21, 2017, page 769-770)

H. 603.

An act relating to human trafficking.

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 in Sec. 3, 15A V.S.A. § 3-504, subdivision (a)(4), after the words "resulting in the conception of," by striking out the word "a" and inserting in lieu thereof the word the

(Committee vote: 5-0-0)

(No House amendments)

H. 696.

An act relating to establishing a State individual mandate.

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 as follows:

First: By striking out Sec. 1, 32 V.S.A. chapter 244, in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Second: By striking out Sec. 3, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 6-1-0)

(For House amendments, see House Journal for March 13, 2018, pages 622-624)

House Proposals of Amendment

S. 164

An act relating to establishing the Unused Prescription Drug Repository Program.

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

In Sec. 1, unused prescription drug repository program; feasibility analysis; report, in subsection (b), by striking out the words “House Committee on Health Care” and inserting in lieu thereof the words House Committees on Health Care and on Human Services

S. 182

An act relating to the investment authority of municipal trustees of public funds.

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

First: In Sec. 1, 24 V.S.A. § 2432, in subsection (d), by striking out the subsection in its entirety and inserting in lieu thereof the following:

(d) The trustees may delegate management and investment of funds under their charge to the extent that is prudent under the terms of the trust or endowment, and in accordance with section 3415 (delegation of management and investment functions) of the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. chapter 120. Notwithstanding the limitations on investments set forth in subsection (b) of this section, an agent exercising a delegated management or investment function, if investing, shall invest the funds in a publicly traded security that is:

(1) registered with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and listed on a national securities exchange;

(2) issued by an investment company registered pursuant to 15 U.S.C. § 80a-8;

(3) a corporate bond registered as an offering with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and issued by an entity whose stock is a publicly traded security;

(4) a municipal security;

(5) a deposit in federally insured financial institutions as defined in 8 V.S.A. § 11101(32); or

(6) a security issued, insured, or guaranteed by the United States.

Second: In Sec. 3, 18 V.S.A. § 5384, in subsection (b), in subdivision (3), by striking the subdivision in its entirety and inserting in lieu thereof the following:

(3) The treasurer, selectboard, or trustees of public funds may delegate management and investment of town cemetery funds to the extent that it is prudent under the terms of the trust or endowment, and in accordance with ~~the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. § section 3415 (delegation of management and investment functions) of the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. chapter 120. An~~ Notwithstanding the limitations on investments set forth in this subsection, an agent exercising a delegated management or investment function, if investing, may shall invest cemetery funds only in the securities enumerated in this section in a publicly traded security that is:

(A) registered with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and listed on a national securities exchange;

(B) issued by an investment company registered pursuant to 15 U.S.C. § 80a-8;

(C) a corporate bond registered as an offering with the Securities and Exchange Commission pursuant to 15 U.S.C. § 78l and issued by an entity whose stock is a publicly traded security;

(D) a municipal security;

(E) a deposit in federally insured financial institutions as defined in 8 V.S.A. § 11101(32); or

(F) a security issued, insured, or guaranteed by the United States.

S. 237

An act relating to providing representation to needy persons concerning immigration matters.

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

By adding a new Sec. 1 to read as follows:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that the Defender General, the Deputy Defender General, and public defenders shall, pursuant to 13 V.S.A. § 5203(3), continue to meet professional representation obligations to clients through representation that may extend to federal immigration court.

And by renumbering the remaining sections to be numerically correct.

S. 282

An act relating to health care providers participating in Vermont's Medicaid program.

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

First: In Sec. 1, Medicaid provider screening and enrollment, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) In the event that the Department of Vermont Health Access will be unable to meet the 60-day time frame required by subsection (a) of this section by July 1, 2019, the Commissioner of Vermont Health Access shall convene a meeting of interested stakeholders, including organizations representing health care providers and health care facilities, on or before February 1, 2019, to provide an update regarding the status of the Department's provider screening and enrollment efforts, including identifying the remaining barriers and any additional resources needed for the Department to be able to process applications within 60 days following receipt and providing an alternative date by which the Department expects to begin meeting the 60-day time frame requirement.

Second: In Sec. 2, Medicaid participating provider concerns; report, by striking out “; REPORT” in the section heading and by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) On or before December 15, 2018, the Commissioner of Vermont Health Access shall convene a meeting of interested stakeholders to provide a summary of the Department's responses to participating providers' concerns regarding the Medicaid program and its administration and of the Department's findings regarding the potential for making changes to the Medicaid fraud and abuse statutes and for creating an exception to recoupment as described in subsection (a) of this section.

NOTICE CALENDAR

Second Reading

Favorable

J.R.H. 15.

Joint resolution requesting the Federal Trade Commission, the Federal Communications Commission, and Congress to adopt more effective measures to enforce the federal Do Not Call list and to police illegal robocalls.

Reported favorably by Senator Cummings for the Committee on Finance.

(Committee vote: 6-0-1)

(No House amendments)

(For text of resolution, see Senate Journal of April 6, 2018, page 678)

Favorable with Proposal of Amendment

H. 736.

An act relating to lead poisoning prevention.

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By inserting a new Sec. 1 before the existing Sec. 1 to read as follows:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that the regulatory authority over lead poisoning prevention practices, which is currently divided between the State of Vermont and the U.S. Environmental Protection Agency (EPA), shall be assumed by the State. The Commissioner of Health shall take necessary steps to receive all appropriate authority from the EPA not later than December 2019.

Second: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (18), following “or likely exposure to”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: lead-based paint lead

Third: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (22)(B), by striking out the following: “lead-based paint” in the second instance in which it appears and inserting in lieu thereof the following: lead

Fourth: In Sec. 2, in 18 V.S.A. § 1751(b), by renumbering the existing subdivision (24) to appear after the existing subdivision (27) and by renumbering all affected subdivisions to be numerically correct

Fifth: In Sec. 2, in 18 V.S.A. § 1763, in the first sentence, following “subsection 1759(e) of this chapter or”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead

Sixth: In Sec. 2, in 18 V.S.A. § 1764, following “under subsection”, by striking out the following: “1752(d)” and inserting in lieu thereof the following: ~~1752(d)~~ 1752(e)

Seventh: In Sec. 2, in 18 V.S.A. § 1765, in subsection (a), following “determines that”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead and following “rental target”, by striking out the word “property” and inserting in lieu thereof the following: ~~property~~ housing

Eighth: By inserting a new Sec. 3 before the effective date section to read as follows:

Sec. 3. STATUS UPDATES

On or before February 1 of 2019 and 2020, the Commissioner of Health shall provide a status update regarding the implementation of the lead poisoning prevention program to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

And by renumbering all sections to be numerically correct

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2018, page 685)

H. 901.

An act relating to health information technology and health information exchange.

Reported favorably with recommendation of proposal of amendment by Senator Cummings for the Committee on Health and Welfare.

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. HEALTH INFORMATION TECHNOLOGY; HEALTH INFORMATION EXCHANGE; PROGRESS REPORTS

(a) On or before May 1, 2018, the Department of Vermont Health Access and the Vermont Information Technology Leaders, Inc. (VITL) shall submit to

the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; and the Green Mountain Care Board a work plan detailing the process by which the Department and VITL shall implement the recommendations of the health information technology report submitted to the General Assembly in accordance with 2017 Acts and Resolves No. 73, Sec. 15 (Act 73 report). The work plan shall be informed by stakeholder and consumer input and by technology options and opportunities. The Plan shall identify potential steps for addressing issues of data ownership and issues of intellectual property. It shall also set forth both a timeline of tasks to be completed and a list of clear objectives to assist the General Assembly in evaluating the success or failure of the parties' work.

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

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

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

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

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

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

(c) On or before October 15, 2018, the Department of Vermont Health Access shall submit to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; and the Green Mountain Care Board the results of an evaluation, which shall be conducted by an independent entity with expertise in health information

technology, of the work plan, the contingency plan, and the Department's and VITL's progress toward implementing the recommendations in the Act 73 report.

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

(e) In addition to the written updates required by subsection (d) of this section, the Department of Vermont Health Access and VITL shall provide testimony on their progress toward implementing the recommendations contained in the Act 73 report at a meeting of the Health Reform Oversight Committee at least once every two months or more frequently if so requested by the Committee. The testimony at the Committee's first meeting after the General Assembly has adjourned in 2018 shall also include information regarding the work plan required by subsection (a) of this section, and the testimony at the Committee's first meeting after September 1, 2018 shall also include information regarding the contingency plan required by subsection (b) of this section.

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

§ 9351. HEALTH INFORMATION TECHNOLOGY PLAN

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

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

(3) ~~The Secretary or designee~~ Department, in consultation with the Steering Committee, shall administer the Plan, which shall include the implementation of an integrated electronic health information infrastructure for the sharing of electronic health information among health care facilities, health care professionals, public and private payers, and patients. The Plan

shall include standards and protocols designed to promote patient education, patient privacy, physician best practices, electronic connectivity to health care data, access to advance care planning documents, and, overall, a more efficient and less costly means of delivering quality health care in Vermont.

* * *

(c) ~~The Secretary of Administration or designee may update the Plan~~ Department of Vermont Health Access, in consultation with the Steering Committee and subject to Green Mountain Care Board approval, may propose updates to the Plan in addition to the annual updates as needed to reflect emerging technologies, the State's changing needs, and such other areas as the Secretary or designee Department deems appropriate. The Secretary or designee Department shall solicit recommendations from Vermont Information Technology Leaders, Inc. (VITL) and other entities interested stakeholders in order to update propose updates to the Health Information Technology Plan pursuant to subsection (a) of this section and to this subsection, including applicable standards, protocols, and pilot programs, and following approval of the proposed updates by the Green Mountain Care Board, may enter into a contract or grant agreement with VITL or other appropriate entities to update some or all of the Plan. Upon approval by the Secretary of the updated Plan by the Green Mountain Care Board, the Department of Vermont Health Access shall distribute the updated Plan shall be distributed to the Secretary of Administration; the Commissioner of Information and Innovation Secretary of Digital Services; the Commissioner of Financial Regulation; the Commissioner of Vermont Health Access; the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; the House Committee on Health Care; affected parties; and interested stakeholders. Unless major modifications are required, the Secretary Department may present updated information about the Plan to the Green Mountain Care Board and legislative committees of jurisdiction in lieu of creating a written report.

* * *

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

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. The Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

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

(B) one individual appointed by the Governor; and

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

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

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

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

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

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

(I) ~~the President of VITL, who shall be an ex officio, nonvoting member;~~

(J) ~~two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and~~

(K) two at-large members representatives of the business community, of health care consumers, of Vermont hospitals, of Vermont-licensed clinicians, and of health insurers licensed to offer plans in Vermont, as well as individuals familiar with health information technology, including, to the extent practicable, one or more individuals who are or have served as the chief technology officer for a health care facility.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

* * *

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan approved by the Green Mountain Care Board pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. ~~After the The~~

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

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

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

(e) Report. ~~No later than~~ On or before January 15 of each year, VITL shall file a report with the Green Mountain Care Board; the Secretary of Administration; ~~the Commissioner of Information and Innovation~~ Secretary of Digital Services; the Commissioner of Financial Regulation; the Commissioner of Vermont Health Access; the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; and the House Committee on Health Care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, VITL shall publish minutes of VITL meetings and any other relevant information on a public website. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

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

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

(h) [Repealed.]

(i) Certification of meaningful use and connectivity.

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

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

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

(1) governance;

(2) electronic exchange of health information and operation of the statewide Health Information Exchange Network as long as nothing in such exchange or operation constitutes the practice of medicine pursuant to 26 V.S.A. chapter 23 or 33;

(3) implementation of privacy provisions;

(4) funding authority;

(5) application for waivers of federal law;

(6) establishment and operation of a financing program providing electronic health records systems to providers; or

(7) certification of health care providers' meaningful use of health information technology.

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the

necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. ~~In performing its review, the Board shall consult with and consider any recommendations regarding the plan received from the Vermont Information Technology Leaders, Inc. (VITL).~~

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

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

* * *

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

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

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

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

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

The Department of Vermont Health Access, in consultation with Vermont Information Technology Leaders, Inc., the Office of the Health Care Advocate, and other interested stakeholders, shall provide recommendations to the House Committees on Health Care and on Energy and Technology and the Senate Committee on Health and Welfare on or before January 15, 2019 regarding whether individual consent to the exchange of health care information through the Vermont Health Information Exchange should be on an opt-in or opt-out basis.

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

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

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(No House amendments)

H. 912.

An act relating to the health care regulatory duties of the Green Mountain Care Board.

Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

By striking out Sec. 15, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Medicaid Budget Estimates * * *

Sec. 15. 32 V.S.A. § 305a(c) is amended to read:

(c)(1)(A) The January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next

succeeding fiscal years for each Medicaid enrollment group as defined by the Agency and the Joint Fiscal Office for State Health Care Assistance Programs or premium assistance programs supported by the State Health Care Resources and Global Commitment Funds, and for the Programs under any Medicaid Section 1115 waiver.

(B) For Board consideration, there shall be provided two versions of the next succeeding fiscal year's estimated per-member per-month expenditures:

(i) ~~one version shall include an increase in Medicaid provider reimbursements in order to ensure that the expenditure estimates reflect amounts attributable to health care inflation as required by subdivisions 307(d)(5) and (d)(6) of this title~~ inflation trends as set forth in subdivision 307(d)(5) of this title; and

(ii) ~~one version shall be without the inflationary adjustment reflect any additional increase or decrease to Medicaid provider reimbursements that would be necessary to attain Medicare levels as set forth in subdivision 307(d)(6) of this title.~~

(C) For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category.

(D) The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down State contribution payment and for the disproportionate share hospital payments.

(2) In July, the Administration and the Joint Fiscal Office shall make a report to the Emergency Board on the most recently ended fiscal year for all Medicaid and Medicaid-related programs, including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the Emergency Board may adopt revised estimates for the current fiscal year and estimates for the next succeeding fiscal year.

Sec. 16. 32 V.S.A. § 307(d) is amended to read:

(d) The Governor's budget shall include his or her recommendations for an annual budget for Medicaid and all other health care assistance programs administered by the Agency of Human Services. The Governor's proposed Medicaid budget shall include a proposed annual financial plan, and a proposed five-year financial plan, with the following information and analysis:

* * *

(5) health care inflation trends ~~consistent with~~ that reflect consideration

of provider reimbursements approved under 18 V.S.A. § 9376 and expenditure trends reported under 18 V.S.A. § 9375a 9383;

* * *

* * * Green Mountain Care Board Billback Formula * * *

Sec. 17. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) The Board may assess and collect from each regulated entity the actual costs incurred by the Board, including staff time and contracts for professional services, in carrying out its regulatory duties for health insurance rate review under 8 V.S.A. § 4062; hospital budget review under chapter 221, subchapter 7 of this title; and accountable care organization certification and budget review under section 9382 of this title.

(2)(A) Except In addition to the assessment and collection of actual costs pursuant to subdivision (1) of this subsection and except as otherwise provided in subdivision (2) subdivisions (2)(C) and (3) of this subsection, all other expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by of the Board shall be borne as follows:

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

(B)(ii) 15 30 percent by the hospitals;

(C)(iii) 15 24 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; and

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

(iv) six percent by accountable care organizations certified under section 9382 of this title.

(B) Expenses under subdivision (A)(iii) of this subdivision (2) shall be allocated to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this subdivision (2) shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care, limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(C) Expenses incurred by the Board for regulatory duties associated with certificates of need shall be assessed pursuant to the provisions of section 9441 of this title and not in accordance with the formula set forth in subdivision (A) of this subdivision (2).

~~(2)(3)~~ The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision ~~(1)(2)~~ 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) 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.~~

(4) If the amount of the proportional assessment to any entity calculated in accordance with the formula set forth in subdivision (2)(A) of this subsection would be less than \$150.00, the Board shall assess the entity a minimum fee of \$150.00. The Board shall apply the amounts collected based on the difference between each applicable entity's proportional assessment amount and \$150.00 to reduce the total amount assessed to the regulated entities pursuant to subdivisions (2)(A)(ii)-(iv) of this subsection.

* * * Composition of Green Mountain Care Board and Advisory Group * * *

Sec. 18. 18 V.S.A. § 9374 is amended to read:

§ 9374. BOARD MEMBERSHIP; AUTHORITY

(a)(1) On July 1, 2011, the Green Mountain Care Board is created and shall consist of a chair and four members. The Chair and all of the members shall be State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to that of a Superior judge, and the compensation for the remaining members shall be two-thirds of the amount received by the Chair.

(2) The Chair and the members of the Board shall be nominated by the Green Mountain Care Board Nominating Committee established in subchapter 2 of this chapter using the qualifications described in section 9392 of this chapter and shall be otherwise appointed and confirmed in the manner of a Superior judge. The Governor shall not appoint a nominee who was denied confirmation by the Senate within the past six years. At least one member of the Board shall be an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as a registered nurse or an advanced practice registered nurse under 26 V.S.A. chapter 28.

* * *

(c)(1) No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or

attorney for any person subject to supervision or regulation by the Board; provided that for a health care ~~practitioner professional~~, the employment restriction in this subdivision ~~shall apply only to administrative or managerial employment or affiliation with a hospital or other health care facility, as defined in section 9432 of this title,~~ and shall not be construed to limit generally the ability of the health care ~~practitioner professional~~ to practice his or her profession.

* * *

* * * Regulation of Freestanding Health Care Facilities * * *

Sec. 19. REGULATION OF FREESTANDING HEALTH CARE FACILITIES; WORKING GROUP; REPORT

(a) The Secretary of Human Services or designee shall convene a working group to develop recommendations for the regulation of freestanding health care facilities and their role in a coordinated and cohesive health care delivery system. The recommendations shall include:

(1) whether and how the State should license and regulate ambulatory surgical centers, freestanding birth centers, urgent care clinics, retail health clinics, and other freestanding health care facilities; and

(2) whether and to what extent these facilities should participate in Vermont's health care reform initiatives.

(b) The working group shall comprise representatives of ambulatory surgical centers, urgent care clinics, hospitals, the Green Mountain Care Board, the Department of Vermont Health Access, the Department of Health, the Office of the Health Care Advocate, the Vermont Program for Quality in Health Care, Inc., and other interested stakeholders.

(c) On or before February 1, 2019, the working group shall provide its recommendations to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

(a) Secs. 6 (certificate of need) and 17 (billback formula) shall take effect on July 1, 2018, provided that for applications for a certificate of need that are already in process on that date, the rules and procedures in place at the time the application was filed shall continue to apply until a final decision is made on the application.

(b) Sec. 18 shall take effect on passage and shall apply beginning with the

first vacancy occurring on the Green Mountain Care Board on or after that date; provided, however, that it shall not apply to the vacancy of a member serving on the Board on the date of passage who seeks to serve more than one term.

(c) The remaining sections of this act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 14, 2018, page 649)

H. 914.

An act relating to reporting requirements for the second year of the Vermont Medicaid Next Generation ACO Pilot Project.

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, Vermont Medicaid Next Generation ACO Pilot Project reports, in subsection (a), following “the Green Mountain Care Board,” by inserting the Medicaid and Exchange Advisory Committee,

Second: In Sec. 2, All-Payer Model and accountable care organization reports, in subsection (a), following “the Health Reform Oversight Committee,” by inserting the Medicaid and Exchange Advisory Committee,

(Committee vote: 5-0-0)

(No House amendments)

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 Utility Commission shall be fully and separately acted upon.

David A. Barra of Essex Junction – Superior Judge – By Senator Ashe for the Committee on Judiciary. (4/19/18)

Scot L. Kline of Essex – Superior Judge – By Senator Benning for the Committee on Judiciary. (4/19/18)

Andrew Hathaway of Waterbury – Member, Children and Family Council for Prevention Programs – By Senator Cummings for the Committee on Health and Welfare. (4/19/18)